

ORIGINAL

CONTRACT NO. LOG MSSP 2022-12-123-MDC

LEASE OF 4.0MW MODULAR DIESEL GENSETS FOR BOAC DPP S1-BOA22-015/PB221031-NA00400

KNOW ALL MEN BY THESE PRESENTS:

This Contract made and entered into in Quezon City, Philippines, by and between:

The **NATIONAL POWER CORPORATION**, a government-owned and controlled corporation duly organized and existing under and by virtue of Republic Act No. 6395, as amended, with its principal office address at BIR Road corner Quezon Avenue, Diliman, Quezon City, Philippines, represented herein by its President and CEO, **MR. FERNANDO MARTIN Y. ROXAS**, who is duly authorized to represent it in this transaction, hereinafter referred to as **LESSEE**;

- and -

AGGREKO ENERGY RENTAL SOLUTIONS, INC., a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at Unit 1101 Picadilly Star Building, 4th Ave. corner 27th Street, Bonifacio Global City, Taguig, Philippines herein represented by its General Manager, **MR. MICHAEL DENNIS S. OGILVIE**, who is duly authorized to represent it in this transaction, hereinafter referred to as **LESSOR**.

WITNESSETH: That -

WHEREAS, on 08 October 2022, NPC posted the Invitation to Bid for the Public Bidding for the Lease of 4.0MW Modular Diesel Gensets for Boac DPP;

WHEREAS, only one (1) prospective bidder secured the bidding documents and participated in the public bidding conducted on 03 November 2022 on the aforesaid undertaking;

WHEREAS, LESSOR's bid offer is the single calculated and responsive bid;

WHEREAS, LESSEE accepted the said bid of the LESSOR;

NOW, THEREFORE, in view of the foregoing premises and for and in consideration of the mutual covenants and stipulations hereinafter provided, the parties hereto have agreed as follows:

Contract between NPC and Aggreko Energy Rental Solutions, Inc.
Lease of 4.0MW Modular Diesel Gensets for Boac DPP
Contract No. LOG MSSP 2022-12-123-MDC

AGGREKO ENERGY RENTAL SOLUTIONS, INC.
(LESSOR)

MICHAEL DENNIS S. OGILVIE
General Manager

BY:

SIGNED IN THE PRESENCE OF:

JOHNNIE JAY B. ATON
Hire Desk Controller

LOLITA B. CHAVEZ
OIC-Manager, Controllers Dept.
(LESSEE)

NATIONAL POWER CORPORATION
(LESSEE)

FERNANDO MARTIN Y. ROXAS
President and CEO

BY:

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(LESSOR)

MICHAEL BENNIS S. OGILVIE
General Manager

BY:

SIGNED IN THE PRESENCE OF:

JONNY B. ATON
Hire Dept. Controller

LOLITA B. CHAVEZ
OIC-Manager, Controllers Dept.
(LESSEE)

NATIONAL POWER CORPORATION
(LESSEE)

FERNANDO MARTIN Y. ROXAS
President and CEO

ARTICLE I
DOCUMENTS COMPRISING THE CONTRACT

The following documents are hereby incorporated and made part of this Contract as though fully written out and set forth herein insofar as they are not inconsistent with the terms hereof:

1. Bid Documents for the Lease of 4.0MW Modular Diesel Gensets for Boac DPP / PR No: S1-BOA22-015/PB221031-NA00400;
2. Supplemental/Bid Bulletin Nos. 1 and 2 dated 21 October, 2022 and 02 November 2022;
3. Bid Opening Report dated 04 November 2022;
4. LESSOR's bid proposal dated 02 November 2022;
5. Post Qualification Report dated 16 November 2022;
6. Notice of Award dated 02 December 2022;
7. Notice to Proceed; and
8. The Performance Security to be filed by LESSOR in accordance with this Contract.

In the event that there is any discrepancy/inconsistency between the provisions of the Contract and the Contract Documents mentioned above, the latter shall govern. Should there be any inconsistency/discrepancy, among the Contract Documents, the document with the latest date shall prevail.

ARTICLE II
SCOPE OF CONTRACT

LESSOR shall provide 4.0MW Modular Diesel Gensets for Boac Diesel Power Plant. Scope of Work and related services to be provided by the LESSOR are contained in the Bidding Documents and Annex "A" showing the itemized Bid Price Schedule.

ARTICLE III
COMMENCEMENT AND COMPLETION PERIOD

The delivery, installation, testing and commissioning of the modular diesel generating sets shall be completed by the LESSOR in twenty (20) calendar days from receipt of Notice to Proceed. Commercial operation of the plant shall commence after the completion of the works.

The lease/contract duration shall be **six (6) months minimum and twelve (12) months maximum period**, effective on the first day of commercial operation. It should be understood that such contract can

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be terminated any time after the first six (6) months minimum period of operation at the discretion of NPC depending on the power requirement of the local power system and the progress on NPC-SPUG plant expansion program.

NPC has the option to extend the contract on a month-to-month basis subject to availability of funds and applicable provisions of the Revised IRR of RA 9184.

ARTICLE IV
TOTAL CONTRACT PRICE AND PAYMENT TERMS

The Total Contract Price of the lease shall be in the amount of **PHILIPPINE PESOS: THIRTY SIX MILLION FOUR HUNDRED ONE THOUSAND FOUR HUNDRED FIFTY (PHP 36,401,450.00) ONLY.**

LESSEE shall pay the LESSOR the value of the total contract cost in the following manner:

- a) LESSOR shall bill LESSEE the first monthly rental and operation & maintenance after the first month of operation including all other lot items in the price schedule except for demobilization, less deductions due to power shortfall and applicable penalties if any;
- b) The succeeding billings shall be the monthly rental and operation & maintenance after each month of operation less deductions due to power shortfall and applicable penalties if any;
- c) The demobilization cost and the last month rental shall be paid upon the completion of site clearing and moving out of modular generating units and accessories;
- d) The LESSOR shall bill LESSEE on the first day of the following month after each month of operation for the rental service. Copies of the supporting documents must be included in the Billing Statement;
- e) LESSEE shall pay the LESSOR within thirty (30) calendar days upon receipt of the billing statement with complete supporting documents; and
- f) LESSEE shall furnish LESSOR a certificate regarding VAT and withholding tax deducted from the LESSOR.

The Total Contract Price specified above shall be paid in accordance with the provision of Section IV-GCC, Clause 2 of the Bidding Documents.

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General Manager

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Hire Desk Controller

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All taxes, customs duties, tariffs, exports, excise and all other taxes assessed and charged by the taxing authority of the country of origin upon production, manufacture or shipment of all materials, equipment and supplies to be furnished under the Contract shall be borne by the LESSOR.

In addition, all taxes, fees, insurance and cost of delivery to site shall be borne by the LESSOR.

ARTICLE V
EXTENSION OF CONTRACT

NPC has the option to extend the contract on a month to month basis subject to the availability of funds and applicable provisions of the RA 9184 and its revised IRR.

To avoid frontloading of incidental expenses during contract extension, the following shall be the basis for payment of the monthly lease contract for the said contract extension:

- a) For lump sum contract price, total incidental costs such as mobilization, demobilization, transportation cost, Insurance (foreign and local), Import Duties, VAT (input and output), other Taxes and Levies imposed by the country of origin and the Philippine Government on equipment brought in, will be pegged at 10%.
- b) If the total incidental cost in the contract price is greater than 10% of the total bid price, the monthly lease contract for the contract extension shall remain the same; and
- c) If the total incidental cost in the contract price is less than 10%, it shall be pegged at 10% and the total monthly rate shall be computed.

ARTICLE VI
PERFORMANCE SECURITY

To guarantee the faithful performance of the LESSOR's obligation under this Contract, the LESSOR shall post a Performance Security which shall remain valid and effective during the contract duration.

- a Cash, Manager's/Cashier's Check, Bank Draft/Guarantee issued by a Universal or Commercial Bank or Irrevocable Letter of Credit issued by a Universal or Commercial Bank. Provided however, that it shall be confirmed or authenticated by a reputable local Universal or Commercial Bank if issued by a Foreign Bank equivalent to Five Percent (5%) of the

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(LESSOR)

MICHAEL DENNIS S. OGILVIE
General Manager

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SIGNED IN THE PRESENCE OF:

JONNIFER JAN B. ATON
Hire Desk Controller

LOLITA B. CHAVEZ
OIC-Manager, Controllers Dept.
(LESSEE)

NATIONAL POWER CORPORATION
(LESSEE)

BY:

FERNANDO MARTIN Y. ROXAS
President and CEO

contract price.

- b. Surety Bond callable upon demand and penal in nature issued by a Surety or Insurance Company duly certified by the Insurance Commission as authorized to issue such security which shall be Thirty Percent (30%) of the total contract price.
- c. Performance Securing Declaration.

The Insurance Company that will issue Performance Security must be accredited by the Insurance Commission and acceptable to the National Power Corporation.

The Performance Bond shall be valid for the duration of the contract and remain valid and effective until after sixty (60) days from NPC's issuance of Certificate of Demobilization. In case of surety bond, should there be any extension of the contract period, the LESSOR shall correspondingly post an extension of the bond within ten (10) days from the notice. The Performance Bond shall also be answerable for any damages or penalties or any expenses incurred that LESSEE may suffer as a result of the failure of the LESSOR to perform its obligations under this Contract. The Performance Bond shall be entirely forfeited by LESSEE upon default of LESSOR.

**ARTICLE VII
LIQUIDATED DAMAGES**

Should LESSOR fail to satisfactorily deliver any or all the Goods and/or perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions, if any, LESSEE shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one percent (1%) of the cost of the unperformed portion for every day of delay until actual Delivery or performance. Once the amount of liquidated damages reaches ten percent (10%), the LESSEE may rescind or terminate the contract without prejudice to other course of action and remedies open to it.

**ARTICLE VIII
WARRANTY CLAUSE**

LESSOR hereby warrants that he or his representative has not offered or paid, directly or indirectly, any government officer and LESSEE official or employee any consideration or commission for the Contract nor has he or his representative exerted or utilized any corrupt or unlawful influence to secure or solicit this Contract for any consideration or commission; that the LESSOR will not subcontract any portion or portions of the scope of work of the Contract awarded to him

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AGGREKO ENERGY RENTAL SOLUTIONS, INC.
(LESSOR)

MICHAEL DENNIS S. OGILVIE
General Manager

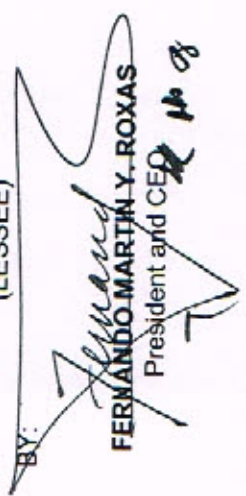
BY:

SIGNED IN THE PRESENCE OF:


JON MILLER
Hire Desk Controller


LOLITA B. CHAVEZ
OIC-Manager, Controllers Dept.
(LESSEE)

NATIONAL POWER CORPORATION
(LESSEE)


FERNANDO MARTIN Y. ROXAS
President and CEO

to any official or employee of the LESSEE and to the relatives within the 3rd degree of consanguinity or affinity of LESSEE's officials who are directly and indirectly involved in Contract awards or project execution; and that if any commission is being paid to a private person, he shall disclose the name of said person and the amount being paid; and that any violation of this Warranty shall constitute sufficient ground for the rescission or cancellation of this Contract, or the reduction from the Contract Price of the consideration or commission paid without prejudice to the filing of any action for the violation of RA No. 3019 as amended (otherwise known as the Anti-Graft and Corrupt Practices Act) and/or other applicable laws against the LESSOR and/or his representative and/or the erring LESSEE official(s) and employee(s).

ARTICLE IX
JOINT AND SEVERAL LIABILITY

The liability of the LESSOR and/or any and all of the entities representing it on any manner under this Contract or relating thereto is joint and several and for this reason LESSEE may proceed against any or all of them.

ARTICLE X
VALIDITY CLAUSE

If any term or condition of this Contract is held invalid or contrary to law, the validity of the other terms and conditions hereof shall not be affected thereby.

ARTICLE XI
EFFECTIVITY

This Contract shall become effective on the date of the issuance of Notice to Proceed.

ARTICLE XII
AGREEMENT MODIFICATION

No modification, alteration or waiver of any provision of this agreement shall be binding upon the Parties unless evidenced by a written amendment signed by the Parties.

ARTICLE XIII
VENUE OF ACTION

The parties hereto agree that the venue of action for any cause or causes of action which may arise from this Contract shall be exclusively in the proper court of Quezon City, Philippines, only.

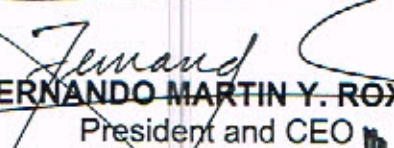
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IN WITNESS WHEREOF, the parties hereto have signed this Contract this 29th day of December 2022 at Quezon City, Philippines.

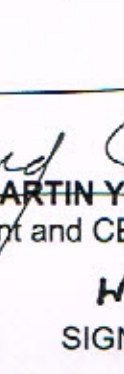
NATIONAL POWER CORPORATION
(LESSEE)

AGGREKO ENERGY RENTAL SOLUTIONS, INC.
(LESSOR)

By: 
FERNANDO MARTIN Y. ROXAS
President and CEO

By: 
MICHAEL DENNIS S. OGILVIE
General Manager

SIGNED IN THE PRESENCE OF:



LOLITA B. CHAVEZ
OIC-Manager, Controllers Dept.
(LESSEE)


(LESSOR)
JONNIFER JAN B. ATON
Hire Desk Controller

FUNDS AVAILABLE

(in)

CERTIFIED FUNDS AVAILABLE	
PERIOD	: 2022
JOB ORDER	: GL 574
COST CENTER	: 508 2043
AMOUNT	: ₱ 698,110.00


LOLITA B. CHAVEZ
OIC-Manager, Controllers Dept.

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REPUBLIC OF THE PHILIPPINES)
QUEZON CITY)S.S.

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for and in Quezon City, Philippines, this 8 DEC 2022, day of _____, 2022, personally appeared **MR. FERNANDO MARTIN Y. ROXAS**, President and CEO, **NATIONAL POWER CORPORATION**, with Document Identification in the form of Company ID No. APW20017432, known to me and to me known to be the same person who executed the foregoing instrument consisting of nine (9) pages, including the pages wherein the acknowledgements are written, all pages signed by both parties and their instrumental witnesses and he acknowledged before me that the same is his free and voluntary act and deed and that of the Company he represents.

WITNESS MY HAND AND NOTARIAL SEAL, at the place and on the date first above written.

Notary Public
Until December 31, 2022
IBP Lifetime No.: _____
PTR No.: _____

Doc. No. 68 :
Page No. 15 :
Book No. 6 :
Series of 2022.

ATTY. RODOLFO M. DE GUZMAN, JR.
Notary Public for Quezon City
Commission No. NP-127(2021-2022)
Commission Expires on 31 December 2022
Roll No. 44291
IBP No. 201548; 02/08/2022; RSM
PTR No. 2614399; 02/08/2022; Quezon City
MCLE No. VI-0025196; 04/08/19; Pasig City
4th Floor NPC Office Building
Quezon Ave. cor. BIR Road
Diliman, Quezon City

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REPUBLIC OF THE PHILIPPINES)
QUEZON CITY ~~MAKATI CITY~~) S.S.

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for and in ~~QUEZON CITY~~ Philippines, this _____ day of _____, 2022, personally appeared **MR. MICHAEL DENNIS S. OGILVIE**, General Manager, **AGGREKO ENERGY RENTAL SOLUTIONS, INC.** with Identification Document in the form of Government ID No. P14863628, issued by DFA at DFA MANILA, on 27 AUG 2021, known to me and known to be the same person who executed the foregoing instrument consisting of nine (9) pages, including the pages wherein the acknowledgements are written, all pages signed by both parties and their instrumental witnesses and he acknowledged before me that the same is his free and voluntary act and deed and that of the Corporation he represents.

WITNESS MY HAND AND NOTARIAL SEAL, at the place and on the date first above written.

Notary Public
Until December 31, 2022
IBP Lifetime No.: _____
PTR No.: _____

Doc. No. 747 ;
Page No. 51 ;
Book No. 406 ;
Series of 2022.

ATTY. GEORGE DAVID D. SITON
NOTARY PUBLIC FOR MAKATI CITY
APPT. NO. M-051 - UNTIL DEC. 31, 2023
ROLL NO. 69402 / MCLE COMPLIANCE NO. VII-0010136/2-15-2022
IBP O.R No. 002382-LIFETIME MEMBER MAY 5, 2017
PTR No. 8852066- JAN 03, 2022-MAKATI CITY
EXECUTIVE BLDG. CENTER MAKATI AVE., COR. JUPITER ST., MAKATI CITY

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SECTION VII – SCHEDULE OF REQUIREMENTS

BID PRICE SCHEDULE

Item	Work Description	Quantity	Unit of Measure	Unit Price Per Day (in Php)	Total Price for 12 months (in Php)
1.0	Rental/Lease Rate at 2.0MW for 24 hours operation per day including Operation & Maintenance, Billing Meter, Transformer/s and VAT	365	days	54,930.00	20,049,450.00
2.0	Rental/Lease Rate at 2.0MW for 8 hours operation per day including Operation & Maintenance, Billing Meter, Transformer/s and VAT	365	days	44,800.00	16,352,000.00
3.0	Mobilization/Transportation Cost including Installation, Tapping, Test & Commissioning and VAT	1	Lot	-	-
4.0	Demobilization/Transportation Cost including Disconnection, Site Clean-up and VAT	1	Lot	-	-
5.0	Insurance (Foreign and Local)	1	Lot	-	-
6.0	Import Duties, and Other Taxes, Levies imposed by country of origin and Philippine Government on equipment brought in	1	Lot	-	-
TOTAL					36,401,450.00

AGGREKO ENERGY RENTAL SOLUTIONS, INC
Name of Firm


MICHAEL DENNIS OGILVIE
Name & Signature of Representative

GENERAL MANAGER
Designation

NATIONAL POWER CORPORATION

VII-BPS-1

Paulo
the P H G. C.