

2021-L00104-A

FIRST AMENDMENT TO GENERAL SERVICES CONTRACT

This Amendment to General Services Contract (the "Amendment") is entered on **December 12, 2021** (the "Effective Date") by and between **LinkActiv, LLC**, a limited liability company organized and existing under the laws of Puerto Rico ("Contractor" or "LinkActiv") and **PUERTO RICO ELECTRIC POWER AUTHORITY**, an instrumentality of the Government of the Commonwealth of Puerto Rico ("Owner" or "PREPA") and represented herein by its agent, **LUMA ENERGY SERVCO, LLC**, a Puerto Rico limited liability company ("Operator" or "LUMA"). Contractor and PREPA are collectively referred to herein as the "Parties," and individually as a "Party".

Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Contract, as defined below.

WHEREAS, the Parties entered into that certain General Services Contract dated June 14, 2021 (the "Contract");

WHEREAS, the Contract, is set to expire on December 13, 2021;

WHEREAS, the Parties agree that it is in their best interest to extend the term of the Contract and, as permitted pursuant to the Contract;

WHEREAS, PREPA, by virtue of its enabling act, Act Number 83 of May 2, 1941, as amended ("Act 83"), has the authority to engage those services necessary and convenient to pursue the activities, programs, and operations of PREPA;

WHEREAS, LUMA was retained by PREPA and the Puerto Rico Public-Private Partnerships Authority ("Administrator"), under the Operation and Maintenance Agreement dated as of June 22, 2020, as may be amended from time to time and in accordance with its terms (including any amendments as may be contemplated by the Supplemental Agreement (as defined in Exhibit F-1 to such agreement)) (collectively the "OMA"), pursuant to which LUMA provides certain services to Owner and Administrator as more specifically set out therein;

NOW, THEREFORE, in consideration of the recitals set forth above and incorporated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. **Required Consents.** The Parties acknowledge that they have obtained any and all consents, permits, approvals, registrations and waivers necessary or appropriate for consummation of the Amendment as contemplated by this Amendment, all of which shall be in full force and effect as of the date hereof.
2. **Amendments.**
 - a. The Contract is hereby amended by adding a Section 5 to the Contract Confirmation form with the following language:

"Payment for Services rendered under this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Commonwealth of Puerto Rico pursuant to Law No. 18 of October 30, 1975, as amended."

- b. The Contract is hereby amended by deleting Article 20 of Exhibit A and replacing it with the following:

"The term of this Contract (the "**Contract Term**") shall start on the date of its execution and subject to earlier termination pursuant to this Contract, expire on July 14, 2022 (the "**Term Expiry Date**"), unless otherwise amended in writing by Owner and Contractor.

Owner may terminate this Contract at any time upon written notice to Contractor whereupon Owner shall be relieved of all further obligations under this Contract except for the payment of the balance outstanding for the Services performed to the effective date of termination subject to all provisions of this Contract. The termination of this Contract shall be without prejudice to the rights and remedies of the parties accrued prior to termination."

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3. Contractor represents, warrants and covenants as to the matters specified in Attachment 1, to the extent applicable to Contractor's provision of Services, which are requirements that PREPA is obligated by Puerto Rico law and the OMA to obtain from its Contractors (as defined in the OMA).
 4. **Contractor Certifications.** Contractor hereby certifies that it shall have delivered to PREPA prior to, or shall deliver on, the date of this Amendment all certifications and/or sworn statements required by Attachment 1.:
 5. **Office of the Comptroller.** Payment for Services rendered under the Contract as extended by this Amendment will not be made until this Amendment is properly registered in the Office of the Comptroller of the Commonwealth of Puerto Rico pursuant to Law No. 18 of October 30, 1975, as amended.
 6. **Binding Effect.** This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.
 7. **Counterparts.** This Amendment may be executed in any number of counterparts and by the Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.
 8. **Contract in Effect.** Except as hereby amended, the Contract shall remain in full force and effect.
 9. **Governing Law.** This Amendment shall be governed and construed under the laws of the Commonwealth of Puerto Rico, without regard to conflicts of law provisions.
 10. **Severability.** In case any provision in this Amendment shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto execute this Amendment as of the date first written above.

**PUERTO RICO ELECTRIC POWER
AUTHORITY, by its agent LUMA ENERGY
SERVCO, LLC**

LINKACTIV, LLC.

By: *Jessica Laird*
Name:
Title: VP, Customer Experience
EIN:

Per: *[Signature]*
Name: Miguel A. Osorio Torres
Title: Chief Executive Officer
EIN:

By: *[Signature]*
Name: Gregory Sarich
Title: Chief Information Officer
EIN:

[Handwritten signature]

ATTACHMENT 1

GOVERNMENT CONTRACTING REQUIREMENTS

Contractor acknowledges and agrees as follows:

Contractor shall have delivered to PREPA prior to, or shall deliver on, the date of the Amendment:

- (a) a copy of its current Certificate of Incorporation, Certificate of Organization or Certificate of Authorization to do Business in Puerto Rico issued by the Puerto Rico Department of State, as applicable; and
- (b) the following certifications, in each case dated no earlier than sixty (60) days prior to the date of the Amendment:
 - i. a copy of Contractor's Merchant Registration Certificate;
 - ii. a Certificate of Good Standing issued by the Puerto Rico Department of State;
 - iii. a certification issued by the Puerto Rico Treasury Department indicating that Contractor and its members and partners, if applicable, do not owe Puerto Rico sales and use taxes to the Commonwealth of Puerto Rico;
 - iv. a Puerto Rico Sales and Use Tax Filing Certificate issued by the Puerto Rico Treasury Department reflecting that Contractor has filed its Puerto Rico Sales and Use Tax returns for the last sixty (60) tax periods;
 - v. a certification issued by the Puerto Rico Treasury Department indicating that Contractor and its members and partners, if applicable, do not owe Puerto Rico income taxes to the Commonwealth;
 - vi. a Puerto Rico Income Tax Filing Certificate issued by the Puerto Rico Treasury Department reflecting that Contractor has filed its Puerto Rico Income Tax returns for the last five (5) tax years;
 - vii. an all concepts debt certification issued by CRIM reflecting that Contractor does not owe any taxes to CRIM with respect to real or personal property;
 - viii. a certification issued by the Puerto Rico Child Support Administration reflecting that Contractor is in compliance with the withholdings required to be made by employers under applicable laws;
 - ix. a certification issued by the Puerto Rico Labor Department reflecting that Contractor is in compliance with the withholdings required to be made by employers with respect to Unemployment and Disability Insurance; and
 - x. a sworn statement, signed before a notary public, in the form attached hereto as **Annex 1**.