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*Counsel for Guam Power Authority*

## **BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**


<b>IN THE MATTER OF:</b>	) <b>GPA DOCKET NO. 25-12</b>
	)
<b>AMENDMENT TO UKUDU POWER</b>	) <b>AMENDED SUPPLEMENT TO GPA</b>
<b>PLANT ENERGY CONVERSION</b>	) <b>PETITION TO AMEND THE UKUDU</b>
<b>AGREEMENT</b>	) <b>POWER PLANT ENERGY CONVERSION</b>
	) <b>AGREEMENT TO PERMIT GPA TO PAY</b>
	) <b>FOR ADDITIONAL TESTING</b>
	)
	)
	)
	)

The Guam Power Authority (GPA) hereby files this amended supplement to its Petition for the Public Utilities Commission of Guam (PUC) to review and approve GPA's request to amend the Energy Conversion Agreement (ECA) between GPA and Guam Ukudu Power LLP (GUP) to allow GPA to pay for additional pre-commissioning testing which will result in additional energy support services from Ukudu Power Plant (Ukudu). The supplement consists of the complete Resolution of the Consolidated Commission on Utilities (CCU) (including Attachment A, Amendment No. 1 to Third Amended and Restated Energy Conversion Agreement), approved at the CCU meeting on May 27, 2025, and attached hereto as Exhibit C. See Ex. C, CCU Resolution No. FY2025-18 (Authorizing GPA to Amend the Ukudu Power

1 Plant Energy Conversion Agreement (ECA) for Additional Energy Services Support Through  
2 Testing, May 27, 2025).

3  
4 Respectfully submitted this 29<sup>th</sup> day of May, 2025.

5 *Attorney for Guam Power Authority*

6  
7 By:   
8 MARIANNE WOŁOSCHUK  
9 GPA Legal Counsel



## **CONSOLIDATED COMMISSION ON UTILITIES**

Guam Power Authority | Guam Waterworks Authority

P.O. Box 2977 Hagatña, Guam 96932 | (671) 648-3002 | guamccu.org

### **RESOLUTION NO. FY2025-18**

#### **AUTHORIZING THE GUAM POWER AUTHORITY (GPA) TO AMEND THE UKUDU POWER PLANT ENERGY CONVERSION AGREEMENT (ECA) FOR ADDITIONAL ENERGY SERVICES SUPPORT THROUGH TESTING**

**WHEREAS**, the CCU approved FY 2025-16 in April 2025 authorizing GPA to obtain additional energy support services during the pre-commissioning period for \$ 4.9 million subject to Public Utilities Commission approval; and

**WHEREAS**, additional energy support service is provided through additional testing; and

**WHEREAS**, upon finalizing the agreement with Guam Ukudu Power (GUP), it was determined that under Article 3.2.2 of the Energy Conversion Agreement (ECA) for the Ukudu Power Plant restricts GPA from acquiring this additional energy services through additional testing; and

**WHEREAS**, GPA and GUP have agreed to amend the ECA to address this restriction by modifying the existing language under Article 3.2.2 to read as follows:

“Prior to the Commercial Operation Date, GPA may pay for energy delivered to GPA during Testing and Commissioning on terms mutually agreed upon by the Parties that provide a benefit to ratepayers. Such agreement shall be set forth in an amendment to this Agreement setting forth the terms for the purchase of power delivered to GPA during Testing and Commissioning”; and

**WHEREAS**, Attachment A is the drafted Amendment No. 1 to Third Amended and Restated Energy Conversion Agreement which includes new Schedule 3-1 for Additional Testing Hours; and

**WHEREAS**, since GPA must obtain PUC approval for the ECA amendment in order to initiate these services, the additional services will not begin until after PUC approval with a proposed period of May 30, 2025 to September 6, 2025; and

31           **NOW THEREFORE, BE IT RESOLVED**, by the CONSOLIDATED COMMISSION ON  
32 UTILITIES as the governing body of GPA, and subject to the review and approval of the Public Utilities  
33 Commission, as follows:  
34

- 35       1.   The General Manager of the Guam Power Authority is hereby authorized to amend the Ukudu  
36       Power Plant Energy Conversion Agreement (ECA) to allow for the additional energy services  
37       support through testing.

38           **RESOLVED**, that the Chairman certified and the Board Secretary attests to the adoption of this  
39 Resolution.  
40

41  
42  
43           **DULY AND REGULARLY ADOPTED AND APPROVED THIS 27th DAY OF MAY**  
44 **2025.**  
45

Certified by:

  
\_\_\_\_\_  
**FRANCIS E. SANTOS**  
Chairperson

Attested by:

  
\_\_\_\_\_  
**MELVIN F. DUENAS**  
Secretary

46  
47       I, Melvin F. Duenas, Board Secretary for the Consolidated Commission on Utilities, as evidenced by  
48 my signature above do certify as follows:

49       The foregoing is a full, true, and accurate copy of the resolution duly adopted at a regular meeting of  
50 the members of Guam Consolidated Commission on Utilities, duly and legally held at a place properly  
51 noticed and advertised at which meeting a quorum was present and the members who were present  
52 voted as follows:

53  
54       AYES:                                 5  
55       NAYS:                                 0  
56       ABSTENTIONS:                     0  
57       ABSENT:                             0



**ATTACHMENT A**

**Amendment No. 1 to Third Amended and Restated Energy Conversion Agreement**

**AMENDMENT NO. 1 TO THIRD AMENDED AND RESTATED  
ENERGY CONVERSION AGREEMENT**

This **Amendment No. 1 to Third Amended and Restated Energy Conversion Agreement** (hereinafter referred to as “Amendment”) is made and entered into as of May \_\_, 2025, by and between the **GUAM POWER AUTHORITY** (“GPA”), whose address is Gloria B. Nelson Public Service Building, 688 Route 15 Fadian, Mangilao, Guam 96913, and **GUAM UKUDU POWER** (“GUP”), whose mailing address is 105 Inda Street, Suite 107, PMB 1053, Dededo, Guam 96929 (hereinafter referred to collectively as the “Parties” and each individually a “Party”).

**RECITALS**

**WHEREAS**, reference is made to that Energy Conversion Agreement, dated November 5, 2019, by and between GPA and GUP, as amended and restated by that Amended and Restated Energy Conversion Agreement dated March 17, 2021 and that certain letter agreement “re: Energy Conversion Agreement dated 5 November 2019” dated December 10, 2021, and further amended and restated by that Second Amended and Restated ECA dated September 30, 2022, and further amended and restated by the Third Amended and Restated ECA dated July 26, 2024, and as may be further amended, restated and/or modified from time to time (“ECA”), wherein GUP shall, in accordance with the terms and conditions set forth in the ECA, develop, design, permit, finance, construct, test, commission, complete, own, insure, operate and maintain an electric power plant (the “Facility”) and a related BESS Facility (collectively with the Facility, the “Project Facilities”) on a build, own, operate and transfer basis to provide electric power capacity and net energy output to GPA (the “Project”). Capitalized terms not otherwise defined herein shall have the meanings set forth in the ECA;

**WHEREAS**, the Required Commercial Operation Date (“RCOD”) of the Project Facilities is September 30, 2025;

**WHEREAS**, pursuant to Article 7 of the ECA, GUP is obligated to test the Project Facilities prior to the Commercial Operation Date (“COD”) and is currently Testing the Project Facilities to ensure Commissioning of the Project Facilities is achieved by the RCOD;

**WHEREAS**, in accordance with the terms and conditions set forth herein, the Parties desire GUP to increase the daily total hours of Testing of the Facility in order to reduce the risk of any delays to and to facilitate the achievement of Commissioning of the Project Facilities by the RCOD, and GPA is willing to compensate GUP for the costs associated with the additional Testing hours and the power produced during such additional Testing hours, which will provide needed supplemental power to the local grid;

**WHEREAS**, pursuant to Article 3.2.2 of the ECA, prior to the Commercial Operation Date, GPA is prohibited from paying for energy delivered to GPA during Testing and Commissioning (“Test Energy”) and GPA and GUP desire to amend the ECA to allow GPA to purchase the Test Energy generated during the additional Testing hours and to set forth the terms for the purchase of power delivered to GPA during such additional Testing hours and for the payment of costs associated therewith.

**NOW THEREFORE**, GPA and GUP, in consideration of mutual covenants hereinafter set forth, do hereby AGREE to amend the ECA as follows:

**SECTION 1.** Article 3.2.2 of the ECA is hereby amended by restating and replacing it, in its entirety, with the following:

### 3.2.2 Test Energy

Prior to the Commercial Operation Date, GPA may pay for energy delivered to GPA during Testing and Commissioning on terms mutually agreed upon by the Parties that provide a benefit to ratepayers. Such agreement shall be set forth in an amendment to this Agreement setting forth the terms for the purchase of power delivered to GPA during Testing and Commissioning.

**SECTION 2.** Pursuant to Article 3.2.2 of the ECA as amended herein, the Parties agree to increase the daily Testing hours and for the payment of the costs associated therewith and the energy produced from the additional testing hours in accordance with the terms set forth in Schedule 3-1 attached hereto, which shall be considered incorporated into and a part of the ECA.

### **SECTION 3. MISCELLANEOUS PROVISIONS.**

A. **Governing Law; Jurisdiction.** This Amendment is made under and shall be governed and construed in accordance with the laws of Guam and the courts of Guam, and shall have jurisdiction over any and all disputes.

B. **Severability.** If any provision of this Amendment shall be deemed by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be deemed stricken and the Amendment shall be enforced according to its valid and subsisting terms and provisions.

C. **No Waiver.** The failure of either Party to insist upon strict compliance with any term, provision, or condition of this Amendment shall not be construed as a waiver of either Party's rights and remedies under this Amendment.

D. **No Third-Party Beneficiaries.** No person other than GPA, and GUP are a party to this Amendment. There are no third-party beneficiaries of this Amendment and nothing in this Amendment, express or implied, is intended to confer on any person other than the Parties hereto (and their respective successors and permitted assigns), any rights, remedies, obligations or liabilities. GPA is not a party to any contract between GUP and any of GUP's contractors, and GPA shall not be responsible or liable for any issues resulting from this Amendment and the contracts between GUP and any other parties.

E. **Effect on ECA.** Except as amended herein, the provisions, terms, and conditions of the ECA shall remain in full force and effect.

F. **PUC Approval.** GPA is required by law to obtain prior approval from the Guam Public Utilities Commission before entering into, extending, or amending contracts that could impact rates. This approval process is described in PUC's February 15, 2008 Order, which is available for inspection. GPA certifies that it has complied with this requirement, if applicable, before entering into this Amendment.

G. **Approval by Lenders.** This Amendment is subject to approval by GUP's lenders.

H. **Modification.** This Amendment may only be modified in writing signed by the Parties.

I. **Assignment.** This Amendment may not be assigned by either Party other than by mutual agreement of the Parties in writing. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their permitted assigns.

J. **Counterparts.** This Amendment may be executed in more than one counterpart, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to constitute one and the same instrument.

[Signature page follows]

IN WITNESS HEREOF, GPA and GUP have caused this Amendment No. 1 to Third Amended and Restated Energy Conversion Agreement to be executed as of the date set forth above.

**GUAM POWER AUTHORITY**

By: \_\_\_\_\_  
JOHN M. BENAVENTE, P.E.  
General Manager

**GUAM UKUDU POWER LLC**

By: \_\_\_\_\_  
**JAESUK HAN**  
Chief Executive Officer

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Marianne Woloschuk  
GPA General Counsel

**SCHEDULE 3-1  
ADDITIONAL TESTING HOURS**

**SECTION 1. TERM.**

**A. Initial Term.** The initial term of Additional Testing Hours (defined below) shall be for a period beginning May 30, 2025, and expiring on September 6, 2025 (the "Initial Term"), unless sooner terminated as provided herein.

**B. Extended Term.** Provided GPA is not in breach of any provision of this Schedule 3-1, before the expiration or earlier termination of the Initial Term, GPA may request to extend the Initial Term by providing five (5) days' prior written notice to GUP setting forth the period for extension. In the event the Parties agree to extend the Initial Term of Additional Testing Hours ("Extended Term"), the terms and conditions during the Extended Term shall be as provided in this Schedule 3-1, except that GPA agrees to pay a FOMC (defined below) of FORTY THOUSAND USD (\$40,000) per day for each day of the Extended Term, plus VOMC (defined below) at the rate of \$0.0020/kWh for actual net power generation delivered to GPA during the Extended Term. The FOMC shall be paid as follows: FOMC of EIGHTEEN THOUSAND TWO HUNDRED AND SIXTY-ONE USD (\$18,261) per day for each day of Additional Testing Hours until the end of the Extended Term, which shall be payable to GUP within five (5) working days of the end of the Extended Term, and FOMC of TWENTY-ONE THOUSAND SEVEN HUNDRED THIRTY-NINE DOLLARS (\$21,739) per day for each day of Additional Testing Hours until the end of the Extended Term, which shall be payable to Doosan Ukudu Power, LLC ("DUP") within five (5) working days of the end of the Extended Term. VOMC shall be paid by GPA to GUP within five (5) working days of GPA's receipt of an invoice issued by GUP.

**SECTION 2. ADDITIONAL TESTING HOURS, POWER OUTPUT, AND SCHEDULE.** GUP agree to increase the daily total hours of Testing of the Facility ("Additional Testing Hours") as follows:

<b>Period of Term</b>	<b>Additional Testing Hours</b>	<b>Expected Power Output</b>
May 30, 2025 to June 12, 2025	5:00 PM to 8:00 AM	55.8 MW
June 13, 2025 to September 6, 2025	5:00 PM to 8:00 AM	135 MW

Provided, however, that the Additional Testing Hours may be paused for such times and on such days as deemed necessary by GUP in its sole discretion. GUP agrees to deliver to GPA, and GPA agrees to receive all the power generated during the Additional Testing Hours. GUP agrees to deliver at least sixty-one (61) days of power from the agreed commencement date of the Initial Term.

**SECTION 3. PAYMENT.** In consideration of GUP conducting Additional Testing Hours and for the power generated during the Additional Testing Hours and delivered by GUP to GPA during the Initial Term, GPA agrees to pay a lump sum Fixed Operations and Maintenance Charge ("FOMC") and a Variable Operations and Maintenance Charge ("VOMC") for actual net power generation delivered to GPA as follows ("Initial Term Payment"):

**A. FOMC.** A total of FOUR MILLION SIX HUNDRED THOUSAND USD (\$4,600,000) payable by GPA as follows:

- i) First installment of SIX HUNDRED THOUSAND USD (\$600,000) due on June 29, 2025, which shall be payable to DUP;

- ii) Second installment of SIX HUNDRED THOUSAND USD (\$600,000) due on July 29, 2025, which shall be payable to DUP;
- iii) Third installment of SIX HUNDRED THOUSAND USD (\$600,000) due on August 29, 2025, which shall be payable to DUP;
- iv) Fourth installment of TWO MILLION EIGHT HUNDRED THOUSAND USD (\$2,800,000) due at COD payable as follows:
  - a) SEVEN HUNDRED THOUSAND USD (\$700,000) payable to DUP; and
  - b) TWO MILLION ONE HUNDRED THOUSAND USD (\$2,100,000) payable to GUP.

B. **VOMC.** The VOMC is \$0.0020/kWh and shall be calculated based on actual net power generation delivered by GUP to GPA during the Additional Testing Hours. Based on the Expected Power Output set forth above, the total estimated VOMC during the Initial Term is THREE HUNDRED THOUSAND USD (\$300,000). The actual total VOMC shall be paid by GPA to GUP within five (5) working days of receipt of an invoice issued by GUP at COD.

**SECTION 4. TERMINATION.** Notwithstanding anything herein to the contrary, including Section 2, either Party may terminate the Additional Test Hours upon ten (10) days prior written notice to the other Party setting forth the effective date of termination ("Termination Date"). In the event of termination, GPA agrees to pay a prorated FOMC of Forty-Six Thousand Four Hundred Sixty-Five Dollars USD (\$46,466) per day for each day of Additional Testing Hours plus VOMC as follows:

A. **FOMC.** A prorated FOMC of TWENTY-ONE THOUSAND TWO HUNDRED THIRTEEN USD (\$21,213) per day for each day of Additional Testing Hours until the Termination Date, which shall be payable to GUP within five (5) working days of the Termination Date, and a prorated FOMC of TWENTY-FIVE THOUSAND TWO HUNDRED FIFTY-THREE USD (\$25,253) per day for each day of Additional Testing Hours until the Termination Date, which shall be payable to DUP within five (5) working days of the Termination Date;

B. **VOMC.** VOMC at the rate of \$0.0020/kWh for actual net power generation delivered by GUP to GPA up to the Termination Date. VOMC shall be paid by GPA to GUP within five (5) working days of GPA's receipt of an invoice issued by GUP.

Notwithstanding the foregoing, in the event that: (1) the Facility has been Commissioned (as defined in the ECA) before the Termination Date, or (2) the Termination Date pursuant to a termination by GPA occurs after August 30, 2025, then in either event GPA shall remain liable to GUP for the full Initial Term Payment, payable in accordance with Section 3.

**SECTION 5. FUEL SUPPLY.** GPA agrees to supply the fuel required for the operation of the Facility pursuant to this Schedule at no additional cost to GUP. GPA and GUP shall mutually agree on the calculation of fuel based on the test schedules and average heat rate.