

2022-P00010

**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 83 of May 2, 1941, as amended (Act 83), represented in this act by its Executive Director, Efran Paredes Maisonet, of legal age, married, and resident of Bayamón, Puerto Rico.-----

AS SECOND PARTY: ScottMadden, Inc. (Contractor), a corporation organized and existing under the laws of North Carolina, and registered to do business in Puerto Rico, Registry Number 12843, represented in this act by its Finance Director , Logan Toms, of legal age, married, and resident in North Carolina, United States, authorized by virtue of a ratification of a corporate resolution dated January 1, 2021.-----

-----**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: On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnership Authority and LUMA ENERGY, LLC entered into a Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("O&M Agreement") whereby LUMA took over of O&M responsibilities on June 1, 2021. Accordingly, in an effort to avoid duplication of efforts by both Contractor and LUMA, the Parties agree that

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the Contract shall be amended to eliminate Scope of Services items which LUMA will carry out during its assumption of O&M duties, which commenced on June 1, 2021.-----

WHEREAS: On June 30, 2021, PREPA's Governing Board, through Resolution 4896, approved the execution of this Contract.-----

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 The Contractor agrees to provide PREPA, as required, with the necessary professional consulting services for project management governance, standards and practices to support the Generation Directorate in the execution of all federal and non-federal projects. The Contractor's services will include executive advisory support, such as:

- Enhanced centralized project and portfolio management of all Generation projects, through MS Project Online and the continued training of personnel in implementation and use;-----
- Establishing centralized reporting such as Power BI for project status and execution for holistic governance and oversight of the portfolio of projects;-----
- Continuing the organizational assessment, design and implementation, post-commencement of the T&D Operator and leading up to the Generation Operator pre-commencement;-----

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- Continuing work on PREPA's 10-year Infrastructure Plan, such as stakeholder coordination and implementation support;-----
- Developing processes, templates and artifacts based on federal funding requirements, to mitigate risks of de-obligation of funds;-----
- Continuing support in stakeholder management, integration of the Disaster Funding Management Office, Costa Sur Units 5&6 regulatory reporting, Combined Cycle Feasibility Studies in metropolitan areas, among other related tasks.-----

1.2 The services will be compensated by PREPA for the Contractor's services based on hourly rates, as established on Article 6. Payment. -----

1.3 At the direction of PREPA, the Contractor 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.-----

1.4 All services described in this Article 1 shall be defined in this Contract as the "Services". -----

Article 2. Services Coordination

All the Services of Contractor in relation to the terms and conditions of this Contract will be coordinated through PREPA's Project Management Office or the person delegated by him.-----

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Article 3. Contract Assignment or Subcontract

The Contractor 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) 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; (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 Contractors' rights under the subcontract, in the event that PREPA declares the Contractor 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 Contractors' 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, Payment. -----

Article 4. Contract Term

This Contract shall be in effect from its execution until October 30, 2021 (The Contract Period). -----

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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 the Contractor. 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. The Contractor shall have no further right to compensation except for what has been accrued for services rendered 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 the Contractor, without prior written notice. -----

Article 6. Payment

6.1 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 six hundred sixty-five thousand dollars (\$665,000), including reimbursable expenses, if any (the "Contract Amount"). All payments to be made under this Contract will be charged to account 01-4019-92319-556-673. PREPA will only pay for Services already rendered before the submitted invoice

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date. PREPA will not be required to make advance payments for any future service to be rendered by Contractor 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 Contractor according to the following hourly rates:

Contractor's Hourly Rates

Title	Hourly Rate	Title	Hourly Rate
Partner	\$470	Benchmarking Manager	\$255
Director	\$365	Survey Manager	\$250
Manager	\$340	Clean Tech Specialist	\$230
Senior Associate	\$300	Senior Analyst	\$170
Director of Research	\$300	Analyst	\$145
Associate	\$255		

6.4 Should the Contractor assign another person or professional category to attend to PREPA's matters pursuant to this Contract, the Contractor shall promptly send PREPA an amended to include such person's name/professional category, position and rate, as well as request approval from PREPA. Any person engage by the Contractor after the execution of the Contract must complies with the professional requirements, credentials and qualifications required by PREPA. The

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Contractor shall provide evidence of those requirements and credentials (Ex: professional license, experience, etc.) before the person/professional commencement to work.-----

- 6.5 The 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 7. Invoices

- 7.1 Contractor shall submit its invoices on a monthly basis for the work already performed during the preceding month. 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.-----
- 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 sixty (60) days of receipt of the invoice with all the supporting documents required. 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. -----

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7.3 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 8. Transfer of Funds

8.1 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

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specific identification information regarding the assignee (full name of the person or company), address and any other contact information.-----

- 8.2 Contractor acknowledges and agrees that PREPA may deduct any amount, due or payable under this Contract, that Contractor owes; 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. Contractor 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 Contractor is entitled to under this Contract. -----
- 8.3 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 9. Information and Material Facts

- 9.1 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

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entitled to rely on the accuracy and completeness of the documents, data, and other information and material facts.-----

9.2 PREPA will notify 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.-----

9.3 PREPA shall promptly provide to Contractor all information to determine which among them will implement and maintain the various parts of the safety and health program, to ensure protection of all on-site workers before work begins. Include information to assess hazards and to avoid creating hazards that affect workers on the site.-----

9.4 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and Occupational Safety and Hazard Act (OSHA) standards for the safety of personnel, equipment, property and to protect them from damage, injury or loss, and any other PREPA Safety additional requirements. The Contractor is responsible to provide to its personnel all the required safety equipment to comply with OSHA regulation.-----

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 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.-----

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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 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.-----

10.3 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:-----

- (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

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(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, 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.-----

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10.6 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.-----

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 The 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. -----

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11.2 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. 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 12. Expenses and Disbursements

12.1 PREPA should not be billed for (a) time spent in processing conflict searches, 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. 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. -----

12.2 PREPA will reimburse Contractor for actual costs and expenses related to matters assigned to Contractor and for necessary and reasonable out-of-pocket

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disbursements, subject to the limitations and exceptions set forth below. Contractor is expected to have a system in place that ensures those who bill time and disbursements to PREPA matters do so promptly and accurately. -----

12.3 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; (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.

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

- 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

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recipient or the points of transportation. -----

- 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. -----

- 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). Contractor 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. Contractor 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

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expenses shall be authorized in writing and in advance by PREPA.-----

- 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 Contractor 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).-----

- 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. This limitation does not apply to expenses related to third-party services necessary for Contractor to render its Services under the Contract, given they are previously approved by PREPA. -----

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- 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. -----
- Third-Party Services – The approval of PREPA must be obtained in writing prior to retaining any third-party services. Contractor 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 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. -----

12.5 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 13. Warranty

13.1 Contractor warrants that it shall perform the Services in accordance with the

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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 by Contractor not fulfill the above established Standard, Contractor 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 Contractor 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 Contractor'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 Contractor.-----

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 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.-----

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15.2 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 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 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.-----

17.2 Contractor 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, Contractor shall have the continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons that

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would result in a conflict of interest which would influence the Contractor when performing its responsibilities under this Contract.-----

17.3 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.-----

17.4 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.-----

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

17.6 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, 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

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controversy is not satisfactory settled during the hearing, this Contract shall be canceled.-----

17.7 The Contractor 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, the Contractor 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: Efran Paredes Maisonet
Executive Director

To Contractor: ScottMadden Inc.
2626 Glewood Avenue
Suite 480
Raleigh, NC 27608

Attention: Logan Toms
Director

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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 Contractor's costs when providing the services, shall be Contractor'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,

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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 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 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.-----

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Article 24. 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 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 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

The 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:-----

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

The Contractor shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico.

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The Contractor shall also be responsible for compliance with said Workmen's Compensation Act by all its sub-contractors, agents, and invitees, if any.-----

The 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.-----

2. Employer's Liability Insurance:

The Contractor 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 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.-----

3. Commercial General Liability Insurance:

The 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. -----

4. Commercial Automobile Liability Insurance:

The 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 automobiles.-----

5. Professional Liability Insurance:

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

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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, PR 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 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.-----

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

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

The Contractor 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. Pursuant to Executive Order Number OE-1991-24 of June 18, 1991, the Contractor shall provide a certification of compliance of income tax returns to the Government of Puerto Rico for the last five (5) years issued by the Puerto Rico's Treasury Department. The Contractor shall provide a certification issued by Puerto Rico's Treasury Department that it does not owe taxes, for any concept, or it has a payment plan agreed to by the Contractor 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, the Contractor shall provide a certification from the abovementioned agency which indicates that it is in compliance with 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. The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every subcontractor,

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if any approved by PREPA, whose service the Contractor 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 Revenues Collection Center (MRCC): The Contractor shall provide a certification issued by MRCC that it does not have any current debt with regards to property taxes that may be registered with the Government of Puerto Rico's MRCC (known in Spanish as *Centro de Recaudación de Ingresos Municipales* ("CRIM")). During the Term of this Contract, the Contractor agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico with regards to its property taxes.-----
The Contractor shall provide a Personal Property Tax Filing Certification, issued by the MRCC which indicates that Contractor 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 Contractor 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 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.-----

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- D. The Contractor shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods. -----
- E. The Contractor shall provide a copy of Contractor's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico. -----
- F. Puerto Rico Child Support Administration (*ASUME*): The Contractor shall present, to the satisfaction of PREPA, the necessary documentation certifying that the Contractor 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)*). The Contractor will be given a specific amount of time to deliver said documents. 3 L.P.R.A. § 8611 et seq.:-----
- G. The Contractor shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico.-----
- H. The Contractor shall provide a Certification of Incorporation, or Certificate of Organization or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico.-----
- I. 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.-----

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- J. 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.-----
- K. 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 the 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*). The 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.----
- L. Compliance with Act 1 of Governmental Ethics: The Contractor 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 Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with

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the Secretary of Treasury and the Secretary of Justice of the Government. 3
L.P.R.A. § 8611 et seq.;-----

M. Act 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People: The 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.-----

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

O. 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.-----

P. 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

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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.-----

- Q. 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.-----
- R. 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.-----
- S. 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.-----

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

U. Rules of Professional Ethics: The 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.-----

V. 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.-----

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 27. 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). The Contractor hereby certifies that it does not represent

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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.-----

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, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico (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 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.-----

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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 28. 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 29. Non-Discrimination

The Contractor agrees 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,

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sexual orientation, gender identity or immigrant status, for physical or mental disability, for veteran status or genetic information. -----

Article 30. Safety

All work performed must be in compliance to 29 CFR 1910 and 29 CFR 1926, and any additional safety PREPA requires.-----

Article 31. 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 and amended on October 30, 2020, signed by the Contractor'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 Contract.-----

The 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. -----

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Article 32. 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 33. 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 THEREOF, the Parties hereto sign this Contract in San Juan, Puerto Rico this 23 day of July, 2021. -----

Puerto Rico Electric Power Authority

ScottMadden, Inc.



Efran Paredes Maisonet
Executive Director
Tax ID: 660-43-3747



Logan Toms
Finance Director
Tax ID: 56-1445505

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