

## **SERVICE AGREEMENT**

This Agreement is made and executed on \_\_\_\_\_ at Pasay City, Philippines, by and among:

The **National Grid Corporation of the Philippines**, a company organized in accordance with the laws of the Philippines, with principal office at Quezon Avenue corner BIR Road, Diliman, Quezon City, herein represented by its Officer-in-Charge President and Chief Executive Officer, **MR. ANTHONY L. ALMEDA**, who is duly authorized to represent it in this transaction, hereinafter referred to as the "**NGCP**";

The **Government Service Insurance System**, a social insurance institution created under Commonwealth Act No. 186, as amended, and operating under its present Charter, Republic Act No. No. 8291, otherwise known as the GSIS Act of 1997, with principal office at the Financial Center, Roxas Boulevard, Pasay City, herein represented by its President and General Manager, **ATTY. JESUS CLINT O. ARANAS**, who is duly authorized to represent it in this transaction, hereinafter referred to as the "**GSIS**"; and

The **INSURANCE COMPANY**, a company organized in accordance with the laws of the Philippines, and with principal office at \_\_\_\_\_, herein represented by its \_\_\_\_\_, \_\_\_\_\_, who is duly authorized to represent it in this transaction, hereinafter referred to as the "**INSURANCE COMPANY**".

**NGCP, GSIS and INSURANCE COMPANY** shall be known collectively as the "Parties" and may be referred to individually as the "Party".

### **RECITALS**

**INSURANCE COMPANY** is a company with extensive international expertise in the development and implementation of insurance and risk management programs for the power sector and desires to provide insurance and risk management services to the **NGCP**.

**INSURANCE COMPANY** has won the final award in an open, competitive, and transparent bidding process for the reinsurance of the properties of **NGCP** insured with the **GSIS**.

**INSURANCE COMPANY** shall enter into a valid and comprehensive service contract with the **GSIS** and the **NGCP** to highlight **INSURANCE COMPANY**'s responsibility to respond to the needs of the **NGCP**. **INSURANCE COMPANY** shall post the necessary performance bond to secure such contract or contracts.

The **NGCP** desires to develop a viable insurance and risk management program that will be both cost-effective and responsive to the needs of the **NGCP**, or any of the joint assureds declared in the insurance policy issued by the **GSIS**.

The Parties are willing to make Proprietary Information available to one another for the purpose of evaluating the risk exposures, the insured and uninsured loss, and the most appropriate and cost-effective method of funding and managing the risks associated with the properties of the **NGCP** insured with the **GSIS**.

Consequently, the Parties enter into this Agreement which is attached to and forming part of the **GSIS** and **NGCP** Insurance Contract and **GSIS** and **INSURANCE COMPANY** Reinsurance Contract to serve as basis for working together to identify, evaluate, and develop viable insurance and risk management solutions for **NGCP**.

**NOW, THEREFORE**, in consideration of the foregoing, the Parties agree as follows:

**1. Definitions**

- 1.1 Information All specifications, drawings, sketches, models, samples, reports, plans, forecasts, current or historical data, computer programs or documentation and other technical, financial, or business data, including know-how, which one Party hereto provides to the other.
  
- 1.2 Proprietary Information Information that is in the possession of the disclosing Party (the "Disclosing Party"), which is not generally available to the public, and which the Disclosing Party informs the receiving Party (the "Receiving Party") is confidential or proprietary. If such information is in writing, electronic or other tangible form, it shall be marked "Proprietary" or "Confidential". If such Information is disclosed orally, it shall be identified as Proprietary Information in a written notice addressed to the Receiving Party, and given not later than the 5<sup>th</sup> business day following the date of disclosure.

**2. Scope of INSURANCE COMPANY's Services, in close coordination with the GSIS**

**INSURANCE COMPANY** undertakes to provide the following services to the **NGCP** based on agreed timelines:

- 2.1. Insurance Technical advice and service - **INSURANCE COMPANY** shall:
  - 2.1.1 Provide timely advice on the suitability of the insurance coverage purchased.
  - 2.1.2 Together with **NGCP**, share and have access to any and all records, documents and information pertinent to the placement of the insurance, reinsurance and retrocession of the **NGCP** insurance program. Such records, documents and information shall include without limitation property appraisal reports, valuation studies, risk survey reports, claims documents, adjusters' reports, reinsurance and retrocession placement of confirmation slips. **INSURANCE COMPANY** shall produce or cause to be produced such documents as may be required by the **NGCP**.
  - 2.1.3 At least once every three (3) months, explain to the **NGCP** current market conditions and the most appropriate and cost-effective methods of risk funding and transfer available to the **NGCP**.

2.2. Risk Management advice and service

**INSURANCE COMPANY** shall:

- 2.3.1 Provide two (2) free risk management seminars and trainings, one for Luzon and another for Visayas/Mindanao, with at least FORTY (40) participants each, in order to strengthen the risk management program of the **NGCP**.
- 2.3.2 Allocate budget for other trainings and seminars relevant to risks management whether foreign or domestic, to the contracting parties or their personnel.
- 2.3.3 Integrate the different disciplines involved in insurance in order to assist the **NGCP** in developing and refining its risk management and disaster recovery systems.
- 2.3.4 Undertake or cause to undertake risk surveys, in order to develop the data and information required for an integrated risk management plan, on at least eight (8) major transmission facilities each year and submission of survey reports to **GSIS** and **NGCP** not later than three (3) months from the date of last survey.
- 2.3.5 Warrant the qualifications and submit the curriculum vitae of internationally recognized surveyors who are engaged to perform the risk surveys.

**3. Risk Management Organization**

- 3.1 The parties shall identify and evaluate the risk exposures, the insured and uninsured claims, and the most appropriate and cost-effective method of funding and managing the risks associated with the properties of the **NGCP**. Given these objectives, the **GSIS** and **INSURANCE COMPANY** shall assist **NGCP** in the organization of a Risk Management Team.

3.2 The Risk Management Team (RMT)

The **NGCP** shall, with the assistance of **INSURANCE COMPANY** and the **GSIS**, promptly establish and define the composition of RMT to undertake and complete the tasks necessary in refining **NGCP**'s risk management and disaster recovery systems. The RMT may create and establish such working teams as may be deemed useful to accomplish its tasks.

The RMT shall report directly to NGCP Risk Management Committee.

**4. Confidentiality**

- 4.1 A Party may disclose to another such Proprietary Information as the former may deem reasonably necessary in order to enable the RMT or the other Party to carry out the purposes of this Agreement.

- 4.2 All Proprietary Information disclosed by one Party to the other in the course of implementing this Agreement shall remain the property of the disclosing party.
- 4.3 All information developed by the RMT pursuant to this Agreement including, without limitation, all business plans, engineering information and technical proposals, shall be deemed to be the property of all the Parties. Such information shall be considered perpetually confidential and is not subject to the limitations provided for under Article 4.10 of this Agreement. The foregoing notwithstanding, it is agreed that the risk survey report rendered in accordance with this Agreement is considered confidential and the property of the **NGCP** and the **GSIS**, and its contents shall not be disclosed without the written consent of the **NGCP** and the **GSIS**.
- 4.4 Each Party receiving any Proprietary Information agrees:
- 4.4.1 To receive such Proprietary Information in strict confidence.
- 4.4.2 To accord such Proprietary Information the protection that the Receiving Party accords its own closely held, confidential and Proprietary Information and to hold such Proprietary Information in trust for the Disclosing Party.
- 4.4.3 Except as required by law or by the Disclosing Party, to disclose Proprietary Information only to:
- 4.4.3.1 Directors, officers, employees and representatives of such Party and of its affiliates, who need to know such Proprietary Information for the purpose of evaluating proposals for risk planning and management;
- 4.4.3.2 Members of the RMT but only insofar as is agreed to in writing by the Parties and only pursuant to an agreement binding the potential member to receive and hold all Proprietary Information in strict confidence; and
- 4.4.3.3 To use such Proprietary Information solely and exclusively in accordance with the terms of this Agreement in order to carry out the purposes described herein.
- 4.5 The Parties shall comply with the relevant provisions of Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012.
- 4.6 Notwithstanding the provisions of Article 4.2, no Party shall be liable for disclosing or using of information belonging to another Party if:
- 4.6.1 Such information was properly in the public domain at the time it was disclosed; or
- 4.6.2 Such information was properly known to and available for use by the Receiving Party and recorded as such at the time of receipt of the disclosure; or
- 4.6.3 Such information is proven by the Receiving Party to have been independently developed by the Receiving Party; or

- 4.6.4 Such information is proven by the Receiving Party to have become properly known to the receiving Party from a source other than the Disclosing Party without breach of this Agreement; or
- 4.6.5 To the extent that such information is publicly released in response to a subpoena, court order or other legal process under circumstances in which all legally available means of attempting to perceive the confidentiality of such information have been exhausted without success.
- 4.7 The rights, duties and obligations of the Parties under this Agreement shall apply to all Proprietary Information disclosed by one party to another prior to the date of this Agreement but made in contemplation thereof.
- 4.8 Upon termination or expiration of this Agreement, each Party which has received any Proprietary Information shall return, or if agreed to in writing by the Disclosing Party, destroy all Proprietary Information received from the Disclosing Party and shall destroy all analyses, compilations, forecasts, studies and other documents based on such Proprietary Information and in each case shall retain no copies.
- 4.9 It is understood and agreed that no Party which discloses any Proprietary Information shall be deemed to have made any covenant, warranty or representation as to the accuracy or completeness of the Proprietary Information. The Disclosing Party shall have no liability resulting from the use or content of the Proprietary Information disclosed by it, except that the Disclosing Party may be held liable for an intentional or grossly negligent disclosure of inaccurate or incomplete information.
- 4.10 The restrictions contained herein on the disclosure or use of Proprietary Information shall automatically terminate two (2) years after the termination, expiration or cancellation of this Agreement and, as provided in Section 8.2, shall survive any antecedent termination of the whole or part of this Agreement.
- 4.11 The rights and obligations of the Parties provided herein merely supplement and do not exclude or replace any other rights and obligations with respect to intellectual property which a Party may have under applicable law.

## **5. Relationship of the Parties**

The Parties shall act independently of each other in the performance of this Agreement and no Party shall act as agent for or partner of the other Party without the prior written consent of such other Party.

Nothing in this Agreement shall be deemed to constitute, create, give effect to or otherwise recognize a joint venture, partnership, or formal business entity of any kind and the rights and obligations of the parties shall be limited to those expressly set forth herein. Nothing contained in this Agreement shall be construed as providing for the sharing of the profits or losses arising out of the efforts of either or all of the Parties.

## **6. Disclosure**

Except as may be required by law, no Party hereto, including its officers, directors, employees, affiliates and representatives, shall disclose to any third party, the fact of this Agreement, the fact that discussions or negotiations are taking place concerning the

transactions contemplated hereby or any of the terms, conditions or other facts with respect to such possible transaction without the prior written consent of the Parties.

## **7. Assignment**

Neither this Agreement nor any interest therein may be assigned, in whole or in part, by any Party without the prior written consent of all the Parties. Such consent shall not be unreasonably withheld.

## **8. Termination**

8.1 In the event that **INSURANCE COMPANY** fails to perform its obligations under this Agreement, **NGCP** shall have the right to terminate this Agreement and inform the **GSIS** in writing of such termination. Consequently, the **GSIS** shall proceed against **INSURANCE COMPANY**'s performance security.

8.2 This Agreement shall take effect on the inception time and date of the IAR Policy Contract as indicated in the bidding documents and shall remain effective, unless sooner terminated for failure of **INSURANCE COMPANY** to perform its obligations, throughout the effectivity of the IAR Policy Contract, including extensions thereof.

The rights and obligations of the Parties set forth in Sections 4, 5, 7 and 11 herein shall survive any expiration or termination of this Agreement.

8.3 It is hereby understood that notwithstanding the definition of "Contract" under Section V – Special Conditions of the Contract of the Bid Documents for the Procurement of the Reinsurance of the Industrial All Risk with Sabotage and Terrorism and Submarine Cable Insurance of the **NGCP**, the non-performance of the obligations of the reinsurer under this Agreement will not constitute as a ground for termination of the Reinsurance Agreement unless such non-performance is also a ground for termination of the Reinsurance Agreement.

## **9. Compliance with Laws**

The parties undertake to comply with the provisions of all applicable national, provincial and local laws, ordinances and regulations of the Republic of the Philippines and any other country in which activities are being carried out under this Agreement.

## **10. Entire Agreement and Amendment**

This Agreement constitutes the entire agreement of the parties. No change, modification, alteration, amendment or addition to any provision or waiver of any provision, of this Agreement shall be binding unless agreed to in writing by the parties.

## **11. No Guarantee of Renewal**

Nothing in this Agreement shall be construed as giving **INSURANCE COMPANY** the right to be automatically included in the list of participants in the Bidding for the renewal of the Reinsurance Contract.

**12. Severability**

In the event that any provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect by a court or administrative body of competent jurisdiction, then, unless otherwise agreed, this Agreement shall continue in full force and effect, except for such provision(s) which may be deemed to be excised here from. In such an event, the Parties shall substitute for such excised provisions suitable alternative provision(s) that will achieve as nearly as possible the same effect as the excised provision(s).

**13. Expiration**

This Agreement shall be effective for the term of the policy and any and all extensions thereof.

**14. Notices**

Any notice, demand, request, statement or other communication required or permitted by this Agreement shall be deemed to have been sufficiently given when addressed as set forth below and :

- 13.1 upon delivery, if personally delivered; or
- 13.2 when sent by facsimile, with receipt confirmed; or
- 13.3 when sent by registered mail or by courier service:

For NGCP :

NGCP Office Building corner Quezon Avenue and BIR Road, Diliman, Quezon City

Attention : The Head-Trade Services and Insurance Division, Treasury Department

With required copy to : The Head-Treasury Department

For GSIS

Level 3, GSIS Headquarters Building, Financial Center, Roxas Blvd, Pasay City

Attention : The Head, Marketing Department

With required copy to : The Vice President Marketing, Underwriting and Claims Office

For INSURANCE COMPANY

(Address)

Attention : \_\_\_\_\_

With required copy to : \_\_\_\_\_

**14. Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the Republic of the Philippines.

**15. Counterparts**

This Agreement may be signed in two (2) counterparts, both of which together shall be deemed to be one instrument.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized officers of the date first written above and agree that such date is the effective date of this Agreement.

For NGCP:

For GSIS :

For INSURANCE COMPANY:

\_\_\_\_\_  
**ANTHONY L. ALMEDA**  
OIC-President & CEO

\_\_\_\_\_  
**ATTY. JESUS CLINT O. ARANAS**  
President & General Manager

\_\_\_\_\_

Date :

Date :

Date :

Witness :

Witness :

Witness :

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\_\_\_\_\_

**ACKNOWLEDGMENT**

**REPUBLIC OF THE PHILIPPINES )  
CITY OF PASAY ) S.S.**

**BEFORE ME**, this day appeared:

	<b>ID No.</b>	<b>Issued on</b>	<b>Issued At</b>
1. Anthony L. Almeda	_____	_____	_____
2. Atty. Jesus Clint O. Aranas	_____	_____	_____
3.	_____	_____	_____

to me known and known to me to be the same persons who signed and executed the foregoing Service Agreement and each acknowledged to me that the same is executed as their free and voluntary act and deed and that the respective entities represented for the purposes therein set forth.

I further certify that said document consists of   Nine (9)   pages including this one and signed by the above-named parties and the witness on each and every page thereon.

IN WITNESS WHEREOF, I have hereunto affixed my signature and notarial seal in \_\_\_\_\_,  
this       (date)      .

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