

**SERVICES AGREEMENT**

**NO. 96645**

This **SERVICES AGREEMENT** (this "**Agreement**") is made and entered into as of the date of the last signature below (the "**Effective Date**"), by and between **PUERTO RICO ELECTRIC POWER AUTHORITY**, an instrumentality of the Government of the Commonwealth of Puerto Rico ("**PREPA**"), represented herein by its agent, **LUMA ENERGY SERVCO, LLC** ("**Operator**" or "**LUMA**"), and **LINKACTIV**, a Limited Liability Corporation organized under the laws of Commonwealth of Puerto Rico ("**Contractor**"). Each of PREPA and Contractor are sometimes referred to herein as a "**Party**" and together as the "**Parties**".

**RECITALS**

**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 amended from time to time in accordance with its terms (collectively the "**OMA**"), pursuant to which LUMA provides certain services to PREPA and Administrator as more specifically set out therein;

**WHEREAS**, in accordance with the terms and conditions of the OMA, and for the avoidance of doubt, LUMA is acting solely as agent to PREPA, and is not for itself or on its own behalf a party to this Agreement.

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

**WHEREAS**, Contractor is a provider of certain Contact Center Solutions services; and

**WHEREAS**, the Parties desire to enter into this Agreement to provide for, among other things, the performance by Contractor of certain Contact Center services including, and in accordance with Contractor's proposal attached hereto as **Exhibit A** (the "**Proposal**"). If any part of the Proposal is found to be inconsistent with the terms and conditions set forth herein, the terms and conditions set forth herein shall take precedence over the Proposal and govern the matter in question.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby covenant and agree as follows:

**AGREEMENT**

1. **Interpretation and Construction of this Agreement.**

1.1 The Recitals above are included as an integral part of the terms and conditions of this Agreement.

1.2 As long as the OMA is in effect, (i) all provisions hereunder relating to PREPA taking any action, receiving any notice or disclosure, making any determination (including but not limited to the termination of the Agreement), or otherwise referencing PREPA as beneficiary of the terms and conditions of the Agreement, shall be understood to refer to LUMA, acting on PREPA's behalf and (ii) all references to "**LUMA**" shall be understood to mean LUMA on its own behalf, as third party beneficiary of this Agreement. For the avoidance of doubt, PREPA (directly and not through LUMA as its agent) is prohibited



from taking any action or giving any consent hereunder as long as the OMA is in effect. For the further avoidance of doubt, LUMA shall have no liability hereunder [except in case of gross negligence or willful misconduct] for any actions it may take on PREPA's behalf, and all such liability shall be exclusively PREPA's.

1.3 Exhibits, Annexes and Statements of Work. The Exhibits referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. In the event of an irreconcilable conflict, discrepancy, error or omission, the following descending order of precedence will govern: (i) this Agreement and (ii) the Exhibits.

1.4 Construction. For purposes of this Agreement: (i) "include", "includes" or "including" shall be deemed to be followed by "without limitation"; (ii) "hereof", "herein", "hereby", "hereto" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement; (iii) reference to a gender includes the other gender; (iv) "any" shall mean "any and all"; (v) reference to any agreement, document or instrument means such agreement, document or instrument as amended, supplemented and modified in effect from time to time in accordance with its terms; (vi) reference to any Applicable Law means such Applicable Law as amended from time to time and includes any successor legislation thereto and any rules and regulations promulgated thereunder; and (vii) reference to any Person at any time refers to such Person's permitted successors and assigns.

1.5 Days and Time. All references to days herein are references to calendar days, unless specified as Business Days, and, unless specified otherwise, all statements of or references to a specific time in this Agreement are to Atlantic Standard Time.

1.6 Negotiated Agreement. The Parties have participated jointly in the negotiation and drafting of this Agreement with the benefit of competent legal representation, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions hereof.

## 2. Performance of Services.

2.1 Scope of Services. Subject to the terms and conditions of this Agreement, the Contractor's services shall be consistent with the provision of the deliverables, tasks and services described in the Proposal and such other tasks delegated to it by PREPA and within the capabilities of the Contractor (the "Services").

2.2 Performance of Services. Contractor shall complete performance of the Services in compliance with all applicable laws, rules, regulations, court orders and, to the extent the Services are subject to rules of ethics of a profession, comply with any such applicable rules. Contractor shall use the best practices acknowledged in the industry and adhere to express specifications and policies regarding the performance and delivery of the Services.

2.3 Relationship Manager. Contractor shall designate a relationship manager (the "Relationship Manager") who shall serve as the main contact for Contractor and be responsible for all questions relating to the implementation of this Agreement. Contractor shall instruct its personnel that any and all questions with respect to the Services shall be addressed with, and directed to, the Relationship Manager.





2.4 Personnel. The persons designated by Contractor to perform the Services shall have the appropriate technical and professional skills to enable them to perform the Services in a professional manner, consistent with generally accepted industry standards. Contractor shall not subcontract any of the Services without PREPA's prior written consent, which consent may be withheld in PREPA's sole discretion. Contractor shall retain full responsibility to PREPA under this Agreement for all matters related to the Services notwithstanding the execution or terms and conditions of any subcontract. No failure of any subcontractor used by the Contractor in connection with the provision of the Services shall relieve the Contractor from its respective obligations hereunder to perform the Services. The Contractor shall be responsible for settling and resolving all subcontractor claims arising out of delay, disruption, interference, hindrance, or schedule extension caused by Contractor or inflicted on Contractor or a subcontractor by the actions of another subcontractor.

3. Compensation.

3.1 Fees for Services.

(a) Fees for Services provided will be billed on an hourly basis pursuant to Exhibit B – Fees, attached hereto.

(b) The total amount to be paid by PREPA for Services provided hereunder shall in no event exceed \$500,000.00 (the "Contract Ceiling") including reimbursable expenses, unless otherwise agreed to by the Parties. The Contract Ceiling shall not be exceeded without prior written approval by PREPA, as evidenced by a written amendment to this Agreement.

3.2 Payment for Services. **Payment for Services rendered under this Agreement will not be made until this Agreement 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.**

3.3 Invoices.

(a) Contractor shall submit monthly invoices to PREPA within thirty (30) days of performing the Services, which shall include a detailed description of the Services rendered by the Contractor[, complying with PREPA's billing guidelines attached hereto as Exhibit C]. PREPA shall remit payment to Contractor within forty-five (45) days following its receipt of each such invoice; provided that PREPA may withhold payment of any amounts that are disputed by PREPA in good faith pending resolution of the dispute. In case of a dispute, PREPA shall notify Contractor of the disputed element and once the dispute is resolved according to Section 14 hereof, PREPA shall make the payment agreed to by the Parties within ten (10) days following resolution.

(b) Invoices must have the following information in order for payment to be made: (i) invoice number; (ii) invoice date; (iii) date(s) that the Services were provided; (iv) detailed description of the Service provided [or milestones completed/delivered, as applicable]; (v) itemized invoice amount; and (vii) the following certification: "*We certify under penalty of nullity that no public servant of the Puerto Rico Electric Power Authority 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 this Services Agreement by and among the Puerto Rico Electric Power Authority ("PREPA") and LinkActiv, Inc dated [Effective Date] (the "Agreement"). The only consideration to be received for the Services (as defined in the Agreement) are the agreed-upon fees that have been negotiated with PREPA as specified in the Agreement. The total amount shown on this invoice is true and correct. The Services were provided, and no payment has been received.*"



3.4 Withholdings. The Contractor is an independent contractor and, as such, shall be responsible for the payment of all of its taxes and any applicable withholdings under the Puerto Rico Internal Revenue Code of 2011 and its regulations, as amended ("PRIRC"), the U.S. Internal Revenue Code- of 1986, as amended, or any state, territory or local tax statutes. No withholdings or deductions shall be made from payments to the Contractor for services rendered by Contractor, except for those required by any federal, state, territory, or local statutes, such as the PRIRC and Act No. 48-2013, as amended. In particular, when invoicing, the Contractor will allocate fees between those relating to activities undertaken by the Contractor outside Puerto Rico and constituting gross income from sources without Puerto Rico, and those relating to activities undertaken within Puerto Rico and constituting gross income from sources within Puerto Rico. If the Contractor is not engaged in a trade or business in Puerto Rico, it will be deemed to be treated as a Puerto Rico non-resident for purposes of the PRIRC, and, therefore, PREPA shall deduct and withhold twenty-nine percent (29%) of the gross amounts paid on those invoiced amounts which constitute gross income from sources within Puerto Rico, in accordance with Section 1062.11 of the PRIRC, 13 L.P.R.A. Sec. 30281. PREPA shall remit and deposit with the Secretary of the Treasury of Puerto Rico any applicable withholdings or deductions made on payments to the Contractor. Withholding requirements will be adjusted pursuant to any amendments to the PRIRC.

The Contractor represents and warrants that it has and shall continue to pay all taxes and other such amounts required by federal, state, territory and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.

4. Representations and Warranties.

4.1 No Conflicts; Authority. The execution, delivery and performance by Contractor of this Agreement, does not and will not breach or result in a default (or an event which, with the giving of notice or the passage of time, or both, would constitute a default) under, require any consent under, or give to others any rights of termination, acceleration, suspension, revocation, cancellation or amendment of, any agreement affecting Contractor's ability and power to perform hereunder. Contractor has all the authority and power necessary to execute, deliver and perform this Agreement without the need to obtain the consent of any person or entity, or if required it has been obtained and documented.

4.2 Quality of Services. Contractor represents, warrants and covenants to PREPA that the Services performed hereunder shall (i) be of professional quality, consistent with generally accepted industry standards and expectations for work of a similar nature, (ii) comply with all specifications and any other written documentation agreed upon by the Parties and (iii) be performed in accordance with applicable laws and industry standards. In the event the Services provided by Contractor breach the foregoing warranty, Contractor shall promptly reperform such Services in breach of said warranty, at no additional cost to PREPA or, failing such reperformance, refund to PREPA all amounts paid by PREPA for such Services.

5. Ownership of Intellectual Property. PREPA has, retains and will own all of the right, title and interest (including patents, copyrights, mask work rights, trade secrets and any other intellectual property rights) in and to its products and services, related data, documentation and information, including all upgrades, updates, modifications, development, revisions, changes, copies, translations, compilations, derivative works, improvements and successor products and services thereto developed by PREPA, its employees or agents (other than Contractor) ("PREPA IP"), including without limitation PREPA IP developed and/or owned prior to the Effective Date and intellectual property developed by PREPA, its employees or agents during or after the Term independently of this Agreement.

Contractor shall not have or obtain any right, title or interest in or to any PREPA IP. The Services provided by Contractor hereunder shall be deemed "work made for hire" in PREPA's favor. Other than such "work





made for hire” in PREPA’s favor that may be hired under this Agreement, Contractor has, retains and will own all of the right, title and interest (including patents, copyrights, mask work rights, trade secrets and any other intellectual property rights) in and to its products and services, related data, documentation and information, including all upgrades, updates, modifications, development, revisions, changes, copies, translations, compilations, derivative works, improvements and successor products and services thereto developed by Contractor, its employees or agents prior to the Effective Date and intellectual property developed by Contractor, its employees or agents, during or after the Term, independently of the works made for hire for PREPA under this Agreement (“Contractor IP”).

6. Confidential Information.

6.1 Confidential Information. Contractor acknowledges that during the Term of this Agreement, it may develop or be exposed to Confidential Information of PREPA or LUMA. Contractor agrees at all times during the Term of this Agreement and thereafter, to hold in strictest confidence, and not to use, or to disclose to any person, firm, corporation or other entity, without written authorization of PREPA, any Confidential Information. As used herein, “Confidential Information” means (i) with respect to LUMA: any and all written or oral information (whether or not on paper, in electronic form, or otherwise, whether or not marked or identified as confidential, and whether or not disclosed or learned prior to the execution of this Agreement) disclosed to Contractor or its personnel by or on behalf of LUMA or any of LUMA’s affiliates, or learned by Contractor or its personnel during the course of performing the Services, including all offers, maps, reports, assay or other statistical, geological, or geophysical data, technical data, financial, operating, or other information, in each case related to the business, operations, assets, or affairs of LUMA or any of LUMA’s affiliates, or confidential information of third parties to whom LUMA or any of LUMA’s affiliates owes an obligation of confidence, to the extent notice of such obligation is given to Contractor, and any derivatives of any such information; and (ii) with respect to PREPA: any and all written or oral information (whether or not on paper, in electronic form, or otherwise, whether or not marked or identified as confidential and whether or not disclosed or learned prior to the execution of this Agreement) disclosed to Contractor or its personnel by or on behalf of PREPA, or learned by Contractor or its personnel in the course of performing the Services, deemed information that if disclosed would pose a threat to public security and/or safety, or any other information considered PREPA’s privileged or confidential information pursuant to applicable Law.

6.2 Return of Confidential Information. Contractor shall retain Confidential Information related to this Agreement only for so long as is necessary to provide the Services under this Agreement. Upon completion of such Services, Contractor shall turn over to PREPA (and will not keep in its possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, flow charts, equipment, other documents or property, or reproductions of any aforementioned items developed by or otherwise belonging to PREPA or LUMA. All derivative materials, including notes, memoranda, analysis and other internal documents developed using or in connection with the Confidential Information, and copies thereof developed in connection with the Services shall be considered Confidential Information and subject to the obligations of this article.

7. Conflict of Interest. The Contractor certifies that:

A. none of its representatives under this Agreement are employed by or receive payment or compensation for such employment from any governmental agency, body, public corporation or municipality of Puerto Rico;

B. no Puerto Rico government, PREPA or LUMA employee has any personal or economic interest in this Agreement;



C. it may have service contracts with other governmental agencies, bodies, public corporations or municipalities of Puerto Rico, but such contracts do not constitute a conflict of interest for the Contractor, with PREPA or LUMA, or otherwise bias the Contractor's judgement, in its performance of the Agreement;

D. at the time of execution of this Agreement, it does not have any other contractual relationship that could be deemed to constitute a conflict of interest for the Contractor, or otherwise bias the Contractor's judgement, in its performance of the Agreement;

E. it had no involvement in preparing the specifications or work statements contemplated under this Agreement;

F. it did not, prior to submitting a proposal, have access to another competitor's proprietary information that was obtained from a Puerto Rico government official, PREPA or LUMA without proper authorization; and

G. it did not, prior to submitting a proposal, have access to source selection information (i.e., information prepared for use by PREPA or LUMA for the purpose of evaluating a bids or proposals to enter into an agreement, if that information was not previously made available to the public or disclosed publicly) that is relevant to the Agreement but was not available to all competitors, and such information would assist that contractor in obtaining the contract.

(ii) The Contractor acknowledges that it has a duty of ethical behavior towards PREPA. Such duty includes that Contractor shall not have interests that conflict with PREPA's interests in this Agreement or the Services pursuant to this Agreement. Those conflicting interests include the following (which are illustrative and not exhaustive):

A. the representation of clients which have, or may have, interests opposed to those of PREPA in relation to the Services (if applicable based on the type of Services by Contractor);

B. when Contractor's conduct is described as such in the canons of ethics that may be applicable to the Contractor and its personnel or in the laws or regulations applicable to Contractor and its personnel assigned to the Services;

C. when the Contractor, persons that control Contractor, or Contractor's employees, directors, or officers directly or indirectly, for themselves or any other third party, obtain, request or give to PREPA or LUMA or an employee, officer, director or agent of PREPA or LUMA, any profit, utility, advantage or gain by way of improper acts or exercise of undue influence.

(iii) The Contractor agrees to avoid even the appearance of a conflict of interest.

(iv) The Contractor shall have the continuous obligation to promptly disclose to PREPA if any relationship with third parties could represent a conflict of interest with PREPA in connection with the Agreement or the Services. In such case, and in the cases where PREPA or LUMA discovers the existence of such conflicting situation, the Contractor agrees that PREPA shall have the authority to determine, and inform the





Contractor in writing, of PREPA's intention to terminate this Agreement within a thirty (30) day period of becoming aware of the conflicting situation. During said period, the Contractor may request a meeting with PREPA to present its position regarding the alleged conflict of interest, which meeting shall be promptly granted. In the event the Contractor does not request such a meeting during the aforementioned thirty (30) day period, or the controversy is not satisfactorily settled during the referenced meeting, PREPA shall make a determination to terminate the Agreement.

(v) In the event that persons that control the Contractor, or any Contractor employee, director, or officer violates the provisions of this Section 7 and such actions are not cured or by their nature cannot be cured, it shall constitute a breach of this Agreement.

8. Non-Solicitation. During the Term of this Agreement and for a period of two (2) years thereafter, Contractor shall not, either directly or indirectly, (a) solicit, induce, recruit or encourage any of PREPA's or LUMA's employees to terminate his or her relationship with PREPA or LUMA (as the case may be), nor (b) hire or take away (or attempt to hire or take away) any such employee, either for Contractor or for any other person or entity. As used herein, "employee" shall include any person that was an employee of the PREPA or LUMA at any time during the six (6)-month period immediately prior to the date on which such solicitation or hiring takes place. The foregoing non-solicitation covenants shall not apply (1) to a party's public posting or notification of open positions, or (2) to a party's hiring of any employee or agent of the other party as a result of such public postings or notifications.

9. Non-Disparagement. Contractor shall not disparage PREPA or LUMA, or its services, products or other applications, or business.

10. Remedies for Breach of Sections 6, 8 and 9.

10.1 Equitable Remedies. Contractor agrees that violation of the provisions of Section 6, Section 8 and/or Section 9 may cause immediate and irreparable harm to LUMA and/or PREPA for which money damages may not constitute an adequate remedy at law. Therefore, Contractor agrees that, in the event it breaches or threatens to breach said provisions or covenants, PREPA and LUMA (for itself and/or on behalf of PREPA) shall have the right to seek, in any court of competent jurisdiction, an injunction to restrain said breach or threatened breach, without posting any bond or other security.

10.2 Miscellaneous. Should it become necessary for PREPA and/or LUMA to file suit to enforce the covenants contained herein, PREPA and/or LUMA shall be entitled to recover, in addition to all other damages provided for herein, the costs incurred in prosecuting said suit, including reasonable attorneys' fees. In the event that a court of competent jurisdiction shall determine that one or more of the provisions of Sections 6, Section 8 and/or Section 9 are so broad as to be unenforceable, then such provision shall be deemed to be reduced in scope or length, as the case may be, to the extent required to make such Sections enforceable. Contractor acknowledges and agrees that the provisions of Section 8 and/or Section 9 are reasonably designed to protect the valuable interests of PREPA and LUMA and are reasonable with respect to duration, geographical area and scope.

11. Relationship of the Parties.

11.1 Independent Contractor. Contractor agrees that this Agreement does not create an agent, representative or employer-employee relationship between the Contractor and PREPA or LUMA, and Contractor agrees not to hold itself out as an agent, representative or employee of PREPA or LUMA. Contractor also agrees that all services hereunder will be rendered by Contractor as an independent contractor. Contractor does not and shall not have any right or authority whatsoever to assume or to create



any obligation or responsibility, express or implied, on behalf of or in the name of PREPA or LUMA or to bind PREPA or LUMA in any manner. The Services contracted for shall be on a non-exclusive basis, and PREPA shall be free to contract with one or more other persons for the performance of the same or similar services, or to perform such services directly.

11.2 Employee Benefits. Neither Contractor nor any persons designated by Contractor to perform the Services shall be eligible to participate in any employee benefit programs and the like of PREPA or LUMA. Accordingly, Contractor acknowledges that no state worker's compensation, unemployment compensation, or disability laws are intended to apply to the services provided by Contractor as an independent contractor, and Contractor acknowledges that it shall be responsible for, and comply with, all applicable federal, state and local income or payroll tax requirements.

12. Term and Termination; Suspension.

12.1 Term. Unless earlier terminated as set forth herein, the Agreement shall be in effect for one year from the Effective Date (the "Expiration Date"), provided that the Expiration Date may be extended by amendment executed in writing by the Parties.

12.2 Termination for Convenience. PREPA may terminate this Agreement, for any or no reason, by delivering thirty (30) days' prior written notice to Contractor. Any such termination shall be effective at the end of the calendar month in which such thirty (30) day period expires.

12.3 Cooperation. If PREPA terminates or suspends this Agreement, Contractor will assist PREPA in the orderly termination or suspension of the Services, including timely transfer of the Services to another provider designated by PREPA; provided, however, that PREPA will reimburse Contractor for the actual reasonable and agreed costs of rendering such assistance.

13. Insurance. Contractor, at its sole cost and expense, shall at all pertinent times during the Term of this Agreement possess the insurance coverages set forth in Exhibit D.

14. Indemnification; Limitations on Liability.

14.1 Mutual Indemnification for Certain Claims. Each Party (in such capacity, the "Indemnifying Party") will defend the other Party and its clients, customers, affiliates, and their respective directors, officers, employees and agents (each, an "Indemnified Party"), from and against any threatened or actual third-party suit, proceeding, claim or demand of any nature against an Indemnified Party in which it is alleged that (a) any Services or materials provided pursuant to this Agreement by the Indemnifying Party infringes any patent, copyright, trade secret or other intellectual property right of a third party or (b) negligence or willful misconduct on the part of the Indemnifying Party or its employees or agents has resulted in bodily injury to any person or damage to any tangible property (each of (a) and (b), a "Third-Party Claim"). In addition, the Indemnifying Party will indemnify and hold harmless the Indemnified Party from and against any and all damages, costs and other amounts (including, without limitation, reasonable attorneys' fees) suffered or incurred by it in connection with (a) the adjudication or settlement of any Third-Party Claim, provided that the Indemnified Party gives the Indemnifying Party prompt notice of such action or proceeding, the Indemnifying Party has control over the defense or settlement of the claim or proceeding and the Indemnified Party cooperates with the Indemnifying Party in the defense of such claim or proceeding; or (b) any material breach by the Indemnifying Party of this Agreement.

14.2 Limitations on Liability. IN NO EVENT SHALL PREPA BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR LOST PROFITS, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT,





CONSEQUENTIAL DAMAGES OR THE LIKE, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER PREPA HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL PREPA'S AGGREGATE LIABILITY TO CONTRACTOR OR ANY THIRD PARTY FOR ANY CLAIMS, LOSSES, INJURIES, SUITS, DEMANDS, JUDGMENTS, LIABILITIES, COSTS, EXPENSES OR DAMAGES FOR ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS AGREEMENT) AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, EXCEED THE TOTAL FEES PAID BY PREPA TO CONTRACTOR RELATED TO THE SERVICES THAT GAVE RISE TO SUCH CLAIM. THE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES. THE LIMITATIONS SPECIFIED IN THIS SECTION 14.2 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

15. Dispute Resolution. If a dispute arises out of this Agreement, the Parties shall attempt to resolve the dispute first through direct discussion. If the dispute cannot be settled through direct discussion, then, except for the enforcement of remedies provided in Section 10, any such dispute shall be determined by binding arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules. Such arbitration shall be conducted in San Juan, Puerto Rico in the English language. The judgment of the arbitrators shall be final and binding on the Parties, and judgment upon the award rendered by the arbitrators may be entered and enforced by any court of the United States or any state thereof having jurisdiction

16. Miscellaneous.

16.1 OMA acknowledgement; Assignment. By executing this Agreement, Contractor acknowledges and agrees that it has reviewed the OMA located at: <https://aa1af.pr.gov/p3/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf> pursuant to which LUMA has agreed to provide certain services to PREPA and Administrator as more specifically set out therein. Pursuant to Section 11.2 of the OMA, Contractor acknowledges and agrees that all warranties and other rights related the T&D System (as defined in the OMA), including contracts such as this Agreement, shall be assignable to Administrator or a person designated by Administrator, solely at Administrator's election and without cost or penalty, at the end of the Term (as defined in the OMA) or upon early termination of the OMA. Contractor may not assign this Agreement without the prior written consent of PREPA.

16.2 Compliance with Applicable Law. Contractor represents, warrants and covenants as to the matters specified in Exhibit C – Government Contracting Requirements, which are requirements that PREPA is obliged by Puerto Rico law and the OMA to obtain from its Contractors (as defined in the OMA).

16.3 Third Party Beneficiaries. Except as set forth with respect to LUMA in this Agreement, the Parties do not confer any rights or remedies upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

16.4 Use of Name. Contractor shall not use the name, logo, trademarks or trade names of PREPA or LUMA in any publicity releases, promotional material, customer lists, advertising, marketing or business-generating efforts, whether written or oral, without obtaining PREPA's/LUMA's prior written consent, which consent shall be given at PREPA's/LUMA's sole discretion.

16.5 Governing Law. This Agreement shall be construed, interpreted and applied in accordance with and governed by the internal laws of the Commonwealth of Puerto Rico without regard to its choice of law principles.

16.6 Notices. Any notice or other communication required or permitted by this Agreement shall be deemed to have been validly given if the same shall be mailed by registered, certified mail, postage prepaid, or electronic mail and addressed to the proper Party at the address provided below:

Puerto Rico Electric Power Authority  
c/o LUMA Energy ServCo, LLC  
1250 Avenida de la Constitución, 8th Floor  
San Juan, PR 00907

With copies to:

**LUMA Energy ServCo, LLC**  
1110 Ave. Ponce de León, Pda. 16 1/2, Edfic.  
NEOS - Ofic. 607, SAN JUAN, PR, 00907  
PO Box 364267, SAN JUAN, PR, 00936-4267  
Email: [legal@lumapr.com](mailto:legal@lumapr.com)  
Phone: (787) 520-6194  
Attention: General Counsel

**LinkActiv, Inc**  
Calle Diana Lote 20, Parque Industrial Amelia,  
Guaynabo, PR 00968  
PO Box 366398  
San Juan, PR 00936-6398  
Phone: (787) 641-0101

16.7 Entire Agreement; Amendment. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof and thereof. This Agreement supersedes all prior or contemporaneous representations, discussions, negotiations, letters, proposals, agreements and understandings between the Parties hereto with respect to the subject matter hereof, whether written or oral. This Agreement may be amended, modified or supplemented only by a written instrument duly executed by an authorized representative of each of the Parties.

16.8 Severability. Any portion or provision of this Agreement that is held to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity, illegality, or unenforceability, without affecting in any way the remaining portions or provisions of this Agreement or, to the extent permitted by law, rendering that or any other portion or provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction.

16.9 Waiver. Either Party's exercise or failure to exercise any right or remedy shall not preclude the exercise of that or any other right or remedy at any time. Failure by either Party to enforce its rights and remedies shall not constitute or be construed as a waiver or otherwise preclude such Party from enforcing the same, or other, rights and remedies in the future.

16.10 Counterparts. This Agreement may be executed in any number of counterparts, and may be delivered originally, by facsimile or by Portable Document Format ("PDF") or other electronic means and each such original, facsimile copy, PDF, or other electronic document when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.





16.11 Headings. Any headings preceding any of the Sections hereof are inserted solely for convenience of reference, shall not constitute a part of the Agreement and shall not otherwise affect the meanings, content, effect or construction of this Agreement.

16.12 Time is of the Essence. Time is of the essences with respect to the performance of this Agreement.

[signature page follows]

A handwritten signature in blue ink, consisting of a stylized, cursive script that appears to be the initials 'JA' or similar, with a large loop at the top.

IN WITNESS WHEREOF, the Parties hereto have caused this Services Agreement to be executed by their duly authorized representative as of the [Effective Date/date of the last signature set forth below].

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

**LINKACTIV, LLC  
EIN:**

Per: Jessica Laird  
Jessica Laird  
VP, Customer Experience  
Date: Oct 21, 2022

Per:   
Francisco Brigantty  
COO  
Date: 10/19/22

Per: Mariano Mier  
Mariano Mier (Oct 21, 2022 05:42 EDT)  
Mariano Mier  
VP, Procurement & Contracts  
Date: Oct 21, 2022



**EXHIBIT A**

**PROPOSAL**

October 13, 2022



PRIVATE & CONFIDENTIAL



**Contact Center Solutions**

**LinkActiv's Solutions for LUMA**

LUMA was created especially for Puerto Rico. LUMA combines the expertise and resources of their parent companies, ATCO and Quanta Services. They are leading companies in services and solutions in the electric power sectors in North America and have taken their action to more than 100 countries around the world. They have a combined workforce of nearly 50,000 employees, as well as equipment and resources that will be available to Puerto Rico.



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## Contact Center Solutions (cont'd)

### LinkActiv's key elements for a successful program implementation

**People** – rigorous candidate selection (customer service & sales agents) & hiring process to ensure optimum and consistent campaign performance. Right agents, right fit = better customer service !

**Training**: Train the trainer module. Ensuring & accelerating employee's development & performance, increasing competitiveness & productivity. Embedded commitment towards client's skills and compliance requirements. Acute alignment with client's goals, vision and mission.

**Dedicated Team**: dedicated resources with vast experience in customer service management & IT support. Account Team – "Brand Team": a multidisciplinary team where each resource performs tasks relating to its area, but in line with the brand, objectives and expectations of the client.

**Processes** – comprehensive training and testing on LinkActiv and client service protocols and standards. The objective is to shorten campaign ramp-up time and agent's time to competency, key factor to a consistent customer service operation.

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## Contact Center Solutions (cont'd)

### LinkActiv's key elements for a successful program implementation

**Technology / Operational set-up** In-house IT and operational resources committed to guarantee optimum connectivity, communication and compliance with client's operational requirements (e.g.: Genesys Cloud Base) and service level agreements (SLA's)

**State-of-the-art facilities**- three facilities located in San Juan, Aguadilla and Roosevelt Roads Ceiba, Puerto Rico.

**Work from Home Solution** - robust technology to enable agents working from home.

**Certifications**: proven track record serving compliance-intensive, regulated industries.

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# LUMA Contact Center Proposal PR pricing

## Proposal

### Program Requirements

- Inbound Campaign
- 100 agents
- Training: 1-2 weeks
- Language: Spanish
- Hours of operation
  - Mon-Sun/ 6am – 12am
- AHT: 7 minutes
- Project length: 1 year contract

### LinkActiv Inbound Pricing & Program Structure

- **Operation Structure Ratios considered in the proposal for pricing purposes.**
  - Agents: **\$18.50 USD** (per agent/hour) Include:
    - Quality Agent (1:35 agents)
    - Manager (1:300 agents)
    - Back Office (1:100 agents)
  - Supervisors: **\$18.00 USD** (per supervisor/hour)
  - Training **\$16.00 USD** (per agent/hour)
  - Telephony Outbound cost \$0.03 per minute.
  - Additional programing hour (if needed) \$125 per hour

\*Prices are based on the preliminary information provided by the client. Any additional requirements outside this scope of work will be discussed and quoted separately by agreement.

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# LUMA Contact Center Proposal-Colombia Pricing

## Proposal

### Program Requirements

- Inbound Campaign
- 100 agents
- Training: 1-2 weeks
- Language: Spanish
- Hours of operation
  - Mon-Sun/ 6am – 12am
- AHT: 7 minutes
- Project length: 1 year contract

### LinkActiv Inbound Pricing & Program Structure

- **Operation Structure Ratios considered in the proposal for pricing purposes.**
  - Agents: **\$14.50 USD** (per agent/hour) Include:
    - Quality Agent (1:35 agents)
    - Manager (1:300 agents)
    - Back Office (1:100 agents)
  - Supervisors: **\$16.00 USD** (per supervisor/hour)
  - Training **\$12.00 USD** (per agent/hour)
  - Telephony Outbound cost \$0.03 per minute.
  - Aditional programing hour (if needed) \$125 per hour

\*Prices are based on the preliminary information provided by the client. Any additional requirements outside this scope of work will be discussed and quoted separately by agreement.

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Partner Smart

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## EXHIBIT B

### ALL-INCLUSIVE CHARGE OUT RATES

#### Program Requirements:

- Inbound Campaign
- 100 agents
- Training: 1-2 weeks
- Language: Spanish
- Hours of operation
  - Mon-Sun/ 6am – 12am
- AHT: 7 minutes
- Project length: 1 year contract

Operation Structure Ratios considered in the proposal for pricing purposes.

- Agents: \$18.50 USD (per agent/hour) Include:
  - Quality Agent (1:35 agents)
  - Manager (1:300 agents)
  - Back Office (1:100 agents)
- Supervisors: \$18.00 USD (per supervisor/hour)
- Training \$16.00 USD (per agent/hour)
- Telephony Outbound costs \$0.03 per minute.
- Additional programming hour (if needed) \$125 per hour





## EXHIBIT C

### GOVERNMENT CONTRACTING REQUIREMENTS

**Contractor acknowledges and agrees as follows:**

1. Contractor, for itself and its members or partners (if Contractor is a partnership under the Puerto Rico Internal Revenue Code of 2011, as amended), represents and warrants that as of the Effective Date (a) neither it nor its members or partners, as applicable, has any outstanding debts for unemployment insurance, temporary disability, or chauffeur's social security with the Department of Labor and Human Resources of the Commonwealth, workman's compensation with the State Insurance Fund, income taxes or sales and use taxes with the Department of Treasury of the Commonwealth, or real or personal property taxes with the Municipal Revenues Collection Center ("CRIM") or (b) it or its members or partners, as applicable, have a payment plan in place with respect to any outstanding debt for the foregoing items and have complied therewith.
2. Contractor hereby certifies that it is in compliance with any applicable obligation it may have with the Puerto Rico Child Support Administration (*Administración de Sustento de Menores* (ASUME)). As evidence thereof, Contractor has delivered to PREPA a certification issued by ASUME certifying that Contractor does not have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME.
3. Contractor hereby certifies that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act 168-2000, as amended known as the "Law for the Strengthening of the Family Support and Livelihood of Elderly People", the same is current and in all aspects in compliance.
4. Any and all necessary waivers regarding the Agreement have been obtained from any government entity and said waivers shall become part of the contracting file.
5. Contractor shall have delivered to PREPA prior to, or shall deliver on, the Effective Date:
  - (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 Assignment and Amendment Agreement:
    - 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 **Attachment 1**.
- (c) Contractor may provide a RUP Certification in lieu of providing each individual certification listed in Section 5(b).
6. In providing the services, Contractor, covenants, represents and warrants to PREPA as follows:
- (a) Neither Contractor, its subsidiaries or affiliates, nor, when acting on behalf of Contractor or its subsidiaries or affiliates, any director or officer or employee of Contractor or its subsidiaries or its affiliates (together "Contractor Group Members") and each a "Contractor Group Member") shall violate, conspire to violate, or aid and abet the violation of any Anti-Corruption Laws. No funds transferred by LUMA to Contractor shall be transferred by Contractor or any Contractor Group Member, directly or indirectly, in violation of any Anti-Corruption Laws.
  - (b) Neither Contractor nor any Contractor Group Member are Sanctioned Persons or are located, organized or resident in a Sanctioned Country. Neither Contractor nor any Contractor Group Member shall directly or, knowingly, indirectly, engage in any transactions or business activity of any kind with a Sanctioned Person or a Person located, organized or resident in a Sanctioned Country. No funds transferred by PREPA to Contractor shall be transferred by Contractor or any Contractor Group Member, directly or indirectly, to a Sanctioned Person, a Person located, organized or resident in a Sanctioned Country, or in violation of Sanctions;



- (c) Contractor and Contractor Group Members shall maintain and implement policies, procedures and controls reasonably designed to ensure compliance by Contractor with the Anti-Corruption Laws and Sanctions;
- (d) Contractor shall promptly notify PREPA in writing if, to Contractor's knowledge, Contractor, or any Contractor Group Member, in connection with this Agreement or the Services, becomes subject to any investigation by law enforcement or regulatory authorities in connection with the Anti-Corruption Laws or Sanctions;
- (e) Contractor shall at all times comply with all applicable Law regarding non-discrimination;
- (f) Contractor attests, subject to the penalties for perjury, that no member of Contractor or Contractor Group, directly or indirectly, to the best of Contractor's knowledge, entered into or offered to enter into any combination, conspiracy, collusion or agreement to receive or pay any sum of money or other consideration for the execution of this Agreement other than that which is expressly set forth in this Agreement;
- (g) Contractor shall inform PREPA if, at any time during the Term, there are any material Tax disputes with any Governmental Body of the Commonwealth;
- (h) Contractor shall inform PREPA if, at any time during the Term, it or any of its Contractor Group Members becomes aware that any of them are subject to investigation in connection with criminal charges related to acts of corruption, the public treasury, the public trust, a public function or charges involving public funds or property;
- (i) Pursuant to Section 5(f) of Act 120 and subject to the provisions of the OMA, Contractor shall at all times comply with the public policy and regulatory framework applicable it with respect to the T&D System; and
- (j) In delivering the goods or services, Contractor shall:
  - i. to the extent that the goods or services are subject to rules of ethics of a profession, comply with any such applicable rules;
  - ii. to the extent that the goods or services involve performance of architectural, engineering, land surveying and landscape architecture services governed by Act No. 173 of the Legislative Assembly of Puerto Rico, enacted on August 12, 1988, as amended ("Act 173"), comply with Act No. 173; and
  - iii. as required by Article 11 of Act No. 14-2004, use commercially reasonable efforts to use, to the extent available and applicable to the goods or services, and to the extent permitted by law and the Federal Funding Requirements, goods extracted, produced, assembled, packaged, bottled or distributed in the Commonwealth of Puerto Rico by businesses operating in the Commonwealth of Puerto Rico or distributed by agents established in the Commonwealth of Puerto Rico.





7. **Consequences of Non-Compliance.** Contractor expressly agrees that the conditions outlined throughout this Exhibit B are essential requirements to contract with PREPA. Consequently, should any of these representations, warranties, and certifications be incorrect, inaccurate or misleading, in whole or in part, then this will be deemed a material breach by Contractor and permit PREPA to terminate the Agreement. PREPA shall also have the right to terminate the Agreement in the event of Contractor's negligence, dereliction of duties or breach of the Agreement, without limiting any other rights and remedies that PREPA may have as a result thereof, including, in the remedies available to it under Act No. 2-2018.
  
8. Contractor hereby certifies that it has not been convicted in any Puerto Rico or United States Federal court of any of the crimes under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico ("Act 1-2012"), any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code ("Act 146-2012"), any of the crimes typified in Act No. 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico ("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 No. 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").

PREPA shall have the right to terminate the Agreement in the event Contractor is convicted in Puerto Rico or United States Federal court of any of the crimes under Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, any of the crimes typified in Act No. 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 No. 8-2017.

Furthermore, Contractor agrees to comply with the provisions of Act 2-2018, as the same may be amended from time to time.

9. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the OMA.

**Interagency Services Clause:** Pursuant to Memorandum No. 2021-003, Circular Letter 001-2021, of the Office of the Governor of Puerto Rico and the Office of Management and Budget, both Parties acknowledge and agree that the contracted services herein may be provided to any entity of the Executive Branch which enters into an interagency agreement with PREPA or by direct provision of the Office of the Chief of Staff of the Governor of Puerto Rico. These goods or services will be performed under the same terms and conditions regarding hours of work (if applicable) and compensation set forth in the Agreement.

**Termination Clause:** To the extent required by Act No. 3-2017 and OE-2021-003, or other applicable law, order or circular letter, the office of the Chief of Staff shall have the authority to terminate this Agreement at any time; provided that in any such event Contractor shall be entitled to payment in full for the Services provided by it through the date of termination.

PREPA certifies that, to the extent applicable, the Agreement has the appropriate governmental authorizations necessary for its execution, and according to the provisions in the Act No. 3-2017, known as the "Act to Address the Economic, Fiscal, and Budget Crisis to Guarantee the Operations of the Government of Puerto Rico." Furthermore, PREPA certifies that, also to the extent applicable, it has obtained written



approval of the Government Chief of Staff and the Office of Management and Budget, pursuant to Memorandum Number 2017-001 and Circular Letter 141-17.



**EXHIBIT D**

**INSURANCE**

- 1.1 Contractor shall, without limiting its obligations or liabilities herein, obtain and maintain during the term of this Contract, at Contractor's sole cost and expense, reasonable insurance coverage, including: (i) errors and omissions (professional liability) insurance in the amount of two million dollars (\$2,000,000) per claim and in the aggregate (per annum); (ii) automobile liability insurance covering all motor vehicles owned, leased or licensed by Contractor with a minimum limit of two million dollars (\$2,000,000); (iii) comprehensive general liability insurance, on an occurrence basis, with a bodily injury, death and property damage limit of five million dollars (\$5,000,000) inclusive; (iv) Insurance covering loss of or damage to Owner or Operator property; and (v) such other insurance as Owner may require from time to time in the course of providing the Services. In addition, Contractor and its subcontractors shall ensure that all personnel, and all other persons under its direction and control performing the Services have effective mandatory coverage with the Puerto Rico State Insurance Fund ("SIF"), including personal coverage if they are otherwise exempt from other means of coverage under SIF, social security for chauffeurs for eligible non-exempt personnel and any other mandatory governmental insurance that may apply to Contractor's operation. Upon written request of Owner, Contractor shall, or shall cause its subcontractor to, also carry insurance for forest fire fighting expense to a minimum of five million (\$5,000,000) dollars per occurrence.
- 1.2 Contractor shall provide certificates of insurances evidencing the aforementioned insurances forthwith upon written request from Owner. The insurance contemplated herein shall in no way limit or qualify the liabilities and obligations assumed by Contractor under this Contract.

