

GOVERNMENT 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 No. 83 of May 2, 1941, as amended (Act. 83), represented in this act by its Chief Executive Officer/Executive Director, José F. Ortiz Vázquez, of legal age, married, and resident of San Juan, Puerto Rico.-----

AS SECOND PARTY: RSM Puerto Rico (RSM), partnership of Certified Public Accountants authorized to do business in Puerto Rico by License Number 91 of the Puerto Rico Department of State, represented in this act by its Partner, Certified Public Accountant (CPA), Raúl Hernández Rivera, of legal age, married, and resident of Trujillo Alto, Puerto Rico, authorized by virtue of Corporate Resolution dated May 2, 2019. -----

Both PREPA and RSM 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, this Contract (together with all attachments hereto) confirms the engagement by PREPA of RSM to perform the audit services for the Employees'

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Retirement System of the Puerto Rico Electric Power Authority, for the fiscal years ended June 30, 2017, 2018 and 2019. -----

WHEREAS, RSM has agreed to provide PREPA such audit services.-----

WHEREAS, RSM hereby represents that it is duly authorized by law to provide auditing services. -----

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

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1.1 PREPA appoints and designates RSM, and the latter agrees, to provide audit services as a professional specialized on that field would perform in like circumstances, and in compliance with this Contract and all applicable laws. RSM shall provide the following auditing consulting services:-----

A. Plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement whether caused by error, fraudulent financial reporting or misappropriation of assets. -----

B. Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. -----

C. Assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement

presentation. -----

- D. Obtaining an understanding of internal control sufficient to design the audit procedures and to determine the nature, timing, and extent of audit procedures to be performed. -----
- E. Based on the work performed set forth above, items A thru D, RSM will express and deliver to PREPA an opinion on whether the financial statements are presented fairly in all material respect in conformity with U.S. general accepted accounting principle.-----
- F. Separately plan and perform audit procedures and issue an AU-C Section 805 audit opinion on the fair presentation of the columns titled net pension liability, total deferred inflows of resources and pension expense of the schedule of pension amounts, and the related notes, of the Schedule of Pensions Amounts, to satisfy the requirements of GASB Statement No. 68 required by PREPA's auditors, for the years ended June 30, 2017, 2018 and 2019. -----
- G. RSM shall perform the services with due care and in accordance with the requirements of this Contract. The services shall be performed in accordance with prevailing industry or professional standards. RSM will endeavor to perform all of the services to PREPA'S reasonable satisfaction. -----

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Peer Review Clause

We hereby certify that we participate in a Quality Control Program (Peer Review) and that we submit to the Contracting party, at the time this Contract is subscribed, the most recent revision report and letter with comments (if applicable). We also certify that we will submit to the Contracting party and any and all revision reports and

letter with comments received while this Contract is still in force.



Raúl Hernández Rivera, CPA, CFE

1.2 Reports:

- A. RSM will submit an opinion on whether the financial statements are presented fairly in all material respect in conformity with U.S. general accepted accounting principle. -----
- B. RSM will submit an opinion on whether the net pension liability, total deferred outflows of resources, total deferred inflows of resources, and pension expense on the Schedule of Pensions Amounts are fairly stated in all material respects in conformity with U.S. general accepted accounting principle. -----
- C. If required by PREPA, at the completion of the assigned tasks, RSM will submit a final written report describing the work it has performed. This requirement shall not be interpreted as a waiver by PREPA of RSM's ethical obligation and responsibility of keeping PREPA informed of the progress of the assigned matters. RSM shall not invoice the time spent in preparing customary letters to auditors, as it is understood that this is an administrative obligation complementary to the services rendered hereunder. -----

1.3 At the direction of PREPA, RSM 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. RSM is not responsible for work performed by others. -----



Article 2. Services Coordination

All the Services of RSM in relation to the terms and conditions of this Contract will be coordinated through PREPA's Finance Director or the person delegated by him. -----

Article 3. Contract Assignment or Subcontract

RSM shall not assign nor subcontract its rights and obligations under this Contract, 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) RSM 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 RSM's rights under the subcontract, in the event that PREPA declares RSM in breach or default of any of the Contract 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 RSM's obligations under the Contract (*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. These services shall be paid as part of the Contract Amount, as stated in Article 6. -----

Article 4. Contract Term

This Contract shall be in effect from the date of its execution until June 30, 2019. (The Contract Period). The Contract may be extended, for an additional annual fiscal period, at the exclusive option of PREPA and subject to the availability of funds, only by written amendment agreed upon by both Parties. -----

Article 5. Contract Termination

5.1 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 RSM. If 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, 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. RSM 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. -----

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

5.3 The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that in the eventuality of the execution of a

Partnership Contract, Sale Contract or any other PREPA Transaction (as these terms are defined in Act 120-2018), PREPA may sell, assign, convey, transfer, pledge, mortgage, sublease, delegate, hypothecate, or otherwise dispose (each, a “Transfer”) any of its rights, title, or interest in this Contract as permitted by applicable law and at any time, and without RSM’s consent or cost, expense or incremental liability to PREPA, to any future operator of Puerto Rico’s electric power transmission and distribution system or any of its affiliates, or to any governmental agency, body, public corporation or municipality of Puerto Rico; provided, that PREPA shall notify RSM no later than thirty (30) days before the effective date of any such Transfer.-----

RSM acknowledges that all his responsibilities and obligations under the Contract, such as work to be performed and services to be provided, etc., will continue in full force and effect until the expiration of the thirty (30) day period. -----

Article 6. Payment

6.1 In accordance with the terms and conditions contained herein, PREPA agrees and RSM accepts that the total amount to be paid under the Contract shall not exceed a cumulative amount of one hundred ninety-two thousand, three hundred dollars (\$192,300), (the “Contract Amount”). All payments to be made under this Contract will be charged to account 01-2425-24287-000-000. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be

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required to make advance payments for any future service to be rendered by RSM under the Contract. -----

6.2 Nothing herein shall preclude the Parties from agreeing to increase said amount in writing and signed by both Parties. -----

6.3 PREPA will pay for the Services rendered by RSM according to the following:

	<u>2017</u>	<u>2018</u>	<u>2019</u>
Audited Financial Statements	\$42,100	\$42,600	\$43,100
Audited Schedule of Pensions Amounts	<u>\$21,500</u>	<u>\$21,500</u>	<u>\$21,500</u>
Total	\$63,600	\$64,100	\$64,600

Should RSM assign another person to attend to PREPA's matters pursuant to this Contract, RSM shall promptly send PREPA an amended schedule to include such person's name, position and rate, as well as request approval from PREPA.-----

6.4 RSM 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, RSM, 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, RSM shall present an itemized list of the remaining billable Services under the Contract. -----

Article 7. Invoices

7.1 RSM shall submit its invoices on a monthly basis for the work already performed during the preceding month. RSM 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 RSM. RSM shall allocate any invoiced fees between: (i) activities undertaken outside of Puerto Rico; and (ii) those relating to activities undertaken within Puerto Rico. -----

7.2 PREPA will review the invoices upon receipt, and if they are in compliance with the requirements set forth in this Contract, it will proceed with payment. Payment is due thirty (30) days of receipt of the invoice. 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. -----

7.3 All invoices submitted by RSM 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".

RSM'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, RSM 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 8. Transfer of Funds

8.1 If RSM decides to assign or transfer an amount, due or payable, to which he is entitled for services rendered or goods provided during the term of this Contract, RSM 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. -----

8.2 RSM acknowledges and agrees that PREPA may deduct any amount, due or payable under this Contract, that RSM owes; PREPA may retain any said amount if RSM 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. RSM also acknowledges and agrees that PREPA's payment obligation under any assignment of funds will cease upon payment of the 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 RSM is entitled to under this Contract. -----

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8.3 RSM 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 9. Information and Material Facts

9.1 PREPA shall promptly provide to RSM all information under the control of PREPA and necessary for RSM to perform the Services under this Contract and those material facts that RSM 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 RSM, which are under its control, are true and complete, and does not constitute misleading or inaccurate information and RSM 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 RSM 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 RSM. -----

Article 10. Information Disclosure and Confidentiality

10.1 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 RSM, 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.-----


10.2 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 RSM 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. RSM may retain one file copy for its records. -----

10.3 The term “confidential information” shall include, but not be limited to, all information provided to RSM by PREPA or at PREPA’s direction regarding its facilities or operations and any and all information gathered or developed by RSM regarding the same. The Parties further agree that proprietary records and documents related to RSM’s business operations are confidential to RSM 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 RSM’s proprietary information. The term “confidential information”, however, will not include information that: -----

- (i) is or becomes public other than through a breach of this Contract; -

- (ii) 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 -----
- (iii) is independently developed by the receiving Party without use of, or reference to, confidential information. -----

10.4 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. ----

 10.5 If this Contract terminates for any reason, RSM 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 RSM 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 RSM 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 RSM.-----

10.6 The above provisions do not apply with respect to information, which RSM is requested to disclose under applicable law and regulations, court order, subpoena or governmental directives, in which case RSM shall provide PREPA prompt notice of such request in order to procure for PREPA a reasonable opportunity to oppose such disclosure. RSM 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. -----

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10.7 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: (i) protect the confidential information in a reasonable and appropriate manner and in accordance with applicable professional standards; (ii) use confidential information only to perform its obligations under this Contract; and (iii) reproduce confidential information only as required to perform its obligations under this Contract.-----

Article 11. Rights and Titles

11.1 RSM 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, RSM will submit a final written report describing the work it

has performed. This requirement shall not be interpreted as a waiver by PREPA of RSM's ethical obligation and responsibility of keeping PREPA informed of the progress of the assigned matters. -----

11.2 All rights, titles and interest in any reports, documents, analyses, investigations and any other by-product conceived or developed by RSM exclusively for PREPA as a result of performing its obligations under this Contract shall be the exclusive property of PREPA. RSM 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 RSM, 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 RSM under this Contract.-----

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Article 12. Copyright

RSM 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 RSM or provided to PREPA by RSM 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 13. Warranty

13.1 RSM 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"). Should any of the Services provided RSM not fulfill the above established Standard, RSM shall take all necessary corrective measures to rectify such deficient Services, at its own and exclusive cost, whenever such course of action is possible or desirable. The rectification of deficient Services by RSM shall not be understood as a waiver by PREPA to any other remedy it may have under this Contract or under the law or equity for any damages that RSM's may have caused to it by rendering such deficient Services.-----

13.2 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 RSM. ---

Article 14. Responsibility for Damages

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

Article 15. Independent Contractor

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

15.2 As an independent contractor, RSM 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 16. 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 17. Conflict of Interest

17.1 RSM 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. RSM 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 RSM.-----

17.2 RSM acknowledges that in executing its services pursuant to this Contract 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 Contract. Also, RSM 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 RSM when performing its responsibilities under this Contract. If RSM is required to provide services to another entity of the Executive Branch under the provisions of Article 30 and such services could result in a conflict of interests, RSM will notify PREPA in writing as provided in this article. -----

 17.3 The Parties understand and agree that a conflict of interest exists when RSM 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 RSM and its personnel.-----

17.4 In the event that any of the partners, directors, agents or employees of RSM 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.-----

17.5 RSM's partners, directors, agents or employees and personnel shall avoid even the appearance of the existence of conflicting interests.-----

17.6 RSM acknowledges that PREPA's Chief Executive Officer shall have the power to intervene with the acts of RSM 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 Chief Executive Officer shall inform RSM in writing of PREPA's intention to terminate this Contract within a thirty (30) day period. During said period, RSM may request a hearing with the Chief Executive Officer to present its arguments regarding the alleged conflict of interests. In the event that RSM 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.-----

17.7 RSM certifies that, at the time of the execution of this Contract, it does not have nor does it represents anyone who has Conflict of Interests with PREPA. If such Conflict of Interest arises after the execution of the Contract, RSM shall notify PREPA immediately.-----

Article 18. 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: José F. Ortiz Vázquez
Chief Executive Officer

To RSM: RSM Puerto Rico
PO Box 10528
San Juan, Puerto Rico
00922-0528

Attention: Raúl Hernández Rivera
Partner

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Article 19. Applicable 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 only the state courts of Puerto Rico 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 20. Change in Law

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

Article 21. Force Majeure

21.1 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. -----

21.2 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. -----

21.3 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 22. Novation

22.1 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. ----

22.2 The previous provision shall be equally applicable in such other cases where PREPA gives RSM 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 23. 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 24. Save and Hold Harmless

RSM 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 RSM 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 negligence or tort of PREPA or a third party, which is not an employee or subcontractor of the RSM.-----

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With respect to any indemnity set forth in this Contract, each indemnity 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 of such claim. The indemnifying Party shall have the right to conduct defense of such action at its sole expense. -----

Article 25. Insurance

RSM 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: -----

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

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

RSM 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 Contract. -----

2. Employer's Liability Insurance:

RSM shall provide Employer's Liability Insurance with a minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering

against the liability imposed by Law upon RSM 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:

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

4. Commercial Automobile Liability Insurance:

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

Professional Liability Insurance:

RSM shall provide a Professional Liability Insurance with limits of \$ 1,000,000 per claim and \$ 1,000,000 aggregate. -----

5. 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 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 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.-----

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


Article 26. Compliance with the Commonwealth of Puerto Rico Contracting Requirements

RSM will comply with all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico, including but not limited to: -----

A. Executive Order Num. OE-1991-24 of June 18, 1991 to require certification of compliance with the Internal Revenue Services of the Commonwealth of Puerto Rico: Pursuant to Executive Order Number OE-1991-24 of June 18, 1991, RSM will certify and guarantee that it has filed all the necessary

10/11

and required income tax returns to the Government of Puerto Rico for the last five (5) years. RSM further will certify that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. RSM shall provide, to the satisfaction of PREPA, and whenever requested by PREPA during the term of this Contract, the necessary documentation to support its compliance with this clause. RSM will be given a specific amount of time to produce said documents. During the term of this Contract, RSM agrees to pay and/or to remain current with any repayment plan agreed to by RSM with the Government of Puerto Rico. -----

 B. Executive Order No. OE-1992-52 of August 28, 1992 to require certification of compliance with the Department of Labor of the Commonwealth of Puerto Rico. Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, RSM will certify and warrant 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. RSM accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every subcontractor whose service RSM has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.-----

C. Government of Puerto Rico Municipal Tax Collection Center: RSM will certify and guarantee that it does not have any current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (known in Spanish as *Centro de Recaudación de Ingresos Municipales* ("CRIM")). RSM further will certify to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. RSM shall provide, to the satisfaction of PREPA and whenever requested by PREPA during the term of this Contract, Certification issued by the Municipal Revenues Collection Center (MRCC), assuring RSM does not owe any tax accruing to such governmental agency. RSM will deliver upon request any documentation requested by PREPA. During the Term of this Contract, RSM agrees to pay and/or to remain current with any repayment plan agreed to by RSM with the Government of Puerto Rico with regards to its property taxes.-----

RSM shall provide a Personal Property Tax Filing Certification, issued by the MRCC which indicates that RSM has filed its Personal Property Tax Return for the last five (5) contributory terms or Negative Debt certification issued by the MRCC with respect to real and property taxes and a sworn statement executed by RSM indicating that (i) its revenues are derived from the rendering of professional services, (ii) during the last five (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

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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.-----

D. RSM shall furnish a Certification issued by the Treasury Department of Puerto Rico which indicates that RSM 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.-----

E. RSM shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that RSM has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods. -----

F. RSM shall provide a copy of RSM's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico. -----


G. Puerto Rico Child Support Administration (*ASUME*): RSM shall present, to the satisfaction of PREPA, the necessary documentation certifying that RSM nor any of its owners, affiliates of subsidiaries, if applicable, have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with the Puerto Rico Child Support Administration (known in Spanish as the *Administración Para El Sustento de Menores (ASUME)*). RSM will be given a specific amount of time to deliver said documents. 3 L.P.R.A. § 8611 et seq.; -----

H. RSM shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico. -----

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- I. RSM shall provide a Certification of Incorporation, or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico. -----
- J. 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.-----
- K. Social Security and Income Tax Retentions: In compliance with Executive Order 1991 OE- 24; and C.F.R. Part 404 et. Seq., RSM 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.-----
- L. 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 US citizens and Non-US citizens, which are nonresidents of the Commonwealth of Puerto Rico RSM 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*). RSM will request PREPA not to make such withholdings if, to the satisfaction of PREPA, RSM 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. -----

M. Compliance with Act No. 1 of Governmental Ethics: RSM will certify compliance with Act 1 of January 3, 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.; -----

 N. Law 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People: RSM 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.-----

O. Law 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 Law 18 of October 30, 1975, as amended. -----

P. 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.-----

Q. 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.-----

R. 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.-----

S. 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

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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.-----

T. 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. -----

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

V. Rules of Professional Ethics: RSM acknowledges and accepts that it is knowledgeable of the rules of ethics of his/her profession. -----

If any of the previously required Certifications shows a debt, and RSM has requested a review or adjustment of this debt, RSM 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, RSM will provide, immediately, to PREPA a proof of payment of this debt; otherwise, RSM 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

RSM 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. RSM hereby certifies that it does not represent particular interests in cases or matters that imply a conflicts of interest, or of public policy, between the executive agency and the particular interests it represents. -----

RSM shall furnish a sworn statement to the effect that neither RSM 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 RSM 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.-----

RSM 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.-----

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PREPA shall have the right to terminate the Contract in the event RSM 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.-----

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Consequences of Non-Compliance: RSM 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 RSM shall reimburse the PREPA all moneys received under this Contract.-----

Article 28. Termination by the Chief of Staff of the Governor of Puerto Rico and Interagency Agreements

Pursuant to Memorandum No. 2017-001, Circular Letter 141-17, of the Office of the Chief of Staff of the Governor of Puerto Rico (*Secretaría de la Gobernación*) and the Office of Management and Budget (*Oficina de Gerencia y Presupuesto – OGP*), the Chief of Staff shall have the authority to terminate this Contract at any time. If so

directed by the Chief of Staff, PREPA will terminate this Contract by delivering to RSM a notice of termination specifying the extent to which the performance of the work under this Contract is terminated, and the effective date of termination. Upon the effective date of termination, RSM shall immediately discontinue all services affected and deliver to PREPA all information, studies and other materials property of PREPA. In the event of a termination by notice, PREPA shall be liable only for payment of services rendered up to and including the effective date of termination. -----

Both Parties acknowledge and agree that the contracted services herein may be provided to another entity of the Executive Branch which enters into an interagency agreement with PREPA or by direct disposition of the Office of the Chief of Staff. These services will be performed under the same terms and conditions in terms of hours of work and compensation set forth in this Contract. For the purpose of this Article, the term "entity of the Executive Branch" includes all agencies of the Government of Puerto Rico, as well as public instrumentalities, and public corporations.-----

Article 29. Non-Discrimination

RSM agrees that it will not discriminate against any employee or applicant for employment on account of race, color, religion, sex, sexual orientation, disability or national origin in violation of applicable laws. -----

Article 30. Entire Contract

The terms and conditions contained herein constitute the entire agreement between PREPA and RSM 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 THEREOF, the Parties hereto sign this Contract in San Juan, Puerto Rico
this 18 day of June, 2019. -----

Puerto Rico Electric Power Authority

RSM Puerto Rico



José F. Ortiz Vázquez
Chief Executive Officer
Tax ID: 660-433747

Raúl Hernández Rivera
Partner
Tax ID: 66-0388756