

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

**NEPR**

**Received:**

**Aug 24, 2023**

**6:40 PM**

**IN RE:** REVIEW OF LUMA'S INITIAL BUDGETS

**CASE NO.:** NEPR-MI-2021-0004

**SUBJECT:** Motion to Submit Two Urgent Contracts in Compliance with the Energy Bureau's Orders Necessary to Comply with the Tranche 1 Implementation

**MOTION TO SUBMIT TWO URGENT CONTRACTS IN COMPLIANCE  
WITH THE ENERGY BUREAU'S ORDERS NECESSARY TO COMPLY WITH THE  
TRANCHE 1 IMPLEMENTATION**

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA"), through its counsel of record, and respectfully submits and requests as follows:

1. On May 16, 2023, LUMA<sup>1</sup> filed a document titled *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026* ("May 16 Motion") for the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") review and approval. The May 16 Motion included the following budget components: (i) the proposed T&D budget developed by LUMA, (ii) the proposed generation budget developed by Genera PR, LLC ("Genera") on behalf of the PREPA, for the PREPA subsidiary GENCO LLC ("GenCo"), and (iii) the proposed Budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC ("HydroCo") and PREPA PropertyCo, LLC ("PropertyCo").

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<sup>1</sup> LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as, "LUMA").

2. On June 25, 2023, after a series of procedural events, including a technical conference and various submissions including responses to the Energy Bureau’s requests for information, the Energy Bureau entered *Resolution and Order* issuing a determination on the FY24 Annual Budgets for the electric utility system including the budgets for LUMA Energy, LLC and LUMA ServCo, LLC (collectively, “LUMA”), Genera-PR, LLC (“Genera”) and PREPA ( “June 25 Order”).
3. Through the June 25 Order, the Energy Bureau ordered PREPA to file for review and approval, any new contract or amendment to an existing contract, before executing or making any award of such contract or amendment. See, June 25 Order at p. 31.
4. On July 11, 2023, the Energy Bureau issued a *Resolution and Order* (June 11 Order”), through which it highlighted that, to review and grant approval of the proposed contracts, PREPA must specify: 1) if these are the totality of the contracts to be executed during FY24 and 2) how the amounts referenced pertaining to the contracts fit within the FY24 Approved Budget.
5. Furthermore, on July 19, 2023, the Energy Bureau ordered PREPA to submit, in its future filings, a table including the approved and proposed contracts, the amounts approved and proposed for those contracts, the line items from the Non-Labor/Other Operating Expenses Category to which they correspond, and the remaining balance of budgeted amount for Non-Labor Expenses by line-item, as approved in the June 25 Order.<sup>2</sup>
6. To date, PREPA has filed a series of motions submitting professional services contracts between PREPA and multiple consultants for the review and approval of the Energy Bureau.<sup>3</sup> The

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<sup>2</sup> Resolution and Order dated June 19 2023 (“June 19 Order”)

<sup>3</sup> *Motion to Submit PREPA’s Contract for Professional Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023; *Second Motion to Submit PREPA’s Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023; *Third Motion to Submit PREPA’s Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023; *Urgent Request for Approval of Four Contracts for Professional Services in Compliance with the June 25 and July 11 Orders* dated July 12, 2023; *PREPA’s Informative Motion in Compliance with the July 11 and July 13 Orders* dated July 14, 2023 and *Motion to Submit the Amended Contract in Compliance with the July 19 Order* dated July 20 2023.

submitted contracts included the Sargent and Lundy 2024-P00012 contract (“S&L contract”) and the King and Spalding contract (“K&S Contract”).

7. The S&L contract was submitted through the *Second Motion to Submit PREPA’s Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023.<sup>4</sup> However, the Energy Bureau in its latest *Resolution and Order* dated August 16, 2023, determined it has no outstanding contracts before its consideration for review and approval.<sup>5</sup>

8. PREPA herein informs the Energy Bureau that it has canceled, reviewed and amended the S&L contract, and hereby re-submits the S&L Contract for the \$200,000.00 amount from the Regulation and Environmental Inspection budget line item from the HoldCo Non-Labor/Other Operating Expenses category of the approved FY 2024 budget. This contract is to be in effect from the date of execution until June 30, 2024. The scope of services for the S&L contract can be found in Article I of the contract and includes professional strategic and technical advisory services to assist PREPA during the Renewable Energy Generation and Energy Storage Resources Tranche 1 Process. *See*, Annex A.

9. Meanwhile, the King and Spalding contract (“K&S Contract”) was submitted to the Energy Bureau through a motion titled *Urgent Request for Approval of Four Contracts for Professional Services in Compliance with the June 25 and July 11 Orders* dated July 12, 2023, this contract was approved by the Energy Bureau on July 13, 2023.<sup>6</sup> Notwithstanding, the Financial Oversight and Management Board for Puerto Rico (“FOMB”), has not yet approved the K&S Contract and expressed reservations about its services belonging under the PREPA Restructuring and Title III

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<sup>4</sup> No services were requested or rendered under this contract.

<sup>5</sup> *Resolution and Order* dated August 16, 2023 (“August 16 Order”) at p. 5.

<sup>6</sup> *Resolution and Order* dated July 13, 2023.

Costs of the FY24 Budget, even though there has been no issues with this classification in the past. As a result, PREPA finds itself in the frustrating situation of re-submitting for the Energy Bureau's review and approval the K&S contract as amended for \$100,000.00 from the legal services budget line item in the Non-Labor Other Operating Expenses Category and then resubmitting to FOMB for its approval. This contract is to be in effect from the date of execution until June 30, 2024. The scope of services provided by King and Spalding to PREPA can be found in Article 1 of the King and Spalding Contract which includes legal services to the Program Management Office, the Legal Affairs Directorate and the office of the Executive Director with any Renewable and Energy Storage RFP, mainly the Tranche RFP processes, and any other operational matters. *See, Annex B.*

**10.** For PREPA, the services to be rendered under both the S&L and K&S contracts are instrumental to the continuation of the Tranche processes and development, which directly impacts PREPA's performance in case no. NEPR-MI-2020-0012 *In re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan* as well as its obligations and responsibilities with respect to the FOMB approved Fiscal Plan. Accordingly, PREPA has made the necessary evaluation of its approved budget and amended the S&L and K&S contracts to conform to available line items within the approved FY 2024 budget.

**11.** Pursuant to the Energy Bureau's June 25 Order on the approved FY 2024 budget and the reporting requirements for the submittal of contracts for review and approval as expressed in the July 11, 19 orders as well as the August 16 Order, PREPA herein submits to the Energy Bureau the S&L Contract for \$200,000.00 from the Regulation and Environmental Inspection budget line item in the HoldCo Non-Labor/Other Operating Expenses category and the K&S Contract for \$100,000.00 from the Legal Services budget line item in the HoldCo Non-Labor/Other Operating Expenses category of the approved FY 2024 budget.

12. PREPA affirms that the referenced amounts for the S&L and K&S contracts are within the budgeted amounts for FY24 considering the totality of the contracts to be executed during FY24. PREPA also affirms that the works to be executed by the S&L and K&S consultants under the referenced contracts are not duplicative of the scopes of work handled by LUMA, Genera PR, LLC and PREPA, as none of the firms represent LUMA or Genera or perform work for LUMA or Genera related to the abovementioned matters.

13. Lastly, in compliance with the July 19 and the August 16 orders, PREPA illustrates in a table the submitted contracts as seen below:

CONTRACTOR	BUDGET LINE ITEM	SERVICES TO BE PROVIDED	APPROVED AMOUNT	PROPOSED AMOUNT	REMAINING BALANCE
Sargent and Lundy Puerto Rico LLC	Regulation and Environmental Inspection budget line item from the HoldCo Non-Labor/Other Expenses Category <sup>7</sup>	Professional strategic and technical advisory services to assist PREPA during the Renewable Energy Generation and Energy Storage Resources - Tranche 1 Process.	\$744, 000	\$200,000	\$544,000
King and Spalding LLP	Legal Services budget line item from the HoldCo Non-Labor Other Operating Expenses Category <sup>8</sup>	Legal services to Renewable and Energy Storage RFP, other operational matters	\$728, 000	\$100, 000	\$38,000

<sup>7</sup> PREPA has not executed any other contracts in this category.

<sup>8</sup> The other contracts approved by the Energy Bureau and executed by PREPA in the Legal Services budget line item from the HoldCo Non-Labor Other Operating Expenses Category can be examined in the list below:

Non-Labor Operating Expenses Detail by Contract		PREB Approved
<b>Legal Services</b>		
Díaz & Vázquez Law Firm, P.S.C.		200
González & Martínez Law Office, P.S.C.		350
Ing. Víctor Manuel Ruiz Pérez		20
Global Consultas Asociados, LLC		20
<b>Contracts for Legal Services</b>		<b>\$ 590</b>
Remaining Budget Funds Available		138
<b>FOMB Approved Budget for Contracts for Legal Services</b>		<b>\$ 728</b>

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to take **NOTICE** of the information provided in compliance with the June 25, July 11 and 19, and the August 16 orders and **APPROVE** the S&L and K&S contracts as submitted for review and approval.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 24<sup>th</sup> day of July 2023.

*/s Maralíz Vázquez-Marrero*  
Maralíz Vázquez-Marrero  
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[mvazquez@diazvaz.law](mailto:mvazquez@diazvaz.law)

*/s Joannely Marrero-Cruz*  
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It should be noted that the FOMB approved the Regulatory Compliance Services Corp. Contract with conditions and only for the PREPA Restructuring and Title III services, thus eliminating the need for the \$50,000 earmarked from the legal services budget as approved in the July 19 Order.

## CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent to LUMA through its legal representatives at [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com) and [laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com) and to Genera-PR, LLC through its legal representatives [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com); [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com).

In San Juan, Puerto Rico, this 24<sup>th</sup> day of July 2023.

/s Joannely Marrero-Cruz  
Joannely Marrero Cruz

## Annex A



**COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY**

**PROFESSIONAL SERVICES CONTRACT**

**APPEAR**

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 83 of May 2, 1941, as amended (Act 83), represented in this act by its Executive Director, Josué A. Colón Ortiz, of legal age, married, engineer and a resident of Caguas, Puerto Rico.

AS SECOND PARTY: Sargent & Lundy Puerto Rico, L.L.C., (Contractor), a limited liability company organized and existing under the laws of Commonwealth of Puerto Rico and registered to do business in Puerto Rico, represented in this act by its President, Vincent T. Heinz, of legal age, married, and a resident of the state of Illinois, authorized by virtue of Limited Liability Company Certification dated March 24, 2023.

Both PREPA and Contractor are herein individually referred to as a "Party" and collectively referred to as the "Parties".

**WITNESSETH**

WHEREAS: PREPA, by virtue of Act 83, has the authority to engage those professional, technical and consulting services necessary and convenient to the activities, programs, and operations of PREPA.

WHEREAS: Pursuant Section 205 (2) (d) of Act 83 competitive bidding shall not be necessary when professional or expert services or work are required and PREPA deems

it in the best interests of good administration for such works or services to be contracted without such announcements.

WHEREAS: PREPA seeks to engage Contractor to continue providing professional strategic and technical advisory services to assist PREPA during the Renewable Energy Generation and Energy Storage Resources – Tranche 1 Process.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Contract, hereinafter stated, the Parties agree themselves, their personal representatives, and successors to enter into this Contract under the following:

## **TERMS AND CONDITIONS**

### **Article 1. Scope of Services**

- 1.1 In accordance with the terms and conditions herein established (the “Contract”), the Contractor shall provide professional strategic and technical advisory services to assist PREPA during the Renewable Energy Generation and Energy Storage Resources – Tranche 1 Process (Tranche 1 RFP).
- 1.2 The Contractor shall be responsible for all personnel necessary to undertake and provide the services in a manner specified by PREPA. With PREPA’s coordination and direction, the Contractor may be required to work with other consulting, legal, technical, or other PREPA’s contractors. The Parties agree to discuss such assignment(s) in advance, so that all the Parties have a clear understanding of their responsibilities.

All services described in this Article 1 shall be defined in this Contract as the

“Services”. The Services will be provided on and subject to the terms and conditions set forth in this Contract.

## **Article 2. Definitions**

Whenever the words defined in this Article or pronouns used instead are mentioned in this Contract, they shall have the meanings here given:

- 2.1 Contract - shall mean collectively, all of the covenants, terms, and stipulations in these Articles of the Contract and in all supplementary documents hereto attached which constitute essential parts of the Contract and are hereby made part thereof:
  - a. Professional Services Contract.
- 2.2 Contracting Officer - shall mean PREPA’s Executive Director, acting directly or through his properly authorized representatives.
- 2.3 Project Manager - shall mean an authorized representative assigned by each Party for the duration of the work and until the final payment is due. All instructions shall be forwarded through the Project Manager. All interpretations and decisions of the Project Manager shall be consistent with the intent of and reasonably inferable from the Contract documents and will be made in writing.

## **Article 3. Services Coordination**

All the Services of Contractor in relation to the terms and conditions of this Contract will be coordinated through PREPA’s Executive Director, PREPA’s Deputy Executive Director of Operations Office or the person delegated by them.

**Article 4. Contract Assignment or Subcontract**

Contractor shall not assign nor subcontract its rights and obligations under this Contract, except in the event PREPA gives written authorization for such actions. Provided, that no subcontract shall be considered for PREPA's approval, except when the following requirements are met: (a) the Contractor delivers to PREPA a copy of the subcontract, not less than thirty (30) days prior to the effective date of the proposed subcontract; (b) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to substitute, subrogate or assume Contractors' rights under the subcontract, in the event that PREPA declares the Contractor in breach or default of any of the material Contract terms and conditions; and (c) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the subcontractor the obligation to comply with all Contractors' obligations under the Contract (mirror image clause) to the extent commensurate with the Services performed thereby, except for such obligations, terms and conditions which exclusively related with works or Services not included under the subcontract. A request to subcontract shall specify the issues or matters that will be referred to the subcontractor. These Services shall be paid as part of the Contract Amount, as stated in Article 7, Payment.

**Article 5. Contract Term**

This Contract shall be in effect from the date of its execution until June 30, 2024, (the "Contract Term"). The Contract may be extended, for an additional annual fiscal period, at the exclusive option of PREPA subject to Contractor's satisfactory performance

in accordance with the terms and conditions hereof, the availability of funds and required authorizations, according to PREPA's rules and regulations, only by written amendment agreed upon by both Parties.

**Article 6. Contract Termination**

6.1 PREPA shall have the right to terminate this Contract, at any time, with thirty (30) days prior written notice by registered mail, return receipt requested, or overnight express mail to the Contractor. If such notice is given, the Contract shall terminate upon the expiration of the thirty (30) days and PREPA shall be obligated to pay all fees and expenses incurred up to the day of effective termination, and through demobilization (if any) in accordance with the terms of this Contract. The rights, duties and responsibilities of the Parties shall continue in full force and effect during the thirty (30) day notice period. The Contractor shall have no further right to compensation except for what has been accrued for Services rendered and expenses incurred under the Contract until said date of effective termination.

6.2 PREPA shall have the right to terminate this Contract immediately, without prior written notice, in the event Contractor defaults in the performance of a material obligation under this Contract and thereafter fails to cure the default within fifteen (15) calendar days after Contractor's receipt of the written notice of default by PREPA, unless such default is not reasonably capable of being cured within the initial fifteen (15) day period, in which case the cure period shall be extended as reasonably necessary, but in no event longer than fifteen (15) additional calendar

days thereafter.

- 6.3 The Contractor shall have a reciprocal right to terminate this Contract upon the same terms available to PREPA, as described herein, so long as such termination is consistent with the ethical obligations applicable to Contractor under the circumstances.

**Article 7. Payment**

- 7.1 In accordance with the terms and conditions contained herein, PREPA agrees, and Contractor accepts that the total amount to be paid under the Contract shall not exceed a cumulative amount of two hundred thousand dollars (\$200,000), including reimbursable expenses, if any (the “Contract Amount”). All payments to be made under this Contract will be charged to account number 01-4019-93000-556-630. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be required to make advance payments for any future service to be rendered by Contractor under the Contract.
- 7.2 Nothing herein shall preclude the Parties from agreeing to increase said amount in writing and signed by both Parties.
- 7.3 PREPA will pay for the Services rendered by Contractor according to the following hourly rates:

<b>Title</b>	<b>Consultant Billing Classification</b>	<b>Rate \$/Hour</b>
Project Manager	Director/Principal Consultant	290
Assistant Project Manager	Senior Consultant II/III	270

Senior Consultant	Senior Consultant I	247
Consultant	Consultant	214
SLPR Staff Engineer	SLPR Staff Engineer	185
Technical Editor	Technical Editing Services	148
Administrative	Administrative Assistant	115

7.4 In the event the Contractor assigns another person or professional category to attend to PREPA's matters pursuant to this Contract, the Contractor shall promptly send PREPA an amended schedule to include such person's name/professional category, position and rate, as well as request approval from PREPA. Any person engaged by the Contractor after the execution of the Contract must comply with the professional requirements, credentials and qualifications established. The Contractor shall provide evidence of those requirements and credentials (Ex: professional license, experience, etc.) before commencement of work.

7.5 Contractor shall immediately notify PREPA when the billing under the Contract amounts seventy-five percent (75%) of the Contract Amount. Once this notification has been issued, the Contractor, in coordination with PREPA, will ensure that no Services will be rendered in excess of the Contract Amount, except that a written amendment is agreed upon by both Parties. In addition, the Contractor shall present an itemized list of the remaining billable Services under the Contract.

**Article 8. Fees, Expenses and Disbursements**

8.1 PREPA should not be billed for (a) time spent in processing conflict searches, or

preparing billing statements, or in responding to PREPA inquiries concerning Contractor's invoices; or (b) travel time during which Contractor is billing another client for work performed while traveling. Moreover, PREPA requires that only professional services be billed on a time and material basis in accordance with Contractor's fixed hourly rates. Accordingly, PREPA should not be billed for the administrative tasks of creating, organizing, reviewing and/or updating files; routine or periodic status reports; receiving, reviewing, and/or distributing mail; faxing or copying documents; checking electronic mail or converting information to disk, not directly related to the PREPA's Contract.

8.2 PREPA will reimburse the Contractor for actual costs and expenses related to matters assigned to Contractor and for necessary and reasonable out-of-pocket disbursements, subject to the limitations and exceptions set forth below. The Contractor is expected to have a system in place that requires those who bill time and disbursements to PREPA matters do so promptly and accurately.

8.3 PREPA will not reimburse Contractor for: (a) costs included in a "miscellaneous" or "other" category of charges; (b) overhead costs and expenses -such as those relating to fees for time or overtime expended by support staff (secretaries, administrative/clerical personnel, internal messengers, and other similar services), word processing and/or proofreading, cost of supplies or equipment, and/or other similar costs of doing business; (c) time spent attending education seminars or training programs; or (d) mark-ups or surcharges on any cost or expense. In



addition, if communications are sent to PREPA using more than one medium, PREPA does not expect to pay for the cost of both communications. For instance, if a piece of correspondence is sent to PREPA by email, we do not expect to pay for the cost of that same correspondence if it is also sent via regular or expedited mail.

8.4 PREPA will reimburse Contractor for separately itemized expenses and disbursements in the following categories:

8.4.1 Messenger/courier service - PREPA will reimburse actual charges billed to Contractor for deliveries (including overnight deliveries) where this level of service is required because of time constraints imposed by PREPA or because of the need for reliability given the nature of the items being transported. Appropriate summaries of messenger/courier expenses must reflect the date and cost of the service and the identity of the sender and the recipient or the points of transportation.

8.4.2 Travel - Subject to the provisions for per diem in Article 8.4.4, PREPA will reimburse actual charges for transportation and hotels reasonable and necessary for effective Services to PREPA. PREPA will not pay for any first-class or business class travel. Summaries of transportation expenses should reflect the identity of the user, the date and amount of each specific cost, and the points of travel. Summaries of lodging expenses should include the identity of the person making the expenditure, the date and

amount, and the nature of the expenditure. Travel expenses reimbursement applies for personnel providing the Services to PREPA, travel expenses for family members or guests are not chargeable to PREPA or reimbursable.

8.4.3 Air Travel - The cost of air travel will be reimbursed up to an amount that is no more than the advanced purchase of the lowest available economy airfare (including applicable taxes). The Contractor shall submit a copy of the original airline itinerary and paid invoice. Airfare may only be invoiced following completion of travel. In the event that a scheduled trip has to be cancelled or rescheduled by PREPA's order, PREPA will assume the cost of the penalty fee. Reimbursable expenses in matters of trips by the Contractor, within the United States, shall be previously authorized by PREPA.

Airfare necessary to attend PREPA's official business will be paid by PREPA according to these guidelines.

8.4.4 Maximum Per Diem Rates (no proof of payment will be required) Meals: - \$80 per person for each day for persons travelling or working in Puerto Rico or other location as directed and approved by PREPA under the Contract. Lodging (standard not smoking room): - \$250 per person, per night including government fees and taxes. The Contractor may use an economical alternative of lodging, including temporary rentals of apartments or rooms (Airbnb like rentals). For travel period longer than five days, temporary

rentals shall be coordinated when this temporary rental (including all taxes and applicable fees) is less expensive than hotel accommodation, and evidence of said temporary rental shall be provided.

Ground Transportation in P.R.: - Shall be reimbursable at cost, including Uber type services, taxis or car rentals (Rental cars requires a previous approval by PREPA) and associated driving expenses such as, but not limited to parking fees, highway tolls, and fuel).

8.4.5 Reimbursable expenses shall not exceed six percent (6%) of the Contract Price in one year and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses.

8.4.6 Photocopying/printing - PREPA will reimburse actual charges for in house or outside binding, and printing services and costs of photocopying services, which are not to exceed the actual five cents (\$0.05) per page for black and white copies, and twenty-five cents (\$0.25) per page for color copies. Summaries of expenditures for copying should reflect both the number of copies made and the cost per copy.

8.4.7 Third-Party Services - The approval of PREPA must be obtained in writing prior to retaining any third-party services. The Contractor shall be responsible for requiring that there are no conflicts of interest between any third party and PREPA or between any third-party clients and PREPA. In addition, all arrangements with third-party vendors should include an

appropriate undertaking of confidentiality and data privacy. Invoices from third -party vendors should be paid directly by Contractor, incorporated into its invoice to PREPA and should include appropriate detail. Copies of third-party invoices may be requested by PREPA and should be retained in accordance with PREPA's guidelines.

8.4.8 PREPA reserves the right to question the charges on any bill (even after payment) and to obtain a discount or refund of those charges that are not in compliance with the terms of the Contract. At PREPA's request, copies of bills and records reflecting reimbursable expenses that are not specifically listed in Article 8.4.4 as per diem shall be provided.

#### **Article 9. Invoices**

9.1 Contractor shall submit its invoices on a monthly basis for the work already performed during the preceding month or in accordance with a mutually agreed payment schedule. Contractor will provide to PREPA an invoice for each billing period which will include a description of the Services rendered and the number of hours spent by each person. The invoice for professional services shall be itemized and must be duly certified by an authorized representative of the Contractor.

9.2 PREPA will review the invoices upon receipt and within ten (10) calendar days thereafter, shall either: (a) approve the total invoice amount for payment if they are in compliance with the requirements set forth in this Contract; or (b) approve

that portion of the invoiced amount for payment which has been correctly invoiced pursuant to the terms of the Contract and shall notify Contractor in writing stating the specific reason why the remaining portion of the invoice is incorrect or disputed according to the terms of the Contract. Payments will be made within sixty (60) days of approval of the invoice. The Contractor will make the corresponding adjustments to the denied portion of the invoice and submit it for PREPA's approval. PREPA reserves the right to conduct the audits it deems necessary, and it will not be subject to finance charges regarding invoice payments subject to an audit.

- 9.3 All invoices submitted by Contractor shall include the following Certification in order to proceed with its payment:

No Interest Certification:

“We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Contract. The only consideration to be received in exchange for the performance of the Services provided is the agreed - upon price that has been negotiated with an authorized representative of the PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received.”

\_\_\_\_\_  
Contractor's Signature

This is an essential requirement and those invoices without this Certification will not be processed for payment. In order to comply with the certification requirements, set forth above, Contractor shall require that subcontractors, if any approved by PREPA, providing Services also make the certification set forth above in any invoices submitted in connection with the Services.

**Article 10. Transfer of Funds**

- 10.1 If Contractor decides to assign or transfer an amount, due or payable, to which it is entitled for Services rendered or goods provided during the term of this Contract, Contractor shall notify PREPA of such transfer of funds, in accordance to the provisions of Act 21-2012. Said notice shall clearly indicate the rights granted, including a copy of the contract under which the assignment or transfer of funds is made, the exact amount of funds to be assigned or transferred, and specific identification information regarding the assignee (full name of the person or company), address and any other contact information.
- 10.2 Contractor acknowledges and agrees that PREPA may deduct any amount, due or payable to Contractor under this Contract, that Contractor owes as a result of Contractor's failure to cure a material default of this Contract. PREPA may retain any said amount if Contractor fails to fulfill its obligations and responsibilities under this Contract, or a claim arises for warranty or defects regarding the Services rendered or goods provided under this Contract, and Contractor fails to

reimburse PREPA for such claim in accordance with this Contract upon the written demand therefor. Contractor also acknowledges and agrees that PREPA's payment obligation under any assignment of funds of compensation for Services rendered by Contractor will cease upon payment of all outstanding amounts under this Contract. PREPA shall not be required to make payments or transfer any funds for an amount that exceeds the payment to which Contractor is entitled to under this Contract.

- 10.3 Contractor shall include with its notice of assignment of funds a cashier's check or money order for two hundred dollars (\$200), payable to "Puerto Rico Electric Power Authority", to cover administrative costs in processing such assignment.

**Article 11. Information and Material Facts**

- 11.1 PREPA shall promptly provide to Contractor all information under the control of PREPA and necessary for Contractor to perform the Services under this Contract and those material facts that Contractor may reasonably require in order to provide its Services to PREPA. PREPA will ensure, to the best of its knowledge and belief, that the documents, data, and other information and material facts provided to Contractor, which are under its control, are true and complete, and does not constitute misleading or inaccurate information and Contractor shall be entitled to rely on the accuracy and completeness of the documents, data, and other information and material facts.
- 11.2 PREPA will advise Contractor in writing of any developments of which PREPA

becomes aware, and which PREPA considers may have a material effect with respect to the information and/or facts provided to Contractor.

**Article 12. Information Disclosure and Confidentiality**

- 12.1 The Parties shall take all reasonable steps to keep confidential and use only for the purposes contemplated by the terms of the Contract the information provided by PREPA and/or Contractor and take all reasonable steps to ensure that such information is not disclosed or distributed by its employees or agents in violation of the terms of this Contract.
- 12.2 The Parties also agree that, except as agreed to in writing by both Parties, they will not, at any time after termination of this Contract, disclose any confidential information to any person whatsoever, or permit any person whatsoever to examine and/or make copies of any reports prepared by Contractor or under its control by reason of its consulting services, and that upon termination of this Contract each Party will turn over to the other all documents, papers, and other matters in its possession or under its control that relate to the other Party. Contractor may retain one file copy for its records.
- 12.3 The term “confidential information” shall include, but not be limited to, all information provided to Contractor by PREPA or at PREPA’s direction regarding its facilities or operations and any and all information gathered or developed by Contractor regarding the same. The Parties further agree that proprietary records and documents related to Contractor’s business operations are confidential to



Contractor and will not be disclosed to PREPA or other Parties, except as ordered by the court. The Parties agree that PREPA will resist any attempt by opposing counsel or other Parties to obtain Contractor's proprietary information. The term "confidential information", however, will not include information that: (a) is or becomes public other than through a breach of this Contract; (b) is known to the receiving Party prior to the date of this Contract and with respect to which the receiving Party does not have any obligation of confidentiality; or (c) is independently developed by the receiving Party without use of, or reference to, confidential information.

- 12.4 The Parties acknowledge that disclosure of any confidential information by either Party will give rise to irreparable harm to the injured Party inadequately compensable in damages. Accordingly, either Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies, which may be available.
- 12.5 If this Contract terminates for any reason, Contractor shall maintain in strictest confidence both; during the term of this Contract and subsequent to termination of this Contract, and shall not during the term of this Contract or thereafter disclose or divulge to any person, firm, or corporation, or use directly or indirectly, for its own benefit or the benefit of others, any information which in good faith and good conscience ought to be treated as confidential information including, without limitation, information relating to PREPA's operations or trade secrets relating to

the business or affairs of PREPA which Contractor may acquire or develop in connection with or as a result of the performance of the Services hereunder. In the event of an actual or threatened breach by Contractor of the provisions of this paragraph, PREPA shall be entitled to injunctive relief for such breach. Nothing herein shall be construed as prohibiting PREPA from pursuing any other legal remedies available, including the recovery of damages from Contractor.

- 12.6 The above provisions do not apply with respect to information, which Contractor is requested to disclose under applicable law and regulations, court order, subpoena or governmental directives, in which case Contractor shall provide PREPA prompt notice of such request in order to procure for PREPA a reasonable opportunity to oppose such disclosure. Contractor agrees to expeditiously notify and submit to PREPA a copy of any court order or subpoena and to the extent possible provide any assistance to PREPA (in the form of documents) regarding the submission of such information.
- 12.7 With respect to this Contract and any information supplied in connection with this Contract and designated by the disclosing Party as confidential, the recipient agrees to: (a) protect the confidential information in a reasonable and appropriate manner and in accordance with applicable professional standards; (b) use confidential information only to perform its obligations under this Contract; and (c) reproduce confidential information only as required to perform its obligations under this Contract.

**Article 13. Rights and Titles**

- 13.1 Contractor will submit any reports reasonably required by PREPA regarding the Services performed under this Contract. If required by PREPA, at the completion of any assigned task, the Contractor will submit a final written report describing the work it has performed. This requirement shall not be interpreted as a waiver by PREPA of Contractor's ethical obligation and responsibility of keeping PREPA informed of the progress of the assigned matters.
- 13.2 All rights, titles and interest in any reports, documents, analyses, investigations and any other by-product conceived or developed by the Contractor exclusively for PREPA as a result of performing its obligations under this Contract shall be the exclusive property of PREPA upon full and final payment to the Contractor. The Contractor shall retain all right, title, and interest in and to proprietary works of authorship, pre-existing or otherwise, that have not been created specifically for PREPA under this Contract. With the exception of items marked as "CONFIDENTIAL" by the Contractor, PREPA shall retain the right to use, refer, share, or provide to any third party, as PREPA may determine, the results of any reports, documents, analyses, investigations or any other by-product of the Services performed by the Contractor under this Contract.

**Article 14. Copyright**

Contractor and PREPA shall jointly defend any suit or action brought against either party based on a claim that any document, report, study, analysis, copyrighted composition,

article or any by-product of those, either used in the performance of the Services by Contractor or provided to PREPA by Contractor as part of its Services, or used in the performance of this Contract, including their use by PREPA, constitutes an infringement of any patents or copyrights of the United States. The Party of this Contract subject to the claim or that becomes aware of a potential claim shall promptly notify in writing the other Party of this Contract, and give the authority, information, and assistance reasonable and necessary for the defense of such claim.

**Article 15. Warranty**

15.1 Contractor warrants that it shall perform the Services in accordance with the applicable standards of care and diligence at the time of performance of the Services, and which are normally practiced and recognized in performing services of a similar nature (the “Standard”). Contractor’s sole obligation and PREPA’s exclusive remedy should any of the Services provided by Contractor not fulfill the above established Standard, whether in contract or tort, shall be for Contractor to take all necessary corrective measures to reperform such deficient Services, at its own and exclusive cost, so long as such failure is reported in writing to Contractor within thirty (30) calendar days following discovery thereof but in no event later than one year from the date on which such Services were performed. After said one year, Contractor shall have no remaining obligation to reperform any Services or otherwise compensate PREPA. The reperformance of deficient Services by Contractor shall be understood as a waiver by PREPA of any other remedy it may

have under this Contract or under the law or equity for any damages that Contractor may have caused to it by rendering such deficient Services.

15.2 No other warranty, express or implied, is made or intended by this Contract, by furnishing oral or written reports of findings made, or by any other act of Contractor.

15.3 Contractor will endeavor to prepare cost estimates, project schedules, reports or any other deliverable as accurately as possible based on current information and experience. In addition, PREPA acknowledges that the cost estimates, project schedules, reports or any other deliverable generated by Contractor are time sensitive; thus, changes in the underlying data, applicable codes, standards and acceptable engineering practices, as well as the passage of time, may affect the accuracy of the deliverables provided to PREPA.

**Article 16. Responsibility for Damages**

The appearing Parties agree that this Contract, as well as their rights, obligations and responsibilities for damages under this Contract will be governed and interpreted in accordance with the laws of the Commonwealth of Puerto Rico and any federal case law and/or regulation, if applicable. In addition, the Parties expressly agree that the United States District Court for the District of Puerto Rico will be the court of competent and exclusive jurisdiction to preside over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Contract.

**Article 17. Independent Contractor**

17.1 Contractor shall be considered as an independent contractor, for all material

purposes under this Contract, and all persons engaged or contracted by Contractor for the performance of its obligations herein, shall be considered as its employees or agents, and not as employees or agents of PREPA.

- 17.2 As an independent contractor, Contractor shall not be entitled to any fringe benefits, such as, but not limited to vacation, sick leave, and to which PREPA's employees are entitled.

**Article 18. Employees not to Benefit**

No officer, employee or agent of PREPA, nor of the Government of the Commonwealth of Puerto Rico or its Municipal Governments shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

**Article 19. Conflict of Interest**

- 19.1 Contractor certifies that none of its representatives under this Contract receive payment or compensation of any nature, for the services regularly rendered through an appointment in another government agency, body, public corporation or municipality of Puerto Rico. Contractor also certifies that it may have other consulting services contracts with other governmental agencies or bodies, but such condition does not constitute a conflict of interest for Contractor.
- 19.2 Contractor acknowledges that in executing its Services pursuant to this Contract it has a duty towards PREPA which includes not having a conflict of interest. "Conflict of Interest" means representing clients who have or may have interests that are contrary to PREPA but does not include rendering services that are unrelated to

the Services covered in this Contract. Also, Contractor shall have the continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons that would result in a conflict of interest which would influence the Contractor when performing its responsibilities under this Contract.

- 19.3 The Parties understand and agree that a conflict of interest exists when Contractor must advocate a position or outcome on behalf of any existing or future client that is contrary to PREPA's interests. Also, any conduct defined in the Rules of Professional Conduct regarding conflict of interests shall apply to Contractor and its personnel.
- 19.4 In the event that any of the partners, directors, agents or employees of Contractor engaged in providing Services under this Contract should incur in the conduct described herein, said conduct shall constitute a violation of the prohibitions provided herein.
- 19.5 Contractor's partners, directors, agents or employees and personnel shall avoid even the appearance of the existence of conflicting interests.
- 19.6 Contractor acknowledges that PREPA's Executive Director shall have the power to intervene with the acts of Contractor and/or its agents, employees, and subcontractors regarding the enforcement of the prohibitions contained herein. In the event that the existence of adverse interests is discovered, the PREPA's Executive Director shall inform Contractor in writing of PREPA's intention to terminate this Contract within a thirty (30) day period. During said period,

Contractor may request a hearing with the Executive Director to present its arguments regarding the alleged conflict of interests. In the event that Contractor does not request such hearing during the specified thirty (30) day period, or the controversy is not satisfactory settled during the hearing, this Contract shall be canceled.

19.7 Contractor certifies that, at the time of the execution of this Contract, it does not have, nor does it represent anyone who has a Conflict of Interest with PREPA. If such Conflict of Interest arises after the execution of the Contract, the Contractor shall notify PREPA immediately.

**Article 20. Notices**

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy, or postage prepaid, by registered, certified or express mail (return receipt requested) or reputable overnight courier service and shall be deemed given when so delivered by hand, or telecopied, or if mailed, three days after mailing (one business day in the case of express mail or overnight courier service) to the Parties to the following addresses:

To PREPA:	Puerto Rico Electric Power Authority PO Box 364267 San Juan, Puerto Rico 00936-4267
Attention:	Josué A. Colón Ortiz Executive Director
To Contractor:	Sargent & Lundy Puerto Rico, L.L.C. 55 East Monroe Street Chicago, Illinois 60603-5780



Attention: Vincent T. Heinz  
President

**Article 21. Choice of Law and Venue**

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the Parties expressly agree that the state courts of Puerto Rico sitting in San Juan 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 Contract.

**Article 22. Change in Law**

During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, which causes an increase in Contractor's costs when providing the Services, shall entitle Contractor to an equitable increase the Contract Amount.

**Article 23. Force Majeure**

23.1 The Parties shall be excused from performing their respective responsibilities and obligations under this Contract and shall not be liable in damages or otherwise, if and only to the extent that they are unable to perform or are prevented from performing by a force majeure event.

23.2 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.

23.3 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 event, and that such Party, within ten (10) days after the discovery of the alleged force majeure, gives the other Party written notice reasonably describing the particulars of the occurrence and its estimated duration. The burden of proof as to whether a force majeure event has occurred shall be on the Party claiming the force majeure.

**Article 24. Novation**

- 24.1 The Parties expressly agree that no amendment or change order, which could be made to the Contract during its term, shall be understood as a contractual novation, unless both Parties agree to the contrary, specifically and in writing.
- 24.2 The previous provision shall be equally applicable in such other cases where PREPA gives Contractor a time extension for the compliance of any of its obligations under this Contract, or where PREPA dispenses the claim or demand of any of its credits or rights under the Contract.

**Article 25. Severability**

If a court of competent jurisdiction declares any of the Contract provisions as null and void 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 in the judicial declaration.

**Article 26. Save and Hold Harmless**

The Contractor agrees to save and hold harmless and to indemnify PREPA for all expenses and costs of any nature (including reasonable attorneys' fees) incurred by PREPA arising out of any third party claim made by any person for bodily injuries, including death, or for property damage, to the extent directly caused by the Contractor by the negligent act or omission in the performance or nonperformance of its obligations under the Contract, but not to the point directly caused by the negligence or tort of PREPA or a third party, which is not an employee or subcontractor of the Contractor.

With respect to any indemnity set forth in this Contract, each indemnitee shall give prompt notice of its receipt of any threat, indication or other notice of any claim, investigation or demand that might give rise to any losses required to be indemnified hereunder and shall reasonably cooperate in the defense by the indemnitee of such claim. The indemnifying Party shall have the right, at its election, to conduct the defense of such action at its sole expense.

**Article 27. Insurance**

Contractor 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:

27.1 Commonwealth of Puerto Rico Workmen's Compensation Insurance:

Contractor shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico. Contractor shall also be responsible for compliance with said Workmen's Compensation Act by all its subcontractors, agents, and invitees, if any. Contractor shall furnish 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.

27.2 Employer's Liability Insurance:

Contractor shall provide Employer's Liability Insurance with minimum bodily injury limits of at least \$1,000,000 for each employee and at least \$1,000,000 for each accident covering against the liability imposed by Law upon the Contractor 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.

27.3 Commercial General Liability Insurance:

Contractor shall provide a Commercial General Liability Insurance with limits of at least \$1,000,000 per occurrence and at least \$1,000,000 aggregate.

27.4 Commercial Automobile Liability Insurance:

Contractor shall provide a Commercial Automobile Liability Insurance with limits of at least \$1,000,000 combined single limit covering all owned or schedule autos,

non-owned autos, and hired autos.

27.5 Professional Liability Insurance:

Contractor shall provide a Professional Liability Insurance with limits of at least \$1,000,000 per claim and at least \$1,000,000 aggregate.

Requirements under the Policies:

The Commercial General Liability and Commercial Automobile Liability Insurance required under this Contract shall be endorsed to include:

a. As Additional Insured:

Puerto Rico Electric Power Authority (PREPA)  
Risk Management Office  
PO Box 364267  
San Juan, Puerto Rico 00936-4267

b. A thirty (30) day cancellation or nonrenewable notice to be sent to the above address.

c. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and Parties to the Contract.

d. Waiver of subrogation in favor of Puerto Rico Electric Power Authority (PREPA).

e. Breach of Warranties or Conditions:

The breach of any of the warranties or conditions in this policy by the Named Insured (i.e. Sargent & Lundy Puerto Rico, L.L.C.) shall not prejudice PREPA's rights under this policy of the insured individual or entity (i.e. the Puerto Rico Electric Power Authority) shown in the above Schedule, or alternatively include

the following quote, “Separation of Insureds provisions are included in the Commercial General Liability Insurance and Commercial Liability Insurance policies.”

Furnishing of Policies:

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. Contractor shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded.

**Article 28. Compliance with the Commonwealth of Puerto Rico Contracting Requirements**

The Contractor will comply with all applicable laws, regulations and executive orders that regulate the contracting process and requirements of the Government of Puerto Rico, including Act 73-2019, as amended, known as the “2019 General Services Administration Act for the Centralization of Purchases of the Government of Puerto Rico” (“Act 73-2019”). In compliance with the provisions of Act 73-2019, the Contractor has provided PREPA the Certification of Eligibility of the Unique Registry of Professional Services Providers (known in Spanish as “*Certificado de Elegibilidad del Registro Único de Proveedores de Servicios Profesionales*”, and hereinafter referred to as the “RUP Certification”), issued by the General Services Administration. It is hereby acknowledged that pursuant to the provisions of Article 42 of Act 73-2019, a valid RUP Certification serves as evidence of compliance with the documentation requirements necessary for contracting professional

services with the Government of Puerto Rico, particularly those applicable under Act 237-2004, as amended, which establishes uniform contracting requirements for professional and consultant services for the agencies and governmental entities of the Commonwealth of Puerto Rico (3 L.P.R.A. § 8611 et seq.), the Puerto Rico Department of Treasury Circular Letter Number 1300-16-16 issued on January 22, 2016, as amended, and the sworn statement before notary public required pursuant to Article 3.3 of Act 2-2018.

Further, the Contractor hereby certifies, guarantees, acknowledges and agrees to the following:

- A. The Contractor hereby certifies that as of the execution of this Contract, it has filed income, sales and use (“IVU” for its Spanish acronym), and property taxes returns, in Puerto Rico for the past five (5) years. The Contractor also certifies that it does not have any outstanding debt or other debts with the Government of Puerto Rico for income, IVU taxes (collected by the Department of the Treasury), real or chattel property taxes (collected by the “*Centro de Recaudación de Ingresos Municipales*” (“CRIM”)), unemployment insurance premiums, workers’ compensation payments, Social Security for chauffeurs from the Department of Labor and Human Resources, nor have debts with the Puerto Rico Child Support Administration (known in Spanish as the *Administración Para El Sustento de Menores* (ASUME)). In the event that the Contractor owes taxes or premiums to said government agencies, it agrees that PREPA may withhold any monies due to the Contractor under this Contract to be applied to the payment and cancellation of said debt.

The Contractor also certifies that it is in corporate “Good Standing” at the Department of State of Puerto Rico. The Contractor hereby represents and certifies that it is duly authorized to do business under the laws of Puerto Rico by the Department of State and the execution, delivery and performance of all the services under this Contract are within the Contractor authorized powers and are not in contravention of law. The Contractor also certifies that it is in compliance with the Merchant’s Registration. Accordingly, the Contractor has submitted to PREPA its RUP Certification from the General Services Administration. The Contractor shall maintain its certificate valid for the duration of this Contract.

- B. Special Contribution for Professional and Consulting Services: As required by Act 48-2013, as amended, PREPA will withhold a special contribution of one point five percent (1.5%) of the gross amounts paid under this Contract.
- C. Social Security and Income Tax Retentions: In compliance with Executive Order 1991 OE-24; and C.F.R. Part 404 et. Seq., the Contractor will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income, from this Contract.
- D. Income Tax Retention Law: PREPA shall deduct and withhold ten percent (10%) of any and all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of U.S. citizens and non-U.S. citizens, which are nonresidents of the Commonwealth of Puerto Rico Contractor will retain twenty percent (20%) and twenty-nine percent (29%)



respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda de Puerto Rico*). Contractor will request PREPA not to make such withholdings if, to the satisfaction of PREPA, the Contractor timely provides a release from such obligation by the Government of Puerto Rico's Treasury Department. Act 1-2011, section 1062.03. As proof of the remittance of withholdings of the Treasury Department required by this paragraph D, PREPA agrees to provide Contractor with a completed copy of the Puerto Rico Treasury Department Form 480.6C (entitled "*Declaración Informativa - Ingresos Sujetos a Retención - No Residentes*").

- E. Compliance with Act 1 of Governmental Ethics: Contractor will certify 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/he immediate family (spouse, dependent children or other members of his/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.;
- F. Act 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People: Contractor will certify that if there is any Judicial or Administrative

Order demanding payment or any economic support regarding Act 168-2000, as amended, the same is current and in all aspects in compliance. 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.

- G. Act 127-2004: Contract Registration in the Comptroller’s Office of Puerto Rico Act: Payment for Services object of 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 Act 18 of October 30, 1975, as amended.
- H. Prohibition with respect to execution by public officers: 3 L.P.R.A. §8615(c): 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.
- I. Prohibition with respect to contracting with officers or employees: 3 L.P.R.A. § 8615(d): 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.

- J. Prohibition with respect to contracts with officers and employees of other Government entities: 3 L.P.R.A. §8615(e): 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.
- K. Prohibition with respect to evaluation and approval by public officers: 3 L.P.R.A. § 8615(f): 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.
- L. Prohibition with respect to execution by public officers' contracts with former public officers: 3 L.P.R.A. § 8615(h): 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.
- M. Dispensation: Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record, if applicable, and if mutually agreed upon in writing between the Parties.
- N. Rules of Professional Ethics: Contractor acknowledges and accepts that it is

knowledgeable of the rules of ethics of his/her profession and assumes responsibility for his/her own actions.

- O. Provisions Required under Act 14-2004: Contractor 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.
- P. The Contractor certifies that at the time of execution of this Contract it has no other contracts with other agencies, public corporations, municipalities, and/or instrumentalities of the Government of Puerto Rico. The Contractor acknowledges and accepts that the failure to list any current contractual relationship with any Puerto Rican governmental entity may result in the termination of this Contract if required by PREPA.
- Q. The Parties hereby acknowledge the requirements and procedures set forth in Administrative Bulletin No. OE-2021-029 issued by the Governor of Puerto Rico, Hon. Pedro R. Pierluisi, on April 27, 2021 (“OE-2021-29”) and Circular Letter No. 013-2021 issued on June 7, 2021, by the Office of Management and Budget (“CC 013-2021”), applicable to professional services agreements with a maximum amount of \$250,000 or more per fiscal year. However, in accordance with the exceptions authorized in the Contracting Measures, PREPA filed a petition with the Office of Management and Budget seeking to be exempted from the Contracting Measures which was thereafter approved. Consequently, in

accordance with the exceptions authorized in OE-2021-29 and CC 013-2021, the execution of this Contract is exempt from the requirements and procedures established in the abovementioned provisions.

- R. The Contractor certifies that at the time of the execution of this Contract, it is not a public company with shares that are traded on a regulated stock exchange. The Contractor certifies that prior to the execution of this Contract, it has submitted to PREPA a Certification of Legal Entity (known in Spanish as “*Certificación sobre Personas Jurídicas*”).

If any of the previously required Certifications shows a debt, and Contractor has requested a review or adjustment of this debt, Contractor will certify that it has made such request at the time of the Contract execution. If the requested review or adjustment is denied and such determination is final, Contractor will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Contractor accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.

**Article 29. Anti-Corruption Code for a New Puerto Rico**

Contractor 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 (Act 2-2018). Contractor 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.

Contractor shall furnish a sworn statement to the effect that neither Contractor 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 Contractor 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 (Act 8-2017) or any of the crimes included in Act 2-2018.

Contractor hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code (Act 146-2012), any of the crimes typified in 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 8-2017.

PREPA shall have the right to terminate the Contract in the event Contractor is convicted in Puerto Rico or United States Federal court of any crimes listed under Articles 4.2, 4.3 or 5.7 of Act 1-2012, any of the crimes listed in Articles 250 through 266 of Act 146-2012, any of the crimes typified in 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 8-2017.

Consequences of Non -Compliance: The Contractor expressly agrees that the conditions outlined throughout this Article 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 the Contractor shall reimburse PREPA all moneys received under this Contract.

**Article 30. Dispute Resolution**

Executive Negotiation: Any unresolved disputes shall be referred to the Contracting Officer, Project Manager or designee by PREPA and Contractor for resolution. During the first thirty (30) days following the delivery of a notice of dispute (and during any extension agreed to by the Parties in writing, the “Negotiation Period”) the Parties shall attempt in good faith to resolve the dispute through negotiations. If such negotiations result in an agreement in principle to settle the dispute, they shall cause a written settlement agreement to be prepared, signed and dated (an “Executive Settlement”), and the dispute shall be deemed settled, and not subject to further dispute resolution. If a dispute is not resolved through the Executive negotiation, the Parties agree to resolve the dispute according to the jurisdiction established in the Choice of Law and Venue Article of the Contract.

**Article 31. Non -Discrimination**

Contractor certifies that it will not discriminate against any employee or applicant for employment on account of race, color, gender, age, sex, national or social origin, social status, political ideas or affiliation, religion, for being or perceived to be a victim of domestic violence, sexual aggression or harassment, regardless of marital status, sexual orientation, gender identity or immigrant status, for physical or mental disability, for

veteran status or genetic information.

**Article 32. Contractor’s Certification Requirement**

The Parties acknowledge that the Contractor 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, as amended, signed by the Contractor. A signed copy of the “Contractor Certification Requirement” is included as an annex to this Contract. Contractor 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 the Contract null and void and the Contractor will have the obligation to reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the Contract.

**Article 33. Transfer of skills and technical knowledge**

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.

**Article 34. Limitation of Liability**

34.1. Notwithstanding any other provisions of this Contract to the contrary, in no event shall either Party, its officers, employees, agents, or assigns be liable for any consequential, incidental, punitive, special, exemplary, or indirect damages,



including by example but not limited to: loss of profits, use, capital, revenue, business opportunity, or claims of customers, cost of purchased or replacement power, or other economic advantage, whether such claim is choate or inchoate, whether by statute, or in tort, contract, or otherwise, and even if such Party has been advised of the possibility of such damages.

- 34.2. Contractor's maximum/aggregate limitation of liability for any and all claims arising out of, related to or connected with an individual task specified hereunder, whether by statute, or in tort, contract, or otherwise, shall not exceed 100% of the total task amount. Contractor's maximum/aggregate limitation of liability under this Contract shall not exceed 100% of the total Contract Amount.
- 34.3. The limitations set forth in this Article shall not apply with respect to (a) third-party claims for property damage and/or bodily injury including death to the extent caused by the negligence of Contractor, and (b) in the case of liabilities arising from Contractor's willful misconduct or fraud.

**Article 35. Entire Contract**

The terms and conditions contained herein constitute the entire agreement between PREPA and Contractor with respect to the subject matter of this Contract, and supersede all communications, negotiations, and agreements of the Parties, whether written or oral, other than these, made prior to the signing of this Contract.

In WITNESS WHEREOF, the Parties hereto sign this Contract in San Juan, Puerto Rico,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Puerto Rico Electric Power Authority

Sargent & Lundy Puerto Rico, L.L.C.

---

Josué A. Colón Ortiz  
Executive Director  
Tax ID: 660-43-3747

---

Vincent T. Heinz  
President  
Tax ID: 66-0949018  
Email: [vincent.t.heinz@sargentlundy.com](mailto:vincent.t.heinz@sargentlundy.com)

## Annex B

**GOVERNMENT OF PUERTO RICO**  
**PUERTO RICO ELECTRIC POWER AUTHORITY**  
**PROFESSIONAL SERVICES AGREEMENT**

-----APPEAR-----

**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 83 of May 2, 1941, as amended (Act 83), represented in this act by its Executive Director, Josué A. Colón Ortiz, of legal age, married, and resident of Caguas, Puerto Rico. -----

**AS SECOND PARTY:** King & Spalding, LLP (King & Spalding), a limited liability partnership formed and existing under the laws of the State of Georgia, United States of America, with a place of business at 1700 Pennsylvania Ave., NW, Washington, DC 20006, herein represented by Steven M. Kupka, of legal age, married, and resident of Washington D.C., who has authority to enter into this agreement by virtue of his position as a King & Spalding partner.-----

Both PREPA and King & Spalding are herein individually referred to as a Party and collectively referred to as the Parties. -----

-----**WITNESSETH**-----

WHEREAS: PREPA, by virtue of Act 83 has the authority to engage those professional, technical and consulting services necessary and convenient to the activities, programs and operations of PREPA;-----

WHEREAS: PREPA desires to enter into this Professional Services Agreement (Agreement) with King & Spalding for the performance of the Services.-----

WHEREAS: King & Spalding hereby certifies that it is ready, willing, and able to provide the Services pursuant to the terms and conditions set forth herein. -----

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, hereinafter stated, the Parties agree themselves, their personal representatives, and successors to enter into this Agreement under the following:-----

-----**TERMS AND CONDITIONS**-----

**Article 1. Scope of Services**

1.1 King & Spalding shall provide legal services to the Program Management Office, the Legal Affairs Directorate and the office of the Executive Director with any Renewable and Energy Storage RFP and any other operational matters (including without limitation legal services in connection with PREB resolutions and orders, mediation and resolution of disputes, amendments and/or ancillary documents for contracts relating to operational or greenfield generation projects, negotiations related to fuel supply, support in the transition of services relating to P3A processes, the filing of fee applications and related issues with the Fee Examiner, and any other operational matter directed by PREPA, other than advice specifically concerning bankruptcy, Puerto Rico law or the Tranche 2 services, duplicative of the current responsibilities of other legal service providers or the PREB-Independent Coordinator).-----

1.2 At the direction of PREPA, King & Spalding may be required to work with other consulting, legal, investment, or other type of firms. The Parties agree to discuss such assignment in advance, so that all the Parties have a clear understanding as to their responsibilities. King & Spalding is not responsible for worked performed by others. -----

**Article 2. Services Coordination**

All the Services of King & Spalding in relation to the terms and conditions of this Agreement will be coordinated through Deputy Executive Director of Operations Office and through the Legal Affairs Office or the person delegated by either of them.-----

**Article 3. Agreement Assignment or Subcontract**

King & Spalding shall not assign nor subcontract its rights and obligations under this Agreement, except in the event PREPA give written authorization for such actions. Provided, that no subcontract shall be considered for PREPA's approval, except when the following requirements are met: (1) King & Spalding delivers to PREPA a copy of the subcontract, not less than thirty (30) days prior to the effective date of the proposed subcontract; (2) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to substitute, subrogate or assume King & Spalding's rights under the subcontract, in the event that PREPA declares King & Spalding in breach or default of any of the Agreement terms and conditions; and (3) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the subcontractor the obligation to comply

with all King & Spalding’s obligations under the Agreement (*mirror image clause*), except for such obligations, terms and conditions which exclusively related with works or services not included under the subcontract. A request to subcontract shall specify the issues or matters that will be referred to the subcontractor. -----

**Article 4. Agreement Term**

This Agreement shall be in effect from the date of its execution until June 30, 2024 (The Agreement Term).-----

**Article 5. Agreement Termination**

5.1 Either Party shall have the right to terminate this Agreement, at any moment, by providing the other Party a thirty (30) days prior written notice by registered mail, return receipt requested, or overnight express mail to King & Spalding. If notice is given, the Agreement shall terminate upon the expiration of the thirty (30) days and PREPA shall be obligated to pay all fees and expenses incurred up to the day of effective termination, in accordance with the terms of this Agreement. The rights, duties and responsibilities of the Parties shall continue in full force and effect during the thirty (30) day notice period. King & Spalding shall have no further right to compensation except for what has been accrued for services rendered and expenses incurred under the Agreement until said date of effective termination.-----

5.2 PREPA shall have the right to terminate this Agreement immediately in the event of negligence, dereliction of duties or noncompliance by King & Spalding, without prior written notice. -----

5.3 King & Spalding may terminate this Agreement as required or permitted by applicable Rules of Professional Conduct.-----

**Article 6. Payment**

6.1 In accordance with the terms and conditions contained herein, PREPA agrees, and King & Spalding accepts that the total amount to be paid under the Agreement shall not exceed a cumulative amount of one hundred thousand dollars (\$100,000), including reimbursable expenses (the “Agreement Amount”). All payments to be made under this Agreement will be charged to account 01-4019-92311-556-615. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be required to make advance payments for any future service to be rendered by King & Spalding under the Agreement.-----

6.2 Nothing herein shall preclude the Parties from agreeing to increase said amount in writing and signed by both Parties. -----  
PREPA will pay King & Spalding for the Services according to the hourly rates established in Appendix A. Appendix A attached hereto provides a schedule of the attorneys assigned to this matter. Should King & Spalding assign another person not included in Appendix A hereto to attend to PREPA’s matters pursuant to this Agreement, King & Spalding shall promptly send PREPA an amended schedule to include such person’s name and/or position, and request approval from PREPA for such amended schedule. Such approval from PREPA shall not be unreasonably withheld.-----



6.3 King & Spalding shall immediately notify PREPA when the billing under the Agreement amounts seventy-five percent (75%) of the Agreement Amount. Once this notification has been issued, King & Spalding, in coordination with PREPA, will ensure that no services will be rendered in excess of the Agreement Amount, except that a written amendment is agreed upon by both Parties. In addition, King & Spalding shall present an itemized list of the remaining billable Services under the Agreement.-----

**Article 7. Fees, Expenses and Disbursements**

7.1 PREPA should not be billed for (a) time spent in processing conflict searches, preparing billing statements, or in responding to PREPA inquiries concerning King & Spalding’s invoices; or (b) travel time during which King & Spalding is billing another client for work performed while traveling. Moreover, PREPA requires that only professional services be billed. Accordingly, PREPA should not be billed for the administrative tasks of creating, organizing, reviewing and/or updating files; routine or periodic status reports; receiving, reviewing, and/or distributing mail; faxing or copying documents; checking electronic mail or converting information to disk. -----

7.2 PREPA will reimburse King & Spalding for actual costs and expenses related to matters assigned to King & Spalding and for necessary and reasonable out-of-pocket disbursements, subject to the limitations and exceptions set forth below. King & Spalding is expected to have a system in place that ensures those who bill time and disbursements to PREPA matters do so promptly and accurately. -----

7.3 PREPA will not reimburse King & Spalding for: (a) costs included in a 'miscellaneous' or 'other' category of charges; (b) overhead costs and expenses—such as those relating to fees for time or overtime expended by support staff (secretaries, administrative/clerical personnel, internal messengers, and other similar services), word processing and/or proofreading, cost of supplies or equipment, and/or other similar costs of doing business; (f) time spent attending education seminars or training programs; or (h) mark-ups or surcharges on any cost or expense. In addition, if communications are sent to PREPA using more than one medium, PREPA does not expect to pay for the cost of both communications. For instance, if a piece of correspondence is sent to PREPA by email, we do not expect to pay for the cost of that same correspondence if it is also sent via regular or expedited mail. -----

7.4 PREPA will reimburse King & Spalding for separately itemized expenses and disbursements in the following categories: -----

7.4.1 Messenger/courier service – PREPA will reimburse actual charges billed to King & Spalding for deliveries (including overnight deliveries) where this level of service is required because of time constraints imposed by PREPA or because of the need for reliability given the nature of the items being transported. Appropriate summaries of messenger/courier expenses must reflect the date and cost of the service and the identity of the sender and the recipient or the points of transportation. -----

7.4.2 Travel – PREPA will reimburse actual charges for transportation and hotels reasonable and necessary for effective services to PREPA. PREPA will not pay for any first-class or business-class travel. Summaries of transportation expenses should reflect the identity of the user, the date and amount of each specific cost, and the points of travel. Summaries of lodging and meals expenses should include the identity of the person making the expenditure, the date and amount, and the nature of the expenditure. -----

Travel expenses reimbursement applies for personnel providing the services to PREPA, travel expenses for family members or guests are not chargeable to PREPA or reimbursable. -----

7.4.3 Air Travel- The cost of air travel will be reimbursed up to an amount of \$500 per person per round trip (including: seat assignment, applicable taxes, and other applicable fees). King & Spalding shall submit a copy of the airline ticket and paid invoice. Airfare may only be invoiced following completion of travel. -----

Airfare necessary to attend PREPA’s official business will be paid by PREPA according to these guidelines. King & Spalding shall buy an economic class ticket or equivalent, then if desired, he/she may upgrade, but PREPA will only pay the amount corresponding to the economy class or equivalent airfare. Baggage fees will not be reimbursed. -----

Any travel and lodging expense for which a reimbursement is requested shall

be reasonable and necessary, and any extraordinary travel and lodging expenses shall be authorized in writing and in advance by PREPA.-----

7.4.4 Maximum Per Diem Rates (no proof of payment will be required): -----

Meals: - \$57 per person for each traveling day for persons working “on-site” at PREPA. Under no circumstances PREPA will reimburse alcoholic beverages.-----

Lodging (standard not smoking room): - \$200 per person, per night not including government fees and taxes King & Spalding will use the most economical alternative of lodging, including temporary rentals of apartments or rooms (Airbnb like rentals). For travel period longer than five days, temporary rentals shall be coordinated when this temporary rental is less expensive than hotel accommodation, and evidence of said temporary rental shall be provided. -----

Ground Transportation: - \$20 per person, per working day. If a car is rented for the services to be provided, a fixed amount of \$25 per day will be reimbursed for parking expenses, upon presentation of evidence of the car rental (no proof of payment will be required).-----

7.4.5 Reimbursable expenses shall not exceed six percent (6%) of the Agreement Price in one year and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses. This limitation does not apply to expenses related to third-party services necessary for King & Spalding to

render its Services under the Agreement, given they are previously approved by PREPA. -----

7.4.6 Photocopying/printing – PREPA will reimburse actual charges for outside binding, and printing services and costs of outside photocopying services, which are not to exceed the actual five (5) cents per page for black and white copies, and twenty-five (25) cents per page for color copies. Summaries of expenditures for copying should reflect both the number of copies made and the cost per copy. -----

7.4.7 Third-Party Services – The approval of PREPA must be obtained in writing prior to retaining any third-party services. King & Spalding shall be responsible for ensuring that there are no conflicts of interest between any third party and PREPA or between any third-party clients and PREPA. In addition, all arrangements with third-party vendors should include an appropriate undertaking of confidentiality and data privacy. Invoices from third-party vendors should be paid directly by King & Spalding, incorporated into its invoice to PREPA and should include appropriate detail. Copies of third-party invoices may be requested by PREPA and should be retained in accordance with PREPA's guidelines. -----

7.4.8 PREPA reserves the right to question the charges on any bill (even after payment) and to obtain a discount or refund of those charges that are disputed. At PREPA's request, copies of bills and records reflecting

reimbursable expenses must be provided to PREPA. -----

**Article 8. Invoices**

8.1 King & Spalding shall submit monthly invoices within the first thirty (30) days following the period invoiced. King & Spalding will provide to PREPA an invoice for each billing period which will include a description of the services rendered and the number of hours spent by each person. The invoice for professional services shall be itemized and must be duly certified by an authorized representative of King & Spalding. -----

8.2 PREPA will review the invoices within thirty (30) days upon receipt, and if they are in compliance with the requirements set forth in this Agreement, it will proceed with payment. Payment is due within thirty (30) days of receipt of the invoice. If any statement remains unpaid for more than sixty (60) days, PREPA agrees that King & Spalding may cease performing services or terminate the Agreement unless arrangements satisfactory to both parties are made in good faith for payment of outstanding statements. PREPA reserves the right to conduct the audits it deems necessary, and it will not be subject to finance charges regarding invoice payments subject to an audit. -----

8.3 All invoices submitted by King & Spalding shall include the following Certification in order to proceed with its payment: -----

No Interest Certification:

*“We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the*

*basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Agreement. The only consideration to be received in exchange for the performance of the Services provided is the agreed-upon price that has been negotiated with an authorized representative of the PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received”.*

---

*King & Spalding’s Representative Signature*

This is an essential requirement and those invoices without this Certification will not be processed for payment. In order to comply with the certification requirements set forth above, King & Spalding shall require that subcontractors, if any approved by PREPA, providing Services also make the certification set forth above in any invoices submitted in connection with the Services. -----

**Article 9. Information and Material Facts**

9.1 PREPA shall promptly provide to King & Spalding all information under the control of PREPA and necessary for King & Spalding to perform the Services under this Agreement and those material facts that King & Spalding may reasonably require in order to provide its Services to PREPA. PREPA will ensure, to the best of its knowledge and belief, that the documents, data, and other information and material facts provided to King & Spalding, which are under its control, are true and complete, and does not constitute misleading or inaccurate information and King & Spalding shall be entitled to rely on the accuracy and completeness of the documents, data, and other information and material facts.-----

9.2 PREPA will advise in writing King & Spalding of any developments of which PREPA becomes aware, and which PREPA considers may have a material effect with respect to the information and/or facts provided to King & Spalding.----

**Article 10. Information Disclosure and Confidentiality**

10.1 King & Spalding acknowledges the proprietary and confidential nature of all internal, non-public, information systems, financial, and business information relating to PREPA and its personnel, its subsidiary corporations and affiliates and their personnel, the Commonwealth of Puerto Rico, its agencies, corporations and/or municipalities and their personnel, now or hereafter provided to King & Spalding or otherwise obtained by King & Spalding in the course of rendering services for PREPA (collectively, “Confidential Information”). -----

10.2 King & Spalding and its employees, affiliates and authorized sub-contractors shall keep in strict confidence all Confidential Information, and: (i) shall not make public or disclose any of said materials without the previous written consent of PREPA, provided that King & Spalding shall be permitted to share financial and other information prepared or provided for purposes of PREPA’s SEC Investigation, SEC or other government regulators, as may be required in the course of King & Spalding’s representation of PREPA under this Agreement; (ii) shall use the Confidential Information only to perform King & Spalding’s obligations under this Agreement; and (iii) will reproduce the Confidential Information only as required to perform King & Spalding’s obligations under this Agreement. -----



10.3 “Confidential Information” shall not apply to any information which: -----

- (a) is generally known to the public at the time of disclosure to King & Spalding or becomes generally known through no wrongful act on the part of King & Spalding;-----
- (b) is in King & Spalding ’s possession at the time of disclosure otherwise than as a result of King & Spalding ’s breach of any legal obligation; -----
- (c) becomes known to King & Spalding through disclosure by sources other than King & Spalding having the legal right to disclose such information; or
- (d) is independently developed by King & Spalding without reference to or reliance upon the confidential information. -----

10.4 In addition, these provisions shall not prohibit King & Spalding from making any disclosure pursuant to any subpoena or order of a court or a Governmental or Administrative tribunal which may assert jurisdiction over King & Spalding; provided that, to the extent legally permissible, King & Spalding shall promptly notify PREPA of any such disclosure obligations and reasonably cooperate with PREPA’s efforts to lawfully avoid and/or minimize the extent of such disclosure.---

10.5 King & Spalding will not disclose any Confidential Information relating to the work that King & Spalding performs under this Agreement except as provided herein or by applicable the Rules of Professional Conduct or law. -----

10.6 King & Spalding may divulge Confidential Information to its employees who need to know such information to fulfill the purposes of this engagement provided that

such persons: (i) shall have been advised of the confidential nature of such information and King & Spalding shall direct them, and they shall agree, to treat such information as confidential and to return all materials to King & Spalding upon request, but for one copy for record purposes only; and (ii) in each case, such person shall be bound by the terms of this Agreement. -----

10.7 King & Spalding shall return all Confidential Information, as well as any other document to which PREPA is entitled that may relate to its work under this Agreement, to PREPA within thirty (30) days after date of the expiration or earlier termination of this Agreement or destroy such information, certifying that all the information has been returned to PREPA or destroyed, but for electronic information held in archive and/or backup files to the extent such files cannot be deleted without unreasonable effort or expense and created in the ordinary course pursuant to established data backup/archive procedures; provided, however, King & Spalding may retain its own work product as long as it maintains the confidentiality of PREPA's Confidential Information as otherwise provided in this Agreement and other Confidential Information for regulatory, professional liability, and recordkeeping purposes (provided it continues to maintain its confidentiality in accordance with this Agreement). During this thirty (30) day period, and except to the extent making such documents available would result in the loss of legal privilege for PREPA, these documents shall be available upon request for inspection by the Office of the Comptroller of Puerto Rico. Such inspection, if

undertaken, shall not constitute a waiver of the attorney-client privilege or work product doctrine. -----

10.8 The Parties shall take all reasonable steps to keep confidential and use only for the purposes contemplated by the terms of the Agreement the information provided by PREPA and/or King & Spalding, and take all reasonable steps to ensure that such information is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement. -----

10.9 The Parties also agree that, except as agreed to in writing by both Parties, they will not, at any time after termination of this Agreement, disclose any confidential information to any person whatsoever, or permit any person whatsoever to examine and/or make copies of any reports prepared by King & Spalding or under its control by reason of its consulting services, and that upon termination of this Agreement each Party will turn over to the other all documents, papers, and other matters in its possession or under its control that relate to the other Party. King & Spalding may retain one file copy for its records. -----

**Article 11. Rights and Titles**

11.1 King & Spalding will submit any reports reasonably required by PREPA regarding services performed under this Agreement. If required by PREPA, at the completion of the assigned tasks, King & Spalding will submit a final written report describing the work it has performed. This requirement shall not be interpreted as a waiver by PREPA of King & Spalding's ethical obligation and

responsibility of keeping PREPA informed of the progress of the assigned matters. This obligation includes King & Spalding's commitment to preparing and delivering to PREPA's external auditors, in a timely manner, the legal letters periodically requested in connection with pending or threatened litigation, claims and assessments or loss contingencies, as part of the financial statements audit process for PREPA, its subsidiaries and affiliates, prepared in accordance with King & Spalding's policy. King & Spalding shall not invoice the time spent in preparing a reasonable number of customary letters to auditors. -----

11.2 All rights, titles and interest in any reports, documents, analyses, investigations and any other by-product conceived or developed by King & Spalding exclusively for PREPA in performing its obligations under this Agreement shall be the exclusive property of PREPA. King & Spalding shall retain all right, title and interest in and to proprietary works of authorship, pre-existing or other have not been created specifically for PREPA under this Agreement. With the exception of items marked as "CONFIDENTIAL" by King & Spalding, PREPA shall retain the right to use, refer, share, or provide to any third party, as PREPA may determine, the results of any reports, documents, analyses, investigations or any other by-product of the Services performed by the Contractor under this Agreement.-----

**Article 12. Copyright**

King & Spalding and PREPA shall jointly defend any suit or action brought against either party based on a claim that any document, report, study, analysis, copyrighted composition, article or any by-product of those, either used in the performance of the Services by King & Spalding or provided to PREPA by King & Spalding as part of its Services, or used in the performance of this Agreement, including their use by PREPA, constitutes an infringement of any patents or copyrights of the United States. The Party of this Agreement subject to the claim or that becomes aware of a potential claim shall promptly notify in writing the other Party of this Agreement, and give the authority, information, and assistance reasonable and necessary for the defense of such claim. ---

**Article 13. Responsibility for Damages**

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

**Article 14. Independent Contractor**

14.1 King & Spalding shall be considered as an independent contractor, for all material purposes under this Agreement, and all persons engaged or contracted by King & Spalding for the performance of its obligations herein, shall be considered as its employees or agents, and not as employees or agents of PREPA. -----

14.2 As an independent contractor, King & Spalding shall not be entitled to any fringe benefits, such as, but not limited to vacation, sick leave, and to which PREPA's employees are entitled. -----

**Article 15. Employees not to Benefit**

No officer, employee or agent of PREPA, nor of the Government of the Commonwealth of Puerto Rico or its Municipal Governments shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom.-----

**Article 16. Conflict of Interest**

16.1 King & Spalding certifies that none of its representatives under this Agreement receive payment or compensation of any nature, for the services regularly rendered through an appointment in another government agency, body, public corporation or municipality of Puerto Rico. King & Spalding also certifies that it may have other consulting services contracts with other governmental agencies or bodies, but such condition does not constitute a conflict of interest for King & Spalding. -----

16.2 King & Spalding acknowledges that in executing its services pursuant to this Agreement it has a duty of complete loyalty towards PREPA which includes not having conflict of interest. "Conflict of Interest" means representing clients who have or may have interests that are contrary to PREPA, but does not include rendering services that are unrelated to the services covered in this Agreement. Also, King & Spalding shall have the continuous obligation to disclose to PREPA

all information and circumstances of its relations with clients and third persons that would result in a conflict of interest which would influence King & Spalding when performing its responsibilities under this Agreement. -----

16.3 The Parties understand and agree that a conflict of interest exists when King & Spalding must advocate a position or outcome on behalf of any existing or future client contrary to PREPA's interests. Also, any conduct defined in the Rules of Professional Conduct regarding conflict of interests shall apply to King & Spalding and its personnel. -----

16.4 In the event that any of the partners, directors, agents or employees of King & Spalding engaged in providing services under this Agreement should participate in the conduct described herein, said conduct shall constitute a violation of the prohibitions provided herein.-----

16.5 King & Spalding's partners, directors, agents or employees and personnel shall avoid even the appearance of the existence of conflicting interests. -----

16.6 In the event that the existence of adverse interests is discovered, the PREPA's Executive Director shall inform King & Spalding in writing of PREPA's intention to terminate this Agreement within a thirty (30) day period. During said period, King & Spalding may request a hearing with the Executive Director to present its arguments regarding the alleged conflict of interests. In the event that King & Spalding does not request such hearing during the specified thirty (30) day

period or the controversy is not satisfactory settled before or during the hearing, this Agreement shall be terminated or canceled. -----

16.7 King & Spalding certifies that, at the time of the execution of this Agreement, it does not have nor does it represent anyone who has Conflict of Interests with PREPA. If such Conflict of Interest arises after the execution of the Agreement, King & Spalding shall notify PREPA immediately. -----

**Article 17. Notices**

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy, or postage prepaid, by registered, certified or express mail (return receipt requested) or reputable overnight courier service and shall be deemed given when so delivered by hand, or telecopied, or if mailed, three days after mailing (one business day in the case of express mail or overnight courier service) to the Parties to the following addresses:-----

To PREPA: Puerto Rico Electric Power Authority  
PO Box 364267  
San Juan, Puerto Rico 00936-4267

or for hand or overnight courier delivery:

Puerto Rico Electric Power Authority  
1110 Ponce de León Avenue  
San Juan, PR 00907-3802

Attention: Josué A. Colón Ortiz  
Executive Director

To King & Spalding: Steven M. Kupka, Esq.  
King & Spalding LLP  
1700 Pennsylvania Avenue NW



Suite 200  
Washington, D.C. 20006-4704

with a copy to

General Counsel  
King & Spalding LLP  
1180 Peachtree Street NE  
Atlanta, GA 30309-3521

**Article 18. Applicable Law and Venue**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. The court and authorities of the Commonwealth of Puerto Rico and the federal courts of the United States shall have jurisdiction over all controversies that may arise with respect to this Agreement. The Parties hereby waive any other venue to which they might be entitled by the virtue of domicile or otherwise. Should either party initiate or bring suit or action before any other court, it is agreed that upon application, any such suit or action shall be dismissed, without prejudice, and may be filed in accordance with this provision. -----

**Article 19. Change in Law**

During the term of this Agreement, any change in law, including, but not limited to changes in applicable tax law, which cause an increase in King & Spalding's costs when providing the services, shall be King & Spalding's responsibility and PREPA shall not be obligated to increase the Agreement Amount. -----

**Article 20. Force Majeure**

20.1 The Parties shall be excused from performing their respective responsibilities and obligations under this Agreement and shall not be liable in damages or otherwise, if and only to the extent that they are unable to perform or are prevented from performing by a force majeure event. -----

20.2 For purposes of this Agreement, 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.-----

20.3 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 event, 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 burden of proof as to whether a force majeure event has occurred shall be on the Party claiming the force majeure. -----

**Article 21. Novation**

21.1 The Parties expressly agree that no amendment or change order, which could be made to the Agreement during its term, shall be understood as a contractual novation, unless both Parties agree to the contrary, specifically and in writing.-----

21.2 The previous provision shall be equally applicable in such other cases where PREPA gives King & Spalding a time extension for the compliance of any of its obligations under this Agreement, or where PREPA dispenses the claim or demand of any of its credits or rights under the Agreement. -----

**Article 22. Severability**

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

**Article 23. Save and Hold Harmless**

King & Spalding agrees to save and hold harmless and to indemnify PREPA for all expenses and costs of any nature (including reasonable attorneys' fees) incurred by PREPA arising out of any third party claim made by any person for bodily injuries, including death, or for property damage, to the extent directly caused by King & Spalding by the negligent act or omission, in the performance or nonperformance of its obligations under the Agreement, but not to the point directly caused or contributed by

negligence or tort of PREPA or a third party, who is not an employee or subcontractor of King & Spalding.-----

With respect to any indemnity set forth in this Agreement, the Party which shall be entitled to receive indemnity shall give prompt notice to the other Party of its receipt of any threat, indication or other notice of any claim, investigation or demand that might give rise to any losses required to be indemnified hereunder and shall reasonably cooperate in the defense of such claim. The indemnifying party shall have the right to conduct defense of such action at its sole expense. -----

**Article 24. Insurance**

King & Spalding shall secure and maintain in full force and effect during the life of this Agreement as provided herein, policies of insurance covering all operations engaged in by the Agreement as follows:-----

1. Commonwealth of Puerto Rico Workmen’s Compensation Insurance:

King & Spalding shall provide Workmen’s Compensation Insurance as required by the Workmen’s Compensation Act 45-1935 of the Commonwealth of Puerto Rico.

King & Spalding shall also be responsible for compliance with said Workmen’s Compensation Act by all its subcontractors, agents, and invitees, if any. -----

King & Spalding shall furnish a certificate from the Puerto Rico State Insurance Fund showing that all personnel employed in the work are covered by the Workmen’s Compensation Insurance, in accordance with this Agreement. -----

2. Employer's Liability Insurance:

King & Spalding shall provide Employer's Liability Insurance with a minimum bodily injury limits of at least \$1,000,000 for each employee and at least \$1,000,000 for each accident covering against the liability imposed by Law upon King & Spalding 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:

King & Spalding shall provide a Commercial General Liability Insurance with limits of at least \$1,000,000 per occurrence and at least \$1,000,000 aggregate. -----

4. Commercial Automobile Liability Insurance:

King & Spalding shall provide a Commercial Automobile Liability Insurance with limits of at least \$1,000,000 combined single limit covering all owned or schedule autos, non-owned autos, and hired autos.-----

5. Professional Liability Insurance:

King & Spalding shall provide a Professional Liability Insurance with limits of at least \$1,000,000 per claim and at least \$1,000,000 aggregate. -----

6. Requirements under the Policies:

The Commercial General Liability and Commercial Automobile Liability Insurance required under this Agreement shall be endorsed to include: -----

a. As Additional Insured:

Puerto Rico Electric Power Authority (PREPA)  
Risk Management Office  
PO Box 364267  
San Juan, Puerto Rico 00936-4267

- b. A 30 day cancellation or nonrenewable notice to be sent to the above address
- c. An endorsement including this Agreement under contractual liability coverage and identifying it by number, date and Parties to the Agreement. -----
- d. Waiver of subrogation in favor of Puerto Rico Electric Power Authority (PREPA). -----
- e. 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.”-----*

Furnishing of Policies: -----

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. -----

King & Spalding shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded. -----

**Article 25. Compliance with the Commonwealth of Puerto Rico Contracting Requirements**

King & Spalding will comply with all applicable laws, regulations and executive orders that regulate the contracting process and requirements of the Government of Puerto Rico, including Act 73-2019, as amended, known as the "2019 General Services

Administration Act for the Centralization of Purchases of the Government of Puerto Rico" ("Act 73-2019"). In compliance with the provisions of Act 73-2019, King & Spalding has provided PREPA the Certification of Eligibility of the Unique Registry of Professional Services Providers (known in Spanish as "*Certificado de Elegibilidad del Registro Único de Proveedores de Servicios Profesionales*", and hereinafter referred to as the "RUP Certification"), issued by the General Services Administration. It is hereby acknowledged that pursuant to the provisions of Article 42 of Act 73-2019, a valid RUP Certification serves as evidence of compliance with the documentation requirements necessary for contracting professional services with the Government of Puerto Rico, particularly those applicable under Act 237-2004, as amended, which establishes uniform contracting requirements for professional and consultant services for the agencies and governmental entities of the Commonwealth of Puerto Rico (3 L.P.R.A. § 8611 et seq.), the Puerto Rico Department of Treasury Circular Letter Number 1300-16-16 issued on January 22, 2016, as amended, and the sworn statement before notary public required pursuant to Article 3.3 of Act 2-2018.-----

Further, King & Spalding hereby certifies, guarantees, acknowledges and agrees to the following:-----

- A. King & Spalding hereby certifies that as of the execution of this Agreement, it has filed income, sales and use ("IVU" for its Spanish acronym), and property taxes returns, in Puerto Rico for the past five (5) years. King & Spalding also certifies that it does not have any outstanding debt or other debts with the Government of

Puerto Rico for income, IVU taxes (collected by the Department of the Treasury), real or chattel property taxes (collected by the "*Centro de Recaudación de Ingresos Municipales*" ("CRIM")), unemployment insurance premiums, workers' compensation payments, Social Security for chauffeurs from the Department of Labor and Human Resources, nor have debts with the Puerto Rico Child Support Administration (known in Spanish as the *Administración Para El Sustento de Menores* (ASUME)). In the event that King & Spalding owes taxes or premiums to said government agencies, it agrees that PREPA may withhold any monies due to King & Spalding under this Agreement to be applied to the payment and cancellation of said debt. King & Spalding also certifies that it is in corporate "Good Standing" at the Department of State of Puerto Rico. King & Spalding hereby represents and certifies that it is duly authorized to do business under the laws of Puerto Rico by the Department of State and the execution, delivery and performance of all the services under this Agreement are within King & Spalding authorized powers and are not in contravention of law. King & Spalding also certifies that it is in compliance with the Merchant's Registration. Accordingly, King & Spalding has submitted to PREPA its RUP Certification from the General Services Administration. King & Spalding shall maintain its certificate valid for the duration of this Agreement.-----



- B. Special Contribution for Professional and Consulting Services: As required by Act 48-2013, as amended, PREPA will withhold a special contribution of one point five percent (1.5%) of the gross amounts paid under this Agreement.-----
- C. Social Security and Income Tax Retentions: In compliance with Executive Order 1991 OE- 24; and C.F.R. Part 404 et. Seq., King & Spalding will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income, from this Agreement.-----
- D. Income Tax Retention Law: PREPA shall deduct and withhold ten percent (10%) of any and all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of U.S. citizens and Non-U.S. citizens, which are nonresidents of the Commonwealth of Puerto Rico, PREPA will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda de Puerto Rico*). King & Spalding will request PREPA not to make such withholdings if, to the satisfaction of PREPA, King & Spalding timely provides a release from such obligation by the Government of Puerto Rico's Treasury Department. 3 L.P.R.A. § 8611 et seq., 2011 L.P.R. 232; 232-2011. As proof of the remittance of withholdings to the Treasury Department required by this Paragraph L (as well as Paragraph J above), PREPA agrees to provide King &

Spalding with a completed copy of the Puerto Rico Treasury Department Form 480.6C (entitled, "*Declaración Informativa - Ingresos Sujetos a Retención - No Residentes*"). -----

- E. Compliance with Act 1 of Governmental Ethics: King & Spalding will certify compliance with Act 1-2012, as amended, known as the Ethics Act of the Government of Puerto Rico (Act 1-2012), which stipulates that no employee or executive of PREPA nor any member of his/he immediate family (spouse, dependent children or other members of his/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 Agreement, 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.; -----
- F. Act 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People: King & Spalding will certify that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended, the same is current and in all aspects in compliance. 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. -----

- G. Act 127-2004: Contract Registration in the Comptroller's Office of Puerto Rico  
Act: Payment for Services object of this Agreement will not be made until this Agreement is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Act 18 of October 30, 1975, as amended.
- H. Prohibition with respect to execution by public officers: 3 L.P.R.A. §8615(c):  
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. -----
- I. Prohibition with respect to contracting with officers or employees: 3 L.P.R.A. §8615(d): 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. --
- J. Prohibition with respect to contracts with officers and employees of other Government entities: 3 L.P.R.A. §8615(e): 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. -----

K. Prohibition with respect to evaluation and approval by public officers: 3 L.P.R.A.

§8615(f): 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. -----

L. Prohibition with respect to execution by public officers' contracts with former

public officers: 3 L.P.R.A. §8615(h): 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. -----

M. Dispensation: Any and all necessary dispensations have been obtained from any

government entity and that said dispensations shall become part of the contracting record, if applicable, and if mutually agreed upon in writing between the Parties. -----

N. Rules of Professional Ethics: King & Spalding acknowledges and accepts that it

is knowledgeable of the rules of ethics of his/her profession and assumes responsibility for his/her own actions. -----

O. Provisions Required under Act 14-2004: King & Spalding 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.-----

P. King & Spalding certifies that at the time of execution of this Agreement it has no other contracts with other agencies, public corporations, municipalities, and/or instrumentalities of the Government of Puerto Rico, except for:-----

1. Puerto Rico Fiscal Agency and Financial Advisory Authority
2. GDB Debt Recovery Authority.

King & Spalding acknowledges and accepts that the failure to list any current contractual relationship with any governmental entity may result in the termination of this Agreement if required by PREPA.-----

Q. The Parties hereby acknowledge the requirements and procedures set forth in Administrative Bulletin No. OE-2021-029 issued by the Governor of Puerto Rico, Han. Pedro R. Pierluisi, on April 27, 2021 (“OE-2021-29”) and Circular Letter No. 013-2021 issued on June 7, 2021, by the Office of Management and Budget (“CC 013-2021”), applicable to professional services agreements with a maximum amount of \$250,000 or more per fiscal year. However, in accordance with the exceptions authorized in the Contracting Measures, PREPA filed a petition with the Office of Management and Budget seeking to be exempted from

the Contracting Measures which was thereafter approved. Consequently, in accordance with the exceptions authorized in OE-2021-29 and CC 013-2021, the execution of this Agreement is exempt from the requirements and procedures established in the abovementioned provisions.-----

R. King & Spalding certifies that at the time of the execution of this Agreement, it is not a public company with shares that are traded on a regulated stock exchange. King & Spalding certifies that prior to the execution of this Agreement, it has submitted to PREPA a Certification of Legal Entity (known in Spanish as "*Certificación sobre Personas Jurídicas*").-----

If any of the previously required Certifications shows a debt, and King & Spalding has requested a review or adjustment of this debt, King & Spalding will certify that it has made such request at the time of the Agreement execution. If the requested review or adjustment is denied and such determination is final, King & Spalding will provide, immediately, to PREPA a proof of payment of this debt; otherwise, King & Spalding accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.-----

**Article 27. Anti -Corruption Code for a New Puerto Rico**

King & Spalding 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 (Act 2-2018). King & Spalding 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. King & Spalding shall furnish a sworn statement to the effect that neither King & Spalding 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 King & Spalding 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 (Act 8-2017) or any of the crimes included in Act 2-2018. -----

King & Spalding hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code (Act 146-2012), any of the crimes typified in 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 8-2017. -----

PREPA shall have the right to terminate the Agreement in the event King & Spalding is convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, any of the crimes listed in Articles 250 through 266 of Act 146-2012, any of the crimes typified in 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 8-2017. -----

Consequences of Non - Compliance: King & Spalding expressly agrees that the conditions outlined throughout this Article are essential requirements of this Agreement. 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 the PREPA to render this Agreement null and void, and King & Spalding shall reimburse the PREPA all moneys received under this Agreement. -----

**Article 28. Non-Discrimination**

King & Spalding certifies that it will not discriminate unlawfully against any employee or applicant for employment on account of race, color, gender, age, sex, national or social origin, social status, political ideas or affiliation, religion, for being or perceived to be a victim of domestic violence, sexual aggression or harassment, regardless of marital status, sexual orientation, gender identity or immigrant status, for physical or mental disability, for veteran status or genetic information.-----

**Article 29. Representation**

Each of the Parties represents to the other that: -----

- (1) it has the legal power and authority to enter into this Agreement and to perform its obligations hereunder, and neither the execution of this Agreement nor the performance of its obligations hereunder will violate any agreement or obligation from that party to others; and -----
- (2) the officer or representative who has executed and delivered this Agreement on its behalf is authorized to do so. -----



**Article 30. Contractor Certification Requirement**

The Parties acknowledge that King & Spalding 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, as amended, signed by King & Spalding'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 Agreement.-----

King & Spalding 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 the Agreement null and void and King & Spalding will have the obligation to reimburse immediately to the Commonwealth any amounts, payments or benefits received from the Commonwealth under the Agreement. -----

**Article 31. Transfer of skills and technical knowledge**

For this Agreement, 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.-----

**Article 32. Entire Agreement**

The terms and conditions contained herein constitute the entire agreement between PREPA and King & Spalding with respect to the subject matter of this Agreement, and

supersede all communications, negotiations, and agreements of the Parties, whether written or oral, other than these, made prior to the signing of this Agreement.-----

IN WITNESS WHEREOF, the Parties hereto sign this Agreement in San Juan, Puerto Rico this \_\_\_\_ day of \_\_\_\_\_, 2023. -----

Puerto Rico Electric Power Authority

King & Spalding, LLP

\_\_\_\_\_  
Josué A. Colón Ortiz  
Executive Director  
Tax ID: 660-43-3747

\_\_\_\_\_  
Steve Kupka  
Partner  
Tax ID: 58-0520153  
Email: skupka@kslaw.com

APPENDIX A  
TIMEKEEPERS & HOUR RATES

<b>Staff Level</b>	<b>Rate</b>
Sr. Partner	1300
Partner	1200
Counsel	1145
Sr. Associate	975
Associate	865
Jr. Associate	585
Paralegal/Other	420

<b>Timekeeper</b>	<b>Title</b>
Bowe, Jim	Sr. Partner
Malone, Kelly	Sr. Partner
Steinberg, Arthur	Sr. Partner
Zisman, Stuart	Sr. Partner
Cagle, Kim	Partner
Bromage, Zoë	Partner
Clancy, Lachlan	Partner
Katz, Jonathan	Partner
Koch, Alec	Partner
Kupka, Steve	Partner
Lang, David	Partner
McWhirter, Jill	Partner
Brown, Tyler	Counsel
Davidson, Scott	Counsel
Ferkin, Zori	Counsel
Futch, Kevin	Counsel
Greenberg, Mark	Counsel
Hirsch, Eric	Counsel
Smith, Lisa	Counsel
Kazam, Alexander	Senior Associate
Langa, Fernando	Senior Associate
Primrose, Sarah	Senior Associate
Snyder, Jesse	Senior Associate
Cadavid, Miguel	Associate
Calcena, Rafaela	Associate
Garza, Amanda	Associate

Horan Mendez, Erin	Associate
Martin, Silvia	Associate
Sheehy, Sean	Associate
Ye, Connie	Associate
Moon, Sue (Suyoung)	Jr. Associate
Rizk, Philip	Jr. Associate
Schofield, Sarah	Jr. Associate
Crawford, Julie	Paralegal/Other
de Varennes, P. Annette	Paralegal/Other
Dukes, Bill	Paralegal/Other
Hosein, Saira	Paralegal/Other
Kinsinger, Jeffrey	Paralegal/Other
Lindley, Kathleen	Paralegal/Other
Massoni, Greg	Paralegal/Other
Scarmazzi, Carla	Paralegal/Other
Seufert, Jason	Paralegal/Other
Shirley, Tammy	Paralegal/Other
Ward, Jarrett	Paralegal/Other
Wheeler, Bob	Paralegal/Other