2018-P00171

PUERTO RICO ELECTRIC POWER AUTHORITY

CONTRACT

APPEAR

AS FIRST PARTY: The Puerto Rico Electric Power Authority, a public corporation and government instrumentality of the Government of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended, represented in this act by its Chief Executive Officer/Executive Director, Walter M. Higgins, of legal age, married, executive and resident of San Juan, Puerto Rico (hereinafter referred to as "PREPA" or "Government Entity").

AS SECOND PARTY: MasTec Renewables Puerto Rico, LLC, a Limited Liability Company formed and existing under the laws of Puerto Rico, with a principal place of business at San Juan, Puerto Rico (the "Contractor"), herein represented by Robert E. Apple, President, of legal age, married, executive and resident of Coral Gables, Florida, who is duly authorized to execute this contract on behalf of the Contractor.

Both, PREPA and Contractor which are hereinafter referred to individually as a "Party" and jointly as "Parties",

WITNESSETH



IN CONSIDERATION of the mutual covenants hereinafter stated, the Parties agree themselves, their personal representatives, successors and assignees as follows:

ARTICLE 1. Scope of Work

The Contractor shall provide labor, supervision, tools, equipment and materials necessary to perform the hurricane restoration and reconstruction services at various locations in PREPA's service areas, all in strict accordance with the provisions of this Contract and Contractor's proposal attached hereto as Exhibit A. PREPA will sign one Contract Release for each line, feeder, segment, substation, or switchyard project. The terms and conditions stated in this Contract will govern over any Contract Release all in accordance and compliance with FEMA guidelines and regulations.

ARTICLE 2. Definitions

Whenever the words defined in this Article or their pronouns are used or mentioned in this Contract, they shall have the meanings here given:

- 2.1. Engineer shall mean PREPA's Transmission and Distribution Director, acting directly or through his properly authorized agents.
- 2.2 Contracting Officer shall mean PREPA's Executive Director, acting directly or through his properly authorized agents.

- 2.3 Contract shall mean, collectively, the documents listed below and all supplementary documents thereto that are incorporated by reference. In the event of a conflict between any such documents, the following shall constitute the order of priority governing the interpretation of the Contract:
 - a. Contract
 - b. Contractor's Proposals
 - c. Performance and Payment Bond as approved by PREPA's Risk Manager and Treasurer.

In case of any difference between the terms and conditions of this Contract and the terms of Contractor's Proposals, the terms and conditions of this Contract shall govern.

ARTICLE 3. Consideration

The Parties acknowledge the fact that the execution of any Contract under this RFP is subject to availability of funds.

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In accordance with the terms and conditions herein contained, PREPA agrees to pay, and Contractor accepts that PREPA will make payments for the work performed on a Time and Materials basis at the rates, and subject to the terms, set forth in this Contract. As compensation for services rendered under this Contract, PREPA and the Contractor agree that the total amount to be paid under this Contract shall not exceed five hundred million dollars (\$500,000,000) (Contract Amount). PREPA shall have no obligation to pay the Contractor any amounts in excess of the Contract ceiling price. The Contractor will be the only one responsible for any works it or any of its subcontractors, if any, does in excess of the Contract Amount.

The Parties agree that the total cost for the Services will be paid in full the day after PREPA's evaluation and acceptance of the work and Contractor presents the corresponding invoice. The payment shall be made by electronic transfer (wire) to Contractor's commercial account number 3359985184, Swift Code BOFAUS3N. The Contractor shall be responsible to pay PREPA any and all fees required to make the electronic transfer.

The funds for the payment of Services performed by Contractor will be paid from account 01-1747-17595-555-474.

The invoices submitted by Contractor must be approved by the Engineer and must be accompanied by the proper supporting documents (such as inspection certifications, work reports and third party invoices).

All invoices must include a written certification stating that no officer or employee of PREPA will derive or obtain any benefit or profit of any kind from this Contract. Invoices

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that do not include this certification will not be accepted. This certification must read as follows:

No Interest Certification:

"We certify under penalty of nullity that no public servant of PREPA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Agreement. The only consideration to be received in exchange for the Services provided is the agreed-upon price that has been negotiated with an authorized representative of PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received."

Contractor's Signature

The demand of the obligations of either Party under this Contract will be subject to the filing of the Contract at the Office of the Comptroller of the Commonwealth of Puerto Rico, in compliance with Act of October 30, 1975, No. 18, as amended.

ARTICLE 4: Commencement and Completion of Work

4.1 Inspection and Delivery

Unless mutually agreed, all works shall be completed as per schedule of proposed progress from the commencement date as established per Contract Release for all work to be performed. The commencement date will be the beginning date stated on the letter of mobilization.

4.2 Schedule of Proposed Progress

Contractor will use commercially reasonable efforts to perform the work in such a manner to meet PREPA's scheduling expectations, but PREPA waives any claim against Contractor related to delayed completion of the work.

4.3 Contract Term

This Contract shall be in effect from the date of its execution until May 25, 2019.

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ARTICLE 5. Suspension of Work

The Contracting Officer or the Engineer may, at any time, suspend the whole or any portion of the work under this Contract, but this right to suspend the work shall not be construed as denying the Contractor actual reasonable, and necessary expenses due to delays, caused by such suspension, it being understood that expenses will not be allowed for such suspension when ordered by the Contracting Officer or the Engineer on account of a Force Majeure Event, as defined in Article 10, Force Majeure, herein below. The cause of such suspension shall be set forth in writing by the Contracting Officer or the Engineer within two (2) working days after the suspension or as soon as practicable.

ARTICLE 6. Specifications and Drawings

Anything called for in the specifications and not shown in the drawings, or shown in the drawings and not mentioned in the specifications shall be deemed to have been called for or shown in both. In case of any difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the specifications and drawings, the matter shall immediately be submitted to the Engineer, without whose decision said discrepancy in the specifications and drawings shall not be adjusted by Contractor, and Contractor shall not proceed with the work affected thereby until he has received written orders from the Engineer.



The Engineer will, from time to time, furnish such additional detailed drawings or other information as he may consider necessary for carrying out the work.

ARTICLE 7. Changes and/or Extra Work

The Engineer may, at any time, make changes in the Scope of Services to be performed and/or order extra work under a Contract, upon prior written notice to and approval by Contractor. When Contractor and PREPA have agreed to the scope and nature of such changes in writing, the terms impacted by the changes will be revised and the Contract will be amended by the Parties to reflect the changes agreed and/or schedules required. Contractor shall not proceed with any change until and unless such Contract amendment is issued. No changes shall be made to the scope of the Services that would render the costs incurred in the performance of this Contract unallowable or not allocable under, or outside the scope or not reasonable for the completion of, Federal grant awards from FEMA or any other U.S. federal agency.

ARTICLE 8. Inspection

During the progress of work, the Engineer or its authorized representatives shall make daily inspections to evaluate all assigned works as established and accepted by PREPA

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to ensure Contractor compliance with the power line specifications. All jobs shall be executed, performed and built in full compliance with PREPA's Electrical Codes and any other special requirement established previous the commencements of works. Job sites shall be marked with cones and signs visible from the nearest road to identify crew location.

All work performed by the Contractor is subject to inspection and approval by PREPA, PREPA to clearing identify and provide the required specification prior to commencement of work. Any work not meeting PREPA or generally accepted power line construction standards or turned in falsely will be redone at no cost to PREPA. If subsequent inspections are required after the initial follow up the actual cost shall be billed to Contractor. The presence of PREPA personnel shall not in any way alter, modify, or lessen the obligation of the Contractor to comply with the requirements of this Contract. Any inspection by PREPA personnel shall not be considered as an acceptance of waiver of warranty or other rights of the work inspected.

The Contractor shall promptly correct all work reasonably deemed by PREPA as failing to conform to the power grid construction specifications provided by PREPA to the Contractor pursuant to the previous paragraph. The Contractor shall promptly remedy the lack of performance and execute the work in accordance with the specifications, without expense to PREPA. If the Contractor fails to correct work deemed by PREPA within a reasonable time after notice has been given to the Contractor, PREPA may correct such work at the expense of the Contractor. Such expense may be deducted by PREPA from any payments due or to become due to the Contractor or, if final payment has been made, the Contractor shall reimburse PREPA such amounts.

ARTICLE 9. Access to Work

The Contractor, its employees, officers, directors, agents, subcontractors, and representatives are authorized to access and enter into PREPA service areas, rights-of-way, and/or easements, including through private land when necessary and authorized by PREPA, to carry out the work, object of this Contract. PREPA will cooperate when necessary in any coordination of access needed through private land subject to the PREPA's easements to carry out the corresponding work. The Contractor shall permit all persons appointed or authorized by PREPA to visit and inspect the work, or any part thereof at all times, and places during the progress of it.

ARTICLE 10. Force Majeure

Neither Party shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; and (c) such default or

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delay could not have been reasonably circumvented by the non-performing Party through the use of alternate sources, work-around plans or other means. S uch causes include, but are not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of PREPA to secure approval, validation or sale of bonds; inability of PREPA or the Company to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

In the event of any delay resulting from such causes, the time for performance of each of the Parties hereunder (including the payment of monies if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay, except as provided for elsewhere in the Contract Documents.

In the event of any delay or nonperformance resulting from such causes, the party affected shall promptly notify the other in writing of the nature, cause, date of commencement and the anticipated impact of such delay or nonperformance. Such written notice, including Change Orders, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected within seven (7) calendar days.

ARTICLE 11. Liabilities

11.1 Civil Responsibility

The appearing parties agree that their responsibilities for damages under this Contract will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico.

11.2 Indirect or Consequential Damages

The Contractor shall not be responsible for indirect or consequential damages that may occur in relation to the Services performed.

11.3. Direct Damages to PREPA's Property

The Contractor shall be insured for all direct damages to PREPA's property that occur as a result of his fault or negligence in connection with the prosecution of the work, and shall be responsible for the proper care and protection of all materials, and equipment delivered and work performed until completion of work. The Contractor's total liabilities for damages shall be up to one hundred percent (100%) of the Contract Price.

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11.4. Protection against the Occurrence of Damages

The Contractor agrees to make, use, provide, and take all proper, reasonably necessary and sufficient precautions, safeguards, and protection against the occurrence or happenings of injuries, death and/or damages to any person or property during the progress of the work. In the performance of its obligations under the Contract, Contractor agrees to comply with all applicable local and federal laws and regulations.

11.5 Save and Harmless Clause

The Contractor agrees to indemnify and save harmless PREPA for all expenses and costs of any nature (including attorneys' fees) incurred by PREPA arising out of any claim made by any person for personal injuries, including death, sustained by any person, including the employees of Contractor, and for damages to third party property to the extent such injuries, death or third party damages are caused by the fault, negligent acts or omission of Contractor, its employees, subcontractors or affiliated companies, arising out of its or their performance and/or failure to perform work and Services.

11.6. Save Harmless for Operation of PREPA's Equipment

If the Contractor is allowed to operate PREPA's equipment, the Contractor shall indemnify and save harmless PREPA from loss, expense or liability imposed upon PREPA for any injury to a person, including death resulting there from or damage to any property resulting from the operation of such equipment by the Contractor.

11.7 Contractor's Liability

The overall aggregate liability of Contractor with respect to any and all claims arising out of the performance or non-performance of obligations under the Contract, regardless of any legal theory or cause of action under which such liability may arise, shall be up to one hundred percent (100%) of the Contract Price (which includes authorized changes). However, the foregoing dollar limitation shall not apply to liability arising from third party claims for bodily injury or third party property damage to the extent such liability results from Contractor's fault or negligent acts or omissions while working under the Contract.

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ARTICLE 12. Independent Contractor

The Contractor shall be considered as an independent contractor, for all material purposes under this Contract, and all persons engaged or contracted by the Contractor for the performance of its obligations herein, shall be considered as its employees or agents or those of its subcontractors, and not as employees or agents of PREPA. In consequence, the Contractor is not entitled to any fringe benefits, such as, but not limited to: vacations, sick leave, and other.

ARTICLE 13. Termination

Notwithstanding anything to the contrary in this Contract regarding its term, PREPA may, at any moment, terminate, cancel or accelerate its expiration, after giving Contractor a not less than thirty (30) days prior notice, when in PREPA's judgment such action responds to PREPA's best interest. Provided that, in the event the Contractor fails to comply with any of its obligations under the Contract, PREPA may declare an immediate Contract termination, cancellation or rescission, without prior notice to the Contractor. If the Contract is so terminated, Contractor shall be compensated for Services performed and costs and expenses incurred for demobilization, and cancellation fees for facility/yard leases in Puerto Rico and duly evidenced through the date of termination as calculated pursuant to Contractors Proposal. The exercise of its right to terminate, cancel or rescind the Contract shall not be understood as a waiver by PREPA to any other remedy it may have under this Contract or under the law for delays or breach incurred by the Contractor in the performance of its obligations under the Contract.

If the Contract is terminated for any reason, the Contractor shall stop work as specified in the termination notice provided by PREPA, and shall be prohibited from incurring additional obligations of Contract funds. PREPA may allow costs that the Contractor could not reasonably avoid during the termination process to the extent that said costs are determined to be necessary and reasonable.

In the event of a termination, all work in process, finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports, property and any other items or deliverables prepared by the Contractor that would be furnished to PREPA, the Commonwealth of Puerto Rico, or the Federal government if the Contract had been fully performed shall, unless otherwise stated in writing by PREPA, become PREPA's property.

Following termination, the Contractor shall submit a final termination settlement proposal to PREPA in the form and with the certification prescribed by PREPA. The Contractor shall submit the final termination settlement proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by

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PREPA upon written request of the Contractor within this one-year period. The Contractor and PREPA may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done.

The Contractor may terminate the Contract in the event of a default by PREPA or its terms and obligations of the Contract after giving PREPA due written notice of the default and right to cure within thirty (30) days of receipt of the notice of default from Contractor. The exercise of the right to terminate the Contract shall not be understood as a waiver by Contractor to any right or remedy it have under the Contract, in law, or in equity, for the PREPA's breach of this Contract.

ARTICLE 14. Insurance

The Contractor shall secure and maintain in full force and effect during the life of this Contract as provided herein, policies of insurance covering all operations engaged in by the Contract as follows:

14.1 Commonwealth of Puerto Rico Workmen's Compensation Insurance

The Contractor shall provide workmen's compensation insurance as required by Act No. 45 of April 18, 1935, as amended, known as the Workmen's Compensation Act of the Commonwealth of Puerto Rico ("Act 45"). Contractor shall also be responsible for compliance with Act 45 by all its subcontractors, agents and invitees, if any, or shall certify that such subcontractors, agents and invitees have obtained said policies on their own behalf. Contractor shall furnish to PREPA a certificate from the Puerto Rico's State Insurance Fund showing that all personnel employed in the work are covered by the workmen's compensation insurance, in accordance with this Contract.

14.2 Employer's Liability Insurance

The Contractor shall provide Employees Liability Insurance with minimum bodily injury limits of \$3,000,000 for each employee and \$3,000,000 for each accident covering against the liability imposed by Law upon the Contractor as a result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.

14.3 Commercial General Liability Insurance:

The Contractor shall provide a Commercial General Liability Insurance with limits of \$3,000,000 per occurrence and \$3,000,000 aggregate.

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14.4 Commercial Automobile Liability Insurance:

The Contractor shall provide a Commercial Automobile Liability Insurance with limits of \$3,000,000 combined single limit covering all owned, non-owned and hired automobiles.

Requirements Under the Policies:

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

a. As Additional Insured:

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

- b. A 30 day cancellation or nonrenewable notice to be sent to the above address.
- c. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to the contract.
- d. Waiver of Subrogation in favor of PREPA.
- e. Breach of Warranties or Conditions:

"The Breach of any of the Warranties or Conditions in this policy by the Insured shall not prejudice PREPA'S rights under this policy."

Furnishing of Policies:

All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico.

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

Indemnification. The Contractor shall indemnify, defend and hold harmless PREPA, its agents and employees, from and against any and all claims, actions, suits, charges and judgments arising from, or related to, the negligence, fraud or willful misconduct of the Contractor in the performance of the services called for in this Contract. The failure of the Contractor to obtain, maintain, or pay for any insurance coverage necessary to insure its obligations under this Contract and/or the failure of Contractor's insurance carrier to provide insurance coverage shall not relieve Contractor of its indemnification obligations.

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ARTICLE 15. Bonds

- 1. A Performance Bond in the amount of one hundred percent (100%) of the Contract price, will good and sufficient surety satisfactory to PREPA guaranteeing that the Contractor will well and faithfully perform the contract work.
- 2. A Payment Bond in the amount of one hundred percent (100%) of the Contract price, will good and sufficient surety satisfactory to PREPA to guarantee the prompt payment of all labor, supervision, equipment and materials required in the performance of the work.
- 3. All bonds shall be issued in the Official PREPA forms.

ARTICLE 16. Permits and Licenses

The Contractor shall obtain, maintain and submit evidence of all the licenses, permits and authorizations required to perform all services and tasks under this Contract, and shall send all notices, pay all fees, and related costs and will comply and will have its subcontractors and agents comply with all laws, ordinances, rules, and regulations applicable to the work, in accordance with the specifications. Should the Contractor find any discrepancy between the specifications and the permits, laws, ordinances, rules, and regulations referred to herein, the Contractor shall proceed immediately to notify PREPA of the discrepancy and shall not continue with the work until PREPA issues and notifies an order informing the Contractor what changes are necessary and when to proceed with the work as changed.

ARTICLE 17. Contingent Fees

The Contractor warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission percentage, brokerage or contingent fee. Breach of this warranty shall give PREPA the right to annul the Contract or, at its discretion to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by the Contractor upon Contract or sales secured or made through bona fide established commercial or selling agencies.

ARTICLE 18. Official not to Benefit

No officer, employee or agent of PREPA, or of the Government of the Commonwealth of Puerto Rico, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

In addition to the restrictions and limitations established under the provisions of Act No. 1-2012, as amended, retired or former officers or employees of PREPA, whose work was in any way related to the award or management of services orders or contracts, shall in no way benefit from any contract with PREPA for a period of two (2) years after leaving employment with or ceasing services to PREPA.

ARTICLE 19. Conflict of Interest

The Contractor certifies that he does not receive payment or benefit of any nature for services rendered regularly through an appointment to a governmental agency, body, public corporation or municipality of Puerto Rico. The Contractor also certifies that he may have contracts with other governmental agencies or bodies, but such condition does not constitute a conflict of interest for the Contractor.

The Parties certifies that no public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office. The Parties also certifies that no public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency unless the Governor gives express authorization thereto with previous recommendation from the Secretary of the Treasury and the Secretary of Justice.

The Parties certifies that no public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

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

The Parties certifies that no executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.

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ARTICLE 20. Claims for Labor and Materials

The Contractor shall, at his own expense, assume the defense of and save harmless PREPA from claims arising out of and in connection with Contractor furnished labor and materials, and PREPA shall not suffer any mechanics or other liens to remain outstanding against any property used in connection with the Services; and shall, on request, furnish satisfactory evidence that all persons who have done work or furnished materials have been fully paid. If the Contractor fails to comply with his obligations in this respect, PREPA may take such liens or claims and may withhold from any monies due to the Contractor such amounts as may be necessary to satisfy and discharge any such claims and any cost and expense incidental thereto.

ARTICLE 21. Patents and Copyrights

The Contractor, at its own expense, shall defend any suit or action brought against PREPA based on a claim that any equipment or part thereof, copyright or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance manufactured or used in the performance of this Contract, including their use by PREPA, constitutes an infringement of any patents or copyrights of the United States, if notified promptly in writing by PREPA, and given the authority, information, and assistance for the defense of the same, and the Contractor shall pay all damages and costs awarded therein against PREPA. If in such suit the equipment or any part thereof, or the composition, secret process, invention, article or appliance, is held to constitute infringement and its use is enjoined, the Contractor, at its option and expense, shall either procure for PREPA the right to continue using the same or replace it with non-infringing equipment, composition, secret process, invention, article or appliance, or modify it so it becomes non-infringing; or remove it and refund the purchase price.

ARTICLE 22. Waivers

No waiver of any breach of this Contract shall be held to be a waiver of any other subsequent breach. All remedies afforded by PREPA in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

ARTICLE 23. Correction of Work after Final Payment

Neither the final certificate for payment nor any provision in the Contract Documents shall relieve Contractor of its responsibility for faulty work in accordance with Article 30, **Warranty**, of this Contract. All questions arising under this Article shall be decided by the Engineer, subject to appeal by the Contractor as provided in Article 24, Disputes.



ARTICLE 24. Disputes

Except as otherwise specifically provided in this Contract, all disputes concerning questions of fact arising under this Contract shall be decided by Engineer, subject to written appeal by the Contractor within thirty (30) days to the Executive Director. As soon as practicable thereafter, the Executive Director shall inform each party hereto of his decision regarding the dispute. If such challenge is made, either party may pursue its remedy at law or equity. Contractor, at its option, may elect to accept such decision or pursue remedies at law or equity. In the meantime, Contractor shall diligently proceed with work as ordered. In the event of a dispute arising during the warranty period, the Performance and Payment Bond shall be used to guarantee that Contractor will well and faithfully perform the warranty remedies as set forth in Article 29, Warranty.

ARTICLE 25. Laws to be Observed

Contractor shall observe and comply with any and all federal, state and municipal laws, ordinances and regulations that in any manner affect the work or services, the equipment or the materials used in the proposed rehabilitation, assembly, transportation and those employed in the work or the carrying out of the work, and shall observe all such orders and decrees as exist at present or may be enacted prior to the completion of the work by agencies or courts having any jurisdiction or authority over the work. Contractor shall save harmless and indemnify PREPA and its representatives, officers, agents and servants for fines and penalties paid by PREPA, including attorney's fees, to governmental authorities as sole result of Contractor's violation of any such law, ordinance, regulation, order or decree, whether by the Contractor or its subsidiaries, affiliates and employees, subject to limits of liability in Article 11, Liabilities.

ARTICLE 26. Change of Law

During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, which causes an increase in Contractor's costs when supplying the services to be acquired by PREPA, shall be of Contractor's responsibility and PREPA shall not be obliged to make additional payments nor to pay additional sums to the Contract Price originally agreed for those products or services. In such case, Contractor may elect to terminate this Contract without penalty with thirty (30) days written notice to PREPA and PREPA shall pay and compensate Contractor for all work and services performed to the date of termination, including costs and expenses incurred for demobilization, and cancellation fees for facility/yard leases in Puerto Rico a, without waiver by Contractor of any other rights or remedies it may have in law or in equity to protect its rights under this Contract.

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ARTICLE 27. Choice of Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the contracting parties expressly agree that only the state courts of Puerto Rico will be the courts of competent an exclusive jurisdiction to decide over the judicial controversies that the appearing parties may have among them regarding the terms and conditions of this Contract.

ARTICLE 28. Separability

If a court of competent jurisdiction declares any of the Contract provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of the Contract and the Parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

ARTICLE 29. Discrimination

The Contractor certifies that he is an employer with equal opportunity employment, and do not discriminate by race reason, color, religion, political ideas, sex, nationality, age or mental or physical condition.

ARTICLE 30. Warranty

The Contractor warrants that all materials, parts, equipment used, and work performed under this Contract comply in all respect with its terms and conditions; that they are free from defects in materials and workmanship; that they are suitable and adequate for the purposes for which they were designed and for such other purposes, if any, as are specified in the Contract, and that the services provided under this Contract will conform with industry standards of care and practice appropriate to their nature. The warranty period will begin the day after PREPA has inspected and accepted the work and will continue for a period of twelve (12) months. The Contractor will, upon written notice by PREPA, fully remedy, free of expense to PREPA, such defects as may develop on said services, materials, parts or equipment, provided that they have been properly stored, installed, maintained, and operated within the specified parameters. The Performance Bond shall cover and serve as guarantee for this Warranty.

For those materials, parts, equipment, which prove defective, or deficient during the Warranty period, whether cause by material failure, deficient installation, or wrongly operation under the supervision and guidance of the Contractor he shall at his own expense, repair or replace, transport-in, from the Contractor's facilities to PREPA's site and transport-out from PREPA's site to the Contractor's facilities, such damage materials, parts and/or equipments. The Contractor shall be responsible for all damages caused by the failure of defective parts or deficient installation of the

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materials, or equipments and shall remove, replace, transport and install, at his own expenses, all materials, parts or equipments damage caused by the failure of the defective parts supply by the Contractor or deficient installation of the materials or equipments cover in the Warranty. The Performance Bond shall cover and serve as guarantee for the Contractor's failure, in whole or in part, to properly perform his obligations under this Contract.

The Contractor's obligations and liabilities, regarding warranties for materials, parts, and equipment shall be limited to only Contractor-supplied materials, parts, and equipment and solely covered under this Article 29. The warranties covered herein are exclusive and in lieu of all other warranties from Contractor of any kind whatsoever, whether express or implied (including, but not limited to, all warranties for performance of the equipments, merchantability or fitness for a particular purpose or otherwise, which are expressly disclaimed), and PREPA hereby expressly waives the right to the same.

ARTICLE 31. Notice

Any notice to be given hereunder shall be in writing and will be sufficiently served when delivered in person or properly mailed to the following addresses:

To PREPA:

Puerto Rico Electric Power Authority

PO Box 364267

San Juan, Puerto Rico 00936-4267

Attention:

Walter M. Higgins

To Contractor:

MasTec Renewables Puerto Rico, LLC

Chartris Building 250 Muñoz Rivera Avenue Suite 1400

Hato Rev. Puerto Rico 00918

Attention:

Robert E. Apple

ARTICLE 32. Quality Assurance Clause

The Contractor shall establish an adequate quality control program adequate to satisfy all applicable regulation and requirements specified in the procurement documents. The program shall contain all those measures necessary to assure that all basic technical requisites are fulfilled.

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PREPA reserves the right to conduct audits and inspections to the facilities, activities, and/or documents (limited to inspection and quality control documents) when estimated and without previous notification necessary in order to assure that the quality control program is adequate and is being properly implemented. The Contractor shall allow PREPA access to its facilities and documents (limited to inspection and quality control documents), so that PREPA, through audits and inspections can verify the quality of the purchased products or services.

In every case in which the materials or services to be furnished to PREPA are subcontracted partially or totally, by the Contractor, the Contractor shall request the subcontractor to accept and comply with all the requirements of this Quality Assurance Article.

ARTICLE 33. Safety Provisions

- 33.1. The Contractor shall have an Occupational Safety and Health Program. A copy of this Program will be delivered to the Labor Safety Division. The Program shall comply with the following minimum requirements of a health and safety program:
 - a. It shall comply with all requirements from all applicable regulations included in the 29 CFR. The Program shall have been updated within the past year from the delivery date to PREPA.
 - b. It shall establish the mechanisms used to update and audit compliance with itself.
 - c. It shall include an accident or incident investigation procedure. This procedure will always include the preparation of a report, which will be submitted to the Labor Safety Division of PREPA.
- 33.2. The Contractor shall submit, for evaluation by the Labor Safety Division, a copy of a Site Specific Work Plan. This plan shall include, but not limited to, the following aspects:
 - a. Objectives of the Work Plan
 - b. Description of the activities to be done
 - c. Occupational safety and health considerations to be addressed before commencement of the project.
 - d. Procedures for achieving compliance with the applicable regulations, including, but not limited to:
 - i. Occupational Exposure to Lead (29 CFR 1926.62)
 - ii. Scaffolds (29 CFR 1926 Subpart L)
 - iii. Confined Spaces (29 CFR 1910.146)
 - iv. Occupational Exposure to Noise (29 CFR 1910.95)
 - v. Hazardous Materials (29 CFR 1910 Subpart H)

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- vi. Personal Protective Equipment (29 CFR Subpart I)
- vii. Hazard Communication (29 CFR 1910.1200)
- viii. HAZWOPER (29 CFR 1910.120)
- ix. Fire Protection (29 CFR 1910 Subpart L)
- x. Materials Handling and Storage (29CFR 1910 Subpart N)
- xi. Commercial Diving (29 CFR 1910 Subpart T)
- xii. Respiratory Protection (29 CFR 1910.134)
- xiii. Fall Protection (29 CFR 1926 Subpart M)
- xiv. Electrical (29 CFR 1926 Subpart K)
- xv. Welding (29 CFR 1926 Subpart J)
- xvi. Excavations (29 CFR 1926 Subpart P)
- xvii. Demolitions (29 CFR 1926 Subpart T)
- xviii. Blasting & Explosives (29 CFR 1926 Subpart U)
- xix. Ventilation (29 CFR 1926.57)
- xx. Tools, Hand and Powered (1926 Subpart I)
- xxi. Electric industry (29 CFR 1910.269)
- xxii. Lockout Tagout (29 CFR 1910.147)
- xxiii. Asbestos (29 CFR 1910.1001)
- e. It will also include any other regulation or guidelines related to safety and health that could be applicable to the scope of work, and contingency procedures that include how to proceed in an emergency situation, such as fire or chemical spill, among others.
- f. Present a list of all specialized personnel needed. Also, include copy of all training certificates, licenses or certifications required, according to the scope of work. For example: pesticides applicator, electrician, spill responder, refrigeration technician, DOT training for hazardous substances, etc. All these certificates and licenses shall be up to date.
- g. Copy of the Material Safety Data Sheets (MSDS) of all chemical products to be used during the project, shall be evaluated and approved by the Hazard Communication Section of the Safety Division of PREPA.
- h. Present evidence of compliance with medical surveillance requirements, according to scope of work.
- i. Present evidence of compliance with Fit Test requirements for the use of respirators that make a face seal.
- j. Present a list of annual training for the use of personal protective equipment.
- k. Present a list of safety equipment and materials to be used during the project.
- I. Procedures a procedure to verify the work area after each workday and at the end of the project.
- m. The Contractor and Subcontractor shall adhere to a 100% drug / alcohol free work zone. At minimum, pre-project and post-accident testing is required. A positive post-accident test or positive pre-project test will result in worker

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- dismissal from the project. Testing will be performed in following closely the SAMHSA standards (Substance Abuse and Mental Health Services Administration).
- 33.3. Before commencement of work, the Contractor shall take part in a coordination meeting with a Safety Officer and the project manager on PREPA's behalf. During this meeting the areas to be worked on will be toured, the site-specific work plan will be discussed and reviewed, and amendments to it could be required.
- 33.4. If the contracted services include demolition activities (as defined per ANSI A1O.6 —1990: Demolition the dismantling, razing or wrecking of any fixed building or structure or any part thereof) that will be carried out in buildings or structures, that because of their construction date or prior use, are suspected to contain asbestos, lead based paint or other hazardous materials, the Contractor will require a certification from the project manager or owner stating that the building or structure is free of such materials.
- 33.5. The Contractor services including activities inside buildings occupied by working personnel, that could create a hazard to their safety or health, will be offered after PREPA'S working hours. The Contractor will take all steps necessary to assure the area will be free of nuisance odors or vapors before PREPA personnel is to reoccupy. All these will be done in coordination with the local supervisor of PREPA.
- 33.6. The Contractor shall assure that all wastes are characterized before removed and properly disposed, in accordance with all applicable laws and regulations, after completion of work, at the end of every work shift and after the completion of the project.
- 33.7. All chemical products to be used shall be evaluated and approved by the Hazard Communication Section of the Safety Division of PREPA and shall be classified as Approved or Conditionally Approved.
- 33.8. Welding operations will comply with the requirements of OSHA, ANSI and NFPA.
- 33.9. If the project involves the handling of non-asbestos insulation or other dust generating materials, like gypsum board, steps shall be taken to prevent the release of the dust to adjacent areas.
- 33.10. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to all employees on the work and all other persons who may be affected. This includes the work, property, material and equipment on or off the site, under the care, custody or control of the Contractor or any of his subcontractors.
- 33.11. The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety

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regulations and notifying owners and users of adjacent utilities.

- 33.12. The Contractor shall designate a Safety Officer at the site whose duty shall be the prevention of accidents and the implement of both the Safety and Health Program and the Site Specific Work Plan approved by PREPA's Safety Division. The Contractor shall present evidence that their Safety Officer has an effective training of 30 hours in Occupational Safety and Health Standards for Construction Industry from an approved OSHA Training Center.
- 33.13. Compliance with all safety provisions by subcontractors shall be the responsibility of the Contractor.
- 33.14. The Contractor agrees that it shall perform all work in compliance with federal, state and local occupational safety and health regulations, as described in the Site Specific Work Plan.
- 33.15. The Contractor will obtain and maintain, during the duration of the contract, the proper permits from all federal, state and local regulatory authorities or other applicable government agency with respect to discharge, disposal, use, storage, handling and transportation of hazardous chemicals and substances as and when applicable law or regulation requires. For projects or incidents requiring notification to EPA or EQB, the Bidder shall immediately, upon becoming aware, notify the Plant Environmental Control Supervisor.
- 33.16. The Contractor will not cause or permit any hazardous chemical or product containing a hazardous chemical to be at, or in the vicinity of, any place where any employee, agent, or contractor of PREPA, or employee of any such agent or contractor, may be at risk or exposed to hazard as a result thereof during normal use or any foreseeable emergency.
- 33.17. The Contractor will defend, indemnify and hold harmless, PREPA, its employees, agents or assignees for any and all direct liabilities and expenses arising out of Bidder noncompliance with these clauses irrespective of any other terms of this contract.
- 33.18. PREPA may unilaterally terminate this contract upon the Contractor's nonobservance of any of the foregoing or for any failure to comply with any of the safety provisions on this Contract upon thirty (30) days of a written notice to the Contractor.

ARTICLE 34. Environmental Conditions

- 34.1. The Contractor agrees to indemnify PREPA for all expenses and costs of any nature arising out of any claim due to an environmental violation, caused by his agents, employees, subcontractors or assigns during the performance or non-performance of its obligations under the Contract.
- 34.2. The Contractor should have available, and close to the working area, the necessary equipment to control, pick-up and clean up any spill that could occur during the performance of the work required by the Contract. The equipment should include all the necessary materials for the waste disposal.

should include all the necessary materials for the waste disposal.



- 34.3. All equipment to be used in the work area should be free of oil, transmission fluid or hydraulic fluid leakages. If the equipment develops a leakage during the work process, it should be repaired or replaced immediately. While the leaking equipment is removed of the work or it is repaired, it is the Contractor's responsibility the replacement of cloth or absorbent material and drip pans.
- 34.4. The Contractor shall inform and coordinate with the Plan Environmental Control Supervisor any work to be done to avoid any environmental violation.
- 34.5. The Contractor shall comply with all the arrangements established in the Consent Decree between PREPA and the Environmental Protection Agency (EPA).
- 34.6. The Contractor shall dispose of all waste generated because of this work, according to the Environmental regulations. The use of PREPA's waste disposal equipment is not permitted.
- 34.7. All chemical products to be used shall be classified as "Approved" or "Conditional Approved" by PREPA's Hazard Communication Section and by Substances and Wastes Management Department, before entering the work area of PREPA's premises.
- 34.8. The Contractor, upon completion of the work, must leave all the work area clean, organized and free of contaminants. The storage area for the removed equipments and parts must be appropriate to avoid contaminants dispersion to the ground or water.
- 34.9. All chemical analysis shall be performed by an approved laboratory and shall be included in PREPA's Materials Management Division Supplier's Register as companies that are properly qualified and evaluated to perform this type of work.
- 34.10. The disposal of non-hazardous and hazardous waste material shall be done in a Treatment Storage Disposal Facility (TSDF) previously approved by PREPA.
- 34.11. The Contractor shall submit evidence of compliance with DOT's Hazardous Materials Transportation, 49 CFR 172 Sub. Part H (DOT).
- 34.12. All remedial actions and environmental work will be performed by a company previously approved by PREPA.
- 34.13. All work shall be performed according to the Best Management Practice Plan (BMPP), which is part of the Special Conditions of the NPDES Permit.
- 34.14. Any chemical product should not reach any internal waste stream or outfall of the Plant in order to comply with the NPDES Permit.
- 34.15. Temporary storage areas of construction and disposal materials shall be protected with dikes. In the absence of dikes, the Contractor shall prepare temporary areas with dikes to avoid materials exposure.
- 34.16. All the construction and disposal materials shall be covered to avoid rainfall exposure during the work activities.
- 34.17. The Contractor shall keep a chemical inventory for products with ingredients regulated by the EPA's Toxic Release Inventory (SARA title III, 313). The Contractor should do a quantity report for all the material used and disposed in the project. This report will include a copy for all the analysis taken during the project and a copy or copies of the manifest of the waste generated. This report

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should be submitted to the Plant Environmental Control Supervisor and to the Planning and Environmental Division.

34.18. The Contractor shall be responsible to obtain the requirement air permits for the control of fugitive emission that may be causes by process or work operations.

ARTICLE 35. Subcontracting and Assignment

Contractor shall not subcontract its obligations under this Contract, without PREPA's previous written authorization for such actions. Provided, that no subcontract shall be considered for PREPA's approval, except when the following requirements are met: (1) Contractor delivers PREPA a copy of the subcontract, not less than thirty (30) days prior to the effective date of the proposed subcontract; (2) the subcontract includes, as a condition for its legal validity and enforceability, a provision whereby PREPA has the right to substitute, subrogate or assume Contractor's rights under the subcontract, in the event that PREPA declares Contractor in breach or default of any of the Contract terms and conditions; and (3) the subcontract includes, as a condition for its validity and enforceability, a provision establishing for the subcontractor the obligation to comply with all of Contractor's obligations under the Contract (mirror image clause), except for such obligations, terms and conditions which exclusively related with works or services not included under the subcontract. A request to subcontract shall specify the issues or matters that will be referred to the subcontractor. These services shall be paid as part of the Agreement Amount to be paid under this Contract, as stated in Article 3, Consideration.

Any assignment of any rights or duties under this Contract, by either Party, shall be only with the prior written consent of the other Party. If Contractor decides to assign due or payable, to which he is entitled for services rendered or goods provided during the term of this Contract to any third party, provisions in ARTICLE 36, **Transfer of Funds**, shall apply.

ARTICLE 36. Transfer of Funds

If Contractor decides to assign or transfer an amount, due or payable, to which he is entitled for services rendered or goods provided during the term of this Contract, Contractor shall notify PREPA of such transfer of funds, in accordance to the provisions of Act 21-2012. Said notice shall clearly indicate the rights granted, including a copy of the contract under which the assignments were made, the exact amount of funds to be assigned or transferred, and specific identification information regarding the assignee (full name of the person or company), address and any other contact information.

Contractor acknowledges and agrees that PREPA may deduct any amount, due or payable under this Contract, that Contractor owes, PREPA may retain any said amount if Contractor fails to fulfill its obligations and responsibilities under this Contract, or a



claim arises for warranty or defects regarding the services rendered or goods provided under this Contract. Contractor also acknowledges and agrees that PREPA's payment obligation under any assignment of funds will cease upon payment of the outstanding amounts under this Contract. PREPA shall not be required to make payments or transfer any funds for an amount that exceeds the payment to which Contractor is entitled to under this Contract.

Contractor's aforementioned notice of assignment of funds shall be accompanied by a cashier's check or money order payment of two hundred dollars (\$200), payable to "Puerto Rico Electric Power Authority", for administrative costs for processing said assignment.

ARTICLE 37. Novation

Contractor and PREPA expressly agree that no amendment which could be made to this Contract, during its term, shall be understood as a contractual novation, unless both Parties agree to the contrary, specifically and in writing. The previous provision shall be equally applicable in such other cases where PREPA gives Contractor a time extension for the compliance of any of its obligations under this contract or where PREPA dispenses the claim or demand of any of its credits or rights under this Contract.

ARTICLE 38. Mandatory Clauses Pursuant Act 3-2017 and Circular Letter 141-17 dated January 30, 2017

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

ARTICLE 39. Compliance with the Commonwealth of Puerto Rico Contracting Requirements

The Contractor will comply will all applicable State Law, Regulations or Executive Orders that regulate the contracting process and requirements of the Commonwealth of Puerto Rico. Particularly: Law Num. 237-2004, as amended, which establishes uniform

contracting requirements for professional and consultant services for the agencies and governmental entities of the Commonwealth of Puerto Rico. 3 L.P.R.A. § 8611 et seq., and the Puerto Rico Department of Treasury Circular Letter Number 1300- 16-16. CC Núm. 1300-16-16 (22/01/2016). The Contractor shall provide the following certifications and sworn statement as applicable in a term of seven (7) days after the execution of this Contract.

- A. Executive Order Num. OE-1991-24 of June 18, 1991 to require certification of compliance with the Internal Revenue Services of the Commonwealth of Puerto Rico: Pursuant to Executive Order Number OE-1991-24 of June 18, 1991, the Contractor will certify and guarantee that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. The Contractor, further will certify that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. The Contractor shall provide, to the satisfaction of PREPA, and whenever requested by PREPA during the term of this Contract, the necessary documentation to support its compliance with this clause. The Contractor will be given a specific amount of time to produce said documents. During the term of this Contract, the Contractor agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico. Executive Order 19910E24.
- B. Executive Order Num. OE-1992-52 of August 28, 1992 to require certification of compliance with the Department of Labor of the Commonwealth of Puerto Rico. Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, the Contractor will certify and warrant that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Sub Contractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement. Executive Order
- C. <u>Social Security and Income Tax Retentions</u>: In compliance with Executive Order 1991 OE- 24; and C.F.R. Part 404 et. Seq., the Contractor will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income, from this Contract. <u>Executive Order 1991OE24</u>; C.F.R. Part 404 et. Seq.

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- D. Government of Puerto Rico Municipal Tax Collection Center: The Contractor will certify and guarantee that it does not have any current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (known in Spanish as Centro de Recaudación de Ingresos Municipales ("CRIM"). The Contractor further will certify to be current with the payment of any and all property taxes that are or were due to the Government of The Contractor shall provide, to the satisfaction of PREPA and Puerto Rico. whenever requested by PREPA during the term of this Contract, Certification issued by the Municipal Revenues Collection Center (MRCC), assuring that Contractor does not owe any tax accruing to such governmental agency. To request such Certification, Contractor will use the form issued by the MRCC (called "CRIM-Certificados, Radicación, Estado de Cuenta y Todos los Conceptos" in the website). The Contractor will deliver upon request any documentation requested by PREPA. During the Term of this Contract, the Contractor agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico with regards to its property taxes. 3 L.P.R.A. § 8611 et seq.; 21 L.P.R.A. § 5001 et seq. The Contractor shall provide a Personal Property Tax Filing Certification, issued by the MRCC which indicates that Contractor has filed its Personal Property Tax Return for the last five (5) contributory terms.
- E. The Contractor shall provide a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Puerto Rico Salés and Use Tax for the last sixty (60) contributory periods. A copy of Contractor's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.
- F. Income Tax Retention Law: PREPA shall deduct and withhold seven percent (7%) of any and all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of US citizens and Non US citizens, that are nonresidents of the Commonwealth of Puerto Rico the Contractor will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as Departamento de Hacienda de Puerto Rico). The Contractor will request PREPA not to make such withholdings if, to the
 - satisfaction of PREPA, the Contractor timely provides a release from such obligation by the Government of Puerto Rico's Treasury Department. 3 L.P.R.A. § 8611 et seq.,2011 L.P.R.232; 232-2011.
 - G. Puerto Rico Child Support Administration (ASUME): The Contractor shall present, to the satisfaction of PREPA, the necessary documentation certifying that the Contractor nor any of its owners, affiliates of subsidiaries, if applicable, have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with the Puerto Rico Child Support Administration (known in Spanish as the Administración Para El Sustento de Menores (ASUME)). The

Contractor will be given a specific amount of time to deliver said documents. $\underline{3}$ L.P.R.A. § 8611 et seq.

- H. Compliance with Act No. 1 of Governmental Ethics: The Contractor will certify compliance with Act No. 1 of January 3, 2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his/he immediate family (spouse, dependent children or other members of his/her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. § 8611 et seq.-
- I. <u>Law Num. 127, May 31, 2004: Contract Registration in the Comptroller's Office of Puerto Rico Act:</u> Payment for services object of this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Law Number 18 of October 30, 1975, as amended.
- J. <u>Certification of Government Agreements:</u> The Contractor hereby certifies that, at the time of execution of this Agreement, it does not have any other agreement with any agency, public corporation, municipality, or instrumentality of the Government of Puerto Rico.
- K. Anti-Corruption Code for a New Puerto Rico. Contractor agrees to comply with the provisions of Act No. 2-2018, as the same may be amended from time to time, which establishes the Anti-Corruption Code for a New Puerto Rico. The Contractor hereby certifies that it does not represent particular interests in cases or matters that imply a conflicts of interest, or of public policy, between the executive agency and the particular interests it represents.

Contractor shall furnish a sworn statement to the effect that neither Contractor nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for Contractor has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico or any of the crimes included in Act 2-2018.

Contractor hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3 or 5.7 of Act 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other

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felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

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

<u>Consequences of Non-Compliance:</u> The Contractor expressly agrees that the conditions outlined throughout this Section are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be sufficient cause for the PREPA to render this Contract null and void, and the Contractor shall reimburse the PREPA all moneys received under this Contract.

It shall be Contractor's responsibility, also, to require all subcontracted third parties to comply with all the previous Certifications and agrees to notify PREPA of such compliance within ten (10) working days of subcontracting such third party.

If any of the previously required Certifications shows a debt, and Contractor has requested a review or adjustment of this debt, Contractor will certify that it has made such request at the time of the Contract execution. If the requested review or adjustment is denied and such determination is final, Contractor will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Contractor accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.

Contractor recognizes that submittal of the aforementioned certifications and documents is an essential condition of this Contract; and even in the case that they are partially incorrect, there will be sufficient cause for PREPA to terminate, cancel or rescind the Contract, and Contractor have to refund all payments received.

ARTICLE, 40 Compliance with Applicable Federal Law, Regulations and Executive Orders

A. Compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) as supplemented by Department of Labor regulations (29 CFR part 5).

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Under 40 U.S.C. 3702 of the Act, the Contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. No laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The Government of Puerto Rico shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from

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any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

- (4) <u>Subcontracts</u>. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
- B. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient (the Puerto Rico Emergency Management Agency).
- C. Breach of Contract Terms. Any violation or breach of terms of this Contract on the part of the Contractor or a subcontractor, after giving Contractor prior written notice and right to cure within fifteen (15) days of receipt of written notice, may result in the suspension or termination of this Contract or such other action, including the recovery of damages, as may be necessary to enforce the rights of the Government Entity. The duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
- D. <u>Clean Air Act and the Federal Water Pollution Control Act</u>. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Government Entity and

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understands and agrees that the Government Entity will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C.1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

E. <u>Sufficiency of Funds</u>. The Contractor recognizes and agrees that funding for this Contract is contingent upon the availability of Federal assistance awarded by federal agencies to the Government of Puerto Rico. A failure of the Government Entity to make any payment under this Contract due to unavailability of Federal and/or Government of Puerto Rico funding shall not constitute a breach of the Contract by the Government Entity or default thereunder and the Government Entity and the Government of Puerto Rico shall not be held financially liable therefore. If during the term of this Contract, Federal or local funding is reduced, deobligated, or withdrawn, Government Entity may reduce the scope of or terminate the Contract. The Government Entity shall provide the Contractor with written notice of the lack of funding within a reasonable time and the Government Entity reserves all rights to reduce the scope of or terminate the Contract as a result of lack of funding.

F. FEMA Disaster Assistance Survivor/Registrant Data.

- (a) If the Contractor has access to Disaster Assistance Survivor/Registrant data or any other personally identifiable information, the Contractor shall comply with the provisions of the Terms and Conditions for Sharing FEMA Disaster Assistance Survivor/Registrant Data with State Governments set forth in the FEMA-Government of Puerto Rico Contract for FEMA-4339-DR-PR.
- (b) The Contractor shall indemnify, defend, and hold harmless the Government Entity and the Government of Puerto Rico for any and all costs associated with the defense of that litigation, including costs and

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- attorneys' fees, settlements, or adverse judgments arising from the Contractor's failure to comply with the requirements under this contract.
- G. <u>Costs.</u> All costs incurred by the Contractor in performance of this Contract must be in accord with the cost principles of 2 C.F.R. pt. 200, Subpart E. The Government Entity shall not be required to make payments to the Contractor for costs which are found to be contrary to the cost principles 2 C.F.R. pt. 200, Subpart E.
- H. <u>Financial Management System</u>. The Contractor's financial management system shall provide for the following:
 - (a) accurate, current and complete disclosure of the financial results of this Contract and any other contract, grant, program or other activity administered by the Contractor; -
 - (b) records adequately identifying the source and application of all Contractor funds and all funds administered by the Contractor which shall contain information pertaining to all contract and grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income, and shall be segregated by contract or on a contract-by-contract basis;
 - (c) effective internal control structure over all funds, property and other assets, sufficient to allow the Contractor to adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;
 - (d) comparison of actual outlays with budgeted amounts for this Contract and for any other contract, grant, program or other activity administered by the Contractor;
 - (e) accounting records supported by source documentation;
 - (f) procedures to minimize elapsed time between any advance payment issued and the disbursement of such advance funds by the Contractor; and
 - (g) procedures consistent with the provisions of any applicable policies of the Federal Government and the Government of Puerto Rico and procedures for determining the reasonableness, allowability and allocability of costs under this Contract.
- Penalties, Fines, and Disallowed Costs. In the event that any U.S. Federal
 agency or the Government of Puerto Rico disallows or demands repayment for
 costs incurred in the performance of this Contract, or if any penalty is imposed
 due to an act or omission by the Contractor, the Contractor shall be solely

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responsible for such penalty, disallowed costs, or repayment demand, and shall reimburse the Government Entity in full within ten (10) days of receiving notice from the Government Entity of such penalty, disallowance, or repayment demand. Any monies paid by the Contractor pursuant to this provision shall not relieve the Contractor of liability to the Government Entity for damages sustained by the Government Entity by virtue of any other provision of this Contract.

J. Debarment, Suspension, and Ineligibility.

- (a) The Contractor represents and warrants that the Contractor, it principals, and affiliates have not been debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000 (government debarment and suspension regulations). The Contractor represents and warrants that it will not enter into any contracts or subcontracts with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During the term of this Contract, the Contractor will periodically review SAM.gov and local notices to verify the continued accuracy of this representation. The Contractor shall require all subcontractors at every tier to comply with this requirement.
- (b) This certification is a material representation of facts relied upon by Government Entity. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, in addition to remedies available to the Government of Puerto Rico and the Government Entity, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.-
- K. <u>Reporting Requirements</u>. The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Government Entity.
- L. Review of laws. The Contractor certifies that it will access online and read each law that is cited in the aforementioned clauses and that, in the event it cannot access the online version, it will notify the Government Entity in order to obtain printed copies of the laws. Not requiring a printed copy of the laws to the Government Entity will be evidence that the Contractor was able to find it online and read it as required.
- M. <u>Notice of Federal Emergency Management Agency (FEMA) Reporting</u>
 Requirements and Regulations:

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- (a) PREPA is using Federal grant funding awarded or administered by FEMA to the Government of Puerto Rico and/or the Government Entity to pay, in full, for the costs incurred under this Contract. As a condition of FEMA funding under major disaster declaration FEMA-4339-DR-PR, FEMA requires the Government of Puerto Rico and the Government Entity to provide various financial and performance reporting. The Contractor agrees to provide all information, documentation, and reports necessary to satisfy these reporting requirements. Failure by the Contractor to provide information necessary to satisfy these reporting requirements may result in loss of Federal funding for this Contract, and such failure shall be a material breach of this Contract.
- (b) Applicable Regulations and Policy. Applicable regulations, FEMA policy, and other sources setting forth these reporting requirements include, but are not limited to:
 - (i) 2 C.F.R. § 327 (Financial Reporting);
 - (ii) 2 C.F.R. § 200.328 (Monitoring and Reporting Program Performance);
 - (iii) Performance and financial reporting requirements set forth in 2 C.F.R. Part 206.

N. Access to Records.

- (a) The Contractor agrees to provide PREPA, the Government of Puerto Rico, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (c) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to work sites pertaining to the work being completed under the Contract.

O. Retention requirements for records.

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The Contractor agrees to maintain all books, records, accounts and reports and all other records produced or collected in connection with this Contract for a period of not less than three (3) years after the date of final payment and closed-out of all pending matters related to this Contract. If any litigation, claim, or audit is reasonably anticipated to arise or is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial re- port, respectively, as reported to the Federal awarding agency or pass- through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

- (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (b) When the Government Entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.-
- (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3- year retention requirement is not applicable to the non-Federal entity.
- (e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- (f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: in- direct cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

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- (1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
- (2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
- P. <u>Program Fraud and False or Fraudulent Statements or Related Acts</u>. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
- Q. <u>Procurement of Recovered Materials.</u> In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are Environmental Protection Agency ("EPA")- designated items unless the product cannot be acquired—(i) competitively within a timeframe providing for compliance with the Contract performance schedule; (ii) meeting Contract performance requirements; or (iii) at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site.

Solid Waste Disposal Act. The Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency(EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

R. <u>Energy Efficiency</u>. The Contractor agrees to comply with the requirements of 42 U.S.C. § 6201, which contain policies relating to energy efficiency that are defined in the Government of Puerto Rico's energy conservation plan issued in compliance with said statute.

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S. Compliance with the Davis-Bacon Act

- (a) The Contractor shall comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141—3148, and the requirements of 29 C.F.R. § 5.5 as may be applicable, which are incorporated by reference into this Contract.
- (b) The Contractor or subcontractor shall insert in any subcontracts the clause in subsection (a) and such other clauses as FEMA may by appropriate instructions require. The Contractor shall require all subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (c) A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.
- T. Compliance with the Copeland Anti-Kickback Act (applicable to all contracts subject to the Davis-Bacon Act).
 - (a) The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3, as may be applicable, all of which are incorporated by reference into this Contract.
 - (b) The Contractor and subcontractor shall insert in any subcontracts the foregoing clause and such other clauses as FEMA may by appropriate instructions require. The Contractor shall require all subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 - (c) A breach of the contract clauses above may be grounds for termination of the contract and for debarment as a Contractor and subcontractor, as provided in 29 C.F.R. § 5.12.
- U. <u>Equal Opportunity</u>. During the performance of this Contract, the Contractor agrees as follows:
 - (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (d) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining Contract or other contract or understanding (if any) a notice advising the labor union or workers' representative of the Contractor's commitments under section 202 of the <u>US Executive Order 11246</u> of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) The Contractor will comply with all provisions of Executive Order 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (f) The Contractor will furnish all information and reports required by Executive Order 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Government Entity, the Government of Puerto Rico, and the

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Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (g) In the event of the Contractor's non-compliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (h) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction con- tract" in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

- V. Age Discrimination Act of 1975. The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.
- W. <u>Americans with Disabilities Act.</u> The Contractor shall comply with the appropriate areas of the Americans with Disabilities Act of 1990, as enacted and from time to time amended, and any other applicable federal regulation. A signed, written

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- certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the term of this Contract.
- X. <u>Title VI of the Civil Rights Act of 1964</u>. The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- Y. Section 504 of the Rehabilitation Act of 1973, as Amended. The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.
- Z. <u>Drug-Free Workplace</u>. The Contractor shall maintain a drug-free work environment in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8101 et seq.), and implementing regulations at 2 C.F.R Part 3001.
- AA. <u>Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.</u>
 - (a) The Government Entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
 - (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

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- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
- BB. Rights to Inventions Made Under a Contract. Unless otherwise provided by law, this Contract is subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq., and the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14. 35 U.S.C. § 200 et seq.

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- CC. Compliance with Laws, Regulation and Executive Orders. The Contractor acknowledges that FEMA financial assistance will be used to fund this Contract. The Contractor shall comply will all applicable Federal and Government of Puerto Rico law, regulations, executive orders, policies, procedures, and directives, including but not limited to all Federal Cost Principles set forth in 2 C.F.R. Part 200, and all applicable FEMA regulations in 44 C.F.R. Chapter I. 2 C.F.R. Part 200.
- DD. Provisions Required by Law Deemed Inserted. Each and every provision required by law regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
- EE. <u>Agreement to Execute Other Required Documents</u>. Contractor and all subcontractors, by entering into the Contract, understand and agree that funding for the Services is provided under Federal programs with specific contracting requirements. To the extent any such requirement is not otherwise set forth herein,

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MasTec Renewables Puerto Rico, LLC Contract Page 41 of 41

Contractor agrees to execute such amendments or further agreements as may be necessary to ensure that the Government Entity received Federal funding for this Contract.

- FF. <u>U.S. Department of Homeland Security Seal, Logo, and Flags</u>. The Contractor shall not use the U.S. Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- GG. No Obligation by the Federal Government. The Government Entity and the Contractor acknowledge and agree that the Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to PREPA, Contractor, or any other party pertaining to any matter resulting from the contract

ARTICLE 41. Complete Agreement

This document, together with all attachments referred to herein, constitutes the entire agreement between the parties as to this subject matter and supersedes all communications, negotiations, and agreements of the Parties, whether written or oral, other than these, made prior to the signing of this Contract. In case of conflict the terms and conditions of this Contract, as signed by the parties, shall prevail.

IN WITNESS THEREOF, the parties hereto have executed this Contract as this 29 day of May of 2018. In San Juan, Puerto Rico.

Puerto Rico Electric Power Authority

MasTec Renewables Puerto Rico, LLC

Walter M. Higgins

Chief Executive Officer/Executive Director

Social Security Number

Robert E. Apple

President

Social Security Number



APPENDIX A CONTRACTOR'S RATE SCHEDULE

LINE ITEM	QUANTITY (3)	(16 HOURS) BILLABLE RATE	EXTENDED DAILY BILLABLE RATE	COMMENTS
Blended rate, skilled linemen and equipment, Transmission (2)	105	3,687.25	387,160.93	See Proposal Notes
Blended rate, skilled linemen and equipment, Distribution (2)	210	2,930.09	615,318.40	See Proposal Notes
All-Inclusive/lodging, power, water, meals, laundry (1)	356	225.00	80,100.00	See Proposal Notes
Security Team	7	1,805.14	12,636.00	See Proposal Notes
Logistics team (Island)	10	2,297.64	22,976.45	See Proposal Notes
Management Team, Operations & Safety	24	2,742.97	65,831.20	See Proposal Notes
Others				

Mobilization/Demobilization and other reimbursable items shall be paid on a cost reimbursement basis consistent with the Cost Principles in 2 C.F.R. Part 200, Subpart E.

MasTec Notes

- 1. Rate is per-person, per-day.
- 2. Rates are inclusive of Baseline Labor & Equipment Only
- 3. Quantity reflects number of personnel for each line item

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PROPOSAL – WORK UNIT PRICES

LABOR/UNIT	WORK UNIT	CONSTRUCTION COST FACTOR	TOTAL UNIT PRICE/HOUR
General Foreman	\$55	3.56	195.80
Foreman	\$53	3.69	195.80
Transmission Lineman	\$50	3.73	186.58
Distribution Lineman	\$50	3.73	186.58
Heavy Equipment Operator	\$46	4.06	186.58
Winch Truck Operator	\$35	2.95	103.37
Groundman	\$24	_ 3.35	80.33
Apprentice	\$30	4.19	125.70
Diggers (1)	\$50	0.93	46.33
Bucket Trucks (2)	- \$115	0.35	40.17
Dozer Semi Tractor (6)	\$60	1.75	105.00
Haul Semi Tractor (7)	\$40	2.25	90.00
Heavy Lift Airlift (8)	\$4,600	1.63	7,500.00
Aircraft MD 500	\$1,000	2.40	2,400.00
55' - 60' 4x2 / tracked (3)	\$72	1.38	99.33
100' 105' 6x6 / tracked (4)	\$90	1.56	140.00
60 Ton Truck Cranes	\$350	0.80	280.00
30 Ton Truck Cranes	\$130	1.04	135.00
Pressure Diggers (9)	\$70	0.82	57.67
Pullers (5)	\$80	0.29	23.58
Transmission Conductor, Stringing Equipment (10)	\$25	1.80	45.00
Distribution Conductor, Stringing Equipment (11)	\$46	0.43	20.00
Pick Up Trucks	\$13	1.38	18.00
Dump Trucks	\$40	2.00	80.00
Reel Trailer Small	\$25	0.32	8.00
Flat Bed Haul Truck	\$30	1.17	35.00
Standard Haul Truck	\$90	1.17	105.00



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Supplementary MasTec Labor	
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Program Manager/Executive Director	250.00
Project Manager	232.33
Superintendent/Construction	195.81
Manager	
Project Controls, Manager	134.34
Project Controls, Specialist	96.73
Logistics Manager	107.47
Logistics Specialist	91.35
Safety Manager	170.00
Safety Representative	151.01
Fleet Manager	135.00
Security Manager	120.00
Security Guard	90.63
Mechanic	111.15
Mechanic - Hydraulic	185.00
Haul Truck Driver	120.00
Environmental Manager	134.34
Environmental Monitor	120.00
Quality Control Manager	150.46
Field Engineer	120.00
Administrative Assistant	78.00

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Supplementary MasTec Equipment Items			
Mechanic's Truck			68.05
D7 Dozer			145.00
Reel Carrier, 4 Reel			20.00
90T Truck Crane			400.00
Tensioner- Transmission			125.00
Puller - Transmission			150.00
4 Drum Rope Puller			40.00
Bucket, Insulated, Material Handler 70'-100'		_	90.58
Pole Trailer			2.50
Material Trailer, 16'			2.00
Backyard Machine			45.00

Labor & Equipment Notes

- 1. Altec DM-47 Digger/Derrick or equivalent
- 2. Altec AM-55mh Material Handler 55' Bucket or Equivalent
- 3. Digger or Bucket
- 4. Bucket Truck
- 5. Up to 6,000lbs Capacity
- 6. Loads up to 50T, Includes Trailer. Excludes Cargo.
- 7. Loads up to 30T, Includes Trailer. Excludes Cargo.
- 8. Excludes mobilization. CH-46 or equivalent.
- 8. Excludes mobilization. MD-500 or equivalent.
- 9. Texoma 330 or Equivalent
- 10. 30ea Transmission Blocks.
- 11. 100ea, Distribution Stringing Dolleys

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Spill Clean-Up Services	Unit Price	UofM
DRUMS CONTAINING EARTH AND DEBRIS	771.88	EA
ONE CUBIC YARD CONTAINER CONTAINING EARTH AND DEBRIS	2,315.63	EA
DRUMS CONTAINING WATER	593.75	EA
DRUMS CONTAINING OIL	593.75	EA
DRUM UN 1A1 EMPTY DRUMS, 55 GAL	118.75	EA
DRUM UN 1A2 EMPTY DRUMS, 55 GAL	121.88	EA
CONTAINER WITH EARTH AND DEBRIS	15,000.00	EA
TANK TRUCK FOR OIL	15,218.75	EA
TANK TRUCK RENT	5,025.00	MONT
MATERIAL CRUSHED ROCK / MOGOLLA AND TOP SOIL	956.25	CY
GRASS C/F	43.13	SF
OIL SAMPLE FROM ELECTRICAL EQUIPMENT	275.00	EA

Debris Clearing & Removal Services	Unit Price	UoM
9 Man Crew	131.11	Man-Hour

Crew Chief

Two Laborers with Chainsaws

Two Flaggers

Skid Steer Operator

Three Truck Drivers

Skid Steer with Grapple

Three Dump Trailers & Pickups

Notes

Debris Clearing & Removal does not include disposal & fees.

Mobilization Costs reimbursed separately

Per Diem is additional.

Assumes 7 days/week, 12 hours minimum/day

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