

**GOVERNMENT OF PUERTO RICO  
PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**NEPR**

**Received:**

**May 12, 2025**

**10:13 PM**

**IN RE:**

PUERTO RICO ELECTRIC POWER  
AUTHORITY'S EMERGENCY  
RESPONSE PLAN

**CASE NO.:** NEPR-MI-2019-0006

**SUBJECT:** Motion to Submit Genera PR  
LLC Updated Emergency Response Plan  
and Fuel Purchase Agreements

**MOTION TO SUBMIT GENERA PR LLC'S UPDATED EMERGENCY  
RESPONSE PLAN AND FUEL PURCHASE AGREEMENTS**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

**COMES NOW GENERA PR LLC** ("Genera"), through the undersigned legal counsel, and respectfully states and requests the following:

1. On December 16, 2024, Genera submitted its Emergency Response and Action Plan for year 2025 ("2025 Emergency Response and Action Plan") to this honorable Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau"). This plan aims to establish procedures for responding to events that may occur within one or more Power Generation Facilities and related fuel facilities. *See* Genera's Motion dated December 16, 2024, titled *Motion to Submit Genera PR LLC Emergency Response Plan in Compliance with Resolution and Order Dated August 16, 2023* ("December 16<sup>th</sup> Motion"). The 2025 Emergency Response and Action Plan was attached as Exhibit A to the December 16<sup>th</sup> Motion.

2. On the December 16<sup>th</sup> Motion, Genera requested the Energy Bureau to keep the Emergency Response and Action Plan in Exhibit A confidential since it included critical infrastructure information in accordance with the Energy Bureau's Policy on Management

of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, partially amended on September 16, 2016. To bolster this request, Genera submitted the Emergency Response and Action Plan under a seal of confidentiality.

3. On April 8, 2025, and May 5, 2025, Genera held meetings with the Energy Bureau's consultants. As a result of these meetings, the Energy Bureau requested Genera to submit an updated version of the 2025 Emergency Response and Action Plan, and the Fuel Purchase Agreements.

4. In compliance with the Energy Bureau's request, Genera herein submits an updated version of the 2025 Emergency Response and Action Plan initially included with the December 16<sup>th</sup> Motion, as well as the Fuel Purchase Agreements. Furthermore, Genera claims confidentiality for all documents related to the 2025 Emergency Response and Action Plan that are part of this submission, excluding the Fuel Purchase Agreements.

5. The updated 2025 Emergency Response and Action Plan version will be submitted as *Exhibit A* of this motion. To aid the Energy Bureau in reviewing the amendments, Genera will also include a redlined version, showcasing the changes as *Exhibit B*. Additionally, Genera hereby submits the Fuel Purchase Agreements as *Exhibits C, D, E, and F* of this motion.

6. Lastly, Genera respectfully informs that it will submit a Memorandum of Law supporting its request for confidentiality regarding the updated version of the 2025 Emergency Response and Action Plan within the next ten (10) days.

**WHEREFORE**, for the reasons stated above, Genera respectfully requests that the Energy Bureau take **notice** of this Motion, **accept** Genera's updated 2025 Emergency Response and Action Plan included in Exhibit A, and the Fuel Purchase Agreements included

in Exhibits C, D, E and F to this Motion and **keep the 2025 Emergency Response and Action Plan under seal of confidentiality.**

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 12<sup>th</sup> day of May 2025.

**ECIJA SBGB**

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/s/ Jorge Fernández-Reboredo

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TSPR 9,669

/s/ Gabriela Alejandra Castrodad García

Gabriela Alejandra Castrodad García

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RUA No. 23,584

## CERTIFICATE OF SERVICE

I hereby certify that this Motion was filed using the electronic filing system of this Energy Bureau, and courtesy copies were sent via electronic means to the Puerto Rico Electric Power Authority (PREPA), through its counsel of record, Mirelis Valle Cancel, at [mvalle@gmlex.net](mailto:mvalle@gmlex.net), Alexis Rivera at [arivera@gmlex.net](mailto:arivera@gmlex.net) and Natalia Zayas Gadoy at [nzayas@gmlex.net](mailto:nzayas@gmlex.net); and to LUMA Energy LLC, through its counsel of record, Yahaira De la Rosa Algarín, at [yahaira.delarosa@us.dlapiper.com](mailto:yahaira.delarosa@us.dlapiper.com), and Emmanuel Porro González at [emmanuel.porrogonzalez@us.dlapiper.com](mailto:emmanuel.porrogonzalez@us.dlapiper.com).

In San Juan, Puerto Rico, this 12<sup>th</sup> day of May 2025.

s/ Gabriela Alejandra Castrodad García  
Gabriela Alejandra Castrodad García

Exhibit A

Updated Emergency Response & Action Plan

*[Exhibit has been presented under seal.]*

Exhibit B

Redline Version of the Emergency Response & Action Plan

*[Exhibit has been presented under seal.]*

Exhibit C

Fuel Oil Purchase Contract

**Execution Version**

2025-G00181

**NO. 6 FUEL OIL PURCHASE CONTRACT  
AGUIRRE, COSTA SUR, SAN JUAN AND PALO SECO STEAM PLANTS**


**CONTRACT NUMBER 106741**

AS FIRST PARTY: The Puerto Rico Electric Power Authority ("**PREPA**"), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act of May 2, 1941, No. 83 (Act 83-1941), as amended, represented in this act by Genera PR LLC exclusively as agent on behalf of and for the account of PREPA, represented by Winnie Irizarry, of legal age, single, and authorized signatory of Genera PR LLC, a limited liability company organized and existing under the laws of Puerto Rico ("**Genera**").

AS SECOND PARTY: Puerto Rico Energy, LLC ("**Seller**"), a limited liability company organized and existing under the laws of Puerto Rico, authorized to do business in Puerto Rico, duly registered as a supplier to PREPA, represented in this act by its Authorized Representative, Mario Ricardo Sierra Varela, of legal age, married, and authorized to sign this Contract by the corporate resolution dated as of September 23, 2024.

PREPA and Seller are herein individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

WITNESS ETH

- A. WHEREAS, on January 24, 2023, (i) PREPA, (ii) the Puerto Rico Public-Private Partnership Authority, a public corporation of the Commonwealth of Puerto Rico, created by Act No. 29 of the Legislative Assembly of Puerto Rico, enacted June 8, 2009 ("**Administrator**") and (iii) Genera entered into the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement (the "**Generation**
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O&M Agreement”), whereby PREPA, the Administrator, and Genera agreed that as of the “Service Commencement Date” as defined therein, which occurred on or about July 1, 2023, Genera would become the operator of the “Legacy Generation Assets” as defined therein, as an agent of PREPA;

- B. WHEREAS, PREPA, by virtue of Act No. 83 of May 2, 1941, as amended (“Act 83”), has the authority to engage professional, technical, and consulting services and such other services necessary and convenient to pursue the activities, programs, and operations of PREPA;
- C. WHEREAS, pursuant to section 5.2(b) of the Generation O&M Agreement, Agent Designation, PREPA designated and appointed Genera as its agent, and Genera accepted such designation and appointment, for the purpose of entering into Facility Contracts on behalf of and for the account of PREPA, as may be necessary or appropriate to operate, maintain the Legacy Generation Assets and to make such additions and extensions thereto in accordance with the terms of the Generation O&M Agreement;
- D. WHEREAS, PREPA issued a Request for Proposal (“RFP”) for the supply of No. 6 Fuel Oil to meet the fuel oil requirements of the Aguirre, San Juan, Palo Seco, and Costa Sur steam plants (the “Generating Stations”);
- E. WHEREAS, in response to such RFP, Seller made an offer for the supply of No. 6 Fuel Oil to meet the fuel oil requirements of the Generating Stations; and
- F. WHEREAS, PREPA wishes to accept Seller’s offer as and to the extent provided below, and Seller is willing to supply No. 6 Fuel Oil to the Generating Stations in accordance with the terms set out below;



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THEREFORE, after a negotiation process between the Parties and in consideration of the mutual covenants herein stated, PREPA and Seller agree as follows:

ARTICLE I. Scope of Supply

- A. Seller agrees to sell and deliver to PREPA all of PREPA's requirements for, and PREPA agrees to purchase from Seller, No. 6 Fuel Oil for use in the Generating Stations that complies with Article V (Specifications), Exhibit A (Specifications) attached and made a part hereof (the criteria set out therein, the "**Specifications**"), and applicable law, including regulations administered by the Environmental Protection Agency ("**EPA**") and the Environmental Quality Board ("**EQB**") for Puerto Rico (the "**Fuel**"), as reflected in the Specifications. The monthly rate of Fuel delivery for each calendar month of this Contract shall be the amount of Fuel requested by PREPA in accordance with the nomination process set out in paragraph (B) of Article IV (Delivery and Title). Seller shall deliver such Fuel to the Generating Stations in quantities and at times requested by PREPA in accordance with this Contract.
- B. Notwithstanding any contrary provision of paragraph (A) of this Article, PREPA has the right to purchase No. 6 Fuel Oil from any source for use in the Generating Stations if (i) PREPA identifies a price for No. 6 Fuel Oil from such source that is lower than the price which has been agreed in this Contract, provided that PREPA may not purchase more than twenty-five percent (25%) of its requirements for No. 6 Fuel Oil for the Generating Stations from such alternate sources under this subparagraph (B)(i), (ii) either Party has declared a Force Majeure or other emergency situation that has resulted, or could reasonably result with the passage of time, in a



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shortage of requested quantities of Fuel, or a shortage has occurred as described in paragraph (H) of Article IV (Delivery and Title), in which cases PREPA may purchase from alternate sources any quantities reasonably expected to cover such shortages, or (iii) Seller has failed, or could fail with the passage of time, to deliver

requested quantities of Fuel, in which case PREPA has the right to purchase from alternate sources any quantities reasonably expected to cover shortages resulting from such failure or expected failure.

C. Seller acknowledges that, in accordance with the terms and conditions of the Generation O&M Agreement, Genera is acting as PREPA's agent in the administration of this Contract. As such, all references to PREPA taking any action, receiving any notice or disclosure, making any declaration or determination, scheduling deliveries or otherwise directing Seller without limitation to any provision or administration act related to this Contract, shall be understood to refer to Genera, acting on PREPA's behalf.

## ARTICLE II. Term and Termination

A. This Contract shall become effective on the date of its execution by the Parties and remain in effect for a period of one (1) year (the "Initial Term"), starting on October 31, 2024 (the "Commencement Date"). This Contract may be extended for an additional year beyond the Initial Term only by written amendment agreed upon by the Parties made ninety (90) days prior to the expiration of the Initial Term, subject to Seller's satisfactory performance, the authorizations required according to PREPA's rules and regulations, and an amount for Fuel approved in PREPA's certified budget sufficient to cover the extension of this Contract.

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- B. This Contract may be extended on a monthly basis beyond the Initial Term, or any extension under paragraph (A) of this Article, by mutual agreement after the end of the Initial Term or its extended term, as applicable; provided, however, that said extensions shall not exceed four (4) consecutive months, except when an emergency is declared by PREPA.
- C. This Contract shall terminate upon the earliest to occur of the following events:
1. the expiration of the term in accordance with paragraphs (A) and (B) of this Article;
  2. the Parties' mutual agreement in writing to terminate this Contract;
  3. a Party's election in a written notice to the other Party to terminate this Contract following a Force Majeure claim that extends for a period of more than ninety (90) consecutive days, in accordance with paragraph (C) of Article XI (Force Majeure);
  4. PREPA's election in a written notice to Seller to terminate this Contract under any of the following circumstances:
    - a. in accordance with paragraph (C) 4.a of Article IV (Delivery and Title), paragraph (D) of Article V (Specifications), paragraph (I) of Article VII (Price), paragraph (B) of Article VIII (Duties and Taxes), paragraphs (S)(5) or (U)(4) of Article XV (Compliance with Commonwealth of Puerto Rico Contracting Requirements), or paragraph (A) of Article XVIII (Contingent Fees);
    - b. for convenience on a date for termination identified in such notice, which shall be no earlier than thirty (30) days from the date of such notice,



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- provided that, for the avoidance of doubt, the rights, duties, and responsibilities of the Parties shall continue in full force and effect during the notice period;
- c. immediately in the event of Seller's negligence, dereliction of duty, noncompliance, or material breach of this Contract, as determined in the sole discretion of PREPA; or
  - d. upon (i) commencement by Seller of any debt adjustment proceeding, bankruptcy proceeding, insolvency proceeding, dissolution or wind-up proceeding, proceeding under the Public Corporation Debt Enforcement and Recovery Act, Act No. 71, of June 28, 2014, or any similar proceedings, (ii) the filing of a petition in bankruptcy or insolvency against Seller, or (iii) appointment of a receiver for Seller without PREPA's consent.
5. a non-defaulting Party's election to terminate this Contract following five (5) business days' advance notice in writing to the other Party (the "Defaulting Party") of the occurrence of the following events (each, a "Default"), provided that such event remains uncured at the effective date and time of such termination:
- a. for PREPA only as the Defaulting Party, failure to reduce Seller's credit exposure to PREPA below the Credit Limit within ten (10) days following exceedance of the Credit Limit and corresponding notice thereof from Seller in accordance with paragraph (D) of Article VII (Price);



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- b. for Seller only as the Defaulting Party, failure to deliver Fuel ten (10) days after its committed delivery date without PREPA's consent, except when such failure to deliver is a consequence of Force Majeure under Article XI (Force Majeure) or in accordance with paragraph (E) of Article VII (Price);
- c. failure of the Defaulting Party to pay an invoice within five (5) business days after the date required for payment under this Contract;
- d. breach by the Defaulting Party of any material obligation under this Contract other than those identified in paragraphs (5)(a) and (b) above, or the material inaccuracy of any representation or warranty given by such Defaulting Party under this Contract, in each case that has continued uncured for a period of seven (7) days following an initial notice of such failure from the performing Party to the Defaulting Party; or
- e. other than in respect of the PREPA Bankruptcy, (i) commencement by the Defaulting Party of any debt adjustment proceeding, bankruptcy proceeding, insolvency proceeding, dissolution or wind-up proceeding, proceeding under the Public Corporation Debt Enforcement and Recovery Act, Act No. 71, of June 28, 2014, or any similar proceedings, (ii) the filing of a petition in bankruptcy or insolvency against the Defaulting Party, or (iii) appointment of a receiver for the Defaulting Party without the other Party's consent.



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- D. Upon the termination of this Contract under paragraph (C)(5) above following the occurrence of a Default by PREPA, all amounts owed to Seller under this Contract shall immediately become due and payable.
- E. Termination under this Article, or as otherwise permitted under this Contract, shall not create any liability to the terminating Party, provided that it shall continue to be responsible for the payment of amounts due and owing to the non-terminating Party prior to the date of such termination.
- F. A Party's exercise of its right to terminate this Contract shall not be understood as a waiver by the Party of any claim, right or other remedy it may have under this Contract or under the law for delays or breaches incurred by the other Party in the performance of its obligations under this Contract.
- G. Upon termination of this Contract, Seller shall (i) release the vessel delivering under this Contract (subject to vessel owner's approval) and use commercially reasonable efforts to assist PREPA in obtaining the use of the vessel, and (ii) have no further right to compensation except for what has been accrued for Fuel supplied and services rendered under this Contract until said date of effective termination.

ARTICLE III. Independent Contractor

Seller shall be considered an independent contractor for all material purposes under this Contract, and all persons engaged or contracted by Seller for the performance of its obligations herein shall be considered as Seller's employees or agents or those of its subcontractors, and not as employees or agents of PREPA. In consequence, Seller is not entitled to any fringe benefits, such as, but not limited to, vacation, sick leave, and others, offered by PREPA to PREPA employees.



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ARTICLE IV. Delivery and Title

- A. Seller shall deliver Fuel to PREPA at the Generating Stations via vessel (which includes, for this Contract, any barge, ship or other waterborne vessel) or via pipeline transfer. The title to and risk of loss of the product shall pass from Seller to PREPA after the Fuel passes (i) for waterborne deliveries to Aguirre, San Juan or Palo Seco, the pipeline flange connecting Seller's vessel to PREPA's pipeline at the dock for the respective plants, and (ii) for pipeline transfers to Costa Sur, San Juan or Palo Seco, the pipeline interconnection between PREPA's plant Fuel pipeline and Seller's terminal (each such flange or interconnection, as applicable, a "Delivery Point").
- B. From the Commencement Date, PREPA shall submit to Seller, no later than the fifteenth (15<sup>th</sup>) day of each month, a nonbinding monthly estimate of its requirements for Fuel for each Generating Station and proposed dates for delivery of Fuel for the following month. Seller shall promptly acknowledge receipt of such nonbinding estimate and shall, within five (5) days of such receipt, confirm those proposed delivery dates or propose new delivery dates for such following month. PREPA shall accept or make a counterproposal with respect to such delivery schedule within one (1) business day. The accepted delivery schedule or, if accepted by Seller, the counter-proposed delivery schedule, as applicable, shall be final. Delivery dates shall consist of delivery windows of two (2) days each for actual delivery to occur. If estimates are not submitted within the aforementioned timeframes, delivery will be delayed for as long as required for Seller to obtain availability of the Fuel.



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- C. During the term of this Contract, Seller shall maintain a minimum stock reserve of 150,000 barrels available at Seller's designated storage terminal(s) in Puerto Rico, as identified in Exhibit D (Designated Storage Terminals) attached and made a part hereof, for prompt delivery upon request by PREPA to cover changes in operational needs (the "**Minimum Stock Reserve**"). PREPA shall have the right to increase the Minimum Stock Reserve requirement to 200,000 barrels (and, thereafter, to reduce such requirement back to 150,000 barrels) by giving Seller fifteen (15) days' prior notice of such increase (or reduction). At PREPA's request, which may be made at any time, Seller shall certify to PREPA in writing within three (3) business days that it has available at the Designated Storage Terminals at least the Minimum Stock Reserve, as PREPA may have increased or decreased such Minimum Stock Reserve as of the time of the certification. Seller's failure to provide such certification as requested in accordance with the preceding sentence or to maintain at all times the Minimum Stock Reserve in the Designated Storage Terminals shall be deemed to be a material breach of Seller's obligations under this Contract which, following PREPA's provision of written notice thereof, shall be grounds for termination of this Contract under paragraph (C) (4)(a) of Article II (Term and Termination).
- D. Seller shall be responsible for cleaning, removing, and disposing of any spill of any product that might occur before the Delivery Point during delivery. Seller shall secure and provide all materials, permits, and personnel required for fuel handling and transfer.
- E. Seller acknowledges that (i) deliveries via vessel to the San Juan and Palo Seco steam plants through the San Juan Dock C, at present, are limited to an arrival draft

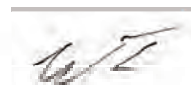


of 26 feet, (ii) deliveries via vessel to the Aguirre steam plant are limited by a dredged channel in Jobos Bay with maximum draft of 21.5 feet, and (iii) deliveries via vessel calling on the CORCO dock (Costa Sur Plant) in Guayanilla Bay, at present, are limited as follows:

DWT	82,000 tons
LOA	840 feet
BCM	425 feet
DRAFT	42 feet sw

Seller shall conduct its own investigation relative to navigational information or any natural changes that might occur at the San Juan Dock C, Jobos Bay or Guayanilla Bay, and shall bear responsibility for all risk of loss prior to delivery of Fuel to PREPA in accordance with paragraph (A) above, as PREPA does not assume any responsibility for the same.

- F. For so long as a single vessel is available in Puerto Rico to transport the product from Seller's dock to the Generating Stations, the Parties agree to treat any mechanical breakdown of the vessel that prevents delivery of the product, and that is not a consequence of Seller's fault or negligence, as a Force Majeure event.
- G. Seller shall ensure that all product delivered to PREPA enters PREPA's pipelines at a temperature below one hundred eighty-five degrees Fahrenheit (185° F) and above one hundred twenty-five degrees Fahrenheit (125° F), and at a pressure below one hundred fifty (150) psig and above one hundred twenty-five (125) psig, in each case as measured at the Delivery Point.



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- H. If Seller, for any reason, except as provided in paragraph (E) of Article VII (Price) or Article XI (Force Majeure) of this Contract, fails to deliver the Fuel required under this Contract, PREPA may procure replacement fuel from any other supplier. In such event, PREPA shall notify Seller of the chosen supplier and applicable price, and Seller shall reimburse PREPA for any difference which PREPA may have paid in excess of the contracted price by a credit to the next invoice sent to PREPA after PREPA submits evidence of such payment. Seller acknowledges and agrees that, by accepting such credit, PREPA does not waive any rights or remedies available to PREPA under the law, including rights to any claims or actions for damages caused by noncompliance by Seller with the terms of this Contract.
- I. Seller shall bear responsibility for any and all damages to the dock or to any other property caused by the vessel during delivery. At all times until Fuel has reached a Delivery Point, Seller shall ensure that all such Fuel or other product deliveries, transfers and operations comply with Homeland Security Regulations including 33 CFR §§ 104 & 105, as well as 33 CFR §§ 154, 155 & 156.
- J. Should PREPA need fuel of the same type and quality as the Fuel herein contracted for at any of its other plants, PREPA may request such deliveries as per the process outlined in paragraph (B) of this Article, and Seller shall deliver the requested quantities of Fuel to such other plant as agreed in accordance with such process. The Fuel to be delivered under this paragraph (J) by Seller shall be at the same delivered price, or lower, and under the same payment conditions as apply to Fuel delivered for the Generating Stations under this Contract, adjusted to reflect any



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increased or decreased transportation costs resulting from delivery to such other plant.

- K. Seller shall at all times execute reasonable plans to avoid human hazards or damage to public or private property that may be caused by Seller's operation and performance under this Contract, including under extreme weather conditions or other foreseeable Force Majeure events.
- L. Seller shall ensure that every vessel used in deliveries of Fuel to PREPA complies with applicable law and can be accepted by the delivery terminal(s). Seller shall bear the risk of any failure to obtain such acceptance.
- M. Seller shall familiarize itself with each Generating Station location and the corresponding Delivery Point referred to in this Contract. Seller shall ensure that it has the proper personnel and equipment to service such locations and Delivery Points in accordance with this Contract.

ARTICLE V. Specifications

- A. Upon each delivery, Seller hereby represents and warrants to PREPA that all Fuel supplied meets all of the specifications and requirements set out in Exhibit A (Specifications) and this Article.
- B. Seller shall ensure that the delivered Fuel (i) is appropriate for burning without requiring extraordinary maintenance to the boiler, associated equipment, or causing other extraordinary problems in the operation of a Generating Station, (ii) conforms to all prevailing Federal or local environmental rules and regulations, including EPA and EQB requirements, and (iii) is free of any components that have been derived from petrochemical processes such as ethylene, cracker residues, olefin, resins,

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styrenes, acetates, phenols, inorganic acids and microorganisms, with no water, solid or fibrous foreign matter, and contains no hazardous wastes including chlorinated hydrocarbons.

- C. Seller further warrants, and shall ensure, that the delivered Fuel shall be homogeneously stable and shall not separate, stratify or form undesirable compounds by chemical reaction during shipping, storage, handling and heating. A Fuel shipment shall be considered to be homogeneous when the maximum difference between any two (2) samples from different strata or compartments is not greater than 0.3 degrees for tested API and 0.02 weight percent in tested sulfur, provided that the qualities of all tested samples are within all contracted specifications.
- D. In the event that during the term of this Contract, either Federal or Commonwealth of Puerto Rico laws or regulations are modified, requiring the burning of a fuel with different specifications than those incorporated into this Contract, and if these changes require an adjustment in the price of the Fuel to be supplied, then the Parties shall meet within five (5) days from the enactment of any such law or regulation to discuss the matter for the purpose of establishing new price terms satisfactory to both Parties. If an agreement cannot be reached prior to the effective date of any such law or the enforcement date of any such regulations, then PREPA shall have the right to terminate this Contract.
- E. In the event that, during the term of this Contract, PREPA requests a fuel of different specifications than those incorporated into this Contract, Seller and PREPA shall meet to negotiate in good faith new price terms (lower or higher than the contracted



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price) for said different fuel oil specifications satisfactory to both Parties. If an agreement cannot be reached, the Contract terms and the contracted fuel specification incorporated herein shall prevail.

- F. To assure fuel compliance with specifications, before discharge of each delivery, the Parties will jointly contract a mutually agreed independent laboratory company (the "Independent Laboratory") accredited by U.S. Customs and Border Protection as per 19 CFR § 151.12 to perform laboratory analyses of the Fuel actually being supplied as per specified methods. The Parties shall procure a laboratory certificate, including all the parameters contained in Exhibit A (Specifications) and this Article and signed by an authorized chemist in Puerto Rico, from such Independent Laboratory, and its results shall be considered final and binding for both Parties with respect to the corresponding delivery.
- G. The sampling process shall allow for a large enough representative split of the volumetric composite sample such that PREPA can receive a one (1) liter sample for its own use. The sample shall be provided to PREPA by the Independent Laboratory within the next twenty-four (24) hours after completion of Fuel discharge or transfer. The cost of such additional sampling shall be borne by PREPA.
- H. Should PREPA encounter difficulties in the efficient handling and burning of the fuel actually delivered, special analysis of the retained independent inspector's sample shall be requested by PREPA and made by an authorized laboratory licensed in Puerto Rico (or if such laboratory is not available in Puerto Rico to run the required tests, a laboratory in the U.S. can be used as a substitute), so as to determine



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whether such difficulties are attributable to the fuel delivered not being in compliance with the specifications and Seller warranties under this Contract.

- I. If it is determined that the difficulties are attributable to the fuel not being in compliance with the specifications or Seller warranties under this Contract, then Seller shall take such immediate measures as necessary to correct the deviation and to prevent further difficulties. PREPA's acceptance of, or agreement to, remedial or preventive measures shall not constitute a waiver of any rights available to it under the law, including rights of actions or claims for damages caused by Seller's noncompliance with the Fuel specifications or with any other provision of this Contract.
- J. If during any delivery Seller fails to meet the specifications and warranties as contracted, PREPA reserves the right to any combination of the following:
  - (i) immediately reject the shipment, (ii) evaluate the deviation and propose to Seller the remediation of such failure through a deduction of a dollar amount from the amounts due to Seller for nonconforming fuel and deduct such amount, and/or (iii) establish a claim for nonperformance and/or breach of contract. PREPA shall notify Seller of any specification non-compliance that will result in product being rejected or discounts to be applied before discharge commences, and discharge will be suspended until Seller and PREPA can reach an agreement as to the appropriate remedy for failure of fuel to meet the specifications and warranties as contracted.
- K. Seller shall be responsible for any fines, penalties, damages, expenses, costs, or claims, actions, and causes of actions, which may arise as a consequence of any deviations or variations of the fuel provided by Seller from the contracted or



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guaranteed Specifications, requirements and warranties for Fuel to be delivered. Without limiting the foregoing sentence, if any deviations or variations from the Fuel Specifications exist when such fuel is delivered to PREPA, Seller shall indemnify PREPA against, and hold and save PREPA harmless from, and will defend PREPA, its officers, agents, and employees from, any claims, actions, causes of actions, damages, costs, fines, penalties and expenses due or attributable to variations or deviations from Fuel Specifications as contracted and guaranteed by Seller.

ARTICLE VI. Laytime and Demurrage

- A. Seller shall bear all demurrage incurred in connection with the vessel(s) delivering product pursuant to this Contract, and PREPA shall assume no responsibility or liability for the same, unless such demurrage is attributable to the willful misconduct or gross negligence of PREPA or suspension of delivery in accordance with paragraph (E) of Article VII (Price).
- B. Seller shall deliver, or ensure the delivery by the vessel's master or its agent of, a notice of the impending arrival of each vessel to PREPA seventy-two (72), forty-eight (48), and twenty-four (24) hours before the vessel's arrival. In the event the vessel is delayed in getting into berth after giving notice, due to docking restrictions or for any reason over which PREPA has no control, such delay shall not count as used laytime.
- C. Seller acknowledges and agrees that it is the practice of CORCO/Proterm to load and unload vessels at the CORCO docks in order of their arrival to the



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CORCO/Proterm buoy, subject to the availability of the docks, and that PREPA shall not be responsible for demurrage attributable to dock unavailability.

- D. Laytime shall commence six (6) hours after the later to occur of (i) Seller tendering a Notice of Readiness to PREPA or (ii) arrival at berth and clearance by Customs. Laytime shall commence within the meaning of this Article regardless of whether the vessel arrives during or outside normal business hours. Laytime shall not be increased as a result of, nor shall PREPA be held accountable for, any delay in berthing the vessel attributable to the failure of Seller to give the notices set forth in this Article.
- E. Allowed laytime shall be forty-two (42) hours for each delivery of Fuel under this Contract, provided that the allowed laytime shall be increased by the time a vessel is prevented or delayed from arriving, discharging cargo, disconnecting or departing due to:
1. such vessel's condition, capabilities or facilities, or failure to comply with U.S. Coast Guard or other governmental agency regulations, which prevent or impair Seller from connecting, discharging its entire cargo within thirty (30) hours, disconnecting and departing within the allowed laytime;
  2. Seller's failure to deliver Fuel in compliance with the specifications, warranties or requirements of this Contract, including the unloading temperature and pressure specified in paragraph (G) of Article IV (Delivery and Title);
  3. regulations of port authorities or the vessel's owners or master;



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4. Seller's total cargo volume exceeding the established maximum cargo volumes;
  5. tide conditions, heavy seas, wind or bad weather of any nature; or
  6. Seller's personnel or agents failing to promptly perform the connection or disconnection of Seller's discharging hoses.
- F. If a vessel is delayed at any discharging berth for ship's purposes or reasons beyond the control of PREPA, laytime shall cease when discharging is completed even though hoses are not disconnected. If regulations of port authorities or the vessel's owner prohibit discharging of the cargo at night, time so lost shall increase the allowed laytime. If PREPA prohibits discharging at night, time lost shall count as laytime. In all other cases laytime shall continue to run until cargo hoses or loading arms, as the case may be, have been disconnected.
- G. If, and only to the extent, demurrage claims arise as a result of PREPA's willful misconduct or gross negligence, PREPA shall pay demurrage per running hours, and pro-rata for a part thereof, for all time that exceeds the allowed laytime at the rate stated in the Voyage Charter Agreement for the vessel if such vessel is contracted under a voyage charterparty ("VCP") arrangement. For time charter party ("TCP") vessels, the Parties shall use current TC3 value plus Wordscale 10 points with a minimum flat rate of US\$ 5.50 per metric ton. Seller shall present all demurrage claims in writing along with substantiation of PREPA's willful misconduct or gross negligence in connection therewith no later than ninety (90) days after the Fuel delivery date, after which PREPA shall no longer be liable for any demurrage charges for said delivery.



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- H. If discharging has ceased because it is completed or if the discharging rate has decreased to a rate which will not permit discharge of the entire cargo within forty-two (42) hours, or due to any other problem with the vessel, PREPA may order the vessel off the dock at no cost to PREPA. If practical, the vessel shall be allowed to return later and complete discharging. In the event that the discharging rate has decreased to a rate which will not permit discharge of the entire cargo within forty-two (42) hours, PREPA may delay ordering the vessel off the dock and allow pumping to continue, provided Seller pays the dock per hour fee rate and any other associated cost.
- I. Prior to making any claim for demurrage, Seller shall provide to PREPA written notice, and all available and appropriate documentation and evidence in support, of any demurrage claim which Seller may bring against PREPA, including evidence of Seller's compliance with this Article.

ARTICLE VII. Price

- A. The price to be paid for each barrel of Fuel delivered throughout the entire duration of this Contract will consist of a **fixed price differential** plus an **escalator**.
- B. The fixed price differential (in U.S. dollars per barrel) for all deliveries of Fuel to all Generating Stations under this Contract shall be \$1.92 per barrel, for payment sixty (60) days after completion of delivery; or \$1.64 per barrel, for payment forty-five (45) days after completion of delivery; or \$1.36 per barrel, for payment thirty (30) days after completion of delivery; or \$1.08 per barrel, for payment fifteen (15) days after completion of delivery; or \$0.90 per barrel, for payment five (5) days after completion of delivery.

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- C. The escalator shall be increased or decreased according to Platt's Oilgram Price Report for "0.5% Dlv'd US Atlantic Coast Barge" (Platt's code AUAMA00) corresponding to the effective date of the posting for the day the Fuel delivery commences, the day before, and the day after the Fuel delivery, each one of these evaluated utilizing the following formula:

100 percent (100%) of the fixed zero-point five percent (0.5%) sulfur fuel content, as published on Platts' Oilgram Price Report, USAC Marine Fuel 0.5% S Column (\$/bbl), Atlantic Coast, rounded to three (3) decimal places.

Upon mutual agreement by the Parties, and subject to its obligation to provide (30) day advance notice to Seller, PREPA may choose to change the above-described fixed price differential and escalator to an alternate fixed price differential and alternate escalator. The alternate fixed price differential (in US dollars per barrel) for all deliveries of Fuel to all Generating Stations under this Contract shall be \$5.61 per barrel, for payment sixty (60) days after completion of delivery; or \$5.33 per barrel, for payment forty-five (45) days after completion of delivery; or \$5.05 per barrel, for payment thirty (30) days after completion of delivery; or \$4.77 per barrel, for payment fifteen (15) days after completion of delivery; or \$4.59 per barrel, for payment five (5) days after completion of delivery. The alternate escalator shall be increased or decreased according to postings of the Front Month Brent Crude Oil Futures Contract published by the Intercontinental Exchange (ICE) corresponding to the effective date of the posting for the day the Fuel delivery commences, the day before, and the day after the Fuel delivery, each one of these evaluated utilizing the following formula:

100 percent (100%) of the Front Month Brent Crude Oil Futures



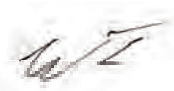

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Contract, as published by the ICE, in (\$/bbl), rounded to three (3) decimal places

The Parties may mutually agree to deem the day of commencement of delivery for pricing purposes for any particular delivery by written notice prior to actual day of commencement of delivery.

Sample calculations of the escalator and the alternate escalator are shown in Exhibit C (Sample Calculation (Escalator) and Sample Calculation (Alternate Escalator)) attached hereto and made a part hereof.

- D. Seller shall provide PREPA with a credit limit of two hundred million dollars (\$200,000,000) for the obligation arising solely under this Contract (the "Credit Limit"). Whenever the Credit Limit is reached, Seller shall notify PREPA thereof in writing, and PREPA shall accelerate payments of invoices in chronological order as much as necessary to comply with the Credit Limit.
- E. If a Default occurs as a result of PREPA's failure to pay any invoice by the end of the 60-day credit term described in paragraph (E) of Article X (Measurement and Payment) or if the Credit Limit will be exceeded by a scheduled delivery, Seller may, at its sole discretion, suspend deliveries to PREPA. Where Seller suspends deliveries under this paragraph (E), Seller shall resume deliveries to PREPA as soon as such Default is cured or PREPA has reduced Seller's exposure under such Credit Limit to allow for additional deliveries. Any costs, including demurrage, due to this suspension of delivery under these circumstances shall be borne by PREPA.
- F. The pricing period for determination of the escalator comprises the three (3) days around the deemed commencement of discharge date, as agreed by the Parties. Pricing will be established considering the deemed discharge date agreed between



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the Parties, and this pricing shall not be modified except by mutual agreement. Should the delivery or deemed delivery take place on a Saturday, Sunday or on a holiday, the effective prices in the last edition of Platt's Oilgram Price Report or published before that date will be utilized to readjust the prices.

- G. The date published prices are made effective will govern, holding the price firm until the next publication date. Should the format used by the publishers for the postings be changed, the Parties shall meet within five (5) days of the occurrence to determine how to interpret the same.
- H. Seller assumes the responsibility and costs of transportation of the product, and all other related responsibilities and costs, up to each Delivery Point.
- I. In the event that during the term of this Contract, Platt's Oilgram Price Report or any other contracted price postings cease to exist, the Parties shall meet to establish an alternative mean to determine the contracted price satisfactory to both Parties. If the Parties are unable to agree on an alternative means to determine the contracted price within forty-five (45) days after any of the contracted price postings ceases to exist, then PREPA shall have the right to terminate this Contract.

ARTICLE VIII. Duties and Taxes

- A. The contracted price for Fuel includes all Federal, Commonwealth of Puerto Rico and local taxes, fees and established import tariffs for the Fuel being supplied. Puerto Rico's excise tax and municipal patent payment shall be fully reimbursed by PREPA and are to be presented as a separate line item on the invoice in addition to the contracted price. PREPA shall reimburse Seller the amount corresponding to the payment of the municipal patent, once Seller presents PREPA evidence, issued

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by the corresponding municipality, with respect to the percentage established as a basis for the calculation of the amount to be paid as such patent. If, during the term of this Contract, the agreed percent changes, Seller shall immediately present PREPA the corresponding evidence, issued by the corresponding municipality and reflect it in the invoice.

- B. Any changes, whether up or down, in the applicable taxes, fees, or tariffs, should they be imposed, will be reflected in the price for Fuel in its entirety as long as these taxes, fees or tariffs do not discriminate whether the product is domestic or foreign, and Seller will adjust the price accordingly. However, should said new or increased taxes, fees or tariffs discriminate on the basis of whether the product is domestic or foreign and said new or increased taxes, fees or tariffs result in a lower price for domestic fuel, Seller shall supply Fuel which results in the lowest cost to PREPA. Should domestic Fuel be unavailable, the Parties shall meet within five (5) days from Seller's notification of same to discuss Fuel availability from other sources and negotiate the financial aspect of any taxes, fees or tariffs applicable to that product. If an agreement cannot be reached, PREPA shall have the right to terminate this Contract without Seller being entitled to any further compensation, except for Fuel already delivered and due by PREPA.
- C. Upon PREPA's request, Seller shall apply for any applicable waivers of taxes, fees or tariffs, and any costs associated with the application to such waivers will be passed in their entirety to PREPA.



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ARTICLE IX. Guaranteed Calorific Value

- A. Seller guarantees delivery of Fuel with a minimum calorific value of 150,000 Btu/gal, as established in Exhibit A (Specifications). PREPA shall have no obligation to pay a premium for calorific values over such minimum.
- B. For any delivery by Seller in which the fuel fails to meet the guarantee set out in paragraph (A) above, PREPA shall receive a credit for a number of barrels equivalent to such deficiency, calculated on the basis of the example set out in Exhibit B (Sample Calculation (Btu Deficiency Adjustment)) attached and made a part hereof. PREPA shall receive such credit before computing the Fuel billings for the invoice applicable to such delivery.
- C. The provisions of Article V (Specifications) regarding compliance with specifications and laboratory analyses shall apply to this Article whenever required.

ARTICLE X. Measurement and Payment

- A. The quantity of Fuel delivered to PREPA shall be computed by measurements in PREPA's on-shore tanks, to be conducted by a mutually agreed independent inspector accredited by U.S. Customs and Border Protection as per 19 CFR § 151.13 and qualified by PREPA. Inspection costs shall be borne by Seller. All measurements shall be corrected to sixty degrees Fahrenheit (60° F) using the ASTM Petroleum Measurements Table 6-B. Quantities certified on the independent inspector's report will be binding for both Parties absent fraud or manifest error.
- B. Notwithstanding anything herein to the contrary, PREPA reserves the right to exclusively select and contract inspection services to conduct measurements and produce certifications of quantity at any time during the term of this Contract. If

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PREPA exercises this right, then this inspection cost shall be borne fully by PREPA, and Seller, at its own expense, may send its own inspector to verify these measurements.

- C. Seller shall invoice PREPA regularly and promptly after Fuel is delivered. For payment purposes, Seller shall send invoices to PREPA via e-mail in accordance with Article XIV (Notices). Seller shall also send a paper copy of all invoices by regular mail to the notice address required pursuant to Article XIV (Notices). Soft or hard copies of the inspector's certificates of quantity shall be included with each respective invoice.
- D. All invoices submitted by Seller shall include the following Certification in order to enable PREPA to proceed with its payment. This is an essential requirement, and those invoices without this Certification will not be processed for payment:

*No Interest Certification:*

*Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this contract, or if any employee, official or director of PREPA has any interest in the profits or benefits under this Contract, a waiver has been previously obtained. I also certify that the only consideration to deliver the fuel under this contract is the payment agreed with PREPA's authorized representative. The total amount of this invoice is fair and correct. The fuel has been delivered and no payment has been received previously for said delivery.*

---

**Authorized Representative Signature**

- E. PREPA shall pay the undisputed portion of each invoice submitted by Seller in immediately available U.S. dollars, as provided for in Article VII (Price), within sixty



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(60) days (or such other period for payment of future invoices as PREPA may elect under Paragraph (F) of this Article X) after both completion of discharge for the corresponding delivery and receipt by PREPA of the invoice and all necessary documents and requirements of this Contract. Should the due date of an invoice fall on a non-business day, payment shall be made the following business day.

F. PREPA, at its sole discretion, subject to its obligation to provide at least thirty (30) days' advance written notice to Seller, may elect to commence payment of all future invoices five (5), fifteen (15), thirty (30) or forty-five (45) days after completion of delivery and at the corresponding reduced fixed price differential. If PREPA elects to commence payment of future invoices forty-five (45) days after completion of delivery, then PREPA may, subject to at least thirty (30) days' advance written notice to Seller, further elect to commence payment of all future invoices thirty (30), fifteen (15) or five (5) days after completion of delivery and at the corresponding reduced fixed price differential. In each case, such election shall commence with deliveries on the day following the thirty (30) day notice period established in this paragraph. Upon making an election to pay invoices five (5), fifteen (15), thirty (30) or forty-five (45) days after completion of delivery, PREPA shall not have the right to switch back to the sixty (60) day, forty-five (45), thirty (30) or fifteen (15) day payment terms, as applicable, during the term of this Contract.

G. PREPA estimates the maximum value of this Contract not to exceed \$1,170,000,000.00, and will make payments under this Contract from account #01-2321-23215.

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H. PREPA represents and warrants to Seller on the date of this Contract that, as regards the proceeding commenced in respect of PREPA pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), pending as of the signing of this Contract in the PROMESA Court, Case No. 17-4780 (the "PREPA Bankruptcy"):

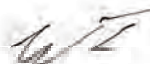
1. (i) Seller's right to payment for charges validly incurred in accordance with this Contract or owed by PREPA under this Contract arise from a post-petition transaction with PREPA, (ii) the consideration made available by Seller benefits PREPA and its affiliate subject to the PREPA Bankruptcy, and supports PREPA's obligations under this Contract, and (iii) as a result of the foregoing, Seller's right to payment for charges validly incurred in accordance with this Contract or owed by PREPA under this Contract during the PREPA Bankruptcy constitute reasonable and necessary expenses of preserving PREPA and an administrative expense; and
2. other than the PREPA Bankruptcy, except as previously disclosed in writing, there is no pending action or proceeding in which PREPA is a party before any court, governmental agency or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of PREPA or the ability of PREPA to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Contract as in effect on the date of this Contract.

A handwritten signature in black ink is written over a horizontal line. To the left of the signature is a blue circular stamp with a stylized 'S' or similar symbol inside.

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If PREPA becomes aware that any of the representations or warranties set out above in this paragraph have become untrue or incorrect, then PREPA shall notify Seller of such event as soon as reasonably practicable.

- I. In respect of the PREPA Bankruptcy, PREPA and Seller stipulate that this Contract is a post-petition agreement executed after the petition date of the PREPA Bankruptcy and, if subject to such proceeding, then entitled to administrative expense treatment under Public Law No: 114-187 (June 30, 2016), otherwise known as PROMESA, and the Bankruptcy Code. Further, PREPA stipulates that all of Seller's costs and obligations owed to Seller under this Contract shall be treated as administrative expenses and will support such recovery in any proceeding before any relevant court.
- J. Following the resolution of the PREPA Bankruptcy, the Parties shall cooperate and discuss in good faith a reduction to the pricing and an increase to the Credit Limit under this Contract to reflect the improved credit profile of PREPA.
- K. PREPA shall invoice Seller for any claims or other amounts due to PREPA in connection with this Contract, including in connection with Seller's failure to fulfill its obligations or a claim arises for warranty, indemnity or defects of services or fuel rendered. If Seller has not paid such amounts within sixty (60) days, PREPA shall have the right either to set off such amounts due to PREPA against amounts due to Seller, or to draw upon the Performance Security, as applicable, for such amounts.
- L. The Parties shall use their reasonable efforts to resolve any dispute regarding payment of any invoice issued under this Article by amicable negotiation, provided that if the Parties fail to resolve such dispute by the payment due date, then either

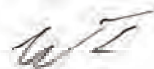


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Party may seek to resolve such dispute in accordance with Article XIX (Choice of Law and Venue).

ARTICLE XI. Force Majeure

- A. Each Party shall be excused from performing, and shall not be liable in damages or otherwise for failure to perform, an obligation under this Contract (other than a payment obligation) to the extent that it is unable to perform or is prevented from performing by a Force Majeure event. For the purpose of this Contract, "Force Majeure" means any cause without the fault or negligence, and beyond the reasonable control, of the Party claiming the occurrence of such event, whether foreseeable or not, which prevents the claiming Party from performing an obligation under this Contract, provided that the Party claiming such event as Force Majeure notifies the other Party in writing of the alleged Force Majeure event within ten (10) days of its occurrence. Such notice shall include the particulars of the occurrence and, to the extent possible, its estimated duration.
- B. Force Majeure may include the following: acts of God, industrial disturbances, acts of the public enemy, war, blockages, boycotts, riots, insurrections, epidemics (including quarantine and lockdown related to such epidemics), earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, acts or failure to act of any governmental authority, provided that such events, or any other claimed as Force Majeure, otherwise meet the requirements and Force Majeure definition set out in paragraph (A) of this Article. Notwithstanding the foregoing, Force Majeure shall not include mechanical breakdowns or other events not relating to weather conditions that limit or preclude the use of a specific barge for the delivery of Fuel



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under this Contract. The burden of proof as to whether a Force Majeure event has occurred shall be on the Party claiming Force Majeure.

- C. In the event that the Force Majeure claim extends for a period of more than ninety (90) consecutive days, either Party shall have the right to terminate this Contract without further obligation, except that such Party shall still be responsible for the payment of amounts due and owing under this Contract, on their due date.
- D. Upon cessation of the Force Majeure event, the Party claiming Force Majeure shall notify the other Party of the termination of the Force Majeure claim. Performance shall be resumed, but the excuse from performing due to a Force Majeure event shall not operate to extend the term of this Contract nor obligate either Party to make up deliveries or receipts, as the case may be.
- E. Seller recognizes that PREPA provides an essential service for the Commonwealth of Puerto Rico. Should any Force Majeure event cause Seller to suspend or reduce deliveries, Seller shall give PREPA first priority for supply.

ARTICLE XII. General Liabilities

- A. Seller agrees to make, use, provide, and take all proper and necessary precautions, safeguards, and protection against the occurrence or happening of injuries, death, and/or damages to any person or property during the delivery process.
- B. Seller shall indemnify PREPA against, and save PREPA harmless from, public liability, costs, and expenses resulting therefrom, or damages that may happen or occur through the fault, willful misconduct, or negligent acts or omissions of Seller, its employees, agents, and subcontractors, during the supply of fuel or performance of this Contract, or while carrying out any act or action directly or indirectly related

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to, or in connection with, the performance of this Contract, and from loss, liability, and fines incurred for, or by reason of violation by Seller of any federal, state, or municipal ordinance or regulation of law, while a delivery is in progress.

- C. Seller shall indemnify PREPA against, and save PREPA harmless from, all expenses and costs of any nature arising out of any claim due to an environmental non-compliance or violation, caused by Seller, its agents, employees, subcontractors or assignees during performance or nonperformance of its obligations under this Contract.
- D. Seller shall indemnify and defend PREPA against, and save PREPA harmless from (including in each case PREPA's officers, agents, and employees) any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due or attributable to the fact that any of the fuel provided by Seller has deviations or variations from the contracted and guaranteed Specifications for the same.
- E. Seller shall indemnify PREPA against, and save PREPA harmless from, all expenses and costs of any nature (including attorneys' fees) incurred by PREPA arising out damages, caused by Seller, by act or omission, in the performance or nonperformance of its obligations under this Contract.
- F. Notwithstanding anything to the contrary in this Contract, neither Party shall be liable to the other pursuant to this Contract for any punitive, consequential, or exemplary damages.



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ARTICLE XIII. Performance Security and Insurance

- A. Upon execution of this Contract, Seller shall provide PREPA with a Performance Bond payable to the order of PREPA to secure Seller's performance under this Contract, including delivery in compliance with the Specifications. The Performance Bond shall be issued by a qualified surety company authorized to do business in Puerto Rico and reasonably acceptable to PREPA, in the amount equivalent to five percent (5.0%) of the estimated Contract value set out in paragraph (G) of Article X (Measurement and Payment), governed by the laws of the Commonwealth of Puerto Rico and otherwise in a form reasonably acceptable to PREPA.
- B. In lieu of a Performance Bond, PREPA will accept a Letter of Credit (such Letter of Credit or Performance Bond, a "Performance Security"), issued by a qualified bank reasonably acceptable to PREPA, provided that such Letter of Credit shall be for the same amount as specified for the Performance Bond in paragraph (A) above and shall satisfy the following conditions:
1. issued or notified or confirmed by a local bank in Puerto Rico;
  2. unconditional and irrevocable;
  3. payments made by the issuing bank on a business day by wire transfer, immediately after PREPA's first demand for payment;
  4. governed and construed in accordance with the laws of the Commonwealth of Puerto Rico; and
  5. otherwise in a form reasonably acceptable to PREPA.



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- C. Seller shall procure, and maintain in full force and effect during the term of this Contract, policies of insurance covering all operations engaged in by Seller under this Contract, including as follows:
1. Commonwealth of Puerto Rico Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico; provided that Seller shall (i) also be responsible for compliance with said Workmen's Compensation Act by all its subcontractors, agents and invitees, if any, and (ii) furnish from the Puerto Rico State Insurance Fund a certificate showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance in accordance with this Contract;
  2. Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability covered by law upon Seller as result of bodily injury, by accident or disease, including death arising out of and in the course off employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico;
  3. Commercial General Liability Insurance with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate;
  4. Commercial Automotive Liability Insurance with a limit of \$1,000,000 combined single limit covering all owned or scheduled autos, or non-owned or hired autos, and including the MCS-90 (Motor Carrier Endorsement); and



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5. Pollution Liability Insurance with limits of \$10,000,000 per claim and \$10,000,000 in aggregate.
- D. The Commercial General Liability and the Commercial Automotive Liability Insurance under this Contract shall be endorsed to include:
1. As additional insured:
    - a. The Puerto Rico Electric Power Authority
    - b. GENERA PR LLC, as agent on behalf of and for the account of the Puerto Rico Electric Power Authority
  2. a thirty (30) day cancellation or nonrenewable notice to be sent to the above address;
  3. an endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to this Contract;
  4. a waiver of subrogation in favor of PREPA; and
  5. the following provision on breach of warranties or conditions:

*"The Breach of any Warranties or Conditions in this Policy by the Insured shall not prejudice PREPA's rights under this policy."*
- E. All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico. Upon request by PREPA, Seller shall furnish a certificate of insurance in original signed by an authorized representative of the insurance company in Puerto Rico describing the coverage afforded.
- F. In addition to the foregoing, Seller shall maintain adequate insurance coverage for the duration of this Contract to cover cost of replacement or repair of any breakage caused by carelessness, negligence, or lack of skill, or other similar occurrence, on



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the part of Seller's employees in the performance of required deliveries, including coverage for bodily and property damage and any such other items.

ARTICLE XIV. Notices

Any notice to be given hereunder shall be in writing and will be sufficiently served when delivered in person or properly mailed to the following addresses:

To PREPA:

PREPA  
c/o GENERA PR LLC, its agent Fuels Office  
250 Muñoz Rivera Ave., Suite 1200  
San Juan, Puerto Rico 00918  
Attention: Jose Del Rio Velez  
Vice President - Fuels  
legal@genera-pr.com

To Seller:

Puerto Rico Energy LLC  
Attention: Mario Ricardo Sierra Varela  
P.O. Box 11961  
San Juan, Puerto Rico 00922

Notices can also be sent through e-mail and shall be deemed valid if the notified Party provides the notifying Party with confirmation of receipt, provided notices are sent to the following e-mail addresses:

To PREPA:

fuels@genera-pr.com

with copy to:

legal@genera-pr.com

To Seller:

mario.sierra@energy-latam.com

with copy to:

Ruben.gonzalez@energy-latam.com

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A Party shall notify the other Party in writing upon any change of its address(es) from those set forth above, and from and after giving of such notice, the address therein specified shall be deemed the address of the notifying Party for the giving of notices.

ARTICLE XV. Compliance with Commonwealth of Puerto Rico Contracting Requirements

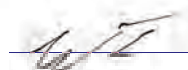
Seller shall comply with all applicable laws, including local and federal regulations and Executive Orders that regulate the environmental matters and contracting processes and requirements in the Commonwealth of Puerto Rico.

A. Filing of Puerto Rico Income Tax Returns

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, Seller hereby certifies that it has filed all the necessary and required income tax returns with the Government of Puerto Rico for the last five (5) years. As evidence thereof, Seller has delivered to PREPA an Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, assuring that Seller has filed its Income Tax Return for the last five (5) tax years (Form SC 6088). Seller accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every subcontractor whose service Seller has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

B. Payment of Puerto Rico Income Taxes

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, Seller hereby certifies that it has complied and is current with the payment of all income taxes that are, or were due, to the Government of Puerto Rico. As evidence



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thereof, Seller has delivered to PREPA a certification issued by the Treasury Department of Puerto Rico indicating that Seller does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms (Form SC 6096). During the term of this Contract, Seller agrees to pay and/or to remain current with any repayment plan agreed to by Seller with the Government of Puerto Rico. Seller accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each subcontractor whose service Seller has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement. Seller represents and warrants that it will inform PREPA if, at any time during the term of this Contract, there is any material tax dispute between Seller and any Governmental Body of the Commonwealth of Puerto Rico (other than Commonwealth tax liabilities for which Seller is not responsible under this Contract, if any).

- C. Compliance with Requirements of the Department of Labor and Human Resources of the Commonwealth of Puerto Rico.

Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, Seller certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a



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payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. As evidence thereof, Seller has delivered to PREPA:

1. A certification issued by the Bureau of Employment Security (*Negociado de Seguridad de Empleo*) of the Puerto Rico Department of Labor and Human Resources certifying that Seller does not owe taxes regarding Unemployment or Disability Insurance.
2. A certification issued by the Program for Social Security for Chauffeurs and Other Employees of the Puerto Rico Department of Labor and Human Resources certifying that Seller has no debt with respect to such program.

D. Real and Personal Property Taxes

Seller hereby certifies and guarantees that it does not have any current debt regarding property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (*Centro de Recaudación de Ingresos Municipales* ("CRIM")). Seller further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. Seller shall provide:

1. a certification issued by the Municipal Revenues Collection Center ("MRCC"), assuring that Seller does not owe any tax accrued during the last five (5) years to such governmental agency with respect to personal property; or negative Debt certification issued by the MRCC with respect to personal property taxes and a sworn statement executed by Seller indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last five (5) years (or the time in which it has been providing professional services) it has

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had no taxable business or personal property on the 1st of January of each year, (ii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended and (iii) that for such reason it does not have an electronic tax file in the MRCC's electronic system.

2. an All Concepts Debt Certification issued by the MRCC assuring that Seller does not owe any taxes to such governmental agency with respect to real and personal property; or
3. a negative certification issued by the MRCC with respect to real property taxes.

E. Sales and Use Taxes

Seller has delivered to PREPA:

1. a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico, assuring that Seller has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods; and
2. a copy of Seller's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.

F. Puerto Rico Child Support Administration (ASUME)

Seller hereby certifies that it is not duty bound to pay child support, or if so, that Seller is up to date or has a payment plan to such effects. As evidence thereof, Seller has delivered to PREPA a certification issued by the Puerto Rico Child Support Administration (*Administración Para El Sustento de Menores (ASUME)*)



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certifying that Seller does not have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME.

G. Resolution of Debt

If any of the certifications listed in items A through F of this Article shows a debt, and Seller has requested a review or adjustment of this debt, Seller hereby certifies that it has made such request at the time of Contract execution. If the requested review or adjustment is denied and such determination is final, Seller will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Seller accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. Seller accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every contractor and subcontractor whose service Seller has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

H. Organization Documents

Upon execution of this Contract, Seller shall provide:

1. a Good Standing Certificate issued by the Department of State of Puerto Rico; and
2. a Certification of Incorporation, or Certification of Organization or Certificate of Authorization to do business in Puerto Rico, issued by the Department of State of Puerto Rico.



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I. Compliance with Act 1 of Governmental Ethics

Seller hereby certifies compliance with Act 1 - 2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his or her immediate family (spouse, dependent children, or other members of his or her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. §§ 8611, et seq.

J. Law 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People

Seller hereby certifies that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended, Act 168- 2000 "*Law for the Strengthening of the Family Support and Livelihood of Elderly People*" in Spanish: "*Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada*", 3 L.P.R.A. §8611 et seq., the same is current and in all aspects in compliance.

K. Law 127 - 2004: Contract Registration in the Comptroller's Office of Puerto Rico Act

Seller acknowledges that payment under this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Law Number 18 of October 30, 1975, as amended.

L. Prohibition with respect to execution by public officers: (3 L.P.R.A. 8615(c))



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Seller acknowledges that no public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

- M. Prohibition with respect to contracting with officers or employees: (3 L.P.R.A. 8615(d))

Seller acknowledges that no executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.

- N. Prohibition with respect to contracts with officers and employees of other Government entities: (3 L.P.R.A. 8615(e))

Seller acknowledges that no public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency unless the Governor gives express authorization thereto with previous recommendation from the Secretary of the Treasury and the Secretary of Justice.

- O. Prohibition with respect to evaluation and approval by public officers: (3 L.P.R.A. 8615(f))

Seller acknowledges that no public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve, or authorize any



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contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

- P. Prohibition with respect to execution by public officers of contracts with former public officers: (3 L.P.R.A. 8615(h))

Seller acknowledges that no executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.

- Q. Dispensation

Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record.

- R. Rules of Professional Ethics

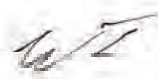
Seller acknowledges and accepts that it is knowledgeable of the rules of ethics of his or her profession and assumes responsibility for his or her own actions.

- S. Anti-Corruption Laws

1. Seller agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time, which establishes the Anti- Corruption Code for a New Puerto Rico.
2. Seller hereby certifies that it does not represent particular interests in cases or matters that imply a conflict of interest, or of public policy, between the executive agency and the particular interests it represents.



3. Seller shall furnish a sworn statement to the effect that neither it nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for Seller has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico, or any of the crimes included in Act 2-2018.
4. Seller hereby certifies that it has not been convicted in Puerto Rico or United States Federal court under Articles 4.2, 4.3, or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.
5. PREPA shall have the right to terminate this Contract in the event Seller is convicted in Puerto Rico or United States Federal Court under Articles 4.2, 4.3, or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, of any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as



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the Anti-Corruption Code for a New Puerto Rico, or any other felony that involves misuse of public funds or property, including the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

6. Seller represents and warrants that it has not violated and will not violate, conspire to violate, or aid and abet the violation of any Anti-Corruption Laws. No funds transferred by PREPA to Seller shall be transferred by the Seller, in violation of any Anti-Corruption Laws.
7. Seller represents and warrants that it is not a Sanctioned Person or is located, organized or resident in Sanctioned Country.
8. Seller represents and warrants that it maintains and implement policies and procedures and controls reasonably designed to ensure compliance with the Anti-Corruption Laws and Sanctions and will promptly notify PREPA in writing if Seller becomes subject to any investigation by law enforcement or regulatory authorities in connection with the Anti-Corruption Laws or Sanctions, and will at all times comply with all applicable law regarding non-discrimination.
9. Seller represents, warrants and attests, subject to penalties for perjury, that no representative of Seller, directly or indirectly, to the best of the Seller's knowledge, entered into or offered to enter into any combination, conspiracy, collusion, or agreement to receive or pay any sum of money or other consideration for the execution of this Contract.



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10. Seller represents and warrants that it will inform PREPA if now, or at any time during the term of this Contract, it or its representatives become aware that they are subject to investigation in connection with criminal charges related to acts of corruption, the public treasury, the public trust, a public function or charges involving public funds or property.

T. Provisions Required under Act 14-2004

Seller agrees that articles extracted, produced, assembled, packaged, or distributed in Puerto Rico by enterprises with operations in Puerto Rico, or distributed by agents established in Puerto Rico, shall be used when the service is rendered, provided that they are available.

U. Contract Review Policy

1. The Parties acknowledge that Seller has submitted the certification titled "Contractor Certification Requirement" required in accordance with the Contract Review Policy of the Financial Oversight and Management Board for Puerto Rico, effective as of November 6, 2017 and amended on October 30, 2020, signed by Seller's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor Certification Requirement" is included as an annex to this Contract.
2. Seller represents and warrants that the information included in the Contractor Certification Requirement is complete, accurate and correct, and that any misrepresentation, inaccuracy or falseness in such Certification will render this Contract null and void and Seller will have the obligation to reimburse

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immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under this Contract.

3. For this Contract, the transfer of skills and technical knowledge required by the Certified Fiscal Plan is inapplicable given the non-recurring or specialized nature of the contracted services.
4. Seller expressly agrees that the conditions outlined throughout this paragraph (U) are essential requirements of this Contract. Consequently, should any one of these representations, warranties, or certifications be incorrect, inaccurate, or misleading, in whole or in part, there shall be sufficient cause for PREPA to render this Contract null and void and to terminate it with immediate effect, and Seller shall reimburse PREPA all moneys received under this Contract.

ARTICLE XVI. Assignments and Subcontracting

- A. This Contract, as well as any rights, duties, liabilities, or obligations under it, cannot be assigned, transferred, subcontracted, hypothecated, or otherwise disposed of by Seller without the prior written consent of PREPA, except that Seller and its assigns may without such consent assign all or a portion of their rights and interests under this Contract (including any collateral) in connection with any securitization or bank funding arrangement entered into by Seller or an assignee of Seller. Seller acknowledges that, other than assignments in connection with any securitization or bank funding arrangement entered into by Seller or an assignee of Seller, PREPA does not favor requests for assignment, transfer, subcontracting, hypothecation, or other types of disposal of this Contract and/or duties or obligations under it, and will



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have reasonable grounds not to approve any request to that effect, unless, in the business judgment of PREPA, the particular circumstances of the request warrant its approval and the assignment, transfer, subcontracting, hypothecation, or disposal does not operate against PREPA's best interests.

- B. No subcontract shall be considered for PREPA's approval, except when the following requirements are met: (i) Seller delivers PREPA a copy of the subcontract, not less than thirty (30) days prior to the effective date of the proposed subcontract; (ii) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to substitute, subrogate, or assume Seller's rights under the subcontract, in the event that PREPA declares Seller in breach or default of any of the Contract terms and conditions; (iii) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the subcontractor the obligation to comply with all Seller's obligations under this Contract (a mirror image clause), except for such obligations, term, and conditions which exclusively relate to works or services not included under the subcontract. Consent to assignment or subcontracting under this Article shall not relieve Seller of its full responsibilities under this Contract, nor be construed as an approval of the terms of said assignment or subcontract. Seller shall be responsible for all services performed by its subcontractors, employees, agents or assignees, whose performance Seller shall ensure complies with the provisions of this Contract.
- C. The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that in the eventuality of the execution of a Partnership Contract, Sale Contract or any other PREPA Transaction (as these terms are

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defined in Act No. 120-2018, otherwise known as Puerto Rico Electric System Transformation Act, as amended), PREPA may sell, assign, convey, transfer, pledge, mortgage, sublease, delegate, hypothecate, or otherwise dispose (each, a "Transfer") any of its rights, title, or interest (by novation or other instrument) in this Contract as permitted by applicable law and at any time, and without Seller's consent or cost, expense or incremental liability to PREPA, to any future operator of Puerto Rico's generation system or any of its affiliates, or to any governmental agency, body, public corporation or municipality of Puerto Rico; provided, that PREPA shall notify Seller no later than thirty (30) days before the effective date of any such Transfer.

ARTICLE XVII. Financial Reporting

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ARTICLE XVIII. Contingent Fees

- A. Seller represents and warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this representation or warranty will give PREPA the right to immediately terminate this Contract and/or to deduct from any payment or from the Performance Security the amount of such commission, percentage, brokerage, or contingent fee, or to claim said amount by whatever means available under the law.



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- B. No officer, employee or agent of PREPA or of the Commonwealth of Puerto Rico, or of any Municipal Government of Puerto Rico, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.
- C. Seller represents and warrants that it is authorized to enter into and to perform its obligations under this Contract, and that it is not prohibited from doing business in Puerto Rico or barred from contracting with agencies or instrumentalities of the Commonwealth of Puerto Rico.

ARTICLE XIX. Choice of Law and Venue

This Contract, its Exhibits and any other document specifically incorporated into it shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Other than matters relating to the PREPA Bankruptcy, which shall be heard and determined in the United States District Court for the District of Puerto Rico, the Parties expressly agree that all actions and proceedings arising out of or relating to this Contract shall be heard and determined in the courts of the Commonwealth of Puerto Rico, and the Parties hereby irrevocably submit to the jurisdiction of such court in any such action or proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. The Parties hereby irrevocably waive all rights to trial by jury in any action, proceeding or counterclaim (whether based in contract, tort or otherwise) arising out of or relating to this Contract or the actions of any Party or their respective representatives in the negotiation or performance hereof.

ARTICLE XX. Code of Ethics

Each Party represents and warrants that, in connection with this Contract:



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1. It has implemented adequate internal procedures designed to ensure that it shall not authorize the giving or offering of any financial or other advantage with the intention of inducing or rewarding any individual or entity to improperly perform an activity undertaken in the course of an individual's employment or connected to an entity's business activities (the "Anti-Corruption Controls"); and
2. It has not authorized and it will not authorize, in connection with the performance of this Contract, any financial or any other advantage to or for the benefit of any public official, civil servant, political official, candidate for office, or any other public or private individual or entity where such authorization would violate the Anti-Corruption Controls.

ARTICLE XXI. Modification and Novation

No modification, amendment, change, renewal, extension, discharge, or waiver of this Contract, or any provision thereof, shall be valid or binding except by a written agreement of the Parties executed by a duly authorized officer of each Party. No such modification, amendment or change to this Contract shall be understood as a contractual novation unless expressly agreed in writing by the Parties, including in cases where PREPA grants Seller a time extension for compliance with any of its obligations or where PREPA waives or resolves any of its rights under this Contract.

ARTICLE XXII. Separability

If a court of competent jurisdiction declares any of this Contract's provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining

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provisions of this Contract and the Parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

ARTICLE XXIII. Interpretation

- A. The words "include" and "including" mean "including, but not limited to" and corresponding grammatical variants.
- B. Words and abbreviations not defined in this Contract which have generally accepted technical or design, engineering, or construction industry meanings are used in this Contract in accordance with such recognized meanings.
- C. References to a person include such person's successors and assigns, provided that with respect to a Party and its rights and obligations under this Contract, references to a Party shall only include such Party's successors and assigns if this Contract permits such successors and assigns.
- D. The words "day" and "days" refers to calendar days unless specified as business days. Business days shall mean the days on which banks are open for business in Puerto Rico.
- E. Nothing in this Contract shall be construed or interpreted to limit the Puerto Rico Energy Bureau's powers under the laws of the Commonwealth of Puerto Rico.
- F. This Contract may be executed in any numbers of counterparts, and may be delivered by electronic mail, and each such copy when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same Contract.

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ARTICLE XXIV. Entire Agreement

This Contract, together with its Exhibits A (Specifications), B (Sample Calculation (Btu Deficiency Adjustment)), and C (Sample Calculation (Escalator)), constitutes the entire agreement of the Parties as to the subject matter addressed herein, and supersedes any and all prior agreements, Requests for Proposals, proposal letters or letters of award between PREPA and Seller.

*[Signatures appear on the following page.]*



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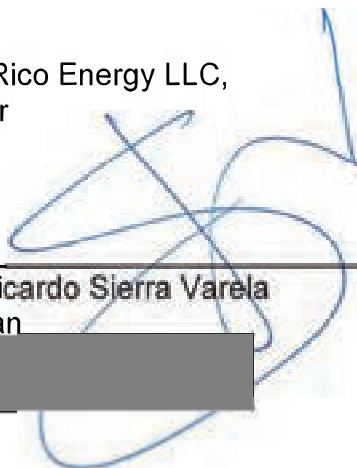
IN WITNESS WHEREOF, the Parties have caused this Contract to be duly  
executed as of October 31, 2024, in San Juan, Puerto Rico.


The Puerto Rico Electric Power Authority,  
as PREPA



Winnie Irizarry  
Authorized Signatory for Genera PR LLC,  
exclusively as agent on behalf of and for  
the account of PREPA

Puerto Rico Energy LLC,  
as Seller



Mario Ricardo Sierra Varela  
Chairman  
EIN 

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**EXHIBIT A**  
**SPECIFICATIONS**

PARAMETER	ASTM METHOD	MINIMUM	MAXIMUM
SAMPLING	D-4057	3 LEVELS COMPOSITE - (UML)	
GRAVITY, API DEGREE AT 60°F	D-287	10.5	23
VISCOSITY, SFS AT 122°F	D-445, D-88	65	350
WATER & SEDIMENT, % VOLUME	D-1796, D-473, D-95	-	1.0
FLASH POINT, DEGREE F, PMCT	D-93	150	
SULFUR, % WEIGHT	D-4294	-	0.49
ASH, % WEIGHT	D-482	-	0.1
ASPHALTENES, % WEIGHT	D-3279	-	8.0
POUR POINT, DEGREE F	D-97	-	60
SODIUM + POTASSIUM, PPM	D-5863	-	35
VANADIUM, PPM	D-1548, D-5708, D-5863	-	150
CALCIUM, PPM	D-5863	-	75
HEATING VALUE, BTU/GAL (GROSS) AT 60°F	D-240	150,000	-

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## EXHIBIT B

### SAMPLE CALCULATION (BTU DEFICIENCY ADJUSTMENT)

Example of calculation to determine credit due to PREPA if Seller supplies fuel of lower heat content than the guaranteed calorific value (in Btu):

Assume:

1. Guaranteed calorific value is 150,000 Btu/gallon of fuel measured at 60° F.
2. Seller delivers 5,000 barrels of fuel measured at 60° F.
3. The inspector's certificate of the fuel delivered indicates an API degree of 15.8 measured at 60° F which is equivalent to 8.0 lbs./gallon.

Fuel with a heating value of 17,500 Btus per pound or that measures 140,000 Btus/ gallon measured at 60° F, (8.0 lbs./gallon) (17,500 Btus/lb.) = 140,000 Btus/gallon. Therefore actual Btus delivered were 140,000 Btus/gallon.

To calculate the equivalent barrels of the deficiency, divide the difference of Btus/gallon received by the guaranteed minimum and multiply this fraction by the delivered volume.

Calculation:

$$(5,000 \text{ barrels}) \times ((150,000 - 140,000) / 150,000) = 333.33 \text{ bbl.}$$

PREPA receives a deficiency credit for 333.33 bbl.



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### EXHIBIT C

#### SAMPLE CALCULATION (ESCALATOR)

	Platt's Oilgram Price Report 0.5% S Marine Atlantic Coast	
December 20, 2022	88.230	\$/Bbl
December 21, 2022	89.210	\$/Bbl
December 22, 2022	88.270	\$/Bbl

Proceed with Platt's 0.5% S Marine Atlantic Coast Average Calculation

$$\text{Average} = (88.230 + 89.210 + 88.270) / 3 = 88.570$$

Escalation Factor for a delivery starting on  
December 21, 2022 =

88.570

\$/Bbl

#### SAMPLE CALCUATION (ALTERNATE ESCALATOR)

Physical Date	Front Month Contract	ICE Front Month BRENT Crude Oil Futures	
December 25, 2022	February-2023	80.250	\$/Bbl
December 26, 2022	February-2023	81.500	\$/Bbl
December 27, 2022	February-2023	82.755	\$/Bbl

Proceed with ICE Front Month Brent Crude Oil Futures Average Calculation

$$\text{Average} = (80.250 + 81.500 + 82.755) / 3 = 81.502$$

Escalation Factor for a delivery starting on  
December 26, 2022 =

81.502

\$/Bbl

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**EXHIBIT D**

**DESIGNATED STORAGE TERMINALS**

Commonwealth Oil Refining Company, Inc. (CORCO)

WT  
✕

Exhibit D

Diesel Fuel Purchase Contract

*Execution Version*

2025-G00190

**DIESEL FUEL PURCHASE CONTRACT  
SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE,  
ECOELÉCTRICA, COSTA SUR AND VARIOUS GAS TURBINE GENERATING  
STATIONS**

**CONTRACT NUMBER 106742**

AS FIRST PARTY: The Puerto Rico Electric Power Authority ("**PREPA**"), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act of May 2, 1941, No. 83 (Act 83-1941), as amended, represented in this act by Genera PR LLC exclusively as agent on behalf of and for the account of PREPA, represented by Winnie Irizarry, of legal age, single, and authorized signatory of Genera PR LLC, a limited liability company organized and existing under the laws of Puerto Rico ("**Genera**").

AS SECOND PARTY: Puerto Rico Energy, LLC ("**Seller**"), a limited liability company organized and existing under the laws of Puerto Rico, authorized to do business in Puerto Rico, duly registered as a supplier to PREPA, represented in this act by its Authorized Representative, Mario Ricardo Sierra Varela, of legal age, married, and authorized to sign this Contract by the corporate resolution dated as of October 16, 2024.

PREPA and Seller are herein individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

WITNESSETH

A. WHEREAS, on January 24, 2023, (i) PREPA, (ii) the Puerto Rico Public-Private Partnership Authority, a public corporation of the Commonwealth of Puerto Rico, created by Act No. 29 of the Legislative Assembly of Puerto Rico, enacted June 8, 2009 ("**Administrator**") and (iii) Genera entered into the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement (the "**Generation**



DIESEL FUEL PURCHASE CONTRACT  
SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR  
AND VARIOUS GAS TURBINE GENERATING STATIONS  
Page 2

**O&M Agreement**"), whereby PREPA, the Administrator, and Genera agreed that as of the "Service Commencement Date" as defined therein, which occurred on or about July 1, 2023, Genera would become the operator of the "**Legacy Generation Assets**" as defined therein, as an agent of PREPA;

- B. WHEREAS, PREPA, by virtue of Act No. 83 of May 2, 1941, as amended ("Act 83"), has the authority to engage professional, technical, and consulting services and such other services necessary and convenient to pursue the activities, programs, and operations of PREPA;
- C. WHEREAS, pursuant to section 5.2(b) of the Generation O&M Agreement, Agent Designation, PREPA designated and appointed Genera as its agent, and Genera accepted such designation and appointment, for the purpose of entering into Facility Contracts on behalf of and for the account of PREPA, as may be necessary or appropriate to operate, maintain the Legacy Generation Assets and to make such additions and extensions thereto in accordance with the terms of the Generation O&M Agreement;
- D. WHEREAS, PREPA issued a Request for Proposal ("**RFP**") for the supply of Ultra-Low Sulfur Diesel ("**ULSD**") to meet the diesel fuel requirements of the San Juan, Palo Seco, Aguirre, Mayagüez, Cambalache, EcoEléctrica and Costa Sur power generation plants, as well as the diesel fuel requirements of the gas turbines located at Vega Baja, Ceiba, Guayama and Yabucoa (collectively with the listed power generation plants, the "**Generating Stations**");
- E. WHEREAS, in response to such RFP, Seller made an offer for the supply of ULSD to meet the diesel fuel requirements of the Generating Stations; and

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F. WHEREAS, PREPA wishes to accept Seller's offer as and to the extent provided below, and Seller is willing to supply ULSD to the Generating Stations in accordance with the terms set out below;

THEREFORE, after a negotiation process between the Parties and in consideration of the mutual covenants herein stated, PREPA and Seller agree as follows:

ARTICLE I. Scope of Supply

A. Seller agrees to sell and deliver to PREPA all of PREPA's requirements for, and PREPA agrees to purchase from Seller, ULSD for use in the Generating Stations that complies with Article V (Specifications), Exhibit A (Specifications) attached and made a part hereof (the criteria set out therein, the "**Specifications**"), and applicable law, including regulations administered by the Environmental Protection Agency ("**EPA**") and the Environmental Quality Board ("**EQB**") for Puerto Rico (the "**Fuel**"), as reflected in the Specifications. The weekly rate of Fuel delivery for each calendar week of this Contract shall be the amount of Fuel requested by PREPA in accordance with the nomination process set out in paragraph (B) of Article IV (Delivery and Title). Seller shall deliver such Fuel to the Generating Stations in quantities and at times requested by PREPA in accordance with this Contract.

B. Notwithstanding any contrary provision of paragraph (A) of this Article, PREPA has the right to purchase ULSD from any source for use in the Generating Stations if (i) PREPA identifies a price for ULSD from such source that is lower than the price which has been agreed in this Contract, provided that PREPA may not purchase more than twenty-five percent (25%) of its requirements for ULSD for the Generating Stations from such alternate sources under this sub- paragraph (B)(i), (ii) either Party



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has declared a Force Majeure or other emergency situation that has resulted, or could reasonably result with the passage of time, in a shortage of requested quantities of Fuel, or a shortage has occurred as described in paragraph (H) of Article IV (Delivery and Title), in which cases PREPA may purchase from alternate sources any quantities of Fuel reasonably expected to cover such shortages, or (iii) Seller has failed, or could fail with the passage of time, to deliver requested quantities of Fuel, in which case PREPA has the right to purchase from alternate sources any quantities reasonably expected to cover shortages resulting from such failure or expected failure.

- C. Seller acknowledges that, in accordance with the terms and conditions of the Generation O&M Agreement, Genera is acting as PREPA's agent in the administration of this Contract. As such, all references to PREPA taking any action, receiving any notice or disclosure, making any declaration or determination, scheduling deliveries or otherwise directing Seller, without limitation to any provision or administration act related to this Contract, shall be understood to refer to Genera, acting on PREPA's behalf.

ARTICLE II. Term and Termination

- A. This Contract shall become effective on the date of its execution by the Parties and remain in effect for a period of one (1) year (the "**Initial Term**") starting on November 17, 2024 (the "**Commencement Date**"). This Contract may be extended for an additional year beyond the initial Term only by written amendment agreed upon by the Parties made ninety (90) days prior to the expiration of the Initial Term, subject to Seller's satisfactory performance, the authorizations required according to

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PREPA's rules and regulations, and an amount for Fuel approved in PREPA's certified budget sufficient to cover the extension of this Contract.

- B. This Contract may be extended on a monthly basis beyond the Initial Term, or any extension under paragraph (A) of this Article, by mutual agreement after the end of the Initial Term or its extended term, as applicable; provided, however, that said extensions shall not exceed four (4) consecutive months, except when an emergency is declared by PREPA.
- C. This Contract shall terminate upon the earliest to occur of the following events:
1. the expiration of the term in accordance with paragraphs (A) and (B) of this Article;
  2. the Parties' mutual agreement in writing to terminate this Contract;
  3. a Party's election in a written notice to the other Party to terminate this Contract following a Force Majeure claim that extends for a period of more than ninety (90) consecutive days, in accordance with paragraph (C) of Article XI (Force Majeure);
  4. PREPA's election in a written notice to Seller to terminate this Contract under any of the following circumstances:
    - a. in accordance with paragraph (C) Article IV (Delivery and Title), paragraphs (E), (H), (J) or (K) of Article V (Specifications), paragraph (H) of Article VII (Price), paragraph (B) of Article VIII (Duties and Taxes), paragraphs (S)(5) or (U)(4) of Article XV (Compliance with Commonwealth of Puerto Rico Contracting Requirements), or paragraph (A) of Article XVIII (Contingent Fees);

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- b. for convenience on a date for termination identified in such notice, which shall be no earlier than thirty (30) days from the date of such notice, provided that, for the avoidance of doubt, the rights, duties, and responsibilities of the Parties shall continue in full force and effect during the notice period;
  - c. immediately in the event of Seller's negligence, dereliction of duty, noncompliance, or material breach of this Contract, as determined in the sole discretion of PREPA; or
  - d. upon (i) commencement by Seller of any debt adjustment proceeding, bankruptcy proceeding, insolvency proceeding, dissolution or wind-up proceeding, proceeding under the Public Corporation Debt Enforcement and Recovery Act, Act No. 71, of June 28, 2014, or any similar proceedings, (ii) the filing of a petition in bankruptcy or insolvency against Seller, or (iii) appointment of a receiver for Seller without PREPA's consent.
- 5. a non-defaulting Party's election to terminate this Contract following five (5) business days' advance notice in writing to the other Party (the "**Defaulting Party**") of the occurrence of the following events (each, a "**Default**"), provided that such event remains uncured at the effective date and time of such termination:
  - a. for PREPA only as the Defaulting Party, failure to reduce Seller's credit exposure to PREPA below the Credit Limit within ten (10) days following exceedance of the Credit Limit and corresponding notice



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thereof from Seller in accordance with paragraph (D) of Article VII  
(Price);

- b. for Seller only as the Defaulting Party, failure to deliver Fuel ten (10) days after its committed delivery date without PREPA's consent, except when such failure to deliver is a consequence of Force Majeure under Article XI (Force Majeure) or in accordance with paragraph (E) of Article VII (Price);
- c. failure of the Defaulting Party to pay an invoice within five (5) business days after the date required for payment under this Contract;
- d. breach by the Defaulting Party of any material obligation under this Contract other than those identified in paragraphs (5)(a) and (b) above, or the material inaccuracy of any representation or warranty given by such Defaulting Party under this Contract, in each case that has continued uncured for a period of seven (7) days following an initial notice of such failure from the performing Party to the Defaulting Party; or
- e. other than in respect of the PREPA Bankruptcy, (i) commencement by the Defaulting Party of any debt adjustment proceeding, bankruptcy proceeding, insolvency proceeding, dissolution or wind-up proceeding, proceeding under the Public Corporation Debt Enforcement and Recovery Act, Act No. 71, of June 28, 2014, or any similar proceedings, (ii) the filing of a petition in bankruptcy or



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insolvency against the Defaulting Party, or (iii) appointment of a receiver for the Defaulting Party without the other Party's consent.

- D. Upon the termination of this Contract under paragraph (C)(5) above following the occurrence of a Default by PREPA, all amounts owed to Seller under this Contract shall immediately become due and payable.
- E. Termination under this Article, or as otherwise permitted under this Contract, shall not create any liability to the terminating Party, provided that it shall continue to be responsible for the payment of amounts due and owing to the non-terminating Party prior to the date of such termination.
- F. A Party's exercise of its right to terminate this Contract shall not be understood as a waiver by the Party of any claim, right or other remedy it may have under this Contract or under the law for delays or breaches incurred by the other Party in the performance of its obligations under this Contract.
- G. Upon termination of this Contract, Seller shall (i) release the vessel delivering under this Contract (subject to vessel owner's approval) and use commercially reasonable efforts to assist PREPA in obtaining the use of the vessel, and (ii) have no further right to compensation except for what has been accrued for Fuel supplied and services rendered under this Contract until said date of effective termination.

ARTICLE III. Independent Contractor

Seller shall be considered an independent contractor for all material purposes under this Contract, and all persons engaged or contracted by Seller for the performance of its obligations herein shall be considered as Seller's employees or agents or those of its subcontractors, and not as employees or agents of PREPA. In consequence, Seller is



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not entitled to any fringe benefits, such as, but not limited to, vacation, sick leave, and others, offered by PREPA to PREPA employees.

ARTICLE IV. Delivery and Title

- A. Seller shall deliver Fuel to PREPA at the Generating Stations via vessel (which includes, for purposes of this Contract, any barge, ship or other waterborne vessel), tank-to-tank, or tank truck transfers into PREPA storage tanks. The title to and risk of loss of the product shall pass from Seller to PREPA after the Fuel passes (i) for waterborne deliveries to San Juan, Palo Seco, Aguirre, Mayagüez, Cambalache, EcoEléctrica and Costa Sur, the pipeline flange connecting Seller's vessel at the dock to PREPA's pipeline to the storage tank for the respective plants, and (ii) for tank or truck transfers to any of the Generating Stations, the flange connection adjacent to the PREPA storage tanks at said station (each such flange, a "Delivery Point").
- B. From the Commencement Date, PREPA shall submit to Seller a non-binding weekly estimate of its requirements and propose dates for delivery of fuel during the following fifteen (15) days. Seller shall promptly acknowledge receipt of such estimate and shall, within two (2) days of such receipt, (i) confirm or propose new delivery dates for the following fifteen (15) days, and (ii) certify that Seller maintains the applicable Minimum Stock Reserve (as such term is defined in paragraph (C) below). Said delivery schedule, if accepted by PREPA, shall be final unless PREPA's operational needs require changes in such schedule. Delivery dates shall consist of delivery windows of two (2) days for actual delivery to occur.

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- C. During the term of this Contract, Seller shall maintain a minimum stock reserve of 100,000 barrels available at Seller's designated storage terminal(s) in Puerto Rico, as identified in Exhibit D (Designated Storage Terminals) attached and made a part hereof, for prompt delivery upon request by PREPA to cover changes in operational needs (the "**Minimum Stock Reserve**"). PREPA shall have the right to increase the Minimum Stock Reserve requirement to 150,000 barrels (and, thereafter, to reduce such requirement back to 100,000 barrels) by giving Seller fifteen (15) days' prior notice of such increase (or reduction). At PREPA's request, which may be made at any time, Seller shall certify to PREPA in writing within three (3) business days that it has available at the Designated Storage Terminals at least the Minimum Stock Reserve, as PREPA may have increased or decreased such Minimum Stock Reserve as of the time of the certification. Seller's failure to provide such certification as requested in accordance with the preceding sentence or to maintain at all times the Minimum Stock Reserve in the Designated Storage Terminals shall be deemed to be a material breach of Seller's obligations under this Contract which, following PREPA's provision of written notice thereof, shall be grounds for termination of this Contract under paragraph (C) (4)(a) of Article II (Term and Termination).
- D. Seller shall be responsible for cleaning, removing, and disposing of any spill of any product that might occur before the Delivery Point during delivery. Seller shall secure and provide all materials, permits, and personnel required for fuel handling and transfer.



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- E. Seller acknowledges that deliveries via vessel are limited by dredged channels with drafts of (i) for San Juan and Palo Seco, 26 feet, (ii) for Aguirre, 21.5 feet, (iii) for Mayagüez, 22 feet, and (iv) for Cambalache, 18 feet. Seller shall conduct its own investigation relative to navigational information or any natural changes that might occur at the San Juan Dock C, Jobos Bay, Mayagüez Bay, Arecibo Bay, or Guayanilla Bay, and shall bear responsibility for all risk of loss prior to delivery of Fuel to PREPA in accordance with paragraph (A) above, as PREPA does not assume any responsibility for the same.
- F. Seller shall also limit maximum deliveries via vessel or tank transfer to San Juan and Palo Seco to a range of 20,000 to 30,000 barrels per delivery and to a maximum of 50,000 barrels per delivery for any other deliveries via vessel to other Delivery Points, unless otherwise approved by PREPA for a specific delivery. Seller shall maintain at least one barge with a minimum capacity of 45,000 barrels available at all times for deliveries in accordance with this Contract.
- G. Seller shall ensure that all product delivered to PREPA enters PREPA's pipelines and tanks at a temperature below one hundred degrees Fahrenheit (100° F), and at a pressure below one hundred fifty (150) psig and above one hundred twenty-five (125) psig, in each case as measured at the Delivery Point.
- H. If Seller, for any reason, except as provided in Article XI (Force Majeure) of this Contract, including adverse weather conditions outside the control of Seller that may limit or prohibit the delivery of fuel via marine vessel, fails to deliver the Fuel required under this Contract, PREPA may, at its sole option, (i) request delivery via tank truck at the same fuel price applicable to the corresponding delivery via marine vessel to

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the applicable delivery point or (ii) procure replacement fuel from any other supplier.

In the event it elects option (ii) described in the preceding sentence, PREPA shall notify Seller of the chosen supplier and applicable price, and Seller shall reimburse PREPA for any difference which PREPA may have paid in excess of the contracted price by a credit to the next invoice sent to PREPA after PREPA submits evidence of such payment. Seller acknowledges and agrees that, by accepting such credit, PREPA does not waive any rights or remedies available to PREPA under the law, including rights to any claims or actions for damages caused by noncompliance by Seller with the terms of this Contract.

- I. Seller shall bear responsibility for any and all damages to the dock or to any other property caused by the vessel during delivery. At all times until Fuel has reached a Delivery Point, Seller shall ensure that all such Fuel or other product deliveries, transfers and operations comply with Homeland Security Regulations including 33 CFR §§ 104 & 105, as well as 33 CFR §§ 154, 155 & 156.
- J. Should PREPA need fuel of the same type and quality as the Fuel herein contracted for at any of its other plants, PREPA may request such deliveries as per the process outlined in paragraph (B) of this Article, and Seller shall deliver the requested quantities of Fuel to such other plant as agreed in accordance with such process. The Fuel to be delivered under this paragraph (J) by Seller shall be at the same delivered price, or lower, and under the same payment conditions as apply to Fuel delivered for the Generating Stations under this Contract, adjusted to reflect any increased or decreased transportation costs resulting from delivery to such other plant.



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- K. Seller shall at all times execute reasonable plans to avoid human hazards or damage to public or private property that may be caused by Seller's operation and performance under this Contract, including under extreme weather conditions or other foreseeable Force Majeure events.
- L. Seller shall ensure that every vessel used in deliveries of Fuel to PREPA complies with applicable law and can be accepted by the delivery terminal(s). Seller shall bear the risk of any failure to obtain such acceptance.
- M. Seller shall familiarize itself with each Generating Station location and the corresponding Delivery Point referred to in this Contract. Seller shall ensure that it has the proper personnel and equipment to service such locations and Delivery Points in accordance with this Contract.
- N. Seller shall only deliver Fuel by tank truck upon request by PREPA.
- O. Seller shall bear all transportation charges in connection with delivery of Fuel to the Delivery Points by any means during the term of this Contract.
- P. Seller represents and warrants to PREPA that it has all personnel necessary to obtain and deliver Fuel in accordance with this Contract and in a manner otherwise satisfactory to PREPA, and shall maintain the capability to effect deliveries of the product as requested by PREPA, including deliveries on Saturdays, Sundays, and holidays, if necessary, to fulfill PREPA operational requirements. Seller acknowledges that PREPA working hours are currently Monday thru Friday from 7:30 to 11:30 AM and from 12:30 to 4:00 PM. Seller shall take all the necessary actions to supply the required daily volume during PREPA working hours. PREPA shall have the right to reject deliveries not made during PREPA normal working

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hours, and Seller shall bear any costs related to such rejection. PREPA reserves the right to modify its working hours schedule in order to accommodate fuel requirements in excess of sixty thousand (60,000) gallons per day for each site.

ARTICLE V. Specifications

- A. Upon each delivery, Seller (i) hereby represents and warrants to PREPA that all Fuel supplied meets all of the specifications and requirements set out in Exhibit A (Specifications) and this Article, and (ii) shall deliver to PREPA, at Seller's cost, a certificate of analysis (the "COA") from a mutually agreed independent laboratory company accredited by U.S. Customs and Border Protection as per 19 CFR § 151.12 and qualified by PREPA to perform laboratory analyses of the Fuel actually being supplied as per specified methods, in which Seller shall certify the qualities of the Fuel delivered for each of the specifications and the requirements of this Article (including homogeneity), based on the latest revision to the test method used for each specification parameter. For tank truck deliveries only, the COA shall be obtained from an independent laboratory company qualified by PREPA and chosen by Seller.
- B. Seller shall ensure that the delivered Fuel (i) is appropriate for burning without requiring extraordinary maintenance to the gas turbines and their associated equipment, or causing other extraordinary problems in the operation of a Generating Station, (ii) complies with all applicable Federal and local rules and regulations, including applicable provisions of the Code of Federal Regulations, (iii) contains homogeneous hydrocarbons, and (iv) is free of inorganic acids and microorganisms, with no glycerin, water, solid, or fibrous foreign matter, in each case so as to yield the



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lowest cost per kWh produced. Seller acknowledges and agrees that any product offered will be analyzed and evaluated in terms of the ultimate cost and consistency with environmental regulations.

- C. The Parties agree that gravity and sulfur analysis of upper, middle, and lower samples shall be the appropriate means of establishing tank or vessel homogeneity. A Fuel shipment shall be considered to be homogeneous when the maximum difference in tested gravities between any two (2) samples from different strata is not greater than 0.3 degrees for tested API, and the maximum difference in tested sulfur content between any two (2) samples for different strata is not greater than 0.02 weight percent in tested sulfur, provided that the qualities of all tested samples are within all contracted specifications. For fuel received via vessel into PREPA's facilities, which was loaded from a certified tank, Seller shall provide a full certification of the vessel's composite sample.
- D. In determining compliance with the specifications and requirements of this Contract, Seller shall conduct an analysis, as per each ASTM method specified in Exhibit A (Specifications) and at its own cost, to the fuel being supplied to assure that such fuel meets the specifications and requirements of this Contract. Seller shall submit a copy of the analysis results to the respective Generating Station Manager representative or to PREPA's agent or representative before unloading each delivery. Seller shall send copies of the COA to PREPA's Fuels Office attached to the corresponding invoices. Seller shall procure an authorized chemist licensed in Puerto Rico and approved by PREPA to review and certify the results of the Fuel

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- analysis for each of the specifications set out in Exhibit A (Specifications) and the applicable requirements of this Article.
- E. PREPA shall have the right to take samples of the fuel delivered to each Delivery Point from the vessel, tank or truck from which such delivery is made. PREPA reserves the right to terminate this Contract at Seller's expense for non-compliant deliveries, so that the fuel is found to contain dirt or sediment, or if it is of a consistency that will cause clogging of burners, pipelines, or burner nozzles or prevents proper operation other than due to PREPA's fault.
- F. Should PREPA encounter difficulties in the efficient handling and burning of the fuel actually delivered, special analysis of the retained independent inspector's sample shall be requested by PREPA and made by an authorized laboratory licensed in Puerto Rico (or if such laboratory is not available in Puerto Rico to run the required tests, a laboratory in the U.S. can be used as a substitute), so as to determine whether such difficulties are attributable to the fuel delivered not being in compliance with the specifications and Seller warranties under this Contract.
- G. If it is determined that the difficulties are attributable to the fuel not being in compliance with the specifications or Seller warranties under this Contract, then Seller shall take such immediate measures as necessary to correct the deviation and to prevent further difficulties. PREPA's acceptance of, or agreement to, remedial or preventive measures shall not constitute a waiver of any rights available to it under the law, including rights of actions or claims for damages caused by Seller's noncompliance with the Fuel specifications or with any other provision of this Contract.

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- H. If during any delivery Seller fails to meet the specifications and warranties as contracted, PREPA reserves the right to take any combination of the following actions: (i) immediately reject the delivery, (ii) evaluate the deviation, propose to Seller the remediation of such failure through a deduction of a dollar amount from the amounts due to Seller for nonconforming fuel, and deduct such amount, (iii) establish a claim for nonperformance, or (iv) terminate this Contract for cause. PREPA shall notify Seller of any specification non-compliance that will result in product being rejected or discounts to be applied before discharge commences, and discharge will be suspended until Seller and PREPA can reach an agreement as to the appropriate remedy for failure of fuel to meet the specifications and warranties as contracted.
- I. Seller shall be responsible for any fines, penalties, damages, expenses, costs, or claims, actions, and causes of actions, which may arise as a consequence of any deviations or variations of the fuel provided by Seller from the contracted or guaranteed Specifications for Fuel to be delivered. Without limiting the foregoing sentence, if any deviations or variations from the Fuel Specifications exist when such fuel is delivered to PREPA, Seller shall indemnify PREPA against, and hold and save PREPA harmless from, and will defend PREPA, its officers, agents, and employees, from any claims, actions, causes of actions, damages, costs, fines, penalties and expenses due or attributable to variations or deviations from Fuel Specifications as contracted and guaranteed by Seller.
- J. In the event that, during the term of this Contract, Federal or Commonwealth of Puerto Rico laws or regulations are modified to require the burning of a fuel of

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different specifications than the Fuel contracted for, or in the event that PREPA obtains permission to burn a fuel with different specifications than the Fuel contracted for, and if these changes require an adjustment in the price of the Fuel contracted for; then the Parties shall meet within five (5) days from the enactment of any such law or regulations to discuss the matter for the purpose of establishing new price terms satisfactory to both Parties. If an agreement cannot be reached by the Parties prior to the enforcement date of the regulations because Seller cannot provide fuel at a price that is competitive or, for any reason, cannot provide a fuel according to the new specifications, then PREPA shall have the right to terminate this Contract.

- K. In the event that, during the term of this Contract, PREPA requests a fuel of different specifications than the Fuel contracted for, Seller and PREPA shall meet to establish new price terms for said different fuel specifications satisfactory to both Parties. If the Parties are unable to agree on new price terms, or Seller for any reason, cannot provide the fuel according to the new specifications, PREPA shall have the right either to continue to purchase Fuel contracted or to terminate this Contract.

ARTICLE VI. Laytime and Demurrage

- A. Seller shall bear all demurrage incurred in connection with the vessel(s) or tank trucks delivering product pursuant to this Contract, and PREPA shall assume no responsibility or liability for the same, unless such demurrage is attributable to the willful misconduct or gross negligence of PREPA.
- B. For vessel delivery, Seller shall deliver, or ensure the delivery by the vessel's master or its agent of, a notice of the impending arrival of each vessel to PREPA seventy-two

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(72), forty-eight (48), and twenty-four (24) hours before the vessel's arrival. In the event the vessel is delayed in getting into berth after giving notice, due to docking restrictions or for any reason over which PREPA has no control, such delay shall not count as used laytime.

C. For vessels, laytime shall commence six (6) hours after the later to occur of (i) Seller tendering a Notice of Readiness to PREPA or (ii) arrival at berth and clearance by Customs. Laytime shall commence within the meaning of this Article regardless of whether the vessel arrives during or outside normal business hours. Laytime shall not be increased as a result of, nor shall PREPA be held accountable for, any delay in berthing the vessel attributable to the failure of Seller to give the notices set forth in this Article.

D. Allowed laytime shall be thirty-six (36) hours for each delivery of Fuel under this Contract, provided that the allowed laytime shall be increased by the time a vessel (or truck) is prevented or delayed from arriving, discharging cargo, disconnecting or departing due to:

1. such vessel's (or truck's) condition, capabilities or facilities, or failure to comply with U.S. Coast Guard or other governmental agency regulations, which prevent or impair Seller from connecting, discharging its entire cargo within thirty (30) hours, disconnecting and departing within the allowed laytime;
2. Seller's failure to deliver Fuel in compliance with the specifications, warranties or requirements of this Contract, including the unloading temperature and pressure specified in paragraph (G) of Article IV

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(Delivery and Title), or if the delivered fuel is otherwise unfit for PREPA's intended use;

3. regulations of port authorities or the vessel's (or truck's) owners or master (or driver);
  4. Seller's total cargo volume exceeding the established maximum cargo volumes;
  5. tide conditions, heavy seas, wind or bad weather of any nature; or
  6. Seller's personnel or agents failing to promptly perform the connection or disconnection of Seller's discharging hoses.
- E. If a vessel is delayed at any discharging berth for ship's purposes or reasons beyond the control of PREPA, laytime shall cease when discharging is completed even though hoses are not disconnected. If regulations of port authorities or the vessel's owner prohibit discharging of the cargo at night, time so lost shall increase the allowed laytime. If PREPA prohibits discharging at night, time lost shall count as laytime. In all other cases laytime shall continue to run until cargo hoses or loading arms, as the case may be, have been disconnected.
- F. If, and only to the extent, demurrage claims arise as a result of PREPA's willful misconduct or gross negligence, PREPA shall pay demurrage per running hours, and pro-rata for a part thereof, for all time that exceeds the allowed laytime at the rate stated in the Voyage Charter Agreement for the vessel or other applicable contract for truck delivery.
- G. If discharging has ceased because it is completed or if the discharging rate has decreased to a rate which will not permit discharge of the entire cargo within thirty-



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six (36) hours, or due to any other problem with the vessel, PREPA may order the vessel off the dock at no cost to PREPA. If practical, the vessel shall be allowed to return later and complete discharging. In the event that the discharging rate has decreased to a rate which will not permit discharge of the entire cargo within thirty-six (36) hours, PREPA may delay ordering the vessel off the dock and allow pumping to continue, provided Seller pays the dock per hour fee rate and any other associated cost.

- H. Prior to making any claim for demurrage, Seller shall provide to PREPA written notice, and all available and appropriate documentation and evidence in support, of any demurrage claim which Seller may bring against PREPA, including evidence of Seller's compliance with this Article.

ARTICLE VII. Price

- A. The price to be paid for each barrel of Fuel delivered throughout the entire duration of this Contract will consist of a **fixed price differential** plus an **escalator**. Such pricing assumes barrels of forty-two (42) U.S. gallons, volume corrected to a temperature of sixty degrees (60° F) Fahrenheit.
- B. The fixed price differential (in U.S. dollars per barrel) for all deliveries of Fuel to all Generating Stations under this Contract shall be (i) if made by vessel, \$5.47 per barrel, and (ii) if made by truck, \$6.47 per barrel, for payment by PREPA sixty (60) days after completion of delivery. Subject to its obligation to provide thirty (30) days' advance notice of its election to Seller, which election may be exercised more than once, PREPA may commit prospectively to make payment for deliveries of Fuel under this Contract (w) within forty-five (45) days after completion of delivery, in

A handwritten signature in blue ink, consisting of a stylized 'S' or 'B' shape, followed by the initials 'W' in blue ink.

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which case the fixed price differential for deliveries of Fuel to all Generating Stations under this Contract shall be (i) if made by vessel, \$4.98 per barrel, and (ii) if made by truck, \$5.98 per barrel, (x) within thirty (30) days after completion of delivery, in which case the fixed price differential for deliveries of Fuel to all Generating Stations under this Contract shall be (i) if made by vessel, \$4.49 per barrel, and (ii) if made by truck, \$5.49 per barrel, (y) within fifteen (15) days after completion of delivery, in which case the fixed price differential for deliveries of Fuel to all Generating Stations under this Contract shall be (i) if made by vessel, \$4.00 per barrel, and (ii) if made by truck, \$5.00 per barrel, or (z) within five (5) days after completion of delivery, in which case the fixed price differential for deliveries of Fuel to all Generating Stations under this Contract shall be (i) if made by vessel, \$3.67 per barrel, and (ii) if made by truck, \$4.67 per barrel.

- C. The escalator shall be increased or decreased according to quotations reported in Platt's Oilgram Price Report and Argus US Products, corresponding to the effective date of the posting for the day the Fuel delivery commences, the day before, and the day after the Fuel delivery, each one of these evaluated utilizing the following formula:

Fifty percent (50%) of ULSD fuel from the average of quotations for the "New York (Barge) ULSD" and "US Gulf Coast (Waterborne) ULSD" as published by Platt's Oilgram Price Report; rounded to four (4) decimal places; *plus*

Fifty percent (50%) of ULSD fuel from the average of quotations for the "New York Waterborne ULSD" and "US Gulf Coast Waterborne ULSD62" as published by Argus US Products rounded to four (4) decimal places.



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Said result must be then *multiplied by 0.42* to convert from cents per gallon to dollars per barrel.

The Parties shall round the final number to four (4) decimal places. For each delivery, the Parties shall establish the price for Fuel based on the day the Fuel commences transfer into PREPA facilities, which, for vessels, is the date such vessel commences discharge, and, for trucks, the date delivery commences. Should a delivery date, the day before, or the day after take place on Saturday, Sunday or on a holiday, the effective prices appearing in the last editions of Platt's Oilgram Price Report and Argus U.S. Products, published before any of these dates will be utilized to readjust the prices. The Parties may mutually agree to deem the day of commencement of delivery for pricing purposes for any particular delivery by written notice prior to actual day of commencement of delivery. A sample calculation of the escalator is shown in Exhibit C (Sample Calculation (Escalator)) attached to and made a part hereof.

- D. Seller shall provide PREPA with a credit limit of one hundred million dollars (\$100,000,000) for the obligation arising solely under this Contract (the "**Credit Limit**"). Whenever the Credit Limit is reached, Seller shall notify PREPA thereof in writing, and PREPA shall accelerate payments of invoices in chronological order as much as necessary to comply with the Credit Limit, provided that PREPA may not owe Seller, at any time, any amount(s) in excess of the Credit Limit (including the undisputed portion of invoices not paid by their due date).
- E. Any past due balances for invoices under this Contract shall accrue interest at the lower of (i) the daily "Prime Rate" as quoted by The Wall Street Journal or (ii) the



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maximum rate of interest allowed by law. Additionally, if PREPA fails to pay an undisputed portion of an invoice in accordance with paragraph (F) of Article X (Measurement and Payment), then Seller may, at its own discretion, suspend any and all deliveries to PREPA. Where Seller suspends deliveries in accordance with this paragraph (E), Seller shall resume deliveries to PREPA upon payment of all undisputed amounts past due and payable under the Contract. Any costs including but not limited to demurrage due to this suspension of delivery shall be borne by PREPA.

- F. The Parties will have the right to price protection of Fuel deliveries not made within the agreed delivery window required under Article IV (Delivery and Title) of this Contract. If PREPA delays delivery outside of such window, Seller shall receive the highest price between the price for the last day of the delivery window or actual delivery date as calculated in accordance with this Article. Conversely, if Seller delays delivery outside of such window, PREPA shall receive the lowest price between the price for the last day of the delivery window or actual delivery date as calculated in accordance with this Article.
- G. If Seller sells or offers for sale to others in Puerto Rico burnable fuel of a quality comparable or superior to that of Fuel to be supplied hereunder for delivery in Puerto Rico or elsewhere, at F.O.B. supplier terminal prices per BTU lower than those payable for fuel hereunder, Seller shall so notify PREPA immediately and extend to PREPA such lower price as from the date of such sale or offer for sale. The lower price shall apply to a quantity of Fuel sold by Seller to PREPA hereunder equivalent to the number of barrels of Fuel sold or offered by Seller at such lower price, but in

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no case shall this lower price be applicable to a quantity less than the average quantity received during a two-week (2) period.

- H. In the event, that during the term of this Contract, Platt's Oilgram Price Report, Argus U.S. Products or any other contracted price postings cease to exist, the Parties shall meet to establish an alternative mean to determine the contracted price satisfactory to both Parties. If the Parties are unable to agree on an alternative mean to determine the contracted price within forty-five (45) days after any of the contracted price postings ceases to exist, then PREPA shall have the right to terminate this Contract.

ARTICLE VIII. Duties and Taxes

- A. The contracted price for Fuel includes all Federal, Commonwealth of Puerto Rico and local taxes, fees and established import tariffs for the Fuel being supplied. Puerto Rico's excise tax and municipal patent payment shall be fully reimbursed by PREPA and are to be presented as a separate line item on the invoice in addition to the contracted price. PREPA shall reimburse Seller the amount corresponding to the payment of the municipal patent, once Seller presents PREPA evidence, issued by the corresponding municipality, with respect to the percentage established as a basis for the calculation of the amount to be paid as such patent. If, during the term of this Contract, the agreed percent changes, Seller shall immediately present PREPA the corresponding evidence, issued by the corresponding municipality and reflect it in the invoice.
- B. Any changes, whether up or down, in the applicable taxes, fees, or tariffs, should they be imposed, will be reflected in the price for Fuel in its entirety as long as these

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taxes, fees or tariffs do not discriminate whether the product is domestic or foreign, and Seller will adjust the price accordingly unless such taxes, fees or tariffs are included in the escalator postings referred to in paragraph (C) of Article VII (Price). However, should said new or increased taxes, fees or tariffs discriminate on the basis of whether the product is domestic or foreign and said new or increased taxes, fees or tariffs result in a lower price for domestic fuel, Seller shall supply Fuel which results in the lowest cost to PREPA. Should domestic Fuel be unavailable, the Parties shall meet within five (5) days from Seller's notification of same to discuss Fuel availability from other sources and negotiate the financial aspect of any taxes, fees or tariffs applicable to that product. If an agreement cannot be reached, PREPA shall have the right to terminate this Contract without Seller being entitled to any further compensation, except for Fuel already delivered and due by PREPA.

- C. Upon PREPA's request, Seller shall apply for any applicable waivers of taxes, fees or tariffs, and any costs associated with the application to such waivers will be passed in their entirety to PREPA.

ARTICLE IX. Guaranteed Calorific Value

- A. Seller guarantees delivery of Fuel with a minimum calorific value (Btu/gal) as established in Exhibit A (Specifications) or as quoted by Seller, whichever is higher, provided that PREPA shall have no obligation to pay a premium for calorific values over the minimum established in Exhibit A (Specifications).
- B. For any delivery by Seller in which the fuel fails to meet the guarantee set out in paragraph (A) above, PREPA shall receive a credit for a number of barrels equivalent to such deficiency, calculated on the basis of the example set out in

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Exhibit B (Sample Calculation (Btu Deficiency Adjustment)) attached and made a part hereof. PREPA shall receive such credit before computing the Fuel billings for the invoice applicable to such delivery.

- C. The provisions of Article V (Specifications) regarding compliance with specifications and laboratory analyses shall apply to this Article whenever required.

ARTICLE X. Measurement and Payment

- A. The quantity of Fuel delivered to PREPA shall be computed by measurements in PREPA's on-shore tanks, to be conducted by a mutually agreed independent inspector accredited by U.S. Customs and Border Protection as per 19 CFR § 151.13 and qualified by PREPA. Inspection costs shall be borne by Seller. All measurements shall be corrected to sixty degrees Fahrenheit (60° F) using the ASTM Petroleum Measurements Table 6-B. Quantities certified on the independent inspector's report will be binding for both Parties absent fraud or manifest error.
- B. For deliveries by tank truck, Seller will accompany each tank truck delivery with (i) an order confirmation, (ii) bill of lading ("BOL"), (iii) seals report from an independent inspector qualified by PREPA, and (iv) a COA from an independent laboratory company qualified by PREPA, each prepared at Seller's cost. Each invoice for a tank truck delivery shall be accompanied by a copy of the delivery ticket or BOL properly signed by PREPA's duly authorized representative. For the purpose of determining the quantity of Fuel delivered, the BOL figures at sixty degrees Fahrenheit (60°F) will be used. Seller shall ensure that all the tank trucks have all



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hatches and outlet valves properly locked with metallic seals at the time the delivery is to commence, failing which the product will not be accepted by PREPA.

- C. Notwithstanding anything herein to the contrary, PREPA reserves the right to exclusively select and contract inspection services to conduct measurements and produce certifications of quantity at any time during the term of this Contract. If PREPA exercises this right, then this inspection cost shall be borne fully by PREPA, and Seller, at its own expense, may send its own inspector to verify these measurements.
- D. Seller shall invoice PREPA regularly and promptly after Fuel is delivered. For payment purposes, Seller shall send invoices to PREPA via e-mail in accordance with Article XIV (Notices). Seller shall also send a paper copy of all invoices by regular mail to the notice address required pursuant to Article XIV (Notices). Soft or hard copies of the inspector's certificates of quantity shall be included with each respective invoice. Invoices shall include, for each delivery, the corresponding PREPA-assigned shipment number, copies of the inspector's certificates of quantity, BOL, COA, and other documentation required by this Contract.
- E. All invoices submitted by Seller shall include the following Certification in order to enable PREPA to proceed with its payment. This is an essential requirement, and those invoices without this Certification will not be processed for payment:

*No Interest Certification:*

*Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this contract, or if any employee,*



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*official or director of PREPA has any interest in the profits or benefits under this Contract, a waiver has been previously obtained. I also certify that the only consideration to deliver the fuel under this contract is the payment agreed with PREPA's authorized representative. The total amount of this invoice is fair and correct. The fuel has been delivered and no payment has been received previously for said delivery.*

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**Authorized Representative Signature**

- F. PREPA shall pay the undisputed portion of each invoice submitted by Seller in immediately available U.S. dollars, as provided for in Article VII (Price), within sixty (60) days after completion of discharge for the corresponding delivery, unless PREPA shall have elected in accordance with paragraph (B) of Article VII (Price) to commit to payment either forty-five (45), thirty (30), fifteen (15) or five (5) days after completion of discharge, in which case PREPA shall pay the undisputed portion of the invoice within forty-five (45), thirty (30), fifteen (15) or five (5) days after completion of discharge, whichever PREPA shall have elected. Should the due date of an invoice fall on a non-business day, payment shall be made the following business day.
- G. PREPA estimates the maximum value of this Contract not to exceed \$452,000,000.00, and will make payments under this Contract from account #01-2321-23215.
- H. PREPA represents and warrants to Seller on the date of this Contract that, as regards the proceeding commenced in respect of PREPA pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), pending as



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of the signing of this Contract in the PROMESA Court, Case No. 17- 4780 (the "PREPA Bankruptcy"):

1. (i) Seller's right to payment for charges validly incurred in accordance with this Contract or owed by PREPA under this Contract arise from a post-petition transaction with PREPA, (ii) the consideration made available by Seller benefits PREPA and its affiliate subject to the PREPA Bankruptcy, and supports PREPA's obligations under this Contract, and (iii) as a result of the foregoing, Seller's right to payment for charges validly incurred in accordance with this Contract or owed by PREPA under this Contract during the PREPA Bankruptcy constitute reasonable and necessary expenses of preserving PREPA and an administrative expense; and
2. other than the PREPA Bankruptcy, except as previously disclosed in writing, there is no pending action or proceeding in which PREPA is a party before any court, governmental agency or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of PREPA or the ability of PREPA to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Contract as in effect on the date of this Contract.

If PREPA becomes aware that any of the representations or warranties set out above in this paragraph have become untrue or incorrect, then PREPA shall notify Seller of such event as soon as reasonably practicable.

- I. In respect of the PREPA Bankruptcy, PREPA and Seller stipulate that this Contract is a post-petition agreement executed after the petition date of the PREPA



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Bankruptcy and, if subject to such proceeding, then entitled to administrative expense treatment under Public Law No: 114-187 (June 30, 2016), otherwise known as PROMESA, and the Bankruptcy Code. Further, PREPA stipulates that all of Seller's costs and obligations owed to Seller under this Contract shall be treated as administrative expenses and will support such recovery in any proceeding before any relevant court.

- J. Following the resolution of the PREPA Bankruptcy, the Parties shall cooperate and discuss in good faith a reduction to the pricing and an increase to the Credit Limit under this Contract to reflect the improved credit profile of PREPA.
- K. PREPA shall invoice Seller for any claims or other amounts due to PREPA in connection with this Contract, including in connection with Seller's failure to fulfill its obligations or a claim arises for warranty, indemnity or defects of services or fuel rendered. If Seller has not paid such amounts within sixty (60) days, PREPA shall have the right either to set off such amounts due to PREPA against amounts due to Seller, or to draw upon the Performance Security, as applicable, for such amounts.
- L. The Parties shall use their reasonable efforts to resolve any dispute regarding payment of any invoice issued under this Article by amicable negotiation, provided that if the Parties fail to resolve such dispute by the payment due date, then either Party may seek to resolve such dispute in accordance with Article XIX (Choice of Law and Venue).

ARTICLE XI. Force Majeure

- A. Each Party shall be excused from performing, and shall not be liable in damages or otherwise for failure to perform, an obligation under this Contract (other than a



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payment obligation) to the extent that it is unable to perform or is prevented from performing by a Force Majeure event. For the purpose of this Contract, "**Force Majeure**" means any cause without the fault or negligence, and beyond the reasonable control, of the Party claiming the occurrence of such event, whether foreseeable or not, which prevents the claiming Party from performing an obligation under this Contract, provided that the Party claiming such event as Force Majeure notifies the other Party in writing of the alleged Force Majeure event within ten (10) days of its occurrence. Such notice shall include the particulars of the occurrence and, to the extent possible, its estimated duration.

- B. Force Majeure may include the following: acts of God, industrial disturbances, acts of the public enemy, war, blockages, boycotts, riots, insurrections, epidemics (including quarantine and lockdown related to such epidemics), earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, and acts or failure to act of any governmental authority, provided that such events, or any other claimed as Force Majeure, otherwise meet the requirements and Force Majeure definition set out in paragraph (A) of this Article. Notwithstanding the foregoing, Force Majeure shall not include mechanical breakdowns or other events not relating to weather conditions that limit or preclude the use of a specific barge for the delivery of Fuel under this Contract. The burden of proof as to whether a Force Majeure event has occurred shall be on the Party claiming Force Majeure.
- C. In the event that the Force Majeure claim extends for a period of more than ninety (90) consecutive days, either Party shall have the right to terminate this Contract



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without further obligation, except that such Party shall still be responsible for the payment of amounts due and owing under this Contract, on their due date.

- D. Upon cessation of the Force Majeure event, the Party claiming Force Majeure shall notify the other Party of the termination of the Force Majeure claim. Performance shall be resumed, but the excuse from performing due to a Force Majeure event shall not operate to extend the term of this Contract nor obligate either Party to make up deliveries or receipts, as the case may be.
- E. Seller recognizes that PREPA provides an essential service for the Commonwealth of Puerto Rico. Should any Force Majeure event cause Seller to suspend or reduce deliveries, Seller shall give PREPA first priority for supply.

ARTICLE XII. General Liabilities

- A. Seller agrees to make, use, provide, and take all proper and necessary precautions, safeguards, and protection against the occurrence or happening of injuries, death, and/or damages to any person or property during the delivery process.
- B. Seller shall indemnify PREPA against, and save PREPA harmless from, public liability, costs, and expenses resulting therefrom, or damages that may happen or occur through the fault, willful misconduct, or negligent acts or omissions of Seller, its employees, agents, and subcontractors, during the supply of fuel or performance of this Contract, or while carrying out any act or action directly or indirectly related to, or in connection with, the performance of this Contract, and from loss, liability, and fines incurred for, or by reason of violation by Seller of any federal, state, or municipal ordinance or regulation of law, while a delivery is in progress.



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- C. Seller shall indemnify PREPA against, and save PREPA harmless from, all expenses and costs of any nature arising out of any claim due to an environmental non-compliance or violation, caused by Seller, its agents, employees, subcontractors or assignees during performance or nonperformance of its obligations under this Contract.
- D. Seller shall indemnify and defend PREPA against, and save PREPA harmless from (including in each case PREPA's officers, agents, and employees) any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due or attributable to the fact that any of the fuel provided by Seller has deviations or variations from the contracted and guaranteed Specifications for the same.
- E. Seller shall indemnify PREPA against, and save PREPA harmless from, all expenses and costs of any nature (including attorneys' fees) incurred by PREPA arising out damages, caused by Seller, by act or omission, in the performance or nonperformance of its obligations under this Contract.
- F. Notwithstanding anything to the contrary in this Contract, neither Party shall be liable to the other pursuant to this Contract for any punitive, consequential, or exemplary damages.

ARTICLE XIII. Performance Security and Insurance

- A. Upon execution of this Contract, Seller shall provide PREPA with a Performance Bond payable to the order of PREPA to secure Seller's performance under this Contract, including delivery in compliance with the Specifications. The Performance Bond shall be issued by a qualified surety company authorized to do business in

Handwritten signature and initials in blue ink.

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Puerto Rico and reasonably acceptable to PREPA, in the amount equivalent to five percent (5.0%) of the estimated Contract value set out in paragraph (G) of Article X (Measurement and Payment), governed by the laws of the Commonwealth of Puerto Rico and otherwise in a form reasonably acceptable to PREPA.

B. In lieu of a Performance Bond, PREPA will accept a Letter of Credit (such Letter of Credit or Performance Bond, a "**Performance Security**"), issued by a qualified bank reasonably acceptable to PREPA, provided that such Letter of Credit shall be for the same amount as specified for the Performance Bond in paragraph (A) above and shall satisfy the following conditions:

1. issued or notified or confirmed by a local bank in Puerto Rico;
2. unconditional and irrevocable;
3. payments made by the issuing bank on a business day by wire transfer, immediately after PREPA's first demand for payment;
4. governed and construed in accordance with the laws of the Commonwealth of Puerto Rico; and
5. otherwise in a form reasonably acceptable to PREPA.

C. Seller shall procure, and maintain in full force and effect during the term of this Contract, policies of insurance covering all operations engaged in by Seller under this Contract, including as follows:

1. Commonwealth of Puerto Rico Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico; provided that Seller shall (i) also be responsible for compliance with said Workmen's Compensation Act by all its



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subcontractors, agents and invitees, if any, and (ii) furnish from the Puerto Rico State Insurance Fund a certificate showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance in accordance with this Contract;

2. Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability covered by law upon Seller as result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico;
  3. Commercial General Liability Insurance with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate;
  4. Commercial Automotive Liability Insurance with a limit of \$1,000,000 combined single limit covering all owned or scheduled autos, or non-owned or hired autos, and including the MCS-90 (Motor Carrier Endorsement); and
  5. Pollution Liability Insurance with limits of \$10,000,000 per claim and \$10,000,000 in aggregate.
- D. The Commercial General Liability and the Commercial Automotive Liability Insurance under this Contract shall be endorsed to include:
1. As additional insured:
    - a. The Puerto Rico Electric Power Authority
    - b. Genera PR LLC, as agent on behalf of and for the account of the Puerto Rico Electric Power Authority



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2. a thirty (30) day cancellation or nonrenewable notice to be sent to the above address;
3. an endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to this Contract;
4. a waiver of subrogation in favor of PREPA; and
5. the following provision on breach of warranties or conditions:

*"The Breach of any Warranties or Conditions in this Policy by the Insured shall not prejudice PREPA's rights under this policy."*

- E. All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico. Upon request by PREPA, Seller shall furnish a certificate of insurance in original signed by an authorized representative of the insurance company in Puerto Rico describing the coverage afforded.
- F. In addition to the foregoing, Seller shall maintain adequate insurance coverage for the duration of this Contract to cover cost of replacement or repair of any breakage caused by carelessness, negligence, or lack of skill, or other similar occurrence, on the part of Seller's employees in the performance of required deliveries, including coverage for bodily and property damage and any such other items.

ARTICLE XIV. Notices

Any notice to be given hereunder shall be in writing and will be sufficiently served when delivered in person or properly mailed to the following addresses:

To PREPA:

PREPA  
c/o Genera PR LLC, agent of PREPA  
Fuels Office  
250 Muñoz Rivera Ave., Suite 1200

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San Juan, Puerto Rico 00918  
Attention: Jose Del Rio Velez  
Vice President – Fuels  
legal@genera-pr.com

To Seller:

Puerto Rico Energy LLC  
Attention: Mario Ricardo Sierra Varela  
P.O. Box 11961  
San Juan, Puerto Rico 00922

Notices can also be sent through e-mail and shall be deemed valid if the notified Party provides the notifying Party with confirmation of receipt, provided notices are sent to the following e-mail addresses:

To PREPA:

[fuels@genera-pr.com](mailto:fuels@genera-pr.com)

with copy to:

[legal@genera-pr.com](mailto:legal@genera-pr.com)

To Seller:

mario.sierra@energy-latam.com

With copy to:

Ruben.gonzalez@energy-latam.com

A Party shall notify the other Party in writing upon any change of its address(es) from those set forth above, and from and after giving of such notice, the address therein specified shall be deemed the address of the notifying Party for the giving of notices.

ARTICLE XV. Compliance with Commonwealth of Puerto Rico Contracting Requirements

Seller shall comply with all applicable laws, including local and federal regulations and Executive Orders that regulate the environmental matters and contracting processes and requirements in the Commonwealth of Puerto Rico.

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A. Filing of Puerto Rico Income Tax Returns

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, Seller hereby certifies that it has filed all the necessary and required income tax returns with the Government of Puerto Rico for the last five (5) years. As evidence thereof, Seller has delivered to PREPA an Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, assuring that Seller has filed its Income Tax Return for the last five (5) tax years (Form SC 6088). Seller accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every subcontractor whose service Seller has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

B. Payment of Puerto Rico Income Taxes

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, Seller hereby certifies that it has complied and is current with the payment of all income taxes that are, or were due, to the Government of Puerto Rico. As evidence thereof, Seller has delivered to PREPA a certification issued by the Treasury Department of Puerto Rico indicating that Seller does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms (Form SC 6096). During the term of this Contract, Seller agrees to pay and/or to remain current with any repayment plan agreed to by Seller with the Government of Puerto Rico. Seller accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each subcontractor whose service Seller has secured in connection with the

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services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement. Seller represents and warrants that it will inform PREPA if, at any time during the term of this Contract, there is any material tax dispute between Seller and any Governmental Body of the Commonwealth of Puerto Rico (other than Commonwealth tax liabilities for which Seller is not responsible under this Contract, if any).

C. Compliance with Requirements of the Department of Labor and Human Resources of the Commonwealth of Puerto Rico.

Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, Seller certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. As evidence thereof, Seller has delivered to PREPA:

1. A certification issued by the Bureau of Employment Security (*Negociado de Seguridad de Empleo*) of the Puerto Rico Department of Labor and Human Resources certifying that Seller does not owe taxes regarding Unemployment or Disability Insurance.
2. A certification issued by the Program for Social Security for Chauffeurs and Other Employees of the Puerto Rico Department of Labor and Human Resources certifying that Seller has no debt with respect to such program.

D. Real and Personal Property Taxes



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Seller hereby certifies and guarantees that it does not have any current debt regarding property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (*Centro de Recaudación de Ingresos Municipales* ("**CRIM**")). Seller further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico.

Seller shall provide:

1. a certification issued by the Municipal Revenues Collection Center ("**MRCC**"), assuring that Seller does not owe any tax accrued during the last five (5) years to such governmental agency with respect to personal property; or negative Debt certification issued by the MRCC with respect to personal property taxes and a sworn statement executed by Seller indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last five (5) years (or the time in which it has been providing professional services) it has had no taxable business or personal property on the 1st of January of each year, (ii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended and (iii) that for such reason it does not have an electronic tax file in the MRCC's electronic system.
2. an All Concepts Debt Certification issued by the MRCC assuring that Seller does not owe any taxes to such governmental agency with respect to real and personal property; or
3. a negative certification issued by the MRCC with respect to real property taxes.

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E. Sales and Use Taxes

Seller has delivered to PREPA:

1. a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico, assuring that Seller has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods; and
2. a copy of Seller's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.

F. Puerto Rico Child Support Administration (ASUME)

Seller hereby certifies that it is not duty bound to pay child support, or if so, that Seller is up to date or has a payment plan to such effects. As evidence thereof, Seller has delivered to PREPA a certification issued by the Puerto Rico Child Support Administration (*Administración Para El Sustento de Menores (ASUME)*) certifying that Seller does not have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME.

G. Resolution of Debt

If any of the certifications listed in items A through F of this Article shows a debt, and Seller has requested a review or adjustment of this debt, Seller hereby certifies that it has made such request at the time of Contract execution. If the requested review or adjustment is denied and such determination is final, Seller will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Seller accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. Seller accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from



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each and every contractor and subcontractor whose service Seller has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

H. Organization Documents

Upon execution of this Contract, Seller shall provide:

1. a Good Standing Certificate issued by the Department of State of Puerto Rico;  
and
2. a Certification of Incorporation, or Certification of Organization or Certificate of Authorization to do business in Puerto Rico, issued by the Department of State of Puerto Rico.

I. Compliance with Act 1 of Governmental Ethics

Seller hereby certifies compliance with Act 1 - 2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his or her immediate family (spouse, dependent children, or other members of his or her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. §§ 8611, et seq.

J. Law 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People



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Seller hereby certifies that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended, Act 168- 2000 "*Law for the Strengthening of the Family Support and Livelihood of Elderly People*" in Spanish: "*Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada*", 3 L.P.R.A. §8611 et seq., the same is current and in all aspects in compliance.

K. Law 127 - 2004: Contract Registration in the Comptroller's Office of Puerto Rico Act  
Seller acknowledges that payment under this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Law Number 18 of October 30, 1975, as amended.

L. Prohibition with respect to execution by public officers: (3 L.P.R.A. 8615(c)) Seller acknowledges that no public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

M. Prohibition with respect to contracting with officers or employees: (3 L.P.R.A. 8615(d))

Seller acknowledges that no executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.

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- N. Prohibition with respect to contracts with officers and employees of other Government entities: (3 L.P.R.A. 8615(e))

Seller acknowledges that no public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency unless the Governor gives, express authorization thereto with previous recommendation from the Secretary of the Treasury and the Secretary of Justice.

- O. Prohibition with respect to evaluation and approval by public officers: (3 L.P.R.A. 8615(f))

Seller acknowledges that no public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve, or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

- P. Prohibition with respect to execution by public officers of contracts with former public officers: (3 L.P.R.A. 8615(h))

Seller acknowledges that no executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.

- Q. Dispensation

Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record.



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R. Rules of Professional Ethics

Seller acknowledges and accepts that it is knowledgeable of the rules of ethics of his or her profession and assumes responsibility for his or her own actions.

S. Anti-Corruption Laws

1. Seller agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time, which establishes the Anti- Corruption Code for a New Puerto Rico.
2. Seller hereby certifies that it does not represent particular interests in cases or matters that imply a conflict of interest, or of public policy, between the executive agency and the particular interests it represents.
3. Seller shall furnish a sworn statement to the effect that neither it nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for Seller has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico, or any of the crimes included in Act 2-2018.
4. Seller hereby certifies that it has not been convicted in Puerto Rico or United States Federal court under Articles 4.2, 4.3, or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti- Corruption Code for a

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New Puerto Rico or any other felony that involves misuse of public funds or property, including the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

5. PREPA shall have the right to terminate this Contract in the event Seller is convicted in Puerto Rico or United States Federal Court under Articles 4.2, 4.3, or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, of any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico, or any other felony that involves misuse of public funds or property, including the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.
6. Seller represents and warrants that it has not violated and will not violate, conspire to violate, or aid and abet the violation of any Anti-Corruption Laws. No funds transferred by PREPA to Seller shall be transferred by the Seller, in violation of any Anti-Corruption Laws.
7. Seller represents and warrants that it is not a Sanctioned Person or is located, organized or resident in Sanctioned Country.
8. Seller represents and warrants that it maintains and implement policies and procedures and controls reasonably designed to ensure compliance with the



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Anti-Corruption Laws and Sanctions and will promptly notify PREPA in writing if Seller becomes subject to any investigation by law enforcement or regulatory authorities in connection with the Anti-Corruption Laws or Sanctions, and will at all times comply with all applicable law regarding non-discrimination.

9. Seller represents, warrants and attests, subject to penalties for perjury, that no representative of Seller, directly or indirectly, to the best of the Seller's knowledge, entered into or offered to enter into any combination, conspiracy, collusion, or agreement to receive or pay any sum of money or other consideration for the execution of this Contract.
10. Seller represents and warrants that it will inform PREPA if now, or at any time during the term of this Contract, it or its representatives become aware that they are subject to investigation in connection with criminal charges related to acts of corruption, the public treasury, the public trust, a public function or charges involving public funds or property.

T. Provisions Required under Act 14-2004

Seller agrees that articles extracted, produced, assembled, packaged, or distributed in Puerto Rico by enterprises with operations in Puerto Rico, or distributed by agents established in Puerto Rico, shall be used when the service is rendered, provided that they are available.

U. Contract Review Policy

1. The Parties acknowledge that Seller has submitted the certification titled "Contractor Certification Requirement" required in accordance with the



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Contract Review Policy of the Financial Oversight and Management Board for Puerto Rico, effective as of November 6, 2017 and amended on October 30, 2020, signed by Seller's Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the "Contractor Certification Requirement" is included as an annex to this Contract.

2. Seller represents and warrants that the information included in the Contractor Certification Requirement is complete, accurate and correct, and that any misrepresentation, inaccuracy or falseness in such Certification will render this Contract null and void and Seller will have the obligation to reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under this Contract.
3. For this Contract, the transfer of skills and technical knowledge required by the Certified Fiscal Plan is inapplicable given the non-recurring or specialized nature of the contracted services.
4. Seller expressly agrees that the conditions outlined throughout this paragraph (U) are essential requirements of this Contract. Consequently, should any one of these representations, warranties, or certifications be incorrect, inaccurate, or misleading, in whole or in part, there shall be sufficient cause for PREPA to render this Contract null and void and to terminate it with immediate effect, and Seller shall reimburse PREPA all moneys received under this Contract.



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ARTICLE XVI. Assignments and Subcontracting

- A. This Contract, as well as any rights, duties, liabilities, or obligations under it, cannot be assigned, transferred, subcontracted, hypothecated, or otherwise disposed of by Seller without the prior written consent of PREPA, except that Seller and its assigns may without such consent assign all or a portion of their rights and interests under this Contract (including any collateral) in connection with any securitization or bank funding arrangement entered into by Seller or an assignee of Seller. Seller acknowledges that, other than assignments in connection with any securitization or bank funding arrangement entered into by Seller or an assignee of Seller, PREPA does not favor requests for assignment, transfer, subcontracting, hypothecation, or other types of disposal of this Contract and/or duties or obligations under it, and will have reasonable grounds not to approve any request to that effect, unless, in the business judgment of PREPA, the particular circumstances of the request warrant its approval and the assignment, transfer, subcontracting, hypothecation, or disposal does not operate against PREPA's best interests.
- B. No subcontract shall be considered for PREPA's approval, except when the following requirements are met: (i) Seller delivers PREPA a copy of the subcontract, not less than thirty (30) days prior to the effective date of the proposed subcontract; (ii) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to substitute, subrogate, or assume Seller's rights under the subcontract, in the event that PREPA declares Seller in breach or default of any of the Contract terms and conditions; (iii) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the



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subcontractor the obligation to comply with all Seller's obligations under this Contract (a mirror image clause), except for such obligations, term, and conditions which exclusively relate to works or services not included under the subcontract. Consent to assignment or subcontracting under this Article shall not relieve Seller of its full responsibilities under this Contract, nor be construed as an approval of the terms of said assignment or subcontract. Seller shall be responsible for all services performed by its subcontractors, employees, agents or assignees, whose performance Seller shall ensure complies with the provisions of this Contract.

- C. The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that in the eventuality of the execution of a Partnership Contract, Sale Contract or any other PREPA Transaction (as these terms are defined in Act No. 120-2018, otherwise known as Puerto Rico Electric System Transformation Act, as amended), PREPA may sell, assign, convey, transfer, pledge, mortgage, sublease, delegate, hypothecate, or otherwise dispose (each, a "Transfer") any of its rights, title, or interest (by novation or other instrument) in this Contract as permitted by applicable law and at any time, and without Seller's consent or cost, expense or incremental liability to PREPA, to any future operator of Puerto Rico's generation system or any of its affiliates, or to any governmental agency, body, public corporation or municipality of Puerto Rico; provided, that PREPA shall notify Seller no later than thirty (30) days before the effective date of any such Transfer.

ARTICLE XVII. Financial Reporting

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ARTICLE XVIII. Contingent Fees

- A. Seller represents and warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this representation or warranty will give PREPA the right to immediately terminate this Contract and/or to deduct from any payment or from the Performance Security the amount of such commission, percentage, brokerage, or contingent fee, or to claim said amount by whatever means available under the law.
- B. No officer, employee or agent of PREPA or of the Commonwealth of Puerto Rico, or of any Municipal Government of Puerto Rico, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.
- C. Seller represents and warrants that it is authorized to enter into and to perform its obligations under this Contract, and that it is not prohibited from doing business in Puerto Rico or barred from contracting with agencies or instrumentalities of the Commonwealth of Puerto Rico.

ARTICLE XIX. Choice of Law and Venue

This Contract, its Exhibits and any other document specifically incorporated into it shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Other than matters relating to the PREPA Bankruptcy, which shall be heard and determined in the United States District Court for the District of Puerto Rico, the Parties expressly agree that all actions and proceedings arising out of or relating to this Contract shall be heard and determined in the courts of the Commonwealth of Puerto Rico, and the Parties hereby irrevocably submit to the jurisdiction of such court in any



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such action or proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. The Parties hereby irrevocably waive all rights to trial by jury in any action, proceeding or counterclaim (whether based in contract, tort or otherwise) arising out of or relating to this Contract or the actions of any Party or their respective representatives in the negotiation or performance hereof.

ARTICLE XX. Code of Ethics

Each Party represents and warrants that, in connection with this Contract:

1. It has implemented adequate internal procedures designed to ensure that it shall not authorize the giving or offering of any financial or other advantage with the intention of inducing or rewarding any individual or entity to improperly perform an activity undertaken in the course of an individual's employment or connected to an entity's business activities (the "Anti-Corruption Controls"); and
2. It has not authorized and it will not authorize, in connection with the performance of this Contract, any financial or any other advantage to or for the benefit of any public official, civil servant, political official, candidate for office, or any other public or private individual or entity where such authorization would violate the Anti-Corruption Controls.

ARTICLE XXI. Modification and Novation

No modification, amendment, change, renewal, extension, discharge, or waiver of this Contract, or any provision thereof, shall be valid or binding except by a written agreement of the Parties executed by a duly authorized officer of each Party. No such modification, amendment or change to this Contract shall be understood as a



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contractual novation unless expressly agreed in writing by the Parties, including in cases where PREPA grants Seller a time extension for compliance with any of its obligations or where PREPA waives or resolves any of its rights under this Contract.

ARTICLE XXII. Separability

If a court of competent jurisdiction declares any of this Contract's provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of this Contract and the Parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

ARTICLE XXIII. Interpretation

- A. The words "include" and "including" mean "including, but not limited to" and corresponding grammatical variants.
- B. Words and abbreviations not defined in this Contract which have generally accepted technical or design, engineering, or construction industry meanings are used in this Contract in accordance with such recognized meanings.
- C. References to a person include such person's successors and assigns, provided that with respect to a Party and its rights and obligations under this Contract, references to a Party shall only include such Party's successors and assigns if this Contract permits such successors and assigns.
- D. The words "day" and "days" refers to calendar days unless specified as business days. Business days shall mean the days on which banks are open for business in Puerto Rico.
- E. Nothing in this Contract shall be construed or interpreted to limit the Puerto Rico Energy Bureau's powers under the laws of the Commonwealth of Puerto Rico.

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F. This Contract may be executed in any numbers of counterparts, and may be delivered by electronic mail, and each such copy when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same Contract.

ARTICLE XXIV. Entire Agreement

This Contract, together with its Exhibits A (Specifications), B (Sample Calculation (Btu Deficiency Adjustment)), and C (Sample Calculation (Escalator)), constitutes the entire agreement of the Parties as to the subject matter addressed herein, and supersedes any and all prior agreements, Requests for Proposals, proposal letters or letters of award between PREPA and Seller.

*[Signatures appear on the following page.]*



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IN WITNESS WHEREOF, the Parties have caused this Contract to be duly  
executed as of November 17, 2024, in San Juan, Puerto Rico.

The Puerto Rico Electric Power Authority  
as PREPA

Puerto Rico Energy LLC,  
as Seller

*Winnie Irizarry*

\_\_\_\_\_  
Winnie Irizarry  
Authorized Signatory for Genera PR LLC,  
exclusively as agent on behalf of and for  
the account of PREPA

\_\_\_\_\_  
Mario Ricardo Sierra Varela  
Chairman  


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**EXHIBIT A**  
**SPECIFICATIONS**

PARAMETER	ASTM METHOD	CAMBALACHE	SAN JUAN	PALO SECO	AGUIRRE	MAYAGÜEZ	OTHER UNITS
<b>SAMPLING</b>	D-4057	MIN-MAX	MIN-MAX	MIN-MAX	MIN-MAX	MIN-MAX	MIN-MAX
GRAVITY, API DEGREE AT 60F	D-287, D-4052	30.0-42.0	30.0-42.0	30.0- 42.0	30.0- 42.0	30.0-42.0	30.0- 42.0
VISCOSITY, KINEMATIC CTS AT 100F	D-445, D2161	2.3 -5.8	2.3-5.8	2.3-5.8	2.3 -5.8	2.3-5.8	2.3 -5.8
WATER & SEDIMENT,% VOLUME	D-473	MAX 0.1	MAX 0.1	MAX 0.1	MAX 0.1	MAX 0.1	MAX 0.1
FLASH POINT, DEGREE F, PMCT	D-93	MIN 125.0	MIN 125.0	MIN 125.0	MIN 125.0	MIN 125.0	MIN 125.0
SULFUR, PPM	D-7039, D-2622	MAX 15.0	MAX 15.0	MAX 15.0	MAX 15.0	MAX 15.0	MAX 15.0
SULFUR,% WEIGHT	D-7039, D-2622	MAX 0.0015	MAX 0.0015	MAX 0.0015	MAX 0.0015	MAX 0.0015	MAX 0.0015
ASH, % WEIGHT	D-482	MAX 0.005	MAX 0.005	MAX 0.005	MAX 0.005	MAX 0.005	MAX 0.005
POUR POINT, DEGREE F	D-97	MAX 15.0	MAX 15.0	MAX 15.0	MAX 15.0	MAX 15.0	MAX 15.0
SODIUM+ POTASSIUM, PPM	D-5863	MAX 0.5	MAX 0.5	MAX 0.5	MAX 0.5	MAX 0.5	MAX 0.5
VANADIUM, PPM	D-3605, D-5863	MAX 0.5	MAX 0.5	MAX 0.5	MAX 0.5	MAX 0.5	MAX 0.5
CALCIUM, PPM	D-5863	MAX 0.2	MAX 0.2	MAX 0.2	MAX 0.2	MAX 0.2	MAX 0.2
HEATING VALUE, BTU/LB (GROSS) AT 60F*	D-240	MIN 18,600 *	MIN 18,600*	MIN 18,600*	MIN 18,600*	MIN 18,600*	MIN 18,600*
DISTILLATION TEMP 90% POINT F	D-86	MAX 650	MAX 650	MAX 650	MAX 650	MAX 650	MAX 650
CARBON RESIDUE WT.% (10% BOTTOMS)	D-524	MAX 1.0	MAX 1.0	MAX 1.0	MAX 1.0	MAX 1.0	MAX 1.0
FILTERABLE PARTICULATES MG/100ML	D-2276	MAX 4.0	MAX 4.0	MAX 4.0	MAX 4.0	MAX 4.0	MAX 4.0
CETANE INDEX	D-4737	40.0-56.0	40.0-56.0	NOT REGULATED	NOT REGULATE D	40.0-56.0	NOT REGULATED
COLOR	VISUAL	UNDYED	UNDYED	UNDYED	UNDYED	UNDYED	UNDYED
LEAD PPM	D-5863	0.01-1.0	0.01-1.0	0.01-1.0	0.01-1.0	0.01-1.0	0.01-1.0
FUEL BOUND NITROGEN, % WEIGHT	D-4629	MAX 0.055	0.015	0.015	0.015	MAX 0.10	0.015

\*= requirement is gross heating value, but net heating value should be included for operations calculations.

M

DIESEL FUEL PURCHASE CONTRACT  
SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR  
AND VARIOUS GAS TURBINE GENERATING STATIONS  
Page 58

EXHIBIT B

SAMPLE CALCULATION (BTU DEFICIENCY ADJUSTMENT)

Example of calculation to determine credit due to PREPA if Seller supplies fuel of lower heat content than the guaranteed calorific value (in Btu):

Assume:

1. Guaranteed calorific value is 18,600 Btu/pound of fuel measured at 60° F.
2. Seller delivers 50,000 barrels of fuel measured at 60° F.
3. The COA of the fuel delivered indicates a heat content of 18,500 Btu per pound.

To calculate the equivalent barrels of the deficiency, divide the difference of Btus/pound received by the guaranteed minimum and multiply this fraction by the delivered volume.

Calculation:

$$(50,000 \text{ barrels}) \times ((18,600 - 18,500) / 18,600) = 268.82 \text{ bbl.}$$

PREPA receives a deficiency credit for 268.82 bbl.

W



**DIESEL FUEL PURCHASE CONTRACT**  
**SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR**  
**AND VARIOUS GAS TURBINE GENERATING STATIONS**  
 Page 59

**EXHIBIT C**

**SAMPLE CALCULATION (ESCALATOR)**

**Indexes for Ultra Low Sulfur Diesel**

	Platts NY		Platts USGC		Argus, NY		Argus USGC	
	Low	High	Low	High	Low	High	Low	High
01/02/17	170.52	170.62	168.92	169.02	169.53	170.13	168.17	168.57
01/03/17	164.57	164.67	163.22	163.32	164.67	165.17	162.17	163.17
01/04/17	166.40	166.50	164.10	164.20	166.15	166.65	163.15	164.25

**First step: Average**

Platts New York= $(170.52+170.62+164.57+164.67+166.4+166.5)/6 = 167.2133$
Platts US Gulf Coast = $(168.92+169.02+163.22+163.32+164.1 +164.2)/6 = 165.4633$
Argus New York= $(169.53+170.13+164.67+165.17+166.15+166.65)/6 = 167.05$
Argus USGC = $(168.17+168.57+162.17+163.17+163.15+164.25)/6 = 164.9133$

**Second step: Interpolation**

Plait's ULSD = $(167.2133+165.4633)/2 = 166.3383$
Argus ULSD = $(167.05+164.9133)/2 = 165.9817$

**Third step: Final Calculation**

Escalation Factor for a delivery commencing on January 3, 2017
= $[\frac{1}{2}(\text{Platts ULSD}) + \frac{1}{2}(\text{Argus ULSD})] \times 0.42$
= $\frac{1}{2}(166.3383) + \frac{1}{2}(165.9817) \times 0.42$
= $(83.1692 + 82.9908) \times 0.42 = 69.7872$

DIESEL FUEL PURCHASE CONTRACT  
SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR  
AND VARIOUS GAS TURBINE GENERATING STATIONS  
Page 60

EXHIBIT D

DESIGNATED STORAGE TERMINALS

PUERTO RICO ENERGY – BAYAMON TERMINAL

- Coordinates 18025'O.39"N / 66007'57.41"W
- The terminal is located in the northern part of the island of Puerto Rico, in the Industrial Park at Bayamon



DIESEL FUEL PURCHASE CONTRACT  
SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR  
AND VARIOUS GAS TURBINE GENERATING STATIONS  
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Example of calculation to determine credit due to PREPA if Seller supplies fuel of lower heat content than the guaranteed calorific value (in Btu):

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2. Seller delivers 50,000 barrels of fuel measured at 60° F.
3. The COA of the fuel delivered indicates a heat content of 18,500 Btu per pound.

To calculate the equivalent barrels of the deficiency, divide the difference of Btus/pound received by the guaranteed minimum and multiply this fraction by the delivered volume.

Calculation:

$$(50,000 \text{ barrels}) \times ((18,600 - 18,500) / 18,600) = 268.82 \text{ bbl.}$$

PREPA receives a deficiency credit for 268.82 bbl.

W



DIESEL FUEL PURCHASE CONTRACT  
 SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR  
 AND VARIOUS GAS TURBINE GENERATING STATIONS  
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	Low	High	Low	High	Low	High	Low	High
01/02/17	170.52	170.62	168.92	169.02	169.53	170.13	168.17	168.57
01/03/17	164.57	164.67	163.22	163.32	164.67	165.17	162.17	163.17
01/04/17	166.40	166.50	164.10	164.20	166.15	166.65	163.15	164.25

First step: Average

Platts New York= (170.52+170.62+164.57+164.67+166.4+166.5)/6 = 167.2133
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Escalation Factor for a delivery commencing on January 3, 2017
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W

DIESEL FUEL PURCHASE CONTRACT  
SAN JUAN, PALO SECO, AGUIRRE, MAYAGÜEZ, CAMBALACHE, ECOELÉCTRICA, COSTA SUR  
AND VARIOUS GAS TURBINE GENERATING STATIONS  
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EXHIBIT D

DESIGNATED STORAGE TERMINALS

PUERTO RICO ENERGY – BAYAMON TERMINAL

- Coordinates 18025'O.39"N / 66007'57.41"W
- The terminal is located in the northern part of the island of Puerto Rico, in the Industrial Park at Bayamon



Exhibit E

First Amendment to Service Agreement  
Purchase of Gasoline & Diesel at Service Stations

**FIRST AMENDMENT TO SERVICES AGREEMENT**  
**PURCHASE OF GASOLINE & DIESEL AT SERVICE STATIONS**

**Contract Number: 102061**

This **FIRST AMENDMENT TO SERVICES AGREEMENT** (this “Amendment”) is made and entered into as of January 27 2025 (the “Amendment Effective Date”), by and between the **PUERTO RICO ELECTRIC POWER AUTHORITY**, an instrumentality of the Government of the Commonwealth of Puerto Rico (“PREPA” or “Owner”), represented herein by its agent, **GENERA PR LLC** (“Genera”), a Puerto Rico limited liability company, and **TO GO STORES, LLC**, a Puerto Rico limited liability company (“Contractor”). Each of PREPA and Contractor are sometimes referred to herein as a “Party” and together as the “Parties”.

**RECITALS**

**WHEREAS**, the Parties entered into a certain Services Contract dated as of January 16, 2024 (the “Agreement”), pursuant to which Contractor shall provide Gasoline and Diesel at Services Stations.

**WHEREAS**, the Parties wish to amend the Agreement as set first in this Amendment.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby covenant and agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement.
2. Amendments to the Contract/Agreement. Effective from and after the Amendment Effective Date, the Contract/Agreement is hereby amended as follows:
  - A) Term extension. Contract is hereby amended to extend the validity period from January 30, 2025, to January 30, 2026.
  - B) Increase of Contract Price. Contract is hereby amended to increase the Contract from \$200,000.00 to \$280,000.00.
3. Payment Account. All payments to be made under this Agreement shall be charged to PREPA’s account number: 01-2321-23215-000-000.
4. Effect of this Amendment. This Amendment shall not constitute a waiver, amendment or modification of any other provision of the Agreement, or any other provision not expressly referred to herein. Except as amended as set forth above, the Agreement shall continue in full force and effect.
5. Registration at the Office of the Comptroller. PREPA shall submit this Amendment for registration with the Office of the Comptroller of Puerto Rico, in accordance with the provisions of Act No. 18 of October 30, 1975, as amended, and provide evidence of such filing to Contractor. Such filing shall be made no later than fifteen (15) days from the date hereof. The Parties agree that no performance of either Party’s obligations hereunder may  
be required by the other Party until this Amendment has been signed by both Parties and submitted for registration as described above, and evidence of such registration shall be provided to Contractor.

6. Applicable Law and Venue. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico, without regard to its choice of law principles. Also, the Parties expressly agree that only the state courts of Puerto Rico will be the courts of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Amendment.

7. Compliance with the Commonwealth of Puerto Rico Contracting Requirements. Contractor acknowledges and agrees as follows:

(a) Contractor, for itself and its members or partners (if Contractor is a partnership under the Puerto Rico Internal Revenue Code of 2011, as amended), represents and warrants that as of the Amendment Effective Date (a) neither it nor its members or partners, as applicable, has any outstanding debts for unemployment insurance, temporary disability, or chauffeur's social security with the Department of Labor and Human Resources of the Commonwealth, workman's compensation with the State Insurance Fund, income taxes or sales and use taxes with the Department of Treasury of the Commonwealth, or real or personal property taxes with the Municipal Revenues Collection Center ("CRIM") or (b) it or its members or partners, as applicable, have a payment plan in place with respect to any outstanding debt for the foregoing items and have complied therewith.

(b) Contractor shall have delivered to PREPA prior to, or shall deliver to PREPA on, the Effective Date:

(i) a copy of its current Certificate of Incorporation, Certificate of Organization or Certificate of Authorization to do Business in Puerto Rico issued by the Puerto Rico Department of State, as applicable; and

(ii) evidence (in each case dated no earlier than sixty (60) days prior to the Effective Date) of either:

(1) the Contractor's current RUL or RUP registration; or

(2) in lieu of the RUL or RUP registration required above, each of the following: (A) a copy of Contractor's Merchant's Registration Certificate; (B) a Certificate of Good Standing issued by the Puerto Rico Department of State; (C) a certification issued by the Puerto Rico Treasury Department indicating that Contractor and its members and partners, if applicable, do not owe Puerto Rico sales and use taxes to the Commonwealth of Puerto Rico; (D) a Puerto Rico Sales and Use Tax Filing Certificate issued by the Puerto Rico Treasury Department reflecting that Contractor has filed its Puerto Rico Sales and Use Tax returns for the last sixty (60) tax periods; (E) a certification issued by

the Puerto Rico Treasury Department indicating that Contractor and its members and partners, if applicable, do not owe Puerto Rico income taxes to the Commonwealth; (F) a Puerto Rico Income Tax Filing Certificate issued by the Puerto Rico Treasury Department reflecting that Contractor has filed its Puerto Rico Income Tax returns for the last five (5) tax years; (G) a certification issued by the Puerto Rico Child Support Administration (ASUME) reflecting that Contractor is in compliance with the withholdings required to be made by employers under applicable laws; (I) an all concepts debt certification issued by CRIM reflecting that Contractor does not owe any taxes to CRIM with respect to real or personal property; (J) a certification issued by the Puerto Rico Labor Department reflecting that Contractor is in

compliance with the withholdings required to be made by employers with respect to Unemployment and Disability Insurance.

8. Anti-Corruption; sanctioned persons. Contractor covenants, represents and warrants to PREPA as follows:

- i. Neither Contractor, its subsidiaries or affiliates, nor, when acting on behalf of Contractor or its subsidiaries or affiliates, any director or officer or employee of Contractor or its subsidiaries or its affiliates (together “Contractor Group Members” and each a “Contractor Group Member”) has violated as of the Effective Date, or shall violate, conspire to violate, or aid and abet the violation of, any Anti-Corruption Laws. No funds transferred by PREPA to Contractor shall be transferred by Contractor or any Contractor Group Member, directly or indirectly, in violation of any Anti-Corruption Laws.
- ii. Neither Contractor nor any Contractor Group Member are sanctioned persons or are located, organized or resident in a sanctioned country. Neither Contractor nor any Contractor Group Member shall directly or, knowingly, indirectly, engage in any transactions or business activity of any kind with a sanctioned person or a person located, organized or resident in a sanctioned country. No funds transferred by PREPA to Contractor shall be transferred by Contractor or any Contractor Group Member, directly or indirectly, to a sanctioned person, a person located, organized or resident in a sanctioned country, or in violation of Sanctions;
- iii. Contractor and Contractor Group Members maintain and implement as of the Effective Date, and shall maintain and implement, policies, procedures and controls reasonably designed to ensure compliance by Contractor with the Anti-Corruption Laws and Sanctions;
- iv. Contractor shall promptly notify PREPA in writing if, to Contractor’s knowledge, Contractor, or any Contractor Group Member, in connection with the Agreement, the Services, becomes subject to any investigation by law enforcement or regulatory authorities in connection with the Anti-Corruption Laws or Sanctions;
- v. Contractor shall at all times comply with all applicable law regarding non-discrimination;
- vi. Neither Contractor nor Contractor Group Members, nor any of their representatives, directly or indirectly, to the best of Contractor’s knowledge, has entered into or offered to enter into, or in the case of Contractor shall enter into, any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of the Agreement other than that which is expressly set forth in the Agreement; and Contractor attests, subject to the penalties for perjury, that the foregoing representation is true;
- vii. Contractor shall inform PREPA and Genera if, at any time during the Term, there are any material Tax disputes with any Governmental Body of the Commonwealth of Puerto Rico;
- viii. Contractor shall inform PREPA and Genera if, at any time during the Term, it or any of its Contractor Group Members becomes aware that any of them are subject to investigation in connection with criminal charges related to acts of corruption,

the public treasury, the public trust, a public function or charges involving public funds or property;

- ix. Pursuant to Section 5(f) of Act 120 and subject to the provisions of the Generation O&M Agreement, Contractor shall at all times comply with the public policy and regulatory framework applicable it with respect to the PREPA generation assets; and
- x. In delivering the Services, Contractor shall:
  - 1. to the extent that the goods or services are subject to rules of ethics of a profession, comply with any such applicable rules;
  - 2. to the extent that the goods or services involve performance of architectural, engineering, land surveying and landscape architecture services governed by Act No. 173 of the Legislative Assembly of Puerto Rico, enacted on August 12, 1988, as amended (“Act 173”), comply with Act No. 173; and
  - 3. as required by Article 11 of Act No. 14-2004, use commercially reasonable efforts to use, to the extent available and applicable to the goods or services, and to the extent permitted by law and the Federal Funding Requirements, goods extracted, produced, assembled, packaged, bottled or distributed in the Commonwealth of Puerto Rico by businesses operating in the Commonwealth of Puerto Rico or distributed by agents established in the Commonwealth of Puerto Rico.

9. Filings. Contractor certifies and guarantees that:

- i. it has filed all the necessary and required income tax returns to the Commonwealth of Puerto Rico for the last five (5) years. Contractor further certifies that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Commonwealth of Puerto Rico;
- ii. it is in compliance with any applicable obligation it may have with the Puerto Rico Child Support Administration (Administración de Sustento de Menores (ASUME)). As evidence thereof, Contractor has delivered to PREPA a certification issued by ASUME certifying that Contractor does not have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME;
- iii. if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended known as the “Law for the Strengthening of the Family Support and Livelihood of Elderly People”, the same is current and in all aspects in compliance; and
- iv. any and all necessary waivers regarding the Agreement have been obtained from any government entity and said waivers shall become part of the contracting file.

10. Consequences of Non-Compliance. Contractor expressly agrees that the conditions outlined throughout this ARTICLE 8 are essential requirements to contract with PREPA. Consequently, should any of these representations, warranties, and certifications be incorrect, inaccurate or misleading, in whole or in part, then this will be deemed a material breach by Contractor and permit PREPA to terminate the Agreement. PREPA shall also have the right to terminate the Agreement in the event of Contractor's negligence, dereliction of duties or breach of the Agreement, without limiting any other rights and remedies that PREPA may have as a result thereof, including, in the remedies available to it under Act No. 2-2018.
11. No Convictions. Contractor hereby certifies that it has not been convicted in any Puerto Rico or United States Federal court of any of the crimes under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico ("Act 1-2012"), any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code ("Act 146- 2012"), any of the crimes typified in Act No. 2- 2018, as amended, known as the Anti- Corruption Code for a New Puerto Rico ("Act 2-2018") or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8- 2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico- ("Act 8-2017").
12. Certain Crimes. PREPA shall have the right to terminate the Agreement in the event Contractor is convicted in Puerto Rico or United States Federal court of any of the crimes under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, any of the crimes typified in Act No. 2-2018 or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017.
13. Act 2-2018. Contractor agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time.
14. Interagency Services Clause: Pursuant to Memorandum No. 2021-003, Circular Letter 001-2021, of the Office of the Governor of Puerto Rico and the Office of Management and Budget, both Parties acknowledge and agree that the contracted services herein may be provided to any entity of the Executive Branch which enters into an interagency agreement with PREPA or by direct provision of the Office of the Chief of Staff of the Governor of Puerto Rico. These goods or services will be performed under the same terms and conditions regarding hours of work (if applicable) and compensation set forth in the Agreement.
15. Termination Clause. To the extent required by Act No. 3-2017 and OE-2021-003, or other Applicable Law, order or circular letter, the Office of the Chief of Staff shall have the authority to terminate the Agreement at any time; provided that in any such event Contractor shall be entitled to payment in full for the Services provided by it through the date of termination.
16. PREPA Certification. PREPA certifies that, to the extent applicable, the Agreement has the appropriate governmental authorizations necessary for its execution, and according to the provisions in the Act No. 3-2017, known as the "Act to Address the Economic, Fiscal, and Budget Crisis to Guarantee the Operations of the Government of Puerto Rico." Furthermore, PREPA certifies that, also to the extent applicable, it has obtained written approval of the Government Chief of Staff and the Office of Management and Budget, pursuant to Memorandum Number 2017-001 and Circular Letter 141-17.
17. Binding Effect. This Amendment shall be binding upon and insure to the benefit of the Parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

18. Counterparts. This Amendment may be executed in any number of counterparts, and may be delivered originally, by facsimile or by Portable Document Format (“PDF”) or other electronic means and each such original, facsimile copy, PDF, or other electronic document when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.
19. Severability. Any portion or provision of this Amendment that is held to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity, illegality, or unenforceability, without affecting in any way the remaining portions or provisions of this Amendment or, to the extent permitted by law, rendering that or any other portion or provision of this Amendment invalid, illegal or unenforceable in any other jurisdiction.

*[SIGNATURE PAGE FOLLOWS]*

**IN WITNESS WHEREOF**, the Parties have caused this Amendment to be executed by their duly authorized representative as of the Amendment Effective Date.

**PUERTO RICO ELECTRIC POWER  
AUTHORITY, by its agent, GENERA PR  
LLC**

**TO GO STORES, LLC**

EIN: 66-0594579

By: Harry Jimenez  
Harry Jimenez  
Senior Buyer

By: Nelson Capote  
Nelson Capote  
President



Exhibit F

Purchase and Delivery of Regular Unleaded Gasoline and  
Diesel Via Tank Trucks to PREPA Facilities

Contract ID 00103049

Contract Release

Execution Date 5/8/24

Printed 5/9/24

# PUERTO RICO ELECTRIC POWER AUTHORITY

## Contract

### Mail Invoice To:

### Vendor:

AMERICAN PETROLEUM COMPANY INC  
PO BOX 2529  
TOA BAJA PR 00951-2529

### Please Direct Inquiries To:

HARRY JIMENEZ-FELICIANO  
HJIMENEZ13690@AEEPR.COM  
Title PROCUREMENT SUPV G3  
Phone/Alternate Phone:  
787-521-2189  
Fax

### Work Location:

OFICINA DE COMBUSTIBLES  
EDIF. JUAN RUIZ VELEZ  
OFICINA 301  
AVE. PONCE DE LEON, PDA. 16.5  
SANTURCE PR 00926

### Title

SUPPLY OF GASOLINE & ULSD TO PREPA FACILITIES UP TO 10K GALLONS

### Contract Value

Total Value	\$ 200,000.00 00	USD	** NOT TO EXCEED **
Pricing Method	FIXED		
Contract Type	SERVICES	Start Date	7/1/24
Project		End Date	6/30/25

Contract ID 00103049

Contract Release

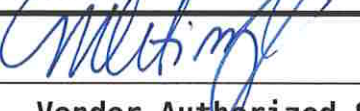

Execution Date 5/8/24

Printed 5/9/24

# PUERTO RICO ELECTRIC POWER AUTHORITY

## Contract

### Signatures

 Vendor Authorized Signature	 Authorized Signature
<u>Nefthali Ortiz / Sales Manager</u> Printed Name/Title	<u>Harry Jiménez Senior Buyer</u> Printed Name/Title
<u>5/09/2024</u> <u>(787) 444-0148</u> Date Signed Phone	<u>5/9/2024</u> _____ Date Signed Phone

### Scope of Work

The supply and delivery of regular unleaded gasoline and ULSD via tank trucks to PREPA facilities.

See terms and conditions.

End User Cesar Figueroa / Jose Carrasco

Fuel Office

\* \* \* End of Contract \* \* \*

**TERMS AND CONDITIONS  
PURCHASE AND DELIVERY  
OF REGULAR UNLEADED GASOLINE AND DIESEL  
VIA TANK TRUCKS TO PREPA FACILITIES  
Contract**

**Article I. Scope of Contract; Term.**

- A. American Petroleum Company Inc (“Seller”) agrees to sell and deliver to the Puerto Rico Electric Power Authority (“PREPA”) and PREPA agrees to purchase from Seller its requirements of gasoline and Ultra Low Sulfur Diesel (ULSD) to be delivered at PREPA's facilities. The fuel shall comply with applicable specifications as regulated by EPA and EQB for Puerto Rico, set forth in **Exhibit A** for regular unleaded gasoline and **Exhibit B** for ULSD. The quantities to be delivered at each site shall be those as requested by PREPA's representative.
- B. Delivery quantity size can be from 50 gallons up to 10,000 gallons, as per each PREPA's request.
- C. This Contract shall commence on July 1<sup>st</sup>, 2024, and shall continue until June 30, 2025 (the “Term”). The Term may be extended by mutual agreement of the Parties, provided that PREPA has allocated funds for any such extension.

**Article II. Delivery and Title.**

- A. Fuel shall be delivered by tank trucks into PREPA's storage tank at the various facilities as requested. Delivery to any of these stations shall be deemed completed and title and risk shall pass to PREPA when the fuel passes the flange connection, adjacent to PREPA's storage tanks at said station. Tank truck deliveries to these stations shall be made within seventy-two (72) hours after the Coordinated Date by PREPA. The Coordinated date is the date on which the fuel delivery is agreed and the period of seventy-two (72) hours to deliver starts counting.

**Article III. Specifications.**

- A. Seller guarantees that fuel supplied under this Contract complies with applicable specifications as regulated by EPA and EQB for Puerto Rico and in accordance with the latest edition of the applicable ASTM methods, as per Exhibit A and Exhibit B. PREPA's acceptance of, or agreement to remedial or preventive measures, shall not be interpreted or considered as a waiver of any right or remedy available to it under the law, including, but not limited to, rights to actions or claims for damages caused by Seller's noncompliance with the fuel specifications, or with any other provision of this Contract.
- B. The fuel to be supplied will be available to PREPA as requested. If Seller is unable at any time, except for reasons as provided for in the Force Majeure provision, to supply in full the amounts of fuel required, then it shall supply the balance by which it fails to meet such

amounts with a higher-grade fuel acceptable to PREPA and at the same price as that of the herein specified fuel.

- C. PREPA, in determining and establishing the specifications, considers environmental regulations as may be in effect at such time. In the event that during the Term Federal or Commonwealth of Puerto Rico laws or regulations are modified requiring the use of a fuel of different specifications than the fuel contracted for, or in the event that PREPA is duly authorized to use a fuel with different specifications than the fuel contracted for, and if these changes require an adjustment in the price of the fuel contracted for; then the parties shall meet within five (5) days from the enactment of any such law or regulations to discuss the matter for the purpose of establishing new price terms, satisfactory to both parties for the fuel with new specifications. If an agreement cannot be reached prior to the enforcement date of the regulations because Seller price is not competitive or, if for any reason, Seller cannot provide the fuel according to the new specifications; then PREPA shall have the right to terminate the Contract without Seller being entitled to any further compensation except for payment of fuel already delivered to and due by PREPA.
- D. Prior to receipt of any shipment, Seller shall provide a certified laboratory analysis of the fuel to be delivered.
- E. If during any delivery Seller fails to meet the specifications as awarded, PREPA reserves the right, without limiting any other right or remedy it may have under this Contract and/or under the law, to evaluate the deviations and deduct a monetary equivalent from the amounts due to Seller, establish a claim for nonperformance, or terminate the contractual relationship with Seller for nonperformance.
- F. Seller will be held responsible for any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due to the fact that any of the fuel provided by Seller has deviations or variations from the contracted specification for the same. Therefore, if such circumstance takes place, Seller will hold and save harmless and will defend PREPA, its officers, agents, and employees, from any claims, actions, cause of actions, damages, costs, fines, penalties, and expenses due to the above.

#### **Article IV. Price and Payment.**

- A. The contracted prices are based on a unit price in dollars per gallon (\$/gal) to be computed using as a reference the prevailing posting publications on the Fuel Request Date and it will be composed of a fixed price differential plus an escalator factor and applicable taxes. The Fuel Request Date is the date on which the fuel is requested, and the price is settled. The escalator formulas are as follows:
  - 1. Gasoline the NYMEX RBOB unleaded gasoline settlement price for the request date. Final number is to be rounded to four (4) decimal places.
  - 2. ULSD the NYMEX NY ULSD settlement price for the request date, Final number is to be rounded to four (4) decimal places.

The fixed differentials are:

- a. Gasoline \$0.70 per gallon
- b. ULSD \$0.70 per gallon

PREPA shall have the right to price protection for the fuel being delivered except as provided for in Article VI, Force Majeure, of this Contract. Price protection is to be applied to those deliveries not made within the agreed delivery window of seventy-two (72) hours as mentioned in Article II, Delivery and Title, of this Contract, unless parties agree to amend such delivery window. Price protection is hereby defined as the lowest calculated price between the Fuel Request Date and the actual delivery date as calculated in this Article.

- B. Fuel shall be measured while being delivered into PREPA's storage tanks. Every invoice for a tank truck delivery shall be accompanied by a copy of the delivery ticket properly signed by PREPA's duly authorized representative and a copy of the Fuel Analysis Certificate. All tank trucks should have all hatches and outlet valves properly locked with seals at the time the delivery is to commence; otherwise, the product will not be accepted by PREPA.
- C. For deliveries of less than 1000 gallons, as requested by PREPA, a fee of \$250.00 will apply to such delivery.
- D. Seller's invoices shall be paid net by PREPA in U.S. currency within forty-five (45) days after the receipt of invoice at PREPA's Fuels Office. PREPA will pay based on quality and quantity of fuel received.
- E. All invoices submitted by Seller shall include the following Certification to proceed with its payment. This is an essential requirement and those invoices without this Certification, will not be processed for payment:

*No Interest Certification:*

*Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this Contract, or if any employee, official or director of PREPA has any interest in the profits or benefits under this Contract, a waiver has been previously obtained. I, also certify that the only consideration to provide the services under this Contract is the payment agreed with PREPA's authorized representative. The total amount of this invoice is fair and correct. The services were provided and no payment has been received for said concept.*

*Seller's Signature*

- F. Volume calculation for excise tax purposes will be as determined by the Puerto Rico

Treasury Department or the applicable regulatory agency. Applicable taxes to the purchase of gasoline and ULSD fuel will be determined as follows:

1. Crude Oil Tax. This will be calculated using the official value as reported by the Puerto Rico Treasury Department (Hacienda) for corresponding month in its "Determinación de Arbitrio al Petróleo Crudo, Productos Semiterminados y Productos Terminados Derivados de Petróleo" monthly communication. Said value shall be divided by forty-two (42) to obtain the applicable amount in dollars per gallon to be applied.
  2. Excise tax is a fixed value for the different fuels, and it can only be modified by legislation. The values currently in effect are the following:
    - a. Gasoline \$0.16 per gallon
    - b. ULSD \$0.04 per gallon
  3. Oil Spill Tax. The values currently in effect are the following:
    - a. Gasoline \$0.002143 per gallon
    - b. ULSD \$0.002143 per gallon
  4. Federal Superfund Tax. The values currently in effect are the following:
    - a. Gasoline \$0.003905 per gallon
    - b. ULSD \$0.003905 per gallon
- G. It will be Seller's full responsibility to obtain a refund for the payment of any taxes from which PREPA is exempt.
- H. The maximum value of this Contract shall not to exceed two hundred thousand U.S. Dollars (**\$200,000.00**) and PREPA shall make payments under this Contract from account number **01-2321-23215-000-000**.

**Article V. Laytime and Demurrage.**

The fuel shall be supplied by Seller and shall be delivered and pumped into PREPA's storage tanks. Seller certifies that is capable to effect deliveries within seventy-two (72) hours after request of product by PREPA and within PREPA's working hours which are from 7:30 to 11:30 AM and from 12:30 to 4:00 PM including deliveries on Saturdays, Sundays, and holidays, if necessary, in order to fulfill PREPA's operational requirements. PREPA assumes no responsibility or liability for demurrage incurred by the tank trucks delivering fuel pursuant to this Contract unless such demurrage is attributable to the fault or negligence of PREPA. Seller shall furnish all appropriate documentation and available evidence in support of any demurrage claim, which may be brought against PREPA.

**Article VI. Force Majeure.**

The parties hereto shall be excused from performing hereunder and shall not be liable for damages or otherwise, if and only to the extent that they shall be unable to perform or are prevented from performing by a Force Majeure event. For purposes of this Contract, Force Majeure means any cause without the fault or negligence, and beyond the reasonable control of, the party claiming the occurrence of a Force Majeure event. Force Majeure may include, but not be limited to, the following: Acts of God, industrial disturbances, acts of the public enemy, war, blockages, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, interruptions of services due to the acts or failure to act of any governmental authority, provided that these events, or any other claimed as a Force Majeure event, and/or its effects, are beyond the reasonable control and without the fault or negligence of the party claiming the Force Majeure, and that such party, within ten (10) days after the occurrence of the alleged Force Majeure, gives the other party written notice describing the particulars of the occurrence and its estimated duration. The party claiming the Force Majeure shall continue the performance of its obligations hereunder immediately after the conclusion of the Force Majeure.

In the event that the Force Majeure extends for a period of more than sixty (60) consecutive days, the party not claiming the Force Majeure may terminate this Agreement without further obligation. The burden of proof as to whether a Force Majeure event has occurred shall be on the party claiming the Force Majeure.

Notice of termination under this provision shall create no liability to the parties, except that the parties shall still be responsible for the payments of amounts due and owing to the other party not subject to claims.

#### **Article VII. General Liabilities.**

- A. Seller agrees to make, use, provide, and take all proper, necessary precautions, safeguards and protection against the occurrence or happening of injuries, death and/or damages to any person or property during the transportation and delivery process, and to be responsible for, and indemnify, and save PREPA harmless from public liability, costs, and expenses resulting therefrom, or damages that may happen or occur solely through the fault, or negligent acts, or omissions of Seller, its employees, agents, and subcontractors, during the performance of the supply, or while carrying out any act or action directly or indirectly related, or in connection with the performance of this Contract, and from loss, liability, and fines incurred for, or by reason of violation by Seller of any federal, state or municipal ordinance, or regulation of law, while said delivery is in progress.
- B. Seller will be held responsible for any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due to the fact that any of the fuel provided by Seller has deviations or variations from the contracted and guaranteed specifications for the same. Therefore, should such circumstances take place, Seller will hold and save harmless and will defend PREPA, its officers, agents, and employees from any claims, actions, causes of actions, damages, costs, fines, penalties, and expenses due or attributable to variations in fuel specifications as contracted and guaranteed by Seller.



- C. The appearing parties agree that their responsibilities for damages under this Contract will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico.

**Article VIII. Notices.**

Any notice to be given hereunder shall be in writing and will be sufficiently served when delivered in person or properly mailed to the following addresses:

To PREPA:

PREPA  
c/o Genera PR LLC, Fuels Office  
250 Muñoz Rivera Ave, Suite 1200  
San Juan, Puerto Rico 00918  
Attention: Fuels Office Manager

To Seller:

American Petroleum Company Inc.  
Carr #865 km 0.2 Bo. Campanillas  
Toa Baja, PR 00949  
Attention: Neftalí Ortiz

Either Seller or PREPA, upon any change of its address as set forth above, shall notify the other party in writing and from and after giving such notice, the address therein specified shall be deemed the address of such party for the giving of notices.

**Article IX. Insurance.**

- A. Seller shall secure and maintain in full force and effect during the life of this Contract as provided herein, policies of insurance covering all operations engaged in by the Contract as follows:
1. Commonwealth of Puerto Rico Workmen's Compensation Insurance: Seller shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act of the Commonwealth of Puerto Rico. Seller shall also be responsible for compliance with said Workmen's Compensation Act by all its subcontractors, agents, and invitees, if any. Seller shall furnish the PREPA a certificate from the Puerto Rico's State Insurance Fund showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance, in accordance with this Contract.

2. Employer's Liability Insurance: Seller shall provide Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability imposed by Law upon the Seller as result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.
  3. Commercial General Liability Insurance: Seller shall provide a Commercial General Liability Insurance with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate.
  4. Commercial Automobile Liability Insurance: Seller shall provide a Commercial Automobile Liability Insurance with limits of \$1,000,000 combined single limit covering all owned autos, non-owned and hired automobiles.
- B. Requirements Under the Policies: The Commercial General Liability and Commercial Automobile Liability Insurance required under this Contract, shall be endorsed to include:
1. As Additional Insured:  
PREPA  
c/o Genera PR LLC, Fuels Office  
250 Muñoz Rivera Ave, Suite 1200  
San Juan, Puerto Rico 00918
  2. A 30 day cancellation or nonrenewable notice to be sent to the above address.
  3. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to the Contract.
  4. Waiver of Subrogation in favor of PREPA.
  5. Breach of Warranties or Conditions: "The Breach of any of the Warranties or Conditions in this policy by the Insured shall not prejudice PREPA'S rights under this policy."
- C. All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico.
- D. Seller shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded. This certification shall be in the "Acord" form, in general use by the insurers. Also, original of the endorsements shall be furnished.

**Article X. Duties and Taxes.**

In the event that any new or increased taxes, fees or tariffs applicable to the product being supplied hereby are levied by Federal and/or Commonwealth of Puerto Rico, and as long as these taxes, fees or tariffs do not discriminate whether the product is domestic or foreign, these will be passed on in their entirety to PREPA; any changes up or down in these taxes, fees or tariffs, should they be imposed, will be reflected in the price in its entirety and PREPA will adjust the price accordingly. However, should said new or increased taxes, fees or tariffs discriminate whether the product is domestic or foreign and said new or increased taxes, fees or tariffs result in a lower price for domestic fuel, PREPA must be supply with fuel which results in the lowest cost to PREPA. Should domestic fuel be unavailable, the parties shall meet within five (5) days from PREPA's notification to PREPA's request, to discuss fuel availability from other sources and negotiate the financial aspect of any taxes, fees or tariffs applicable to that product. If an agreement cannot be reached, PREPA shall have the right to terminate the Contract without Seller being entitled to any further compensation except for fuel already delivered and due by PREPA.

**Article XI. Contingent Fees.**

- A. Seller warrants that it has not employed any person to solicit or secure the Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty will give PREPA the right to immediately terminate the Contract and/or to deduct from payments the amount of such commission, percentage, brokerage or contingent fee, or to claim said amount by whatever means available under the law.
- B. No officer, employee, or agent of PREPA or of the Commonwealth of Puerto Rico, or of any Municipal. Government shall be admitted to any share or part of the ensuing Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the ensuing Contract if made with a well-known oil corporation for its general benefit, although said corporation employs a relative, by reasons of consanguinity or affinity, to a PREPA employee.
- C. Seller represents and warrants that it is authorized to enter into, and to perform its obligations under this Contract and that it is not prohibited from doing business in Puerto Rico or barred from contracting with agencies or instrumentalities of the Commonwealth of Puerto Rico.

**Article XII. [Reserved].**

**Article XIII. Termination.**

Notwithstanding anything to the contrary in this Contract regarding its term, PREPA may, at any moment, terminate, cancel or accelerate its expiration, after giving Seller a not less than thirty (30) days prior notice, when in PREPA's judgement such action responds to PREPA's best interest. The exercise of its right to terminate, cancel or rescind the Contract shall not be understood as a waiver by PREPA to any other remedy it may have under this Contract or under the law for delays or breach incurred by Seller in the performance of its obligations under the Contract.

**Article XIV. Conflict of Interest.**

A. Certification. Seller represents and certifies to PREPA on the Effective Date, that:

- a. none of its representatives under this Contract are employed by or receive payment or compensation for such employment from any governmental agency, body, public corporation or municipality of Puerto Rico;
- b. no Puerto Rico government, PREPA or Genera PR LLC ("Genera") employee has any personal or economic interest in this Contract;
- c. it may have service contracts with other governmental agencies, bodies, public corporations or municipalities of Puerto Rico, but such contracts do not constitute a conflict of interest for Seller, with PREPA or Genera, or otherwise bias Seller's judgement, in its performance of the Contract;
- d. at the time of execution of this Contract, it does not have any other contractual relationship that could be deemed to constitute a conflict of interest for Seller, or otherwise bias Seller's judgement, in its performance of the Contract;
- e. at the time of execution of this Contract, it does not have any claims or existing litigation with PREPA, Genera or any instrumentality of the Commonwealth of Puerto Rico;
- f. it had no involvement in preparing the specifications contemplated under this Contract;
- g. it did not, prior to submitting a proposal, have access to another competitor's proprietary information that was obtained from a Puerto Rico government official, PREPA or Genera without proper authorization; and
- h. it did not, prior to submitting a proposal, have access to source selection information (i.e., information prepared for use by PREPA or Genera for the purpose of evaluating a bids or proposals to enter into an agreement, if that information was not previously made available to the public or disclosed publicly) that is relevant to the Contract but was not available to all competitors, and such information would assist that contractor in obtaining the contract.

B. Conflicting Interests. Seller acknowledges that it has a duty of ethical behavior towards PREPA. Such duty includes that Seller shall not have interests that conflict with PREPA's interests in this Contract or the goods and services pursuant to this Contracts. Those conflicting interests include the following (which are illustrative and not exhaustive):

- a. the representation of clients which have, or may have, interests opposed to those of PREPA in relation to the services to be provided hereunder (if applicable);

- b. when Seller's conduct is described as such in the canons of ethics that may be applicable to Seller and its personnel or in the laws or regulations applicable to Seller and its personnel assigned to providing the goods or services herein;
  - c. when Seller, persons that control Seller, or Seller's employees, directors, or officers directly or indirectly, for themselves or any other third party, obtain, request or give to PREPA or Genera or an employee, officer, director or agent of PREPA or Genera, any profit, utility, advantage or gain by way of improper acts or exercise of undue influence.
- C. Appearances. Seller agrees to avoid even the appearance of a conflict of interest.
- D. Prompt Disclosure. Seller shall have the continuous obligation to promptly disclose to PREPA if any relationship with third parties could represent a conflict of interest with PREPA in connection with the Contract. In such case, and in the cases where PREPA or Genera discovers the existence of such conflicting situation, Seller agrees that PREPA shall have the authority to determine, and inform Seller in writing, of PREPA's intention to terminate this Contract within a thirty (30) day period of becoming aware of the conflicting situation. During said period, Seller may request a meeting with PREPA to present its position regarding the alleged conflict of interest, which meeting shall be promptly granted. In the event Seller does not request such a meeting during the aforementioned thirty (30) day period, or the controversy is not satisfactorily settled during the referenced meeting, PREPA shall make a determination to terminate the Contract.
- E. Breach. In the event that Seller, persons that control Seller, or any Seller employee, director, or officer violates the provisions of this Article XIV, and such actions are not cured within ten (10) business days of becoming aware of such event, or if by their nature cannot be cured, it shall constitute a breach of this Contract.

#### **Article XV. Dispute Resolution.**

- A. Direct Discussion. If a dispute arises out of this Contract, the parties hereto shall attempt to resolve the dispute first through direct discussion. Either party may provide notice to the other party that there is a dispute and that such party is invoking the dispute resolution procedure under this Article XV(A). The parties hereto agree that their designated officers will meet and attempt to resolve the dispute within fourteen (14) days of receiving the notice of dispute.
- B. Binding Arbitration. If the dispute cannot be settled through direct discussion in accordance with Article XV(A), then such dispute shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") in accordance with then-current provisions of the Commercial Arbitration Rules.

- C. Arbitration Proceedings. The arbitration proceeding shall be conducted by a mutually agreed panel of three (3) arbitrators of the AAA (selected pursuant to the AAA Commercial Rules) and shall be private and confidential (including the arbitrators, the parties hereto and their respective representatives and witnesses), subject to Article XV(B) above, and conducted in San Juan, Puerto Rico in the English language. The arbitration final hearing shall be conducted and concluded within twelve (12) months of initiating the arbitration, absent agreement of the parties to extend such term, and the arbitrator must issue a reasoned award within thirty (30) days of the conclusion of the arbitration. The judgment of the arbitrator shall be final and binding on the parties, and judgment upon the award rendered by the arbitrator may be entered and enforced by any court of the United States or any state thereof having jurisdiction.

**Article XVI. Miscellaneous.**

- A. Assignment. This Contract, as well as any rights, duties, liabilities, or obligations under it, cannot be assigned, transferred, subcontracted, hypothecated, or otherwise disposed of by Seller without the prior written consent of PREPA.
- B. Compliance With Applicable Law. Seller represents, warrants and covenants as to the matters specified in Exhibit C (*Government Contracting Requirements*) which are requirements that PREPA is obliged.
- C. Third-Party Beneficiaries. Except as set forth with respect to Genera in this Contract, the parties hereto do not confer any rights or remedies upon any person other than the parties to this Contract and their respective successors and permitted assigns.
- D. Use of Name. Seller shall not use the name, logo, trademarks or trade names of PREPA or Genera in any publicity releases, promotional material, customer lists, advertising, marketing or business-generating efforts, whether written or oral, without obtaining PREPA's and Genera's prior written consent, which consent shall be given at PREPA's and Genera's sole discretion.
- E. Independent Contractor. Seller agrees that this Contract does not create an agent, representative or employer-employee relationship between Seller and PREPA or between Seller and Genera, and Seller agrees not to hold itself out as an agent, representative or employee of PREPA or Genera. Seller also agrees that all services hereunder will be rendered by Seller as an independent contractor. Seller does not and shall not have any right or authority whatsoever to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of PREPA or Genera or to bind PREPA or Genera in any manner. Any service contracted for hereunder shall be on a non-exclusive basis, and PREPA shall be free to contract with one or more other persons for the performance of the same or similar services, or to perform such services directly.

- F. Employee Benefits. Neither Seller nor any persons designated by Seller to perform the obligations hereunder shall be eligible to participate in any employee benefit programs and the like of PREPA or Genera. Accordingly, Seller acknowledges that no state worker's compensation, unemployment compensation, or disability laws are intended to apply to the services provided by Seller as an independent contractor, and Seller acknowledges that it shall be responsible for, and comply with, all applicable federal, state and local income or payroll tax requirements.
- G. Validity. If any provision or part thereof in this Contract is determined to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability will not impair the operation of or affect those remaining portions of such provision and this Contract that are legal, valid and enforceable. Such provision or part thereof will be modified so as to be legal, valid and enforceable consistent as closely as possible with the intent of the original language of such provision or part thereof and shall be enforced to the extent possible consistent with applicable law. If the illegality, invalidity or unenforceability of such provision or part thereof cannot be modified consistent with the intent of the original language, such provision will be deleted and treated as if it were never a part of this Contract and shall not affect the validity of the remaining portions of the provision or this Contract.
- H. Governing Law. This Contract shall be construed, interpreted and applied in accordance with and governed by the internal laws of the Commonwealth of Puerto Rico without regard to its choice of law principles.
- I. Severability. Any portion or provision of this Contract that is held to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity, illegality, or unenforceability, without affecting in any way the remaining portions or provisions of this Contract or, to the extent permitted by law, rendering that or any other portion or provision of this Contract invalid, illegal or unenforceable in any other jurisdiction.
- J. Waiver. Either party's exercise or failure to exercise any right or remedy shall not preclude the exercise of that or any other right or remedy at any time. Failure by either party to enforce its rights and remedies shall not constitute or be construed as a waiver or otherwise preclude such party from enforcing the same, or other, rights and remedies in the future.
- K. Counterparts. This Contract may be executed in any number of counterparts, and may be delivered originally, by facsimile or by Portable Document Format ("PDF") or other electronic means and each such original, facsimile copy, PDF, or other electronic document when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same Contract.

L. Headings. Any headings preceding any of the Sections hereof are inserted solely for convenience of reference, shall not constitute a part of the Contract and shall not otherwise affect the meanings, content, effect or construction of this Contract.



**EXHIBIT A**

<b>Regular Unleaded Gasoline 87 Octane</b>			
<b>Test</b>	<b>Method</b>	<b>Minimum</b>	<b>Maximum</b>
API Gravity@ 60°F	D4052; Calculation; D1298; D287	Report	Report
Sulfur Content, (wt. ppm)	D2622; D7039; D5453		80
RON	D2885; D2699	Report	
MON	D2885; D2699	82	
(R+M)/2	D2885; D2699	87	



## **EXHIBIT B**

### **ULTRA LOW SULFUR DIESEL (ULSD) SPECIFICATIONS**

<b>PARAMETER</b>	<b>ASTM METHOD</b>	<b>MIN - MAX</b>
SAMPLING	D-4057	
GRAVITY, API DEGREE AT 60F	D-287, D-4052	30.0 - 42.0
VISCOSITY, KINEMATIC CTS AT 100F	D-445, D2161	2.3 -5.8
WATER & SEDIMENT, % VOLUME	D-473	MAX 0.1
FLASH POINT, DEGREE F, PMCT	D-93	MIN 125
SULFUR, PPM	D-7039, D-2622	MAX 15.0
SULFUR, % WEIGHT	D-7039, D-2622	MAX 0.0015
ASH, % WEIGHT	D-482	MAX 0.005
POUR POINT, DEGREE F	D-97	MAX 15
SODIUM + POTASSIUM, PPM	D-5863	MAX 0.5
VANADIUM, PPM	D-3605, D-5863	MAX 0.5
CALCIUM, PPM	D-5863	MAX 0.2
HEATING VALUE, BTU/LB (GROSS) AT 60F *	D-240	MIN 18,600 *
DISTILLATION TEMP 90% POINT F	D-86	MAX 650
CARBON RESIDUE WT. % (10% BOTTOMS)	D-524	MAX 1.0
FILTERABLE PARTICULATES MG/100ML	D-2276	MAX 4.0
CETANE INDEX	D-4737	40 - 56
COLOR	VISUAL	UNDYED
LEAD PPM	D-5863	0.01 - 1.0
FUEL BOUND NITROGEN, % WEIGHT	D-4629	0.015

**\* = requirement is gross heating value, but net heating value should be also included for our operations calculations**

## EXHIBIT C

### GOVERNMENT CONTRACTING REQUIREMENTS

Seller acknowledges and agrees as follows:

1. Seller, for itself and its members or partners (if Seller is a partnership under the Puerto Rico Internal Revenue Code of 2011, as amended), represents and warrants that as of the Effective Date (a) neither it nor its members or partners, as applicable, has any outstanding debts for unemployment insurance, temporary disability, or chauffeur's social security with the Department of Labor and Human Resources of the Commonwealth, workman's compensation with the State Insurance Fund, income taxes or sales and use taxes with the Department of Treasury of the Commonwealth, or real or personal property taxes with the Municipal Revenues Collection Center ("CRIM") or (b) it or its members or partners, as applicable, have a payment plan in place with respect to any outstanding debt for the foregoing items and have complied therewith.
2. Seller shall have delivered to PREPA prior to, or shall deliver to PREPA on, the Effective Date:
  - (a) a copy of its current Certificate of Incorporation, Certificate of Organization or Certificate of Authorization to do Business in Puerto Rico issued by the Puerto Rico Department of State, as applicable; and
  - (b) evidence (in each case dated no earlier than sixty (60) days prior to the Effective Date) of either:
    - i. the Seller's current RUL or RUP registration; or
    - ii. in lieu of the RUL or RUP registration required in Section 2(b)(i), each of the following:
      - A. a copy of Seller's Merchant's Registration Certificate;
      - B. a Certificate of Good Standing issued by the Puerto Rico Department of State;
      - C. a certification issued by the Puerto Rico Treasury Department indicating that Seller and its members and partners, if applicable, do not owe Puerto Rico sales and use taxes to the Commonwealth of Puerto Rico;
      - D. a Puerto Rico Sales and Use Tax Filing Certificate issued by the Puerto Rico Treasury Department reflecting that Seller has filed its Puerto Rico Sales and Use Tax returns for the last sixty (60) tax periods;
      - E. a certification issued by the Puerto Rico Treasury Department indicating that Seller and its members and partners, if applicable, do not owe Puerto Rico income taxes to the Commonwealth;
      - F. a Puerto Rico Income Tax Filing Certificate issued by the Puerto Rico Treasury Department reflecting that Seller has

filed its Puerto Rico Income Tax returns for the last five (5) tax years;

- G. a certification issued by the Puerto Rico Child Support Administration (ASUME) reflecting that Seller is in compliance with the withholdings required to be made by employers under Applicable Laws;
- H. a sworn statement under Act 2-2018, signed before a notary public, in the form attached hereto as Attachment 1.
- I. an all concepts debt certification issued by CRIM reflecting that Seller does not owe any taxes to CRIM with respect to real or personal property; and
- J. a certification issued by the Puerto Rico Labor Department reflecting that Seller is in compliance with the withholdings required to be made by employers with respect to Unemployment and Disability Insurance.

3. Seller covenants, represents and warrants to PREPA as follows:

- (a) Neither Seller, its subsidiaries or affiliates, nor, when acting on behalf of Seller or its subsidiaries or affiliates, any director or officer or employee of Seller or its subsidiaries or its affiliates (together “**Seller Group Members**” and each a “**Seller Group Member**”) has violated as of the Effective Date, or shall violate, conspire to violate, or aid and abet the violation of, any Anti-Corruption Laws. No funds transferred by PREPA to Seller shall be transferred by Seller or any Seller Group Member, directly or indirectly, in violation of any Anti-Corruption Laws.
- (b) Neither Seller nor any Seller Group Member are Sanctioned Persons or are located, organized or resident in a Sanctioned Country. Neither Seller nor any Seller Group Member shall directly or, knowingly, indirectly, engage in any transactions or business activity of any kind with a Sanctioned Person or a Person located, organized or resident in a Sanctioned Country. No funds transferred by PREPA to Seller shall be transferred by Seller or any Seller Group Member, directly or indirectly, to a Sanctioned Person, a Person located, organized or resident in a Sanctioned Country, or in violation of Sanctions;
- (c) Seller and Seller Group Members maintain and implement as of the Effective Date, and shall maintain and implement, policies, procedures and controls reasonably designed to ensure compliance by Contractor with the Anti-Corruption Laws and Sanctions;
- (d) Seller shall promptly notify PREPA in writing if, to Seller’s knowledge, Seller, or any Seller Group Member, in connection with this Contract or the Services, becomes subject to any investigation by law enforcement or regulatory authorities in connection with the Anti-Corruption Laws or Sanctions;
- (e) Seller shall at all times comply with all Applicable Law regarding non-discrimination;

- (f) neither Seller nor Seller Group Members, nor any of their representatives, directly or indirectly, to the best of Seller's knowledge, has entered into or offered to enter into, or in the case of Seller shall enter into, any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Contract other than that which is expressly set forth in this Contract; and Seller attests, subject to the penalties for perjury, that the foregoing representation is true;
  - (g) Seller shall inform PREPA and Genera if, at any time during the Term, there are any material Tax disputes with any Governmental Body of the Commonwealth;
  - (h) Seller shall inform PREPA if, at any time during the Term, it or any of its Seller Group Members becomes aware that any of them are subject to investigation in connection with criminal charges related to acts of corruption, the public treasury, the public trust, a public function or charges involving public funds or property;
  - (i) Pursuant to Section 5(f) of Act 120 and subject to the provisions of the Generation O&M Agreement, Seller shall at all times comply with the public policy and regulatory framework applicable it with respect to the PREPA generation assets; and
  - (j) In delivering the goods or services, Seller shall:
    - i. to the extent that the goods or services are subject to rules of ethics of a profession, comply with any such applicable rules;
    - ii. to the extent that the goods or services involve performance of architectural, engineering, land surveying and landscape architecture services governed by Act No. 173 of the Legislative Assembly of Puerto Rico, enacted on August 12, 1988, as amended ("Act 173"), comply with Act No. 173; and
    - iii. as required by Article 11 of Act No. 14-2004, use commercially reasonable efforts to use, to the extent available and applicable to the goods or services, and to the extent permitted by law and the Federal Funding Requirements, goods extracted, produced, assembled, packaged, bottled or distributed in the Commonwealth of Puerto Rico by businesses operating in the Commonwealth of Puerto Rico or distributed by agents established in the Commonwealth of Puerto Rico.
4. Seller certifies and guarantees that it has filed all the necessary and required income tax returns to the Commonwealth of Puerto Rico for the last five (5) years. Seller further certifies that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Commonwealth of Puerto Rico.
5. Seller hereby certifies that it is in compliance with any applicable obligation it may have with the Puerto Rico Child Support Administration (Administración de Sustento de Menores (ASUME)). As evidence thereof, Seller has delivered to PREPA a certification issued by ASUME certifying that Seller does not have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME.

6. Seller hereby certifies that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended known as the "Law for the Strengthening of the Family Support and Livelihood of Elderly People", the same is current and in all aspects in compliance.
7. Any and all necessary waivers regarding the Contract have been obtained from any government entity and said waivers shall become part of the contracting file.
8. **Consequences of Non-Compliance.** Seller expressly agrees that the conditions outlined throughout this Exhibit C are essential requirements to contract with PREPA. Consequently, should any of these representations, warranties, and certifications be incorrect, inaccurate or misleading, in whole or in part, then this will be deemed a material breach by Seller and permit PREPA to terminate the Contract. PREPA shall also have the right to terminate the Contract in the event of Seller's negligence, dereliction of duties or breach of the Contract, without limiting any other rights and remedies that PREPA may have as a result thereof, including, in the remedies available to it under Act No. 2-2018.
9. Seller hereby certifies that it has not been convicted in any Puerto Rico or United States Federal court of any of the crimes under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico ("Act 1-2012"), any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code ("Act 146-2012"), any of the crimes typified in Act No. 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico ("Act 2-2018") or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico ("Act 8-2017").  
  
PREPA shall have the right to terminate the Contract in the event Seller is convicted in Puerto Rico or United States Federal court of any of the crimes under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, any of the crimes typified in Act No. 2-2018 or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017. Furthermore, Seller agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time.
10. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Generation O&M Agreement.

**Interagency Services Clause:** Pursuant to Memorandum No. 2021-003, Circular Letter 001-2021, of the Office of the Governor of Puerto Rico and the Office of Management and Budget, both Parties acknowledge and agree that the contracted services herein may be provided to any entity of the Executive Branch which enters into an interagency agreement with PREPA or by direct provision of the Office of the Chief of Staff of the Governor of Puerto Rico. These goods or services will be

performed under the same terms and conditions regarding hours of work (if applicable) and compensation set forth in the Contract.

**[NTD: Only include if Contract is in excess of \$10 million] Contract Review Policy of the Financial Oversight and Management Board for Puerto Rico:** The Parties acknowledge that Seller has submitted the certification titled “Contractor Certification Requirement” required in accordance with the Contract Review Policy of the Financial Oversight and Management Board for Puerto Rico, effective as of November 6, 2017 and amended on October 30, 2020, signed by Seller’s Executive Director (or another official with an equivalent position or authority to issue such certifications). A signed copy of the “Contractor Certification Requirement” is included as an annex to this Contract. Seller represents and warrants that the information included in Contractor Certification Requirement is complete, accurate and correct, and that any misrepresentation, inaccuracy or falseness in such Certification will render the contract null and void and Seller will have the obligation to reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the proposed contract.

**Termination Clause:** To the extent required by Act No. 3-2017 and OE-2021-003, or other Applicable Law, order or circular letter, the office of the Chief of Staff shall have the authority to terminate this Contract at any time; provided that in any such event Seller shall be entitled to payment in full for the Services provided by it through the date of termination.

PREPA certifies that, to the extent applicable, the Contract has the appropriate governmental authorizations necessary for its execution, and according to the provisions in the Act No. 3-2017, known as the “Act to Address the Economic, Fiscal, and Budget Crisis to Guarantee the Operations of the Government of Puerto Rico.” Furthermore, PREPA certifies that, also to the extent applicable, it has obtained written approval of the Government Chief of Staff and the Office of Management and Budget, pursuant to Memorandum Number 2017-001 and Circular Letter 141-17.

END OF TERMS AND CONDITIONS

