

2019-000010

GOVERNMENT OF THE COMMONWEALTH OF PUERTO RICO  
THE PUERTO RICO HEALTH INSURANCE ADMINISTRATION (ASES)  
SAN JUAN, PUERTO RICO

PROFESSIONAL SERVICE AGREEMENT

PUERTO RICO HEALTH INSURANCE ADMINISTRATION, a public instrumentality of the Commonwealth of Puerto Rico, created by Law No. 72 of September 7, 1993, as amended (the "Law"), which is represented herein by its Executive Director, Angela M. Avila Marrero (hereinafter referred to as "PRHIA" or "ASES," its acronyms in English or Spanish respectively); and MILLIMAN, Inc., a corporation organized and existing under the laws of the State of Washington and authorized to do business according to the laws of the Commonwealth of Puerto Rico, herein represented by its Principal & Consulting Actuary, Susan Pantely, authorized to appear on behalf of the corporation (hereinafter referred to as "MILLIMAN").

WHEREAS, ASES, by virtue of the powers conferred to it under Act 72 of September 7, 1993, as amended, has the authority to engage professional, technical and consulting services that are necessary and convenient to effect the activities, programs and operations of ASES.

THEREFORE, based on those assumptions and in consideration of the mutual promises and considerations herein contained, the appearing parties mutually agree and convene the following:

*sep*  
*A.H.A.*

TERMS AND CONDITIONS

1. MILLIMAN shall perform the following tasks, in addition to any other described in the "Fiscal Year 2018 Actuarial Services Proposal", included and made part of this Agreement as Attachment A:
  - a) Assistance with renewal of Government Health Plan (GHP) contracts
  - b) Renewal of MCO contracts – Platino
  - c) Evaluation of MCO's
  - d) Assistance with competitive bid process – Government employees
  - e) Actuarial analyses – CMS additional requirements
  - f) Actuarial analyses – Quality initiatives
  - g) Ad Hoc actuarial analyses
  
2. This Agreement will be in effect from the day of its execution until July 31, 2018. Notwithstanding any provision to the contrary in this Agreement, either party shall have the right to terminate this Agreement by providing the other party thirty (30) days notice by registered mail, return receipt requested, or overnight express mail.  
The rights, duties and responsibilities of the PRHIA and MILLIMAN shall continue in full force and effect during the applicable notice period.



3. MILLIMAN represents that it has full knowledge of any applicable federal or local law impacting the GHIP sponsored by the Commonwealth of Puerto Rico and the advice and services to be provided will consider such laws and regulations, including, but not limited to, the Balanced Budget Act of 1997, as amended; Social Security Act, as amended; the Medicaid Managed Care Regulations, as amended and Puerto Rico State Plan.
4. The PRHIA will pay MILLIMAN per hour of service at the following rates:

| <u>Job Title</u> | <u>Billing Rate</u> |
|------------------|---------------------|
| Principal        | \$555               |
| FSA/MBA          | \$390               |
| ASA              | \$315               |
| Analyst II       | \$275               |
| Analyst I        | \$165               |



A 5% reduction will be given on professional fees on invoices paid within thirty (30) days of receipt.

MILLIMAN may be entitled to receive payment for out of pocket expenses, including travel and lodging, subject to previous presentation of documentation (i.e. receipts) and provided they do not exceed the maximum amount to be paid during the term of this Contract, and that MILLIMAN complies with Regulation No. 7635 of the PRHIA, including, but not limited to the following:

- Airplane tickets (coach fares).
  - For meals, a maximum amount of sixty dollars (\$60.00) daily, by person (this amount includes breakfast, lunch and dinner).
  - Lodging expenses (room, telephone and internet) shall be paid according to PRHIA's and governmental policies.
  - Alcoholic beverages and entertainment expenses are not covered expenses under this Agreement.
5. ASES shall compensate MILLIMAN for the thirty (30) day term of this Agreement up to the amount of **sixty-eight thousand seven hundred fifty dollars (68,750.00)**, for services rendered only, except that this amount may be increased subject to written approval by either the Executive Director or Sub – Director.

*SEP*  
*A.H.A.*

Payments made by ASES under the terms of this Agreement shall be paid from the budget item account corresponding to number **126-6330-012**.

6. Invoices will be submitted to ASES on a monthly basis, always within the first five (5) days following the period involved. Invoices should be submitted at MILLIMAN's hourly rate according to the work done and tasks (deliverables) conducted during the invoiced period. Each invoice will include itemized details of the services rendered on an

hourly basis. If the invoice is not submitted within the first five (5) days of the month following the period involved, payment may be issued within the following month. Each invoice must be duly certified by an authorized representative of MILLIMAN. Each invoice shall include an itemized detail of the services rendered, must be certified as just and correct, and should certify that payment thereof has not been received. The invoice should detail the available balance of the Agreement's budget when submitting the invoice as well as the available balance of the Agreement at the time the invoice is delivered. MILLIMAN is solely responsible of assigning the necessary resources for the delegated cases and matters.

Invoices shall identify and detail services rendered to federal projects, if applicable, specifying the tasks performed per federal program and total invoiced.

Example: Invoice Federal Project – MMIS

Example: Invoice Federal Project – HIT IMPLEMENTATION

Example: Regular Invoice ASES

Total invoiced (sum of all)



ASES will not honor invoices submitted after ninety (90) days of the invoiced services having been rendered. MILLIMAN accepts and agrees to this requirement, and understands that if it does not comply with this requirement it waives its right to payment for services rendered.

sep  
A.H.H.

Invoices must include a written certification stating that no officer or employee of ASES or the Department of Health, its subsidiaries or affiliates, if any, will derive or obtain any benefit or profit of any kind from this Agreement, with the acknowledgement that invoices which do not include this certification will not be paid. This certification must read as follows:

*"We certify under penalty of nullity that no public employee of the Puerto Rico Health Insurance Administration 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 services provided is the agreed-upon price that has been negotiated with an authorized representative of ASES. The total amount shown on this invoice is true and correct. The services have been rendered, and no payment has been received."*

ASES shall verify the invoices within twenty (20) working days of the date of the invoice and, if they are in compliance with the requirements set forth in this Agreement, will proceed with payment to MILLIMAN within thirty (30) days of said approval. ASES will promptly notify MILLIMAN of any questions regarding invoices so that MILLIMAN can receive timely payment. ASES will administer the payment by means of an electronic

transfer pursuant to Appendix B of this Contract. In the event any invoice goes unpaid for more than sixty (60) days, MILLIMAN reserves the right to suspend its performance of the services contracted for hereunder.

7. ASES certifies that all disbursements made to MILLIMAN under this Agreement shall be drawn from the mixed federal and state funds accounts authorized for ASES for such purpose. The account number is 6330-125-012.

All invoices shall be signed and mailed or physically delivered to the attention of:

POSTAL ADDRESS

Administración de Seguros de Salud  
PO Box 195661  
San Juan, PR 00919-5661

PHYSICAL ADDRESS

Administración de Seguros de Salud  
1549 Calle Alda  
Urb. Caribe  
San Juan, PR 00926-2712

The PRHIA will review the invoice and will make proper payment, subject to any audits or requests for additional information that PRHIA may need to do, at its sole discretion, to substantiate expenses incurred. The PRHIA reserves the right to review all invoices and perform all necessary audits solely to substantiate expenses incurred.

8. The PRHIA, its designees or the Comptroller's Office, shall have the right during the term of this Agreement or up to five years (5) after the term, to review and audit MILLIMAN's records relating to its services under this Agreement. Any such review or audit shall take place during normal business hours, upon reasonable prior written notice, in the location such records are typically maintained in the ordinary course of MILLIMAN's business and shall be subject to the execution of a mutually agreed confidentiality agreement.
9. MILLIMAN will not receive any payment for services rendered under this Agreement until the Agreement has been registered at the Office of the Comptroller of Puerto Rico, as required by Act number 18 of October 30, 1975, as amended.
10. MILLIMAN shall not subcontract professional or expert services on behalf of the PRHIA, unless authorized in writing by the PRHIA, which authorization shall not be unreasonably withheld.
11. MILLIMAN acknowledges the proprietary and confidential nature of all internal, non-public, information systems, financial, and business information relating to the PRHIA, the Government of the Commonwealth of Puerto Rico, its agencies, corporations, and municipalities and their personnel. MILLIMAN and its employees shall keep in confidence all such information and shall not make public or disclose any of said materials, except as necessary to perform its services, without the previous written consent of ASES. MILLIMAN will ensure that any authorized subcontractor or expert is subject to this confidentiality obligation. The restriction on confidentiality shall not

*SEP  
A.H.A.H.*



apply to information that MILLIMAN must disclose by law or legal process, (ii) is either already in the public domain or enters the public domain through no fault of MILLIMAN, (iii) is available to MILLIMAN from a third party who, to MILLIMAN's knowledge, is not under any non-disclosure obligation to ASES, or (iv) is independently developed by or for MILLIMAN without reference to any confidential information of ASES.

MILLIMAN shall furnish ASES with reports, analysis or other such materials as ASES may reasonably request, which, to the extent prepared by MILLIMAN specifically and exclusively for ASES shall at all time be the property of ASES, subject to MILLIMAN'S reservation of rights in and to the Milliman Tools and the prohibitions on distribution of Milliman work product to third parties in Section 26. The Parties will sign a mutually agreed Business Associate Agreement.

12. MILLIMAN's failure to comply with its duties and responsibilities and to perform the services as set forth herein, or its unlawful behavior, shall constitute a breach of the Agreement by MILLIMAN that shall entitle ASES to immediately terminate this Agreement without prior notice. The PRHIA may also terminate this Agreement immediately without prior notice if a judgment for conviction is entered against MILLIMAN, or any of its officers, employees, parent, subsidiaries, or subcontractors authorized by ASES under this Agreement, for any crime against the treasury, public faith, or for crimes involving public funds or property, either of state or federal origin. MILLIMAN shall be entitled to prorated payments for all services delivered up to the effective date of termination.

*SEP*  
*A.H.A.H.*

13. MILLIMAN certifies that none of the employees or officers of MILLIMAN receives salary or any kind of compensation for the delivery of regular services by appointment in any agency, instrumentality, public corporation or municipality of the Government of the Commonwealth of Puerto Rico.

14. MILLIMAN certifies that at the time of the execution of this Agreement, its San Francisco, CA or San Diego, CA Health practices are not involved, nor does represent anyone who is involved in any case or issues involving conflict of interest or of public policy between MILLIMAN and ASES. If such conflicting interests arise after the execution of this Agreement, MILLIMAN shall notify the PRHIA immediately.

15. MILLIMAN is an independent contractor and as such shall be responsible of the payment of its income taxes and its individual and employers' withholdings under the applicable tax laws of Puerto Rico or the US Internal Revenue Code. MILLIMAN is not entitled to fringe benefits, such as retirement or disability. The PRHIA will neither retain, nor discount, any amounts from payments made to MILLIMAN for income tax purposes or



for Social Security, except those applicable in accordance with the Puerto Rico Internal Revenue Code and its regulations.

MILLIMAN will offer professional and consulting services to the PRHIA. Therefore, the PRHIA will be responsible for the withholding of one point five (1.5) percent of the amounts paid under this Contract, and shall forward such withholding to the Treasury Department of the Commonwealth of Puerto Rico pursuant to Public Law Number 48-2013.

MILLIMAN shall be responsible for reporting and rendering payments to the Government of the Commonwealth of Puerto Rico for income tax purposes and to the Social Security Administration for the amounts paid under this Agreement. The PRHIA shall notify the Treasury Department of all payments made to MILLIMAN.

The Code of Internal Revenue establishes that PRHIA will withhold seven (7) percent from the professional services payment rendered under this Agreement, if it is a foreign corporation under the law of any state, twenty (20) percent of the payment will be withhold and if it is a foreign corporation under the law of other country, it will be withhold twenty-nine (29), percent unless the Milliman presents to PRHIA a retention waiver from the Treasury Department of the Government of Puerto Rico. The items to defray the subsistence allowance, accommodation or other similar expenses will not be subject to withholding.

*sep  
A.H.H.*

16. MILLIMAN certifies that it does not have any other contract with any other Government Agency, Public Corporation or the Municipalities of the Commonwealth of Puerto Rico. If MILLIMAN has any other contract with the Government, it will be disclosed by a written communication to ASES stating the amount of the contract and its effective date and termination.

Both parties hereby declare that, to the best of their knowledge, no public officer or employee of the Commonwealth of Puerto Rico, its agencies, instrumentalities, public corporations or municipalities or employee of the legislative or judicial branches of the government has any direct or indirect interest in the present; that no person requested or accepted gifts, gratuities, favors, services, donations, loans or anything else in return for this Agreement; that no person requested or accepted any goods from MILLIMAN as payment for performing the duties and responsibilities of their jobs with ASES; and that MILLIMAN, its employees and officers, have no family relationship, within the fourth degree of consanguinity or second degree of affinity, with any official or employee of ASES with the power to influence and participate in public policy decisions of ASES.

MILLIMAN certifies and guarantees that as of date of execution of this Agreement, neither MILLIMAN, nor any of its shareholders, employees, officers, or agents has been



convicted, or to the best of its knowledge are the subject of any investigation, in connection with a civil or a criminal procedure in a state or federal court for criminal charges related to the public treasury, the public trust, a public function, or a fault that involves public funds or property. MILLIMAN shall submit a sworn statement containing this certification. It is expressly acknowledged that this certification is an essential condition of this Agreement. If the certification is not correct in its entirety or in any of its parts, it shall constitute sufficient cause for ASES to terminate this Agreement immediately, without prior notice.

If the status of MILLIMAN with regards to the charges previously mentioned should change at any time during the term of the Agreement, it shall notify ASES promptly. The failure to comply with this responsibility constitutes a violation of this Section, and shall result in the remedies mentioned previously.

MILLIMAN certifies that it has received a copy of and agrees to comply with Act No. 84, enacted on June 18, 2002, as amended, which establishes the Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Executive Agencies of the Government of Puerto Rico and the Government Ethics Law, Act No. 1, enacted on January 3, 2012.

18. MILLIMAN hereby certifies that at the time of execution of this Agreement it is not engaged in or is a party to any lawsuit against the Government of the Commonwealth of Puerto Rico, or any of its instrumentalities, agencies or Municipalities.

*sep*  
*A.H.H.*

19. MILLIMAN certifies that, to the best of its knowledge, its professional personnel performing services hereunder have no relationship with parties that would be a conflict of interest during the rendering of services under this Agreement. Likewise, MILLIMAN represents and warrants to the best of its knowledge and belief that none of its personnel receives any compensation or payment as a government employee; and that while the Agreement is in effect, it will not hire any former employee of PRHIA (or any Government or governmental agency of the Commonwealth Puerto Rico) who it is aware is subject to the prohibitions set forth in Article 3.7 of the Ethics in Government Act, Law No. 12 of July 24, 1985, as amended, 3 L.P.R.A.1827 (prohibitions against former public servants). MILLIMAN will include in any subcontractor agreements this provision and will contractually demand from them compliance therewith.

20. MILLIMAN represents that as of the execution of this Agreement, it is current on payment of workers' compensation premiums in accordance with applicable law. MILLIMAN has provided ASES with a negative certification of debt from the Workers Compensation Corporation of the Commonwealth of Puerto Rico. If MILLIMAN does not have any responsibility to pay workers' compensation premiums to the Commonwealth of Puerto Rico, a sworn statement acknowledging this must be submitted with the Contract.



It is expressly acknowledged that this is an essential condition of this Agreement, and if this certification is incorrect, ASES shall terminate this Agreement immediately and MILLIMAN will have to reimburse ASES any and all amounts paid after the execution of this contract.

21. During the term of this Agreement MILLIMAN agrees to pay all unemployment insurance premiums due in accordance with applicable law. MILLIMAN represents that as of the date of execution of this Agreement, it is current on payment of unemployment insurance premiums due in accordance with applicable law and has submitted to ASES a negative certification of debt from the Department of Labor and Human Service of the Commonwealth of Puerto Rico. If MILLIMAN does not have any responsibility to pay unemployment insurance premiums to the Commonwealth of Puerto Rico, a sworn statement acknowledging this must be submitted with the Contract.

It is expressly acknowledged that this is an essential condition of this Agreement, and if this certification is incorrect, ASES shall terminate this Agreement immediately and MILLIMAN will have to reimburse ASES any and all amounts paid after the execution of this contract.

22. MILLIMAN represents that as of the date of execution of this Agreement, it is current on payment of property taxes in accordance with applicable law. MILLIMAN has provided ASES with a negative certification of debt from the "Centro de Ingresos y Recaudación Municipales" of the Commonwealth of Puerto Rico. If MILLIMAN does not have any responsibility to pay property taxes to the Commonwealth of Puerto Rico, a sworn statement acknowledging this must be submitted with the Contract.

*SEP*  
*A.H.H.*

It is expressly acknowledged that this is an essential condition of this Agreement, and if this certification is incorrect, ASES shall terminate this Agreement immediately and MILLIMAN will have to reimburse ASES any and all amounts paid after the execution of this contract.

23. MILLIMAN certifies that at the execution of this Agreement it has submitted income tax returns in Puerto Rico during the past five (5) years and that it has no outstanding debts with the Commonwealth of Puerto Rico for income taxes, real or chattel property taxes, payment of unemployment insurance premiums, workers' compensation payments or Social Security for chauffeurs in Puerto Rico. If MILLIMAN does not have any responsibility to submit make such payments or file such returns to the Commonwealth of Puerto Rico, a sworn statement acknowledging this must be submitted with the Contract.

It is expressly acknowledged that this is an essential condition of this Agreement, and if this certification is incorrect, ASES shall terminate this Agreement immediately and





MILLIMAN will have to reimburse ASES any and all amounts paid after the execution of this contract.

24. MILLIMAN shall provide ASES with a good standing certificate issued by the State of Delaware and a certificate that it is duly authorized to do business in Puerto Rico issued by the Department of State of Puerto Rico. Also, MILLIMAN shall provide ASES with a corporate resolution where expressly authorizes a representative to sign the contract.

It is expressly acknowledged that these are essential conditions of this Agreement, and if these certifications are incorrect, ASES shall have just cause for terminating this Agreement immediately and MILLIMAN will have to reimburse ASES any and all amounts paid after the execution of this contract.

25. PRHIA agrees to submit to MILLIMAN all documentation or information agreed by the parties herein as necessary for complying with the obligations assumed under this Agreement. All documents and information received by MILLIMAN shall be exclusively used for purposes within the scope of this Agreement. Said documents and information shall be kept confidential and MILLIMAN will exercise the same degree of preventive measures and control that it employs to safeguard its own confidential information.

26. The PRHIA shall have the right to use and share internally the deliverables as the PRHIA may deem it necessary or convenient, at its sole discretion, during the term of this Agreement and for the sole purposes contemplated by this Agreement. Neither party will disclose to third parties the deliverables submitted to the PRHIA under this Agreement without the written and express consent of the other. Breach of this section will constitute a material breach and cause for termination. With respect to any information obtained from PRHIA that constitutes protected health information (PHI) under the federal Health Insurance Portability and Accountability Act of 1996 (including any amendments) and any regulations there under (together, HIPAA), MILLIMAN agrees to comply with the "business associate provisions" executed with PRHIA.

*MP H.A.H.*

MILLIMAN shall retain all rights, title and interest (including, without limitation, all copyrights, patents, service marks, trademarks, trade secret and other intellectual property rights) in and to all technical or internal designs, methods, ideas, concepts, know-how, techniques, generic documents and templates that have been previously developed by MILLIMAN or developed during the course of the provision of the services provided such materials do not contain PRHIA's Confidential Information or proprietary data ("MILLIMAN Tools"). Rights and ownership by MILLIMAN of MILLIMAN Tools shall not extend to or include all or any part of PRHIA's proprietary data or PRHIA's confidential information. To the extent that MILLIMAN may include in the materials delivered to PRHIA any MILLIMAN Tools, MILLIMAN agrees that PRHIA shall be deemed to have a fully paid up license to make copies of the MILLIMAN Tools as part of this engagement for its internal business purposes and provided that such materials



cannot be modified or distributed outside the PRHIA without the written permission of MILLIMAN or except as otherwise permitted hereunder.

This Agreement has been entered into solely for the benefit of PRHIA and MILLIMAN, and is not intended to create any legal, equitable or beneficial interest in any third party or to vest in any third party any interest as to enforcement or performance. Although MILLIMAN's work is prepared solely for the internal business use of PRHIA, MILLIMAN agrees that in the course of business of PRHIA, information may be exchanged with the professional service providers of PHRIA who (a) agree to use MILLIMAN's work only in connection with the services provided to PHRIA, and (b) are subject to a duty of confidentiality. MILLIMAN's work may not be provided to other third parties without MILLIMAN's prior written consent. MILLIMAN does not intend to benefit any third party recipient of its work product, even if MILLIMAN consents to the release of its work product to such third party.

27. Material breach by either party of this Agreement, or the proposal included as Attachment A, as well as unlawful conduct, in or out of PRHIA's premises, will be reason enough to terminate this Agreement. Within two business days of receipt of a notice of material breach, the receiving party shall send in writing its intention to cure the breach, and if so, the receiving party shall have twenty calendar days to cure it. If the receiving party fails to reply to the notice of default or cure the breach in said timeframes, the sending party shall be entitled to terminate this Agreement with twenty-four hour written notice.

*sup*  
*A.H.H.*

28. This Agreement will be in effect from the day of its execution until July 31, 2018. MILLIMAN RECOGNIZES THAT IN THE EVENT THERE ARE NOT ENOUGH FUNDS DESIGNATED FOR THE PAYMENT OF CONTRACTED SERVICES, THIS AGREEMENT SHALL BE TERMINATED, AND MILLIMAN WILL ONLY HAVE THE RIGHT TO RECEIVE PAYMENT FOR SERVICES ALREADY RENDERED.

29. MILLIMAN will not subcontract the services to be rendered under this Agreement without the previous written consent of PRHIA.

30. MILLIMAN's San Francisco, CA or San Diego, CA Health practices agree not to accept the representation of parties who have a conflict of interest with PRHIA during the term of this Agreement.

MILLIMAN will perform all services in accordance with applicable professional standards. Except as expressly set forth herein, MILLIMAN makes no warranties of any kind, express or implied, including, without limitation, the implied warranties or merchantability or fitness for a particular purpose, and disclaims all warranties not expressly set forth in this Agreement. The parties agree that MILLIMAN, its officers,



directors, agents and employees, shall not be liable to PRHIA, under any theory of law including negligence, tort, breach of contract or otherwise, for any damages in excess of five million dollars (\$5,000,000.0) paid to MILLIMAN with respect to the work in question during the twelve (12) months immediately preceding any claim giving rise to such liability. In no event shall MILLIMAN be liable for lost profits of the PRHIA or any other type of incidental or consequential damages. The foregoing limitations shall not apply in the event of the intentional fraud or willful misconduct or gross negligence of MILLIMAN.

This Agreement and all its terms shall be construed and interpreted in accordance with the Laws of the Government of the Commonwealth of Puerto Rico.

If any dispute occurs between the parties, and if the parties agree, they may attempt in good faith to resolve the dispute. If the parties agree to mediation, they will choose a mutually acceptable mediator with a background in insurance, actuarial science or law. If such mediation fails after a good-faith effort has occurred, a party may institute litigation or if the parties did not agree to submit the dispute to mediation. If a party files a lawsuit, and if both a state and a federal court have subject matter jurisdiction over all of the claims to be filed, then the party shall file such suit in the Courts of the Commonwealth of Puerto Rico.

*Handwritten initials: SUP A.H.A.*

In contracts with partnerships or firms, it is a violation to the rules herein set when a director, associate or employee engages in conduct contrary to what is established in this clause. The professional personnel of MILLIMAN's San Francisco, CA or San Diego, CA Health practices providing services under this Agreement or a Statement of Work hereunder will endeavor to avoid even the appearance of a conflict of interests.

31. MILLIMAN's San Francisco, CA or San Diego, CA Health practices recognize that, while performing its professional obligation under this contract, it has a professional duty toward PRHIA in the rendering of their duties, which includes that they must not have adverse interests toward PRHIA. This duty also encompasses the continuous obligation to disclose to PRHIA circumstances as to their relations with other clients, third parties or any other factors that may constitute a conflict of interest at the time of signing the Agreement hereof, or during the term of this Agreement and any renewal thereof; subject, however, to professional and ethical rules applicable to actuaries, to any confidentiality obligations to which MILLIMAN San Francisco, CA or San Diego, CA Health are bound, and to the laws and regulations of the Commonwealth of Puerto Rico.

32. MILLIMAN warrants and agrees that in the provision of services under this Agreement it will not to discriminate on the basis of race, color, gender, origin or social status, age, political or religious beliefs or any other discriminating cause. MILLIMAN also acknowledges that it cannot discriminate against a person for his or her sexual



orientation, gender, gender identity, ethnicity, marital status, birth, or for the person's physical or mental impairment.

33. MILLIMAN acknowledges that it cannot continue to provide services under this Agreement after its expiration date or when such services entail payment of an amount that exceeds the total allowed for this Agreement. No services will be paid in violation of this clause, and any request and acceptance of services in violation of this provision will be made without any legal authority and will not bind ASES.

34. MILLIMAN's San Francisco, CA or San Diego, CA Health practice acknowledges that in executing its professional services pursuant to this Agreement, it has the obligation to avoid engagements that would create a conflict of interests with service to be provided to PRHIA or other Puerto Rico government entities. This duty includes the continued obligation to disclose to ASES all circumstances of its relations with clients and third persons that could influence MILLIMAN's San Francisco, CA or San Diego, CA Health practices in a material adverse way in the execution of its duties under the Contract.

Adverse interests also arise when, among others, MILLIMAN must support on behalf of one client that which it has a duty to oppose on behalf of another client. Adverse interests also arise when so stated in standards of ethics applicable to MILLIMAN profession, or Puerto Rico's laws and regulations.



The engagement in the conduct herein described by any of MILLIMAN's San Francisco, CA or San Diego, CA Health practices or their employees shall constitute a violation of this prohibition.

MILLIMAN certifies that at the time of the execution of this Agreement its San Francisco, CA or San Diego, CA Health practices do not have nor do they represent anyone who has interests that are in conflict with those of the Commonwealth of Puerto Rico, or any of its agencies or municipalities, or ASES. If such conflicting interests arise after the execution of this Agreement, MILLIMAN shall notify ASES immediately.

MILLIMAN's San Francisco, CA or San Diego, CA Health practices acknowledge the power of the Executive Director or its representative to oversee the enforcement of the prohibitions herein established. If the Executive Director or its representative determines the existence or the emergence of adverse interests with MILLIMAN, he shall inform such findings in writing and his intentions to terminate the Agreement after a thirty (30) day term. Within such term, MILLIMAN shall be entitled to a meeting with the Executive Director to present its arguments regarding the alleged conflict of interest. If such meeting is not requested within the specified term, or if the controversy is not settled satisfactorily during the thirty (30) day term, the Agreement shall be rescinded at the end of said thirty (30) day period; provided, however, that, at ASES' discretion, the Executive



Director may grant MILLIMAN an additional fifteen (15) days to cure the conflict of interest.

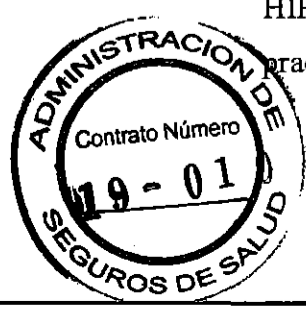
35. MILLIMAN shall be responsible for reporting and rendering payments to the Government of the Commonwealth of Puerto Rico for income tax purposes and to the Social Security Administration, as applicable, for the amounts paid under this Agreement. ASES shall withhold the statutorily required percentage of compensation applicable to foreign corporations rendering services in Puerto Rico; as required by the Puerto Rico Internal Revenue Code, and will notify the Treasury Department of all payments made to MILLIMAN.

36. Neither party will be in breach of this Agreement as a result of, nor will either party be liable to the other party for, liabilities, damages, or other losses arising out of delays in performance caused by acts of God, strike or labor disputes, fires or other loss of facilities, breaches of contract by suppliers or others, telephone system, or Internet or other utility outages, equipment malfunctions, computer downtime, and similar occurrences outside of said parties' control as long as such party is diligently attempting to correct the cause of the delay. During any such delay in performance, the delayed party will implement reasonable work-around plans, computer system disaster recovery, alternate sources, or other commercially reasonable means to facilitate the performance of its obligations under this Agreement until the delay has ended or failure has been corrected.

*SEP  
L.H.H.*

37. MILLIMAN agrees to indemnify ASES, and/or the Government of the Commonwealth of Puerto Rico (collectively, "Indemnitees") against any and all losses, claim, expenses, suits, damages, costs, demands or liabilities, including attorney's fees, and related reasonable costs and expenses actually incurred in defending against or enforcing any such losses claims, expenses, suits, damages or liabilities which sustained by Indemnitees in connection with a third party claim resulting from the gross negligence, fraud or willful misconduct of MILLIMAN in its performance of services hereunder.

38. MILLIMAN acknowledges the Federal law Health Insurance Portability and Accountability Act of 1996 (better known as HIPAA), and its privacy and security rule requires any entity covered by such legislation to train its workforce in the provisions on privacy, confidentiality and security of patient health information, is the information created, stored, handled, accessed or transmitted on paper or electronically. In addition, the Law requires the entity set policies and procedures relating to privacy, confidentiality and securities of health that receive, create, manage, store, access, or transmit, either on paper or electronically, information and its workforce to be trained in such policies and procedures, undertakes to comply with them and in the case of otherwise are sanctioned. HIPAA sets its workforce as regular contract, transient, volunteer employees, students, practitioners, and any person to carry out work in the institution, whether or not paid.



MILLIMAN is part of the workforce and as such, is subject to compliance with policies and procedures established by the institution for compliance with the HIPAA Act and related regulations. To this effect, MILLIMAN's personnel providing services under this Agreement must be (a) trained on the Act, its privacy rule, codes, transactions and identifiers and his rule on the information of safety that is accessed, created, maintained or transmitted by electronic means (e-mail); (b) required to comply with the terms set out in the policy and procedures on practices privacy and security of the institution; (c) comply with all policies of the institution for the protection of privacy, confidentiality and security of patient health information is the information on paper or electronically; (d) comply with federal regulations for the management and custody of the, (Protected Health Information, known as (PHI), in relation to the administrative, physical and technical as chartered in 45 CFR aspect protected health information secs. (164.308, 164.310, 164.312, 164.316). As regarding the management of the protected health information shared by the parties, MILLIMAN will be required to follow the standards for the handling of PHI set forth in the applicable law. MILLIMAN will report to ASES immediately any unauthorized disclosure of any health and private information as soon as it became aware of this fact.

MILLIMAN shall require its subcontractors or agents to abide by the restrictions and conditions which apply to them in the management of PHI.

MILLIMAN certifies that it meets the applicable standards set forth in federal and state laws, including HIPAA, that protect the privacy, confidentiality and security of health information of PHI. ASES reserves the right to cancel this contract as established in section 11 of this contract if MILLIMAN does not comply with this section of the contract

*ACP*  
*A.H.H.*

39. Completion of the agreed-upon Scope of Work and each of its discrete deliverables, milestones, reports, etc. is contingent upon the timely, effective and complete fulfillment of the obligations by ASES. ASES will provide all necessary and reasonably requested information, direction and cooperation to enable MILLIMAN to provide the Services. ASES agrees that MILLIMAN shall use all information and data supplied by ASES or on its behalf without independently verifying the accuracy, completeness or timeliness of it. MILLIMAN will not be responsible for any delays or liability arising from missing, delayed, incomplete, inaccurate or outdated information or data attributed to ASES. No liability, damages, penalty or default of any sort shall be attributed to MILLIMAN without the fulfillment of these obligations by ASES in a manner that is timely, effective and satisfactory to both Parties.

40. The parties acknowledge that from time to time ASES may request a change in the services to be performed under this Agreement. In such an event, ASES may issue a Change Request during the term of the Agreement, specifying in detail the requested



additional or modified services. ASES understands and agrees that the Change Request may increase the cost to MILLIMAN and that under such circumstances; MILLIMAN shall be entitled to an equitable adjustment. If MILLIMAN determines that an equitable adjustment is justified, it shall provide ASES with a written proposal specifying the amount of such equitable adjustment. If ASES rejects the proposal, the parties will negotiate in good faith until compensation acceptable to both parties is agreed upon. If after negotiation the parties agree on additional compensation, including the amount of that compensation, the Agreement shall be amended to reflect the changes to the services and the related additional compensation which amendment shall be executed by authorized representatives of both parties and filed with the Office of the Comptroller of Puerto Rico pursuant to Law Number 18 of October 30, 1975, as amended. MILLIMAN will not commence work on the additional or modified services until the Amendment is so executed or ASES withdraws its Change Request.

41. MILLIMAN has provided, as a condition for the execution of this Contract, the following certifications and other documents, to the extent applicable:
- a) Certification of having filed income tax returns in the past five years from the Treasury Department of Puerto Rico (Model SC-6088);
  - b) Certification from Puerto Rico's Treasury Department attesting that there is no outstanding debt or, if a debt exists, that it is subject to payment plan (or pending administrative review under applicable law or regulations) (Model SC-6096);
  - c) Certification from Puerto Rico's Center for the Collection of Municipal Revenues ("CRIM" for its Spanish acronym) certifying that there is no outstanding debt or, if a debt exists, that it is subject to payment plan (or pending administrative review under applicable law or regulations);
  - d) Certification of no outstanding individual child support debts or outstanding child support debts as a result of withholdings for the payment of child support obligations of its employees from the "Administración de Sustento de Menores" ("ASUME");
  - e) Certification from Puerto Rico's Department of Labor and Human Resources of compliance with unemployment insurance, temporary disability insurance and/or chauffeur's social security, if applicable;
  - f) Sworn statement whereby it certifies that it, nor any of its shareholders, employees, officers, or agents has been convicted of, or been the subject of an investigation in connection with a civil or criminal procedure for changes related to the public treasure, public trust, a public function, or a fault that involves public funds or property;
  - g) Certificate of Incorporation from the Department of State of the state where it was organized;
  - h) Certificate of good standing or authorization to do business in Puerto Rico issued by the Department of State of the Commonwealth of Puerto Rico;
  - i) Corporate resolution authorizing the undersigned representative to execute this Agreement on behalf of MILLIMAN;

*Asp*  
*A.H.A.*



- j) A letter certifying that MILLIMAN's San Francisco, CA or San Diego, CA Health practices has no contracts with other agencies or instrumentalities of the Commonwealth Puerto Rico. If it holds contracts with other agencies or instrumentalities, include in the certification the entities' names.
- k) Merchant Registry Certification (Model SC 2918)
- l) Certification of Sales Tax Return File (IVU for its Spanish acronym) (model SC 2927) and if apply, certification of No Debt of Sales Tax Return.

It is expressly recognized that the foregoing are material conditions of this Agreement. If any certification, document, acknowledgment, sworn statement, or other representation or assurance of MILLIMAN under this Article, or elsewhere in this Contract, is determined to be false or misleading, ASES shall have cause for termination of this Contract. In the event that the Contract is terminated based upon this Article, the Contractor shall reimburse ASES all sums of monies received under the Contract.

- 42. The services engaged herein will be performed in accordance with any applicable consulting standards taking into consideration the nature of the professional services contracted herein, including, but not limited to, those established by the AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS ("AICPA"); the AMERICAN ACADEMY OF ACTUARIES; and the practice standards established by the ACTUARIAL STANDARDS BOARD. *sep A.H.H.*
- 43. The parties agree that official communications between them shall be sent to the following persons at the specified address below, which may change from time to time, and the parties agree to notify each other of such eventuality not later than five calendar days after the change took effect:

**PUERTO RICO HEALTH INSURANCE ADMINISTRATION**  
**Attn: Executive Director**  
**PO Box 195661, San Juan, Puerto Rico 00919-5661**  
**Fax: (787) 474-3345**

**MILLIMAN**  
**Attn: Susan E. Pantely, FSA, MAAA**  
**1-415-394-3756**  
**650 California Street, 17<sup>th</sup> Floor**  
**San Francisco, California 94115**



- 44. Any delay or omission by one of the signatories, below, to object to the other signatory's violation of the contract may not be construed as acquiescence of such action, or a waiver to repeat such action or violate any other contractual obligation in the future.
- 45. As stated in the Proposal, Susan Pantely, MILLIMAN, San Francisco Office, has worked with PRHIA for the past years and has acquired expertise on the Plan. Therefore, PRHIA shall have the right, which shall not be unreasonably withheld, to approve or refuse



removal of Susan Pantely as the MILLIMAN resource providing Actuarial Consulting Services established herein.

46. MILLIMAN represents and certifies that it does not have any pending litigation against the Commonwealth, its agencies or instrumentalities and vice versa or knows of any pending or threatened litigation against MILLIMAN by any agency or instrumentality of the Commonwealth or any agency of the Federal Government of the United States of America.

47. PRHIA may at its discretion, terminate the contract with or without cause, provided that 30 days notice is given to MILLIMAN.

48. Notwithstanding anything herein to the contrary and specifically conditioned on MILLIMAN's continued compliance with its confidentiality obligations herein, MILLIMAN shall be permitted to retain one (1) copy of all information received from ASES to permit MILLIMAN to meet its work product documentation requirements.

49. PRHIA agrees that it shall not use MILLIMAN's name, trademarks or service marks, or refer to MILLIMAN directly or indirectly in any media release, public announcement or public disclosure, including in any promotional or marketing materials, customer lists, referral lists, websites or business presentations without MILLIMAN's prior written consent for each such use or release, which consent shall be given in MILLIMAN's sole discretion.

*SEP*  
*A.H.H.*

50. ASES certifies that the present contract has the appropriate governmental authorizations necessary for its execution and according to provisions in the Act Number 66 of June 17 2014, known as the "Fiscal and Operational Sustainability Act of the Government of the Commonwealth of Puerto Rico".

Nevertheless, ASES is not exempted from registering this transaction in the Commonwealth of Puerto Rico Office of Management and Budget (OGP by its Spanish acronym) Electronic Platform.

51. THE PARTIES recognize and acknowledge that the contracted services can be rendered to any entity of the Executive Branch, with which ASES execute an interagency agreement or by direct disposition of the Secretary of Government. These services shall be rendered under the same terms and conditions specified on the present Agreement, as for work hours and compensation.

For purposes of this Section, the term "entity of the Executive Branch" includes all agencies of the Government of Puerto Rico, as well as instrumentalities and public corporations, and the Office of the Governor.

52. The Secretary of Government have the power to cancel this Agreement at any moment.




53. In case this Agreement is exempted from authorization from the Secretary of Government according to the dispositions specified in Section VI of the Memorandum Number 2017-001 as amended, the Secretary of Government shall have discretion to take any necessary steps in those situations when a breach or potential breach with the public policy established by the Governor is observed.

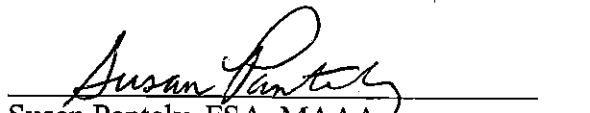
54. The foregoing constitutes the meeting of the minds of PRHIA and MILLIMAN.

MP  
L.H.A.

**IN WITNESS WHEREOF**, the parties accept, consent and abide by the terms and conditions herein and acknowledge so by initialing the margin of each page and affixing below their respective signatures.

In San Juan, Puerto Rico on July 2, 2018.

  
Ángela M. Ávila Marrero  
Executive Director PRHIA  
Employer Id. No.

  
Susan Pantely, FSA, MAAA  
Principal & Consulting Actuary MILLIMAN  
Employer Id. No.

