


Núm. Cuentas y Cuantía:
01-4019-92320-556-673 : \$2,797,200.00
01-4019-92311-556-615: \$700,000.00

2019-FO0005

**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, represented in this act by its Chief Executive Officer/Executive Director, mister José F. Ortiz Vázquez, of legal age, married, engineer, and resident of San Juan, Puerto Rico.-----

 As Second Party: Cancio, Nadal, Rivera & Díaz, PSC (Contractor) , a professional services corporation organized and existing under the laws of Commonwealth of Puerto Rico, with offices at Hato Rey, herein represented by its partner, Arturo Díaz Angueira, Esq., of legal age, single, attorney and a resident of Guaynabo, Puerto Rico, duly authorized to appear in representation of the Contractor by Resolution dated June 27, 2018-----.

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

WITNESSETH

WHEREAS, PREPA, by virtue of its enabling act, Act No. 83 of May 2, 1941, as amended (Act No. 83), has the authority to engage those professional, technical and consulting services necessary and convenient to the activities, programs, and operations of PREPA;-----

WHEREAS, Pursuant Section 205 (2) (d) of Act No. 83 competitive bidding shall not be necessary when professional or expert services or work are required and PREPA

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

WHEREAS; On July 2, 2017 PREPA filed a Title III proceeding in the United States District Court of Puerto Rico pursuant to the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA). -----

WHEREAS; As part of the legal work necessary to defend PREPA's interest, it is necessary to have legal counsels familiar with PREPA who are able to represent its best interest in the proceedings, at a rate lower than the stateside counsels. -----

WHEREAS; PREPA is interested in obtaining the services of the Contractor for the performance of legal services. -----

WHEREAS; the Contractor states that it is ready, willing and able to provide the Services pursuant to the terms and conditions set forth herein.-----

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, PREPA and the Contractor agree as follows: -----

I. TYPE OF CONTRACT

A. Scope of Services:

1. In accordance with the terms and conditions set forth herein, the Contractor will provide to PREPA legal services in connection with the bankruptcy procedure of PREPA filed under the Title III and pursuant to the PROMESA. The Contractor will also provide to PREPA legal representation in connection with cases filed at the local or federal levels, in relation with labor and employment

claims, including claims for discrimination, dismissal, salaries, breach of labor contracts, and legal opinions, among other matters. In addition, the Contractor will provide necessary legal assistance in any other matters referred by PREPA for the defense of its interests.-----

B. Additional Provisions regarding the Services:

1. Any and all changes and/or modifications to the scope of the Services shall be in writing and must be signed by both Parties.-----
2. The Contractor represents that it has or shall obtain, or cause to be obtained, all personnel necessary to undertake and provide the Services in a manner satisfactory to PREPA.-----
3. The Contractor may not subcontract any of the Services that it has committed to perform or provide pursuant to this Contract without the prior written approval of the Executive Director of PREPA or any of its authorized representatives. Such consent to subcontract shall not relieve the Contractor of its full responsibilities under this Contract. Consent to the subcontracting of any part of the services shall not be construed to be an approval of said subcontract or of any of its terms, but shall operate only as an approval of the Contractor's request for the making of a subcontract between the Contractor and its chosen subcontractor (hereinafter a "Subcontractor"). The Contractor shall be responsible for all services performed by the Subcontractor and all such services shall conform to the provisions of this Contract.-----




II. TERM OF CONTRACT

This Contract shall be in effect from the date of its execution until June 30, 2019 (The Contract Period)¹. The Contract may be extended, at the exclusive option of PREPA, for additional annual fiscal period subject to the availability of funds and the approval of any administrative authorization needed. Either party shall have the right to terminate this Contract, at any moment, by providing the other party thirty (30) days written notice by registered mail, return receipt requested, or overnight express mail. 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. 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 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 Contractor. -----

¹ Pursuant to Article 3(f) of Act 237-2004, government entities may not grant contracts that cover more than a fiscal year so as not to encumber future budgets. A contract may cover two (2) fiscal years, but it shall be limited to twelve (12) months and include a clause specifying that it shall terminate with the close of the year and that it shall be extended for twelve (12) calendar months, provided the parties agree and that there are funds available in the appropriate budgetary item. As an exception, multi-annual government contracts shall be allowed when the service can be obtained more efficiently and economically and when they are essential to guarantee the public service.

III. COMPENSATION AND PAYMENT



As compensation for services rendered under this Contract, PREPA agrees and the Contractor accepts that the total amount to be paid under this Contract shall not exceed \$3,497,200, including reimbursable expenses (the "Contract Amount"). However, nothing herein shall preclude the parties from agreeing to increase said amount. PREPA will only pay for services that are evidenced by a properly submitted invoice for services rendered. Notwithstanding the foregoing, any increase to the Contract Amount shall be evidenced in writing and signed by both the Contractor and PREPA. PREPA will not be required to make advance payments for any service to be rendered by the Contractor under this Contract. The Contractor shall promptly notify PREPA when the billing under the present Contract amounts to 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 when a written amendment is agreed upon by both Parties. -----

PREPA shall pay the Contractor, for its services, at a rate of one hundred twenty five dollars (\$125) per hour to attorneys with ten or more years of experience, one hundred dollars (\$100) per hour to attorneys with five (5) years or more, but less than ten (10) years of experience, seventy five dollars (\$75) per hour to attorneys with less than five (5) years of experience. -----

PREPA shall pay the Contractor, for legal services in connection with the bankruptcy procedure of PREPA filed under the Title III and pursuant to the PROMESA and other legal matters as referred by the Project Management Office, at a rate of three hundred dollars (\$300) per hour to attorneys with ten or more years of experience, two hundred and fifty dollars (\$250) per hour to attorneys with five (5) years or more, but less than ten (10) years of experience, and one hundred and seventy five dollars (\$175) per hour to attorneys with less than five (5) years of experience. -----

In addition, the Contractor shall present a reasonably itemized list of the remaining billable work that is in progress under the Contract. The Contractor shall submitted separate invoices for services provided in the Title III case and for services provided in all other matters. -----


Title III Related Invoices

All payments for legal services performed in connection with PREPA's bankruptcy procedure filed under Title III of the PROMESA Act will be charged to PREPA's budget account number 01-4019-92320-556-673. As applicable, all invoices shall be drafted, submitted and paid in accordance to the United States Trustee guidelines for reviewing applications for compensation and, also, in accordance to such rules as established by the Fee Examiner in the Title III case, both by memorandum, or by Court Order.---

Other Invoices

Payments performed for legal representation in connection with cases filed at the local or federal levels, in relation with labor and employment claims, legal opinions

and other matters will be charged to PREPA's budget account number 01-4019-92311-556-615.-----

The Contractor shall submit monthly invoices within the first thirty (30) days following the period invoiced that will include a description of the services rendered and the number of hours spent by each person. Each invoice for professional services shall be itemized and must be duly certified by an authorized representative of the Contractor. The Contractor shall allocate any invoiced fees between: (i) activities undertaken outside of Puerto Rico; and (ii) those relating to activities undertaken within Puerto Rico. -----

PREPA will review the invoices within thirty (30) days of receipt, and if they are in compliance with the requirements set forth in this Contract, it will proceed with payment. Payment is due within 60 days of receipt. 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. -----

Invoices must also include a written and signed certification stating that no officer or employee of PREPA, and their respective subsidiaries or affiliates, will personally derive or obtain any benefit or profit of any kind from this Contract, with the acknowledgment that invoices that do not include this certification will not be paid. This certification must read as follows: -----

"We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Agreement. The only consideration to be received

in exchange for the delivery of goods or for 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

IV. REIMBURSABLE EXPENSES

The reimbursable expenses are included in the total amount of the Contract. PREPA shall reimburse the Contractor for out of pocket expenses incurred in providing the Services, subject to the terms of this Contract and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses. Reimbursement for air travel expenses is restricted to lowest available economy airfares. PREPA shall not pay for travel time, provided, however, that the Contractor personnel may work while traveling, and such time is compensable as otherwise provided under this Contract. Payment for travel time shall be made only if the invoice details the services rendered and the time billed on each matter as required in this Contract. -----

Any travel and lodging expense for which a reimbursement is requested shall be reasonable and necessary, and any travel and lodging expenses shall be authorized in writing and in advance by PREPA. PREPA will not reimburse expenses that do not comply with this provision and Appendix A, Outside Consultants and Advisors Guidelines. Under no circumstances will expenses for alcoholic beverages be reimbursed. -----


Third-Party Vendors and/or Out of Pocket Expenses: PREPA shall reimburse the Contractor for costs that may be invoiced to the Contractor by third party vendors for goods or services (related, for example, to tele-communication services, research, print materials, court reporters, or messengers) necessary to support the Services and provided exclusively for the benefit of PREPA.-----

 **V. CONFLICTS OF INTEREST.**

A. The Contractor acknowledges that in executing its services pursuant to this Contract, it has an obligation of complete loyalty towards PREPA, including having no conflict of interests. "Conflict of interests" means representing clients who have or may have interests that are contrary to PREPA, but does not include rendering services that are unrelated to this engagement. This duty includes the continued obligation to disclose to PREPA all circumstances of its relations with clients and third parties which would result in a conflict of interest, and any adverse interest which would influence the Contractor when executing the Contract or while it is in effect.-----

This conduct by one of the Contractor's partners, members, directors, executives, officers, clerks or employees shall be attributed to the Contractor for purposes of this prohibition. The Contractor shall endeavor to avoid even the appearance of the existence of a conflict of interest that has not otherwise been waived. -----

The Contractor acknowledges the power of the Executive Director of PREPA to oversee the enforcement of the prohibitions established herein. If the Executive



Director of PREPA determines the existence or the emergence of conflict of interest with the Contractor, he shall inform such findings in writing and his intentions to terminate the Contract within a fifteen (15) day term. Within such term, the Contractor can request a meeting with the Executive Director of PREPA to present its arguments regarding the alleged conflict of interest. This meeting shall be granted in every case. If such meeting is not requested within the specified term, or if the controversy is not settled satisfactorily during the meeting, this Contract shall be terminated at the end of said fifteen (15) day period.-----


The Contractor certifies that at the time of the execution of this Contract, it does not have nor does represent anyone who has a conflict of interest with PREPA. If such conflicting interests arise after the execution of this Contract, the Contractor shall, to the extent consistent with its obligations towards its other clients, notify PREPA immediately. -----

- B. No employee, officer, or agent of PREPA shall participate in the selection, or in the award or administration of a contract, supported by Federal funds, if a conflict of interest, real or apparent, would be involved.-----

VI. RESPONSIBILITIES OF PREPA

PREPA shall use reasonable efforts to cooperate with the Contractor, including providing any information reasonably requested by the Contractor and providing access to any facility at which the Services are to be performed at such times as may reasonably be requested by the Contractor.-----

VII. OWNERSHIP AND USE OF DOCUMENTS




With the exception of the Contractor's working papers, the Contractor acknowledges PREPA's ownership of all information, drafts, documents, reports, papers, and other materials developed and prepared by the Contractor, its agents or representatives, for purposes of performing the obligation hereunder. In the event of any termination, the Contractor shall deliver such information, drafts, reports, papers and other materials to PREPA, in document form and/or as computer program data, and the Contractor recognizes PREPA's right to request such documentation and/or computer program data. Should the Contractor fail to deliver said information, PREPA may seek a judicial order to enforce its rights. Except as otherwise provided, all information, drafts, documents, reports, papers and other materials developed and prepared by the Contractor or any Sub-Contractor, or any of its agents or representatives, for purposes of performing the obligations hereunder shall be deemed privileged work product of PREPA.-----

VIII. NON-DISCLOSURE AND CONFIDENTIALITY

A. Confidential Information (the "Confidential Information"):

1. **Definition:** The term Confidential Information, as used throughout this Contract, means any information concerning PREPA and/or PREPA's operations and that of its contractors (e.g., the projects, computer processing systems, object and source codes and other business and financial affairs of PREPA). The term Confidential Information shall also be deemed to include

all notes, analysis, compilation, studies and interpretation or other documents prepared by the Contractor, its agents or representatives in connection with PREPA's operations.-----




2. **Non-Disclosure**: The Contractor, its employees, affiliates and authorized subcontractors agree to take all reasonable steps or measures to keep confidential all Confidential Information and will not, at any time, present or future, without PREPA's express written authorization, use or sell, market or disclose any Confidential Information to any third party, firm, corporation, or association for any purpose whatsoever. The Contractor further agrees that, except as they relate to the normal course of the service, the Contractor will not make copies of the Confidential Information except upon PREPA's express written authorization, signed by an authorized representative of PREPA, and will not remove any copy or sample of Confidential Information without the prior written authorization from PREPA. The Contractor retains the right to control its work papers subject to these confidentiality provisions.-----

3. **"Confidential Information" shall not apply to any information which:**

- a) is generally known to (a) the public at the time of disclosure to the Contractor or becomes generally known through no wrongful act on the part of the Contractor;-----
- b) is in the Contractor's possession at the time of disclosure otherwise than as a result of the Contractor's breach of any legal obligation;-----

- c) becomes known to the Contractor through disclosure by sources other than the Contractor having the legal right to disclose such information; or-----
- d) is independently developed by the Contractor without reference to or reliance upon the confidential information.-----



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


The Contractor will not disclose any Confidential Information relating to the work that the Contractor performs under this Contract. -----

The Contractor may divulge Confidential Information to its employees who need to know such information to fulfill the purposes of this engagement provided that such persons: (i) shall have been advised of the confidential nature of such information and the Contractor shall direct them, and they shall agree, to treat such information as confidential and to return all materials to the Contractor upon request, but for one copy for record purposes only; and (ii) in each case, such person shall be bound by the terms of this Contract.-----

In connection with the services rendered under this Contract, the Contractor will furnish PREPA any necessary reports, analyses or other such materials that exist as

of the date requested, as PREPA may reasonably request. The Contractor shall not invoice the time spent to gather and deliver such information. PREPA, however, acknowledges that the Contractor 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 the Contractor from developing or disclosing such materials and information provided that the same do not contain or reflect Confidential Information.-

B. Return of Documents: The Contractor shall return or destroy all Confidential Information, as well as any other document that may relate to its work under this Contract, to PREPA within thirty (30) days after date of the expiration or earlier termination of this Contract, and shall certify 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, the Contractor may retain its own work product as long as it maintains the confidentiality of PREPA's Confidential Information as otherwise provided in this Contract. During this thirty (30) day period, and except to the extent making such documents available would result in the loss of legal privilege for PREPA, these documents shall be available for inspection by the Office of the Comptroller of Puerto Rico. This Article shall survive the termination, expiration or completion of this Contract.-----



C. **Equitable Relief**: The Contractor's material negligent discharge or the breach of the confidentiality clause hereinabove continuing after receipt of written warning or abandonment of the duties assigned hereunder shall constitute a breach of this Contract by the Contractor and PREPA will be entitled to terminate this Contract forthwith, without having to comply with the requirements of notice set forth above, without limitations of any other rights and remedies under law, and will release and discharge PREPA from any further obligations and liabilities hereunder.-----

D. The Contractor's material negligent discharge or the breach of the confidentiality clause hereinabove continuing after receipt of written warning or abandonment of the duties assigned hereunder shall constitute a breach of this Contract by the Contractor and PREPA will be entitled to terminate this Contract forthwith, without having to comply with the requirements of notice set forth above, without limitations of any other rights and remedies under law, and will release and discharge PREPA from any further obligations and liabilities hereunder.-----

IX. TERMINATION BY THE CHIEF OF STAFF OF THE GOVERNOR OF PUERTO RICO AND INTERAGENCY AGREEMENTS

Pursuant to Memorandum No. 2017-001, Circular Letter 141-17, of the Office of the Chief of Staff of the Governor of Puerto Rico (*Secretaría de la Gobernación*) and the Office of Management and Budget (*Oficina de Gerencia y Presupuesto – OGP*), the Chief of Staff shall have the authority to terminate this Contract at any time. If so directed by the Chief of Staff, PREPA will terminate this Contract by delivering to the Contractor a notice of termination specifying the extent to which the performance

of the work under this Contract is terminated, and the effective date of termination. Upon the effective date of termination, the Contractor shall immediately discontinue all services affected and deliver to PREPA all information, studies and other materials property of PREPA. In the event of a termination by notice, PREPA shall be liable only for payment of services rendered up to and including the effective date of termination.-----

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

X. 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. Particularly: Act 237-2004, as amended, which establishes uniform contracting requirements for professional and The Contractor services for the

agencies and governmental entities of the Commonwealth of Puerto Rico, and the Puerto Rico Department of Treasury Circular Letter Number 1300- 16-16.-----

A. **Executive Order Num. OE-1991-24 of June 18, 1991 to require certification of**

compliance with the Internal Revenue Services of the Commonwealth of

Puerto Rico: Pursuant to Executive Order Number OE-1991-24 of June 18, 1991, the Contractor 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, pursuant to Executive Order Number OE-1991-24 of June 18, 1991.-----

The Contractor, 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 Contractor 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. The Contractor will be given a specific amount of time to produce said documents. 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.

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 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 Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Sub Contractor 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 Tax Collection Center: The Contractor 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 Contractor 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 Contractor 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 the Contractor does not owe any tax accruing to such governmental agency. To request such Certification, the Contractor will use the form issued by the MRCC called *CRIM-Certificados, Radicación, Estado de Cuenta y Todos los Conceptos*. The Contractor will deliver upon request any documentation requested by PREPA. 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 the 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 The 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 No. 83-1991, as amended and (iv) that for such reason it does not have an electronic tax file in the MRCC's electronic system.-----

D. The Contractor shall furnish a Certification issued by the Treasury Department of Puerto Rico which indicates that the Contractor does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms.-----


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

- F. The Contractor shall provide a copy of the Contractor's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.-----
- G. **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)*). -----
- H. The Contractor shall provide a Good Standing Certificate issued by the Department of State of Puerto Rico.-----
- I. The Contractor shall provide a Certification of Incorporation, or Certificate of Authorization to do business in Puerto Rico issued by the Department of State of Puerto Rico.-----
- J. **Special Contribution for Professional and Consulting Services**: As required by Act 48-2013, as amended, PREPA will withhold a special contribution of one point five percent (1.5%) of the gross amounts paid under this Contract.-----
- K. **Social Security and Income Tax Retentions**: 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, pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24.



L. **Income Tax Retention Law:** PREPA shall deduct and withhold seven percent (7%) 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. -----

M. **Compliance with Act No. 1 of Governmental Ethics:** The Contractor will certify compliance with Act No. 1 of January 3, 2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his/her immediate family (spouse, dependent children or other members of his/her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. -----


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- N. **Law 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.* -----
- O. **Law Num. 127, May 31, 2004: Contract Registration in the Comptroller's Office of Puerto Rico Act:** The Contractor acknowledges that the 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 Number 18 of October 30, 1975, as amended.-----
- P. **Dispensation:** Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record.-----
- Q. **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.-----
- R. **Anti-Corruption Code for a New Puerto Rico:** The 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. The Contractor 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.-----

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

The Contractor hereby certifies that it has not been convicted in Puerto Rico or United States Federal court crimes under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.-----

PREPA shall have the right to terminate the Contract in the event the Contractor is convicted in Puerto Rico or United States Federal court for crimes under



Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.-----


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

- S. **Consequences of Non-Compliance:** The Contractor expressly agrees that the conditions outlined throughout this Section are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect, inaccurate or misleading, in whole or in part, there shall

be sufficient cause for PREPA to render this Contract null and void, and the Contractor shall reimburse PREPA all moneys received under this Contract.-----

XI. 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:-----

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

The Contractor shall furnish a certificate from the Puerto Rico State Insurance Fund showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance, in accordance with this Contract. -----

B. **Employer's Liability Insurance:**

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

C. **Commercial General Liability Insurance:**

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

D. **Commercial Automobile Liability Insurance:**

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

E. **Professional Liability Insurance:**

The Contractor shall provide a Professional Liability Insurance with limits of \$3,000,000 per claim and \$3,000,000 aggregate. -----

F. **Requirements under the Policies:**

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

1. **As Additional Insured:**

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

2. A 30 day cancellation or nonrenewable notice to be sent to the above address.-

3. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to the contract.-----

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

5. 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."

G. 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. -----

XII. NOTICES:

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy, or sent, 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 at the following addresses:-----

If to the Contractor:


Arturo Díaz Angueira
Cancio, Nadal, Rivera & Díaz, PSC
PO Box 364966
San Juan, Puerto Rico 00936-4966

If to PREPA:

José F. Ortiz Vázquez
Chief Executive Officer/
Executive Director
Puerto Rico Electric Power Authority
PO Box 364267
San Juan, Puerto Rico 00936-4267

XIII. PROHIBITIONS:

A. 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. -----

B. Prohibition with respect to contracting with officers or employees: (3 L.P.R.A. 8615(d))

No executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the previous recommendation of the Secretary of the Treasury and the Secretary of Justice.-----

C. 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.-

**D. 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.-----

E. 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.-----

XIV. COUNTERPARTS.

This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.-----

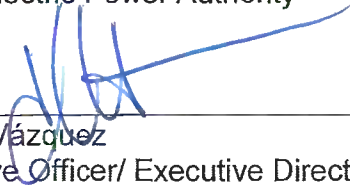
XV. ENTIRE CONTRACT.

Subject to any additional Federal or Commonwealth requirements not specified herein, this Contract and its attachments, (and any executed amendments to either), constitutes the entire Contract between the Parties and supersedes all prior

agreements and understandings, oral or written, with respect to the subject matter hereof. This Contract will inure to the benefit of, and be binding upon, the Parties and their respecting successors and assigns. -----

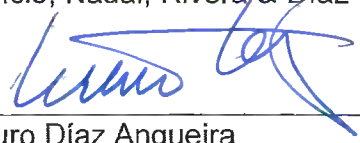
IN WITNESS THEREOF, the parties hereto execute this Contract as of the 30 of July, 2018.-----

Puerto Rico Electric Power Authority



José F. Ortiz Vázquez
Chief Executive Officer/ Executive Director
Tax Id Number:

Cancio, Nadal, Rivera & Díaz



Arturo Díaz Angueira
Partner
Tax Id Number:



PUERTO RICO ELECTRIC POWER AUTHORITY

OUTSIDE CONSULTANTS/ADVISORS GUIDELINES

Professional Services Agreement Cancio, Nadal, Rivera & Díaz

The purpose of these guidelines is to establish our mutual understanding and agreement as to our expectations with respect to your companies' representation of PREPA.

The scope of your engagement, your billable rate, and other case-or matter-specific information should be set forth by separate cover. However, to the extent that an engagement letter or contract/agreement has been executed previously, contemporaneously with, or subsequent to your receipt of these guidelines, these guidelines will govern in the event of any inconsistency or ambiguity with the engagement letter or contract/agreement.

Scope

These guidelines are applicable to all matters referred to Cancio, Nadal, Rivera & Díaz, absent express agreement or instructions from PREPA to the contrary. A copy of these guidelines should be provided to all employees assigned to work in PREPA's matters before work begins.

PREPA is committed to making effective use of Cancio, Nadal, Rivera & Díaz's resources. *These guidelines are directed to all outside consultants/advisors to help us achieve high quality, efficient services that produces effective results for a reasonable economic value to PREPA.* PREPA needs the cooperation and best efforts of Cancio, Nadal, Rivera & Díaz's to achieve this objective, and evaluation of Cancio, Nadal, Rivera & Díaz's will be based on your success in helping PREPA achieve this objective. Therefore, we expect Cancio, Nadal, Rivera & Díaz's to consistently examine PREPA's matters in order to determine whether particular expenditures of time or money are truly necessary to reach our intended objective.

Staffing


You and your PREPA's contact should discuss the staffing of a matter at its outset. Ultimately, staffing is PREPA's decision, and your PREPA's contact will provide input and review staffing to insure that it is optimal to achieve our objective. Additions or changes to staffing are not to be made without PREPA's prior agreement.

Effective control and management of PREPA's matters requires the most efficient and effective use of all available resources. We expect work of the highest quality at reasonable costs.

To promote effective utilization of time and skills, we request that you make every effort to provide for continuity in staffing and to assign the appropriate level of talent to our matters. Therefore, we expect that you will avoid: overstaffing the matter, shifting personnel assigned to the matter except

when absolutely necessary; holding inessential internal “conferences” about the matter; and handling specific tasks through persons who are either over-qualified or under-qualified.

Management



We require that prompt matter management plans and budgets be made at the request of your PREPA’s contact. We would appreciate your responsiveness to considerations of cost effectiveness in making your estimates and evaluations. A matter management plan should include, at a minimum, (a) an outline of the various phases of the project, (b) a timetable associated with them, (c) the person primarily responsible for conducting each activity, and (d) a forecast of the hours, fees, and expenses associated with each phase. We expect you to review these matter management plans and budgets at least every quarter, and after the occurrence of a significant event, to re-assess strategy and status. PREPA recognizes that revisions to matter management plans and budgets may be necessary from time to time, since actions are not always predictable or there may be unanticipated issues and problems during the course of a project.

Weekly Work Plan

For each week, Cancio, Nadal, Rivera & Díaz will present a table that will include the specific projects or tasks that will be working, including the personnel assigned to each task, and the dates on which the personnel will be traveling to and from Puerto Rico. Should any matter arise that is not foreseeable, Cancio, Nadal, Rivera & Díaz will notify to PREPA’s contact and include the updated information on next week’s work plan.

Fees

PREPA expects to be charged a reasonable fee for all services rendered, and encourages Cancio, Nadal, Rivera & Díaz to be creative in proposing alternative fee arrangements where appropriate. In a traditional hourly arrangement, however, the baseline for determining a reasonable fee should be the time appropriately and productively devoted to the matter, in essence, the “real” value of the services provided. We also expect you to scrutinize and reduce billed time in situations involving: (a) internal conferences or consultations between members of Cancio, Nadal, Rivera & Díaz; (b) research on basic or general principles; (c) assignments to inexperienced resources; or (d) work that is unnecessary or redundant or which should be shared with other clients.

PREPA should not be billed for (a) time spent in processing conflict searches, preparing billing statements, or in responding to our inquiries concerning your invoices; or (b) travel time during which you are billing another client for work performed while traveling. Moreover, we require 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.

PREPA will only pay Cancio, Nadal, Rivera & Díaz up to a maximum of 12 working hours daily.

Expenses/Disbursements

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

PREPA will not reimburse you 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 through the use of 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.

PREPA will reimburse Cancio, Nadal, Rivera & Díaz for separately itemized expenses and disbursements in the following categories:

- Messenger/courier service – PREPA will reimburse actual charges billed to your firm for deliveries (including overnight deliveries) where this level of service is required because of time constraints imposed by PREPA or because of the need for reliability given the nature of the items being transported. Appropriate summaries of messenger/courier expenses must reflect the date and cost of the service and the identity of the sender and the recipient or the points of transportation. We do not expect all documents to be hand delivered or sent by overnight express; indeed, we do expect that decisions about modes of delivery, from by-hand messenger to electronic transmission, will be made with due regard for need, economy, and good sense.
- 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. PREPA expects you to be reasonable and prudent both in selecting hotels and restaurants, if applicable, for which we are to be charged and in distinguishing between personal expenses and properly chargeable business expenses. Meals will be reimbursed only upon presentation of

restaurant detailed bill and under no circumstances PREPA will reimburse 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.

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

PREPA will pay up to two roundtrip airfares per month to Cancio, Nadal, Rivera & Díaz to their place of residence. Airfare necessary to attend PREPA's official business will be pay by PREPA according to these guidelines.

Cancio, Nadal, Rivera & Díaz shall buy and 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.

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.
 - Lodging (standard not smoking room): \$250 per person, per night not including government fees and taxes Cancio, Nadal, Rivera & Díaz 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 amount in one year and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses.

- 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. You are 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 Cancio, Nadal, Rivera & Díaz, incorporated into your 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.

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.

Billing Statements


PREPA and Cancio, Nadal, Rivera & Díaz must agree at the outset on the hourly rates for each person in the firm who will bill on a particular project or matter. PREPA expects to be charged at no more than Cancio, Nadal, Rivera & Díaz hourly rate for employees assigned to its projects or matters. Hourly rate increases and/or fee arrangement increases will not be allowed or reimbursed unless first approved by PREPA.

A detailed statement of your services to PREPA should be submitted on a monthly basis, within twenty (20) days after the last business day of the month in which the services were rendered, regardless of the type of fee arrangement that has been negotiated. Invoices payable by PREPA will be paid within forty-five (45) days of receipt with all the evidence needed. PREPA will not honor invoices that have been outstanding for services provided more than two (2) months before an invoice is received, as it is nearly impossible for such an invoice to be accurately reviewed and approved after such time has passed.

All invoices, must be prepared in corporate letterhead within the following framework. PREPA shall process invoices that do not include the items below. Please include in each invoice:

1. Invoice Number
2. A brief description of the project or task to which the services relate.
3. A full chronological description of the services performed during the statement period, the name of the professional who performed such services and the hourly

rates and the number of hours spent (by date) for each professional.

- 
4. Reasonable detail of the reimbursable expenses and disbursements made on behalf of PREPA during the statement period.
 5. Fees, disbursements and total charges during the statement period, fiscal year-to-date and since the commencement of the matter.
 6. If reimbursement for third party services is to be made, a copy of the relevant third party invoice must be attached.
 7. The name of PREPA's official that requested your services.

Please show clearly on the invoice the total current bill (without regard to prior balances). Prior balances or payment history should be shown separately, if at all, by invoice number, invoice date, and amount.

Media Relations

Any and all media inquiries regarding PREPA matter must be immediately referred to PREPA for review and response. Cancio, Nadal, Rivera & Díaz may not make any statement to the media pertaining to matters related to PREPA or service performed on its behalf.

END of DOCUMENT