

GOVERNMENT OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY

FIRST AMENDMENT  
MASTER PROFESSIONAL SERVICES AGREEMENT 2019-P00018 A

-----APPEAR-----

AS FIRST PARTY: The Puerto Rico Electric Power Authority, hereinafter referred to as "PREPA", a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended (Act 83), represented in this act by its Chief Executive Officer/Executive Director, mister José F. Ortiz Vázquez, of legal age, married, executive, and resident of San Juan, Puerto Rico. -----

AS SECOND PARTY: Mescher Associates International, Inc., hereinafter referred to as "MAI", a corporation organized and existing under the laws of Puerto Rico, authorized to do business in Puerto Rico, represented in this act by its President, mister Ben J. Mescher, of legal age, married, engineer, and resident of the State of Maryland, United States of America, by virtue of the document that certifies representatives powers dated June 27, 2019. -----

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

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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: The appearing Parties executed the Master Professional Services Agreement 2019-P00018 (the "Agreement") on September 20, 2018 and effective until June 30, 2019. Through this Agreement MAI provides PREPA litigation support and expert witness, as established in Article 1 of the Agreement. -----

WHEREAS: Article 4, Term of Agreement, establishes that the Agreement may be extended for one additional period of one year. -----

WHEREAS: PREPA needs to continue with MAI's professional services in the case of Abengoa Puerto Rico SE vs. AEE, Civil No. KAC2000-2759. -----

  
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NOW THEREFORE, In order to continue receiving MAI's services the appearing Parties hereby agree to enter into this Third Amendment under the following:

TERMS AND CONDITIONS

**FIRST:** The Parties agree to amend Article 4 of the Agreement, to extend its Term from July 1, 2019 through June 30, 2020 (Fiscal Year 2019-2020). -----

**SECOND:** The Parties agree that Work Order #1 and Work Order #2 of the Agreement shall remain in effect for the term of this Amendment. Work Order #3 shall be replaced with the terms and conditions of Work Order #3 for Fiscal Year 2019-2020 which is made a part of this First Amendment as Attachment 1. -----

**THIRD:** The Parties agree to replace the language of Article 27, Income Tax Withholding, of the Agreement with the following language: -----

PREPA will deduct and withhold at source to MAI the equivalent of ten per cent (10%) from payment for services rendered under this Agreement, in compliance with the Internal Revenue Code for a New Puerto Rico, Law 1-2011, Section 1062.03, as amended. Notwithstanding, the withholding to be done by PREPA as herein stated could be increased to: twenty per cent (20%) in the event that MAI is a non-resident individual, which is a U.S. citizen, as provided by the Internal Revenue Code for a New Puerto Rico, section 1062.08; or twenty-nine per cent (29%) in the event that MAI is a non-resident and non U.S. citizen individual; or a foreign corporation or partnership which is not dedicated to industry or business in Puerto Rico, as provided by the Internal Revenue Code for a New Puerto Rico, section 1062.08.-----

If a Release Letter (Total Waiver Certificate) has been issued to MAI by the Treasury Department, then PREPA will honor said Release Letter or Waiver and not withhold at source the corresponding released or waived amount, for payment of services rendered under this Agreement. MAI shall be responsible to submit a copy of said Release Letter to PREPA for every calendar year; otherwise, payments under the Agreement shall remain subject to withholding at source. All invoices shall be segregated by concepts

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(services, materials, equipment, etc.), to identify the amounts subject to withholding, and avoid undue deductions.-----

**FOURTH:** The Parties agree that the "total amount to be paid for the services" under this First Amendment shall not exceed four hundred and fifty thousand dollars (\$450,000). For avoidance of doubt, the "total amount to be paid for services" under this First Amendment shall not include amounts paid by PREPA to MAI prior to the Effective Date of this First Amendment. The payments to be made under this First Amendment for Fiscal Year 2019-2020 will be charged to account-01-4019-92311-556-615. -----

**FIFTH:** The Parties agree to replace the language of Article 24 "Required Certificates" with the following language: MAI will continue to comply with all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico. Particularly: Law 237-2004, as amended, which establishes uniform contracting requirements for professional services for the agencies and governmental entities of the Commonwealth of Puerto Rico. MAI shall submit to PREPA, within ten (10) days of the execution of this First Amendment, the certificates, which are enumerated below. MAI hereby recognizes and agrees that no payment for services under the Agreement shall be done by PREPA until all the required certifications and sworn statement have been provided: -----

1. Filing of Puerto Rico Income Tax Returns

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, MAI hereby certifies that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. As evidence thereof, MAI has delivered to PREPA an Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that MAI has filed his Income Tax Return for the last five (5) tax years (Form SC 6088). MAI accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Subcontractor whose service MAI

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06/27/19

has secured in connection with the services to be rendered under this Agreement and shall forward evidence to PREPA as to its compliance with this requirement.-----

2. Payment of Puerto Rico Income Taxes

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, MAI, hereby certifies that it has complied and is current with the payment of all income taxes that are, or were due, to the Government of Puerto Rico. As evidence thereof, MAI has delivered to PREPA a certification issued by the Treasury Department of Puerto Rico indicating that MAI does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms (Form SC 6096). During the term of this Agreement, MAI agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico. MAI accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each subcontractor whose service MAI has secured in connection with the services to be rendered under this Agreement and shall forward evidence to PREPA as to its compliance with this requirement. -----

3. Compliance with Requirements of the Department of Labor and Human Resources of the Commonwealth of Puerto Rico. -----

Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, MAI certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. As evidence thereof, MAI has delivered to PREPA: -----

- a. A certification issued by the Bureau of Employment Security (Negociado de Seguridad de Empleo) of the Puerto Rico Department of Labor and Human Resources certifying that MAI does not owe taxes regarding Unemployment or Disability Insurance. -----

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b. A certification issued by the Program for Social Security for Chauffeurs and Other Employees of the Puerto Rico Department of Labor and Human Resources certifying that MAI has no debt with respect to such program n Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that MAI has filed his Income Tax Return for the last five (5) tax years (Form SC 6088). -----

4. Real and Personal Property Taxes

MAI hereby certifies and guarantees that it does not have any current debt regarding property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (Centro de Recaudación de Ingresos Municipales ("CRIM")). MAI further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. MAI shall provide: -----

a. A certification issued by the Municipal Revenues Collection Center ("MRCC"), assuring that MAI does not owe any tax accruing during the last five (5) years to such governmental agency with respect to personal property; or negative Debt certification issued by the MRCC with respect to personal property taxes and a sworn statement executed by MAI indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last 5 years (or the time in which it has been providing professional services) it has had no taxable business or personal property on the 1st of January of each year, (iii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended and (iv) that for such reason it does not have an electronic tax file in the MRCC's electronic system. -----

b. All Concepts Debt Certification issued by the MRCC assuring that MAI does not owe any taxes to such governmental agency with respect to real and personal property; or Negative certification issued by the MRCC with respect to real property taxes. -----

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5. Sales and Use Taxes

MAI has delivered to PREPA: -----

- a. Certification issued by the Puerto Rico Treasury Department indicating that MAI does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms. -----
- b. Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that MAI has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods. -----
- c. A copy of MAI's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico. -----

6. Puerto Rico Child Support Administration (ASUME)

MAI hereby certifies that it is not duty bound to pay child support, or if so, that MAI is up to date or has a payment plan to such effects. As evidence thereof, MAI has delivered to PREPA a certification issued by the Puerto Rico Child Support Administration (Administración Para El Sustento de Menores (ASUME) certifying that MAI have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME. -----

7. Organization Documents

MAI shall provide: -----

- a. a Good Standing Certificate issued by the Department of State of Puerto Rico. -----
- b. a Certification of Incorporation, or Certification of Organization or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico. -----

8. Dispensation

Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record. -----

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9. Rules of Professional Ethics

MAI acknowledges and accepts that it is knowledgeable of the rules of ethics of his or her profession and assumes responsibility for his or her own actions. -----

10. Provisions Required under Act 14-2004

MAI 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. -----

11. Consequences of Non-Compliance

MAI expressly agrees that the conditions outlined throughout this Section 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 the PREPA to render this Agreement null and void, and MAI shall reimburse the PREPA all moneys received under this Agreement. If any of the certifications listed in this Section shows a debt, and MAI has requested a review or adjustment of this debt, MAI hereby certifies 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, MAI will provide, immediately, to PREPA a proof of payment of this debt; otherwise, MAI accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. MAI accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every contractor and subcontractor whose service MAI has secured in connection with the services to be rendered under this Agreement and shall forward evidence to PREPA as to its compliance with this requirement. MAI understands and agrees that PREPA is prohibited to process any payment under the Agreement until the enumerated certifications and sworn statements are submitted to PREPA. -----

**SIXTH:** The Parties agree to replace the language of Article 25 "Anti-Corruption Code for the New Puerto Rico" of the Agreement with the following language: MAI

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hereby agrees to comply with the provisions of Act 2-2018, known as the Anti-Corruption Code for the New Puerto Rico.-----

MAI shall furnish a sworn statement to the effect that neither MAI 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 MAI 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 or any of the crimes included in Act 2-2018.-----

MAI 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, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico 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, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.-----

PREPA shall have the right to terminate this Agreement in the event MAI is convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico 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, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.-----

Handwritten signature and date: 06/27/19

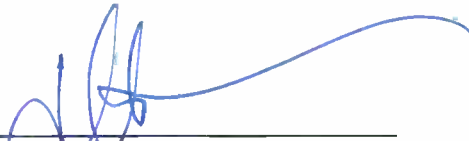


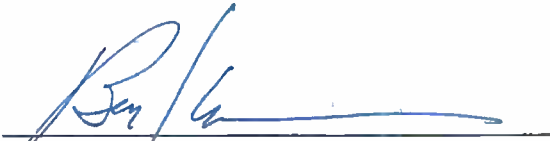
THEREFORE: The Parties agree that all other terms and conditions, established in the Agreement shall remain unaltered and fully enforceable. -----

In WITNESS WHEREOF, the Parties hereto have agreed to execute this First Amendment of the Agreement in San Juan, Puerto Rico, on this 30 day of June 2019.

Puerto Rico Electric Power Authority

Mescher Associates International, Inc.

  
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José F. Ortiz Vázquez  
Chief Executive Officer  
Employer's Social Security: 660-43-3747

  
\_\_\_\_\_  
Ben J. Mescher  
President  
Employer's Social Security: 660-67-9134

  
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**Work Order # 3, Attachment # 1  
MAI Reimbursable Cost Rate Sheet  
Year 2019-2020**

1. Travel and lodging expenses for the purpose of providing litigation support and expert testimony pursuant to the scope of work of the Agreement shall require advanced written authorization by PREPA.

The Consultant's travel to perform services in Puerto Rico under this Amendment shall be requested by PREPA's Chief of Litigation through email to [benmescher@mescherai.com](mailto:benmescher@mescherai.com).

The travel request shall specify the times during which Consultant's personnel are requested to be in Puerto Rico and shall act as PREPA's approval for the requested travel pursuant to the aforesaid approval requirements.

Upon receiving the travel request the Consultant's personnel will arrange travel in order to reasonably comply with the travel request unless one of the following conditions occurs:

- The limitation of \$27,000 for Work Order #3 Reimbursable Costs will be exceeded as a result of the requested travel;
- The limitation on the cost of Air Travel will be exceeded and PREPA does not approve such cost exceedance as required;
- The limitation on the cost for Hotel and Lodging will be exceeded and PREPA does not approve such cost exceedance as required.

Under any of the aforesaid conditions, the Consultant shall not be obligated to travel as requested and shall not be in breach of its obligations under this Amendment unless and until PREPA authorizes such exceedances in writing at least three full business days in advance of travel and in a time frame during which Consultant is still able to obtain the price levels that PREPA approves.

2. Consultant's travel expenses necessary to perform work in Puerto Rico shall be charged in accordance with the following schedule:

**Ground Transportation**

Actual Cost

Ground transportation in Puerto Rico shall include rental of an economy sized vehicle, bus fares, taxis, tolls, parking and any other cost incurred as a result of ground based transportation and will be reimbursed up to standard fare. Consultant shall provide receipts or proof of expenditure.

**Air Travel:**

Actual Cost Subject to Limits as Follows

The cost of air travel will be reimbursed up to an amount that is less than or equal to the advanced purchase of the lowest available economy airfare (including applicable fees and taxes). The Consultant shall submit a copy of the original airline ticket or paid travel agency invoice for proof of payment. Airfare may only be invoiced following completion of travel.

In the event of a scheduled trip being cancelled by PREPA's order, PREPA will assume the cost of any applicable penalty fee associated with trip cancellation. If for any reason MAI personnel are asked to travel and an economy fare is not available to meet the requested timing, MAI shall be under no obligation to travel unless such higher cost fare is approved in writing by PREPA at least three full business days prior to the start of the scheduled trip and the fare can still be purchased for the approved value after PREPA provides written approval.

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Baggage fees shall be reimbursable with evidence of incurred costs submitted by the Consultant. Excess baggage fees will not be reimbursed. Consultant shall provide receipts or proof of expenditure.

**Hotel & Lodging:** Actual Cost Subject to Limits as Follows

The cost of hotel and lodging for a standard non-smoking room will be reimbursed up to the amount of \$225 per night plus any applicable taxes and fees. For avoidance of doubt, the limit of \$225 per night represents the cost incurred for the room charge prior to the addition of applicable taxes and fees. Consultant shall provide receipts or proof of expenditure.

**Meals in Puerto Rico** \$50 per Day

The cost of meals will be paid by PREPA to Consultant's personnel on a per diem basis in the amount of \$50 per day while performing work in Puerto Rico. This amount will be paid by PREPA on a per diem basis and shall not require any receipts or proof of expenditure to be provided by the Consultant.

**Travel in Continental United States**

For travel between Consultant's home-office or home location and airport within the Continental United States, PREPA will only pay for the following expenses:

- Ground Transportation which shall include bus fares, taxis, tolls, parking and any other cost incurred as a result of ground based transportation up to standard fare.
- The cost of \$0.57 per mile for use of a personal automobile
- Parking fees at the airport

Consultant shall provide receipts or proof of expenditure.

3. Payments for purchases, items of expense, and other charges not scheduled in item 2 above and incurred in connection with the performance of the work shall be pre-approved by PREPA and charged at actual cost.

Consultant shall provide receipts or proof of expenditure.

4. Non-Reimbursable Expenses:

Examples of expenses that will not be reimbursed include the following:

- a. Alcoholic beverages
- b. Entertainment
- c. Laundry, dry cleaning and pressing
- d. Travel insurance
- e. Parking fines
- f. Charges incurred because of indirect travel for personal reasons
- g. Family expenses
- h. Gratuities and tips paid to porters, waiters, bellboys, and hotel maids inside the lodging facility
- i. Any charges, fees, or other associated costs related to the making of reservations or other accommodations for travel

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