

2022-P00012

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 Executive Director, Efran Paredes Maisonet, of legal age, married, and resident of Bayamón, Puerto Rico.-----

**AS SECOND PARTY:** Norton Rose Fulbright US, LLP (Consultant), a limited liability partnership organized and existing under the laws of the State of Texas, United States of America and registered to do business in Puerto Rico, represented in this act by its Partner, Lawrence A. Bauer, of legal age, married, and resident of Summit, New Jersey, whose authority of representation is evidenced by that certain letter, dated July 21, 2021, from Uriel E. Dutton, General Counsel of Consultant.-----

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Both PREPA and Consultant 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; -----

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 Professional Services Contract (Contract) under the following: -----

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

**Article 1. Scope of Services**

1.1 The Consultant will counsel in the matters relating to PREPA's financing activities, such as: -----

- a) Matters related to federal securities law and tax matters and the judicial determination of the validity (in Puerto Rico or federal court) of any one or more of such financings; -----
- b) Matters related to any restructuring of PREPA's outstanding obligations to its various stakeholders; -----
- c) Matters related to any loan guarantees to be provided by the Government of the United States, and any such other legal matters as may be requested by PREPA, its subsidiaries or affiliates; -----
- d) Legal representation to the Puerto Rico Electric Power Authority Revitalization Corporation (CRAEE) relating to its issuance from time to time of securitization bonds authorized by Act 4-2016, as amended; -----

1.2 The Consultant also will:

- a) Negotiate restructuring resolutions authorizing such bonds, trust agreement or agreements securing such bonds, a servicing agreement or agreements, a calculation agent agreement or agreements, a depository agreement or

agreements and the other documents relating to the issuance of the securitization bonds and giving the required legal opinions; -----

- b) Assist the CRAEE and PREPA's advisors with the preparation of witnesses (including preparation of the applicable testimony and the Energy Bureau of Puerto Rico order) relating to any additional required approvals by the Energy Bureau of Puerto Rico; -----
- c) Assist the other CRAEE counsel with the judicial validation or other approval, as part of the ongoing Title III proceedings, of the securitization bonds (and the arrangements securing their repayment), including preparation or review of the various memoranda of law and other court submissions on behalf of the CRAEE and preparation of witnesses and their testimony; -----
- d) Assist with preparation of and reviewing the documentation of any Plan of Adjustment under Title III or any other offer to be made to PREPA's bondholders and other creditors relating to the exchange of all or a portion of the debt of PREPA they own or insure, as well as the possible issuance in connection therewith of "new money" securitization bonds by the CRAEE; -----
- e) Assist in any rating of the securitization bonds, including the drafting of applicable legal opinions required by the rating agencies and other professionals involved and customary for a utility securitization and all related tax and securities law matters; and -----
- f) Assist in the preparation of any ruling requests, and/or negotiating any closing agreements, with the Internal Revenue Service, as may be necessary, and

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delivering necessary opinions, relating to the tax status of any bonds issued by  
the CRAEE or any other related entity, including PREPA. -----

In case of discrepancy between the terms and conditions of the Consultant's proposal  
and the terms and conditions of this Contract, the terms and conditions of the Contract  
will prevail. -----

At the direction of PREPA, the Consultant may be required to work with other legal,  
investment, or other PREPA consultants. The Parties agree to discuss such assignment  
in advance, so that all the Parties have a clear understanding as to their responsibilities.

The Consultant is not responsible for worked performed by others. -----

 **Article 2. Services Coordination**


All the Services of Consultant in relation to the terms and conditions of this Contract will  
be coordinated through PREPA's Restructuring Fiscal Affairs and Innovation Office  
Administrator or the person or persons delegated by said Administrator. -----

**Article 3. Contract Assignment or Subcontract**

The Consultant shall not assign nor subcontract its rights and obligations under this  
Contract, except in the event PREPA gives written authorization for such actions, and no  
subcontract shall be considered for PREPA's approval, except when the following  
requirements are met: (1) the Consultant 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 Consultant's rights  
under the subcontract, in the event that PREPA declares the Consultant in breach or

default of any of the terms and conditions of this Contract; 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 Consultant's obligations under this Contract (*mirror image clause*), except for such obligations, terms and conditions which exclusively relate to 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 the date of its execution until June 30, 2022 (the Contract Period). This Contract may be extended, for an additional annual fiscal period, at the exclusive option of PREPA and subject to the availability of funds and the performance of the Consultant, only by written amendment agreed upon by both Parties.

**Article 5. Contract Termination**

5.1 Either party shall have the right to terminate this Contract, at any time, by providing the other party thirty (30) days' prior written notice by registered mail, return receipt requested, or overnight express mail or other reputable courier service. If notice is given, this Contract shall terminate upon the expiration of 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. -----


5.2 The rights, duties and responsibilities of the Parties shall continue in full force and effect during the thirty (30) day notice period. The Consultant shall have no further

right to compensation except for what has been accrued for services rendered under this Contract until said date of effective termination. -----

Moreover, PREPA shall have the right to terminate this Contract immediately in the event of negligence, dereliction of duties or noncompliance by the Consultant. -----

The Consultant 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 Consultant accepts that the total amount to be paid under the Contract shall not exceed a cumulative amount of five hundred thousand dollars (\$500,000), including reimbursable expenses (the "Contract Amount"). All payments to be made under this Contract will be charged to account 01-4019-82320-556-673. PREPA will only pay for Services already rendered before the submitted invoice date. PREPA will not be required to make advance payments for any future service to be rendered by Consultant under this 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 Consultant according to following:

| Name              | Title   | Hourly Rate |
|-------------------|---------|-------------|
| Lawrence A. Bauer | Partner | \$965.00    |
| Bob Bruner        | Partner | \$920.00    |
| Peter Canzano     | Partner | \$940.00    |
| Patrick Dolan     | Partner | \$1,225.00  |

|                   |                    |            |
|-------------------|--------------------|------------|
| Clifford Gerber   | Partner            | \$1,025.00 |
| Toby Gerber       | Partner            | \$1,295.00 |
| Julie Goodrich    | Senior Associate   | \$790.00   |
| Matthew Hughey    | Partner            | \$965.00   |
| Mary Kimura       | Partner            | \$855.00   |
| Anna Lee          | Partner            | \$1,010.00 |
| Sylvia Lee        | Research Assistant | \$475.00   |
| James McGettrick  | Of Counsel         | \$790.00   |
| Thomas Morgan     | Senior Paralegal   | \$435.00   |
| Steve A. Peirce   | Senior Counsel     | \$870.00   |
| Uyen Poh          | Partner            | \$970.00   |
| Mara H. Rogers    | Partner            | \$1,135.00 |
| Homer Schaaf      | Of Counsel         | \$890.00   |
| Eric Tashman      | Partner            | \$1,105.00 |
| Stephen J. Watson | Partner            | \$1,115.00 |
| Fredric A. Weber  | Of Counsel         | \$995.00   |
| Rebecca Winthrop  | Of Counsel         | \$760.00   |
| Patti T. Wu       | Senior Counsel     | \$935.00   |

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

6.5 The Consultant shall immediately notify PREPA when the cumulative billing under this Contract amounts to seventy-five percent (75%) of the Contract Amount. Once this notification has been issued, the Consultant, in coordination with PREPA, will ensure that no Services will be rendered in excess of the Contract Amount, unless a written amendment increasing the Contract Amount has been agreed upon by both Parties and become effective. In addition, the Consultant shall present an itemized list of the remaining billable Services under this Contract. -----

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

7.1 Consultant shall not bill PREPA for (a) time spent in processing conflict searches, preparing billing statements, or in responding to PREPA inquiries concerning Consultant's invoices; or (b) travel time unless such time is spent providing any of the Services to PREPA or to the Corporation under this Contract. Consultant shall not bill PREPA 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. -----

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

7.3 PREPA will not reimburse Consultant 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 will not expect to pay for the cost of both communications. For instance, if a piece of correspondence is sent to PREPA by email, PREPA will not pay for the cost of that same correspondence if it is also sent via regular or expedited mail unless it is necessary by law or otherwise for PREPA to receive an original of such correspondence or any enclosure therein. -----

7.4 PREPA will reimburse Consultant for separately itemized expenses and disbursements in the following categories:

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

7.4.2 Travel – All travel expenses shall be approved in writing and in advance by PREPA. 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. If a scheduled trip is cancelled by PREPA, PREPA will reimburse Consultant for any penalty fees and forfeited airfare. 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. Meals will be reimbursed only upon presentation of restaurant detailed bills, and under no circumstances will PREPA reimburse Consultant for the cost of any alcoholic beverages. -----  
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. -----

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7.4.3 The cost of air travel will be reimbursed up to an amount that is no more than the advance purchase of the lowest available economy airfare (including applicable fees and taxes). The Consultant shall submit a copy of the original airline ticket or paid travel agency invoice. Airfare may only be invoiced following completion of travel. In the event of a scheduled trip has to be cancelled by PREPA's order, PREPA will assume the cost of the penalty fee. Baggage fees will be reimbursed. Evidence of incurred costs shall be submitted by the Consultant. Excess baggage fees will not be reimbursed. -----

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

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

Meals: - \$57 per person for each traveling day. -----  
Lodging (standard not smoking room): - \$200 per person, per night not including government fees and taxes. The Consultant will use the most economical alternative of lodging, including temporary rentals of apartments or rooms (Airbnb like rentals). For travel periods longer than five days, temporary rentals shall be coordinated if less expensive than hotel accommodations, and evidence of said temporary rental shall be provided. -  
Taxi or bus fares to and from depots, airports, and hotels, and other necessary ground transportation costs will be reimbursed for arrangements travel plans in the San Juan metropolitan area. upon submission to PREPA of proper proof of payment of such expenses. -----

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

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

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

reasonable efforts for ensuring that there are no conflicts of interest between any third-party vendor and PREPA or between any clients or vendor 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 Consultant, 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. -----

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

**Article 8. Invoices**

8.1 Consultant shall submit its invoices on a monthly basis for the work performed during the preceding month. Consultant will provide to PREPA an invoice for each billing period, which invoice must include a description of the services rendered and the number of hours spent by each person and clearly identify the Services performed for PREPA and for the Corporation. The invoice for professional services shall be itemized and must be duly certified by an authorized representative of the Consultant. -----

8.2 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

within sixty (60) 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. -----

8.3 All invoices submitted by Consultant 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 Puerto Rico Electric Power Authority (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".*

Consultant'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, Consultant shall require that subcontractors, if any approved by PREPA, providing Services also make the certification set forth above in any invoices submitted in connection with the Services. -----

#### **Article 9. Transfer of Funds**

9.1 If Consultant 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, Consultant shall notify PREPA of such transfer of funds, in accordance to the provisions of Act 21-2012, as amended. 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. -----

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9.2 Consultant acknowledges and agrees that PREPA may deduct from any amount due or payable under this Contract, amounts that Consultant owes to PREPA; PREPA may retain any said amount if Consultant 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. Consultant 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 Consultant is entitled to under this Contract. -----

9.3 Consultant 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 10. Information and Material Facts**

10.1 PREPA shall promptly provide to Consultant all information under its control and necessary for Consultant to perform the Services under this Contract and those material facts that Consultant 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 Consultant,

which are under its control, are true and complete, and do not constitute misleading or inaccurate information. Consultant shall be entitled to rely on the accuracy and completeness of the documents, data, and other information and material facts provided to it by PREPA or others acting under PREPA's direction. -----

10.2 PREPA will advise Consultant 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 Consultant. -----

**Article 11. Information Disclosure and Confidentiality**

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11.1 The Parties shall take all reasonable steps to keep confidential and use only for the purposes contemplated by the terms of this Contract the information provided by PREPA (or anyone at PREPA's direction) and/or Consultant, 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. -----

11.2 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 Consultant or under its control in satisfaction of providing Services hereunder, 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. Consultant may retain one file copy for its records. -----

11.3 The term "confidential information" shall include, but not be limited to, all information provided to Consultant by PREPA or at PREPA's direction regarding its facilities or operations or the Services to be provided hereunder and any and all information gathered or developed by Consultant regarding the same. The Parties further agree that proprietary records and documents related to Consultant's business operations are confidential to Consultant and will not be disclosed to PREPA or other Parties, except as may be judicially ordered. The Parties agree that PREPA will resist any attempt by opposing counsel or other persons to obtain Consultant's proprietary information. The term "confidential information", however, will not include information that: -----

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- (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;
- (iii) becomes known to the receiving Party through disclosure by sources other than the receiving Party having the legal right to disclose such information; or
- (iv) is independently developed by the receiving Party without use of, reliance upon or reference to, confidential information.

11.4 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. -----

11.5 Consultant 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 Consultant 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 Consultant 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 Consultant.

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11.6 The above provisions do not apply with respect to information, which Consultant is requested to disclose under applicable law and regulations, court order, subpoena or governmental directives, in which case Consultant shall provide PREPA prompt notice of such request in order to provide PREPA with a reasonable opportunity to oppose such disclosure unless Consultant is prohibited by law or order of a court or other government authority from giving such notice to PREPA. Consultant 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. -----

11.7 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.-----

Consultant may divulge confidential information to its employees who need to know such information to fulfill the purposes of this Contract, provided that such persons (i) shall have been advised of the confidential nature of such information and Consultant shall direct them, and they shall agree, to treat such information as confidential and to return all materials to Consultant upon request but for one copy for record purposes only; and (ii) in each case, such person is bound by obligations of confidentiality and non-use consistent with and at least as stringent as those set forth in this Contract.-----

In connection with the Services rendered under this Contract, Consultant will furnish PREPA and/or the Corporation any necessary reports, analyses or other such materials that exist as of the date requested, as PREPA may reasonably request. Consultant shall not invoice the time spent to gather and deliver such information. PREPA, however, acknowledges that Consultant may develop for itself, or for

others, problem solving approaches, frameworks or other tools and processes developed in performing the services and any additional services provided hereunder, and nothing contained herein precludes Consultant from developing or disclosing such materials and information provided that the same do not contain or reflect confidential information. -----

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Consultant shall return to PREPA all confidential information, as well as any other document that may relate to its work under this Contract, within thirty (30) days after date of the expiration or earlier termination of this Contract or destroy such information, certifying that all the information has been returned to PREPA or destroyed, but for electronic information held in archive and/or backup files to the extent such files cannot be deleted without unreasonable effort or expense and created in the ordinary course pursuant to established data backup/archive procedures; provided, however, that Consultant may retain its own work product as long as it maintains the confidentiality of PREPA's information as otherwise provided in this Contract. This Article shall survive the termination, expiration or completion of this Contract. -----

**Article 12. Rights and Titles**

12.1 The Consultant 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 Consultant will submit a final written report describing the work it has performed. This requirement shall not be interpreted as

a waiver by PREPA of Consultant's ethical obligation and responsibility of keeping PREPA informed of the progress of the assigned matters. -----

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

**Article 13. Copyright**

Consultant 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 Consultant or provided to PREPA by Consultant 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 14. Warranty**

Consultant warrants that it shall perform the Services in accordance with the applicable standards of care and diligence established by the Rules of Professional Conduct that regulate its profession at the time of performance of the Services, and which are normally practiced and recognized in performing services of a similar nature (the "Standard"). -----

**Article 15. Responsibility for Damages**

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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 16. Independent Contractor**

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

16.2 As an independent contractor, Consultant 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 17. Employees not to Benefit**

No officer, employee or agent of PREPA or the Corporation, 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 18. Conflict of Interest**

18.1 Consultant certifies that none of its representatives under this Contract receive payment or compensation of any nature, for the services regularly rendered under this Contract through an appointment in another government agency, body, public corporation or municipality of Puerto Rico. Consultant also certifies that it may have other professional services contracts with other Puerto Rico government agencies, bodies, public corporations or municipalities, but such contracts do not constitute a conflict of interest for Consultant hereunder. -----



18.2 Consultant acknowledges that in performing 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 to another client services in matters that are unrelated to the Services covered in this Contract. Also, Consultant shall have the continuous obligation to disclose to PREPA all information and circumstances of its relations with clients and third persons that would result in a conflict of interest which would influence the Consultant when performing its responsibilities under this Contract. -----

18.3 Consultant certifies that, at the time of the execution of this Contract, it does not have a conflict of interest with PREPA and that it does not maintain any claim, judicial or otherwise, against the Government of Puerto Rico, its agencies or instrumentalities. Also, Consultant certifies that, to the best of its knowledge, at the time of the execution of this Contract, none of its clients have a conflict of

interests with PREPA, nor any of Consultant's other contractual relationships represent a conflict of interests with PREPA. If such conflicting interests arise after the execution of this Contract, Consultant shall, to the extent consistent with its obligations to other clients, promptly notify PREPA. If Consultant determines it does represent anyone who has adverse interests that are in conflict with PREPA, Consultant shall notify PREPA and take commercially reasonable measures to safeguard PREPA's interests and ensure its Confidential Information remains confidential. Any employee of Consultant representing anyone with adverse interests to PREPA shall be restricted in accessing any and all information regarding PREPA, and Consultant shall take measures to ensure the proper procedures are in place to protect PREPA's interests. -----

The Parties understand and agree that a conflict of interest exists when Consultant must advocate a position or outcome on behalf of any existing or future client that is contrary to PREPA's interests in a situation where PREPA is a party or is known by the Consultant to be a potential future party to the particular matter. Also, any conduct defined in the Standard regarding conflict of interests shall apply to Consultant and its personnel. -----

18.4 In the event that any personnel of Consultant engaged in providing Services under this Contract should act in violation of the provisions of this Article, the provisions of Article 18.6 shall apply. -----

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

18.6 Consultant acknowledges that PREPA's Executive Director shall have the power to oversee the acts of Consultant and/or its agents, employees, and subcontractors regarding the enforcement of the prohibitions contained herein. In the event that the existence of adverse interests is discovered, the PREPA's Executive Director shall inform Consultant in writing of PREPA's intention to terminate this Contract within a thirty (30) day period. During said period, Consultant may request a hearing with the Executive Director to present its arguments regarding the alleged conflict of interest. In the event that Consultant does not request such hearing during the specified thirty (30) day period or the controversy is not satisfactory settled during the hearing, PREPA has the right to terminate this Contract. -----

18.7 The Consultant certifies that, at the time of the execution of this Contract, it does not have nor does it represents anyone who has a conflict of interest with PREPA. If such conflict of interest arises after the execution of this Contract, the Consultant shall notify PREPA immediately, subject, if applicable to duties of confidentiality to others. -----

**Article 19. 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 similar 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 Consultant: Norton Rose Fulbright US, LLP  
1301 Sixth Avenue  
New York, NY 10019

Attention: Lawrence A. Bauer  
Partner

**Article 20. 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 Court of Puerto Rico or the Federal Court for the District of Puerto Rico if applicable, 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 21. 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 Consultant's costs when providing the services, shall be Consultant's responsibility, and PREPA shall not be obligated to increase the Contract Amount. -----

**Article 22. Force Majeure**

22.1 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. -----

22.2 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. -----

22.3 Force majeure may include, but not be limited to, the following: Acts of God, industrial disturbances, acts of a public enemy, war, blockages, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, and 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. -----

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**Article 23. Novation**

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

23.2 The previous provision shall be equally applicable in such other cases where PREPA gives Consultant 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 this Contract. -----

**Article 24. Severability**

If a court of competent jurisdiction declares null and void or invalid any provision of this Contract, such declaration 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 such declaration.-----

**Article 25. Save and Hold Harmless**

The Consultant 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 Consultant by its negligent act or omission in the performance or nonperformance of its obligations under this Contract, but not to the point directly caused by negligent act or omission of PREPA or a third party, which is not a partner, employee or subcontractor or other agent of the Consultant.-----

With respect to any indemnity set forth in this Contract, each indemnified party 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 26. Insurance**

The Consultant 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 this Contract as follows: -----

**Professional Liability Insurance:**

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

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

**Article 27. Compliance with the Commonwealth of Puerto Rico Contracting Requirements**

The Consultant will comply with all applicable State Law, Regulations and Executive Orders that regulate the contracting process and establish the requirements for governmental contracting in the Commonwealth of Puerto Rico, including but not limited

to those mentioned in this Article. Also, the Consultant shall provide, before or at the execution of the Contract the following documents and certifications: -----

A. Executive Order Number 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, the Consultant will certify and guarantee that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. The Consultant 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. The Consultant 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. During the term of this Contract, the Consultant agrees to pay and/or to remain current with any repayment plan agreed to by the Consultant with the Government of Puerto Rico. -----

B. Executive Order Number 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 Consultant 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. The Consultant accepts and acknowledges its responsibility for requiring and

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obtaining a similar warranty and certification from each and every Consultant and Sub Contractor whose service the Consultant 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: The Consultant 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")). The Consultant 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. The Consultant 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 that Consultant does not owe any tax accruing to such governmental agency. To request such Certification, Consultant will use the form issued by the MRCC (called "*CRIM-Certificados, Radicación, Estado de Cuenta y Todos los Conceptos*" in the website). The Consultant will deliver upon request any documentation requested by PREPA. During the Term of this Contract, the Consultant agrees to pay and/or to remain current with any repayment plan agreed to by the Consultant with the Government of Puerto Rico with regards to its property taxes. -----

The Consultant shall provide a Personal Property Tax Filing Certification, issued by the MRCC which indicates that Consultant has filed its Personal Property Tax Return

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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 Consultant 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 1<sup>st</sup> 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 Consultant shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Consultant has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods. -----
- E. The Consultant shall provide a copy of Consultant's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico. -----
- F. Puerto Rico Child Support Administration (*ASUME*): The Consultant shall present, to the satisfaction of PREPA, the necessary documentation certifying that the Consultant 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)*). 3 L.P.R.A. § 8611 et seq.; --
- G. The Consultant shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico. -----

H. The Consultant 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 Consultant 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, PREPA will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as *Departamento de Hacienda de Puerto Rico*). The Consultant will request PREPA not to make such withholdings if, to the satisfaction of PREPA, the Consultant 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.A. §232; 232-2011. -----



- L. Act 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People: The Consultant 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.-----
- M. Act 127-2004: Contract Registration in the Comptroller's Office of Puerto Rico Act: Payment for services object of this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Act 18 of October 30, 1975, as amended. -----
- N. 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.-----
- O. 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

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Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.-----

P. 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.-----

Q. 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.-----

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R. 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. -----

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

T. Rules of Professional Ethics: The Consultant acknowledges and accepts that it is knowledgeable of the rules of ethics of his/her profession and assumes responsibility for his/her own actions. -----

U. Provisions Required under Act 14-2004

If applicable to the services provided under the Agreement, 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. -----

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If any of the previously required Certifications shows a debt, and Consultant has requested a review or adjustment of this debt, Consultant 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, Consultant will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Consultant accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.

Consequences of Non-Compliance: The Consultant 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 enough cause for the PREPA to render this Contract null and void. -----

**Article 28. Financial Oversight and Management Board Certification**

The Parties acknowledge that the Consultant 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 Consultant'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 Consultant represents and warrants that the information included in the Contractor Certification Requirement is complete, accurate and correct, and that any misrepresentation, inaccuracy or falseness in such Certification will render the Agreement null and void and the Consultant will have the obligation to reimburse immediately to PREPA any amounts, payments or benefits received from PREPA under this Contract.--

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

Consultant 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. The Consultant 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.-----

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

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

**Article 30. Non-Discrimination**

The Consultant 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, sexual

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

**Article 31. 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 32. Entire Contract**

The terms and conditions contained herein constitute the entire agreement between PREPA and Consultant 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 26 day of July, 2021. -----

Puerto Rico Electric Power Authority

Norton Rose Fulbright US, LLP



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



\_\_\_\_\_  
Lawrence A. Bauer  
Partner  
Tax ID: 74-1201087