

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Settlement Agreement") is entered into this 14 day of February, 2025, by and between, on the one hand, GUAM ENVIRONMENTAL PROTECTION AGENCY ("GEPA") and TRISTAR TERMINALS GUAM, INC. ("Tristar"), (each party is referred to individually as "Party" and collectively as the "Parties"). This Settlement Agreement is made with reference to the following facts.

A. On January 8, 2023, GEPA conducted a site investigation at the Tristar Terminal at the F1 Pier at Port Authority of Guam and discovered spillage of petroleum fuel into the harbor from a sump tank owned by Tristar;

B. Based on GEPA's investigation, GEPA issued a Notice of Violation, Order of Compliance, and Administrative Penalty Order (NOV/OC/APO) No. SW 23-004 ("NOV") to Tristar, alleging violations of the Guam Solid Waste Management and Litter Control Act, 10 G.C.A. Chapters 51 and 76, and Title 22 GAR, Chapter 50;

C. Pursuant to the NOV, GEPA assessed administrative penalties against Tristar of \$1,000.00 under 10 G.C.A. §51110(a)(3) and \$11,519.00 for violations of 10 G.C.A. §§76105(a) and 76106(a);

D. GEPA alleged that Tristar was responsible for releasing approximately 100 gallons of petroleum fuel and committed "gross negligence" in not ensuring the tank and/or secondary containment was in good repair and in a condition that would preclude the release of petroleum fuel into the environment;

E. GEPA also issued an Order of Compliance requiring Tristar to, among other things, immediately cease using the sump tank or secondary containment area of the sump tank to store petroleum fuel;

F. Tristar denies all of GEPA's allegations and further denies it committed "gross negligence";

G. Tristar filed a Verified Petition appealing the NOV on February 10, 2023;

H. The Parties have agreed to resolve their differences and disputes concerning the NOV in accordance with the terms and conditions of this Settlement Agreement, and to release, discharge and terminate any and all claims, controversies, causes of action, rights, warranties, liabilities and obligations.

I. The Parties agree that the settlement embodied in this Settlement Agreement is made in good faith and for full and fair consideration.

J. This Settlement Agreement is made for settlement purposes only and shall not constitute an admission of liability by any Party to it, as more fully set forth below.

ACCORDINGLY, in consideration of the foregoing recitals, the compromise of their respective claims and contentions, and the mutual promises, representations, and warranties contained in this Settlement Agreement, the Parties agree as follows:

1. **Amount and Form of Payment.** In consideration of the promises, representations and warranties made by GEPA herein, and other good and valuable consideration, Tristar shall pay to GEPA the total sum of \$6,500.00, payable within thirty (30) days after execution of this Settlement Agreement.

2. **Order of Compliance.** In consideration of the promises, representations and warranties made by GEPA herein, and other good and valuable consideration, Tristar shall perform the following remedial measures:

A. Immediately cease using the sump tank or secondary containment area of the sump tank to store petroleum fuel;

B. Prior to the next ship to shore fuel transfer operation, submit to GEPA a plan of how and where the residual spilled fuel from the ship to shore fuel transfer will be collected and stored prior to its removal by Unitek Environmental Guam;

C. Prior to using the current sump tank and secondary containment area for the storage of petroleum fuel, Tristar shall repair and upgrade the existing Underground Storage Tank System in accordance with Section 50121, Chapter 50, Title 22 GAR or permanently close the tank.

3. **Amended Findings by GEPA.** In the NOV and reports issued by GEPA, GEPA made a finding that the release of petroleum fuel into the Piti harbor was approximately 100 gallons. In addition, GEPA found that Tristar committed "gross negligence" in not ensuring the tank and/or secondary containment was in good repair and in a condition that would preclude the release of petroleum fuel into the environment. In consideration of the promises, representations and warranties made by Tristar herein, and other good and valuable consideration, GEPA shall amend its findings to provide in the NOV and reports issued by GEPA on this matter, that the release of petroleum fuel into the Piti harbor was approximately 17 gallons, not 100 gallons. In addition, in the NOV and reports, GEPA shall amend its finding of "gross negligence" to state that Tristar did not ensure that the tank and/or secondary containment was in good repair and in a condition that would preclude the release of petroleum fuel into the environment.

4. **Dismissal of Appeal.** Upon execution of this Settlement Agreement the Verified Petition of Appeal filed by Tristar shall be dismissed with prejudice.

5. **General Release.** Except for the rights and obligations created by this Settlement Agreement, GEPA, for itself, and on behalf of its past, present and future officers, directors, principals, partners, employees, shareholders, attorneys, insurers, agents, servants, affiliates, subsidiaries, parent companies, subsidiaries of any parent company, successors, heirs and assigns, hereby fully release and forever and irrevocably discharge all claims of any nature related to the (i) the NOV, and (ii) the facts, circumstances or allegations that could have been asserted in the NOV, whether known or unknown, asserted or unasserted, concealed or hidden, suspected or

unsuspected, whenever and howsoever arising that have been or could have been or may in the future be asserted, against Tristar and its past, present and future officers, directors, principals, partners, employees, shareholders, attorneys, insurers, agents, servants, affiliates, subsidiaries, parent companies, subsidiaries of any parent company, successors, heirs and assigns (hereafter "the Released Claims").

The Parties represent and warrant that they are not aware of any claim related to (i) the NOV or (ii) facts, circumstances or allegations that could have been asserted in the NOV, other than the Released Claims. Each Party expressly understands and acknowledges that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity, and explicitly took that into account in determining the amount of consideration to be given in the making of this Settlement Agreement, and a portion of said consideration and the mutual covenants contained in it have been bargained for between the Parties with the knowledge of the possibility of such unknown claims, and were given in exchange for a full accord and satisfaction and discharge of all such claims. Consequently, with respect to such unknown claims or losses, each Party knowingly and voluntarily waives any and all rights under 18 G.C.A. § 82602, under principles of common law, or any comparable or similar law of any state or territory of the United States or any other applicable jurisdiction, which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

6. **Covenant Not to Sue.** GEPA will not file, cause to be filed or pursue any Released Claims against Tristar, nor shall GEPA cooperate or voluntarily assist any other person or entity to commence an action on their behalf or otherwise, any causes of action of any nature whatsoever, against Tristar or its parent companies, affiliates, subsidiaries, agents, employees, officers, directors, shareholders, partners, joint venturers, attorneys, insurers, bonding companies, successors, and assigns with respect to any Released Claims.

7. **No Admission of Liability.** This Settlement Agreement and any action taken by the Parties, either previously or in connection with this Settlement Agreement, is not and shall never be used or considered at any time to be an admission of the truthfulness or correctness of the claims advanced by any Party, or of any liability, fault or responsibility by any Party. Each Party continues to deny all liability, disclaim all responsibility, and dispute all factual allegations claimed by any other Party. Further, this Settlement Agreement is not and shall not be used as evidence of any admission of liability or wrongdoing for any purpose.

8. **Governing Law.** This Settlement Agreement shall be governed by, construed, and enforced in accordance with the laws of Guam.

9. **Attorneys' Fees and Costs.** Each Party shall bear its own attorneys' fees and costs incurred with respect to the NOV, the negotiations concerning this Settlement Agreement, and the Settlement Agreement. The prevailing party in any proceeding to enforce this Settlement

