

**COMMONWEALTH PLAN OF ADJUSTMENT
PENSION BENEFITS COUNCIL CORP**

2023-000006

PROFESIONAL SERVICES CONTRACT

-----**APPEAR**-----

--- **FIRST PARTY:** The Commonwealth Plan of Adjustment Pension Benefits Council Corp., (the "Benefits Council"), a non-profit corporation organized under the laws of the Commonwealth of Puerto Rico, with registration number 486630, represented in this act by Carmen H. Núñez Rodríguez, of legal age, President of the Benefits Council, single and resident of San Juan, Puerto Rico, hereinafter referred to as the "**BENEFITS COUNCIL**". -----

--- **THE SECOND PARTY:** Emmalind García García, of legal age, attorney, married and resident of San Juan, hereinafter referred to as the "**CONTRACTOR**". -----

---The appearing **PARTIES** guarantee that they have the legal power for this agreement in the capacity that they claim to hold above, committing to accredit such power and capacity where and when necessary. -----

-----**LEGAL BASE**-----

----- On January eighteen (18), two thousand twenty-two (2022), the United States District Court for the District of Puerto Rico, in Civil Case No. 17-BK-3283 (the "Title III Case of the Commonwealth) issued an order (Docket No. 19813), approving and confirming the terms of the Eighth Amended Plan of Adjustment under Title III of the Commonwealth of Puerto Rico, et al., dated January fourteen (14), two thousand twenty-two (2022) (Docket No. 19784) (the "Plan"). The Plan incorporates certain documents presented as part of a Plan Supplement (Docket No. 20353) that includes the Deed of Trust creating the Pension Reserve Fund and the "Guidelines for the Governance and Administration of the Puerto Rico Plan of Adjustment Pension Reserve Trust and Monitoring of Plan of Adjustment Pension Benefits" (hereinafter the "**GUIDES**"). -----

-----**PURPOSE**-----

---The **BENEFITS COUNCIL** needs the services of an Arbitrator to conduct arbitration cases as required under the Guidelines and any other statute, regulations or resolution approved by the **BENEFITS COUNCIL** that established an arbitration procedure. -----

---The **CONTRACTOR** is an attorney admitted to practice in the Commonwealth of Puerto Rico, is certified as an arbitrator by the Bureau of Alternative Methods for the Resolution of Conflicts of the Judicial Branch and has the necessary resources, knowledge, and experience to provide the services to the **BENEFITS COUNCIL** subject to the following:

-----**CLAUSES AND CONDITIONS**-----

---**FIRST: SERVICES:** -----

----A. The **CONTRATOR** will provide arbitration services in cases required under the Guidelines, the Bylaws, the Election Regulations, Arbitration Regulations and any other statute, regulations or resolution approved by the **BENEFITS COUNCIL** that established an arbitration procedure. The rules and procedures that the **CONTRACTOR** will follow in all arbitration cases under this Agreement will be pursuant to the Arbitration Regulations approved by the **BENEFITS COUNCIL** on May 12, 2023. -----

----B. The **CONTRACTOR** will invoice fees at the rate of **TWO HUNDRED DOLARS (\$200.00)** per hour and in case of a suspension of a hearing on the same date that it was scheduled, **ONE HUNDRED TWENTY-FIVE DOLLARS (\$125.00)** for appearing. Time entries for fees will be billed in tenths of an hour. All professional services contracted in this Agreement will be performed upon request from the **BENEFITS COUNCIL**. -----

---**SECOND: FEES:** -----

---- The total amount of compensation to be paid by the **BENEFITS COUNCIL** to the **CONTRACTOR** for fees and reimbursable expenses for fiscal year 2022-2023 shall not exceed **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**. If the **CONTRACTOR** anticipates that the invoicing may exceed the budget of the Contract and has pending work to be performed, it will inform the **BENEFITS COUNCIL** in writing in order for a determination to be made. -----

----- If the **BENEFITS COUNCIL** determines to modify its budget, with the result that the amounts available to pay for the services covered by this Contract are reduced, it shall notify the **CONTRACTOR** in writing of such determination and said new amount available shall be the maximum amount of the Contract. As a result, the **CONTRACTOR** may submit to the **BENEFITS COUNCIL** a proposal for the reduction of the services described in this Contract, and if the **BENEFITS COUNCIL** accepts such proposal, the **PARTIES** must sign an amendment to this Contract formalizing the changes. If the **BENEFITS COUNCIL** does not accept the **CONTRACTOR's** proposal, the **BENEFITS COUNCIL** expressly acknowledges that the **CONTRACTOR** may terminate the Contract and the **BENEFITS COUNCIL** must pay the **CONTRACTOR** the amount accrued until the date of cancellation. The **CONTRACTOR** expressly acknowledges that if no funds are available or are allocated for the payment of the contracted services, the Contract will be terminated with no other right than to collect what has already been worked. -----

-----The amounts to be paid to the **CONTRACTOR** shall be charged to the budget item or account number 030261422 or any other budget item or account determined by the **BENEFITS COUNCIL**. The **CONTRACTOR** shall submit to the **BENEFITS COUNCIL** during the first twenty (20) days of the month following the billing month, a duly certified invoice specifying in detail the matters attended to and the time devoted to them. -----

-----The **BENEFITS COUNCIL** or its authorized representative will review the fee statements in detail and, if found to be correct, will approve and process them for payment. The **BENEFITS COUNCIL** reserves the right to review the correctness of the invoices and to carry out the audits it deems appropriate related to the services provided under the Contract. -----

-----Every invoice must include a certification that will indicate as follows: -----

----- "Under penalty of absolute nullity, I certify that no member of the **BENEFITS COUNCIL** is a party to or has any interest in the profits or benefits resulting from the contract that is the subject of this invoice and to be a party to or have an interest in the benefits resulting from the contract there has been a prior waiver. The only consideration for supplying the goods or services covered by the contract has been the payment agreed upon with the **BENEFITS COUNCIL**. The amount of this invoice is fair and correct. The services have been provided and they have not been paid for." -----

-----The **BENEFITS COUNCIL** will notify the Treasury Department of the amount paid per calendar year to the **CONTRACTOR** for the services rendered. The **BENEFITS COUNCIL** will deduct and withhold 10% in accordance with the Internal Revenue Code for a New Puerto Rico or Code, Law 1-2011, as amended. If this percentage is amended by law, the **CONTRACTOR** will be notified, and the corresponding adjustment will be made. However, the **CONTRACTOR** may submit the corresponding release, in which case the withholding will be that indicated in the release. -----

---**THIRD: CONFLICT OF INTEREST AND RESPONSABILITIES:** -----

-----The **CONTRACTOR** will provide the contracted services in accordance with the best practices and ethical canons of his profession and assumes responsibility for his actions.

-----The **CONTRACTOR** certifies that she is not aware of any matter or relationship as of the effective date of this Contract that constitutes a conflict of interest. In addition, the **CONTRACTOR** acknowledges that in the discharge of his professional function he has a duty of complete loyalty and a fiduciary obligation towards the **BENEFITS COUNCIL**, which includes not having adverse interests to the **BENEFITS COUNCIL**. This duty also includes the continuous obligation to disclose to the **BENEFITS COUNCIL** all the circumstances of its relationships with clients and third parties and any interest that could influence the **BENEFITS COUNCIL** at the time of awarding the Contract or during its term. The **CONTRACTOR** agrees that in the event that the **BENEFITS COUNCIL** determines that such a conflict exists, the Agreement will be terminated immediately, with subsequent written notice to the **CONTRACTOR** with the reasons for the termination. ---

-----The **CONTRACTOR** represents conflicting interests when, for the benefit of a client, it is his duty to promote what she must oppose in compliance with his obligations to another previous, current or potential client. She also represents conflicting interests when his conduct is described as such in the ethical standards recognized for his profession, or in the laws and regulations of the Commonwealth of Puerto Rico. -----

----- **CONTRACTS WITH THE GOVERNMENT:** At the time of the signing of this Contract, the **CONTRACTOR** certifies that it maintains a professional services contract with the Law School of the University of Puerto Rico as a professor, and that it does not represent

a conflict with this Contract. In addition, the **CONTRACTOR** acknowledges and agrees that failure to mention any government entity with which it has a current contractual relationship may result in the termination of this Contract if determined by the **BENEFITS COUNCIL**. -----

---**FOURTH: ETHICS:** -----

----- The **CONTRACTOR** certifies that no member of the **BENEFITS COUNCIL** or any member of their family unit, partner, relative or person who shares their residence, has any direct or indirect pecuniary interest in the benefits resulting from this Contract. -----

----- Pursuant to Section 4.5 of the **GUIDELINES**, any person or organization that has made any contribution in cash or in kind to a candidate or member of the **BENEFITS COUNCIL** will not be eligible to be hired as a professional for five years from the date of such contribution. The **CONTRACTOR** certifies that it has not made any contribution in cash or in kind to any member of the **BENEFITS COUNCIL**. -----

----- The **CONTRACTOR** certifies that it will comply with the Code of Ethics for Supplier Contractors and Applicants for Economic Incentives of the Government of Puerto Rico. At the same time, it certifies that it will comply with any law or regulation that is applicable to this Contract. She also certifies that she knows the ethical standards of her profession and assumes responsibility for any action contrary to such standards. -----

----- The **PARTIES** recognize the following rules and guarantee their compliance in this Contract: -----

-----That the **BENEFITS COUNCIL** may not enter into a contract in which any of its members or any member of their family units has or has had a monetary interest during the last four (4) years before taking office, either directly or indirectly. -----

----- That the **BENEFITS COUNCIL** may not authorize a contract with a private person or knowing that this person in turn is representing private interests in cases or matters that involve conflicts of interest with the **BENEFITS COUNCIL**. -----

--- **FIFTH: TAX RESPONSIBILITY, CERTIFICATIONS AND DOCUMENTS:** The **CONTRACTOR** certifies and guarantees: -----

----- **A.** That at the time of executing this Contract, they have filed income tax, property and sales and use tax returns (if applicable) during the past five (5) years. -----

----- **B.** That she has no tax debts of any kind with the Commonwealth of Puerto Rico, for which she certifies that she does not owe income tax, sales or use taxes, personal and real property taxes, insurance payments for unemployment, temporary disability, Social Security for drivers, or by way of child support withholding or who is covered by a payment plan. In the alternative that the **CONTRACTOR** is under a payment plan, she hereby certifies that is in compliance with the terms and conditions of said plan. -----

----- **C.** The **CONTRACTOR** has submitted to the **BENEFITS COUNCIL** its Single Supplier Certificate (RUP) from the General Services Administration and the **CONTRACTOR** agrees to always maintain the current certification, as a payment condition. -----

----- **D.** That it is not in breach of Law 168-2000, as amended, better known as the "Law to Strengthen Family Support and Support for the Elderly". -----

----- **E.** That the municipal patent has been paid according to the volume of business, as required by the applicable legal provisions. -----

----- **F.** That she has an insurance policy issued by the State Insurance Fund Corporation, as established by Law No. 45 of April 18, 1935, as amended, known as the "Law of the Compensation System for Work Accidents. -----

----- **G.** That she certifies, under penalty of perjury, that she has not been convicted of any of the crimes indicated in Law 2-2018, known as the "Anti-Corruption Code for New Puerto Rico", as defined in the current Penal Code and that she has pleaded guilty to none of these crimes. Also, certifies that she is not aware of being investigated for the crimes indicated in Law 2-2018, as amended. -----

----- **H.** Certifies by signing this Contract as indicated in article 5(ñ) of Law 237-2004, as amended, that she has not been convicted of crimes against public integrity as defined in the Penal Code or embezzlement of public funds and who has not pleaded guilty to this type of crime in the Courts of the Commonwealth of Puerto Rico, or of the same crimes

as typified in the courts of any other jurisdiction of the United States of America. Certifies by signing this Contract that she has not been convicted of any of the crimes as indicated in the previous number in any other country as typified or worked in his place of origin. If you are guilty of any of the aforementioned crimes, this Agreement will be terminated immediately. -----

----- I. The **CONTRACTOR** acknowledges that the veracity of the certifications established in subsections (G) and (H) of this Clause are an essential condition of this Contract and that their defect will be sufficient cause for the **BENEFITS COUNCIL** to nullify the Contract and recover to the **CONTRACTOR** any sum of money disbursed for services rendered under the Contract. If, during the term of the Contract, the **CONTRACTOR** incurs in any of the disqualifying causes established in these paragraphs (G) and (H) above, the **CONTRACTOR** must notify it immediately and the Contract will be terminated immediately, but without the penalty of recovery. -----

-----J. The **CONTRACTOR** expressly acknowledges that strict compliance with its obligations as established in this clause is an essential and continuous condition during the term of this Contract and if any certification, assertion or statement is not correct in whole or in part, this will be sufficient cause for the **BENEFITS COUNCIL** to terminate it immediately. -----

---**SIXTH: SUBCONTRACTING:** The **CONTRACTOR** is not authorized to subcontract the services under this Agreement. -----

-----**SEVENTH: INDEPENDENT CONTRACTOR:** -----

----- The contractual relationship established herein is that of an independent contractor and does not make the **CONTRACTOR**, its officer, agent, representative or staff, employees of the **BENEFITS COUNCIL**. They will not acquire rights or any other benefits of the employee-employer relationship that are usually extended to the employees of the **BENEFITS COUNCIL**. Neither is any of the **CONTRACTOR's** employees granted the marginal rights and benefits that the applicable laws provide for the employees of the **BENEFITS COUNCIL**. -----

--- EIGHTH: CONTRACT TERMINATION: -----

-----The **BENEFITS COUNCIL** may terminate this Agreement at any time by letter or any written notice, including email addressed to the **CONTRACTOR** thirty (30) days in advance. In addition, the **BENEFITS COUNCIL** may terminate immediately this agreement: (a) under the provisions of this Contract; (b) the **CONTRACTOR** incurs in negligence, abandonment or breach of his duties, as well as improper conduct, which is not promptly remedied (when possible), and the **CONTRACTOR** receives the notification from the **BENEFITS COUNCIL**; (d) when the **BENEFITS COUNCIL** understands that there is an extraordinary fiscal situation that warrants an immediate cut in expenses. ---

----- The **CONTRACTOR** may terminate the Contract by giving written notice to the **BENEFITS COUNCIL** with forty-five (45) days in advance of said cancellation. -----

----- At the date of notification to terminate of the Contract, the **CONTRACTOR** shall not be entitled to any additional compensation, except for the work performed until the date of cancellation, if it complies with the terms of the Contract. -----

---NINTH: ADITIONAL CLAUSES: -----

-----**A. CONFIDENTIALITY:** The **CONTRACTOR** acknowledges the confidentiality of all non-public information or documentation that becomes known in the course of the tasks entrusted to it under this Contract. The **CONTRACTOR** may not disclose, publish, distribute or in any way use information from the **BENEFITS COUNCIL** without prior written authorization. Violation of this subsection will result in the Contract being terminated immediately, apart from any legal actions that may arise from such breach. --

-----**B. INTELLECTUAL PROPERTY:** The **CONTRACTOR** acknowledges that any document, writing, recommendation, or report produced under this Agreement shall be licensed in perpetuity to the **BENEFITS COUNCIL**. -----

-----**C. DAMAGES AND TORTS:** The **BENEFITS COUNCIL** will not be responsible for the acts or omissions of the **CONTRACTOR** that cause damages to third parties, in the performance of the agreed services. The **CONTRACTOR** agrees to release the **BENEFITS COUNCIL** from liability for third-party claims and to pay expenses, costs and

attorney's fees that the **BENEFITS COUNCIL** may have to incur in defense of the **CONTRACTOR** for acts or omissions of the **CONTRACTOR**. -----

----**D. APPLICABLE LAW, JURISDICTION, AND INTERPRETATION:** This Agreement and all its terms shall be interpreted in accordance with the laws and regulations of the Government of Puerto Rico. Any controversy or claim that arises or is related to this Contract will be resolved before the Court of First Instance of Puerto Rico, San Juan courthouse. The Parties agree that the Clauses and Conditions of this Contract are independent and separate from each other and that the nullity of one or more of them will not affect the validity of the other Clauses and Conditions established herein, which they are obliged to comply with. -----

----**E. AGREEMENT AND AMENDMENTS:** This Contract and its exhibits constitute the entire agreement between the parties and may only be amended in writing, prospectively and by mutual agreement during its validity in accordance with the needs of the **BENEFITS COUNCIL** and subject to the availability of funds for the execution of the amendment. This Contract has been the product of negotiations and expresses the feelings of both parties, therefore, there will be no presumption that any party prepared the document. -----

---- **F. NOTICES:** Any written notice or notification required under the terms of this Contract will be sent to the last known physical and email addresses of the signatories to this Contract. The **PARTIES** accept and acknowledge their obligation to keep up to date regarding their correct addresses, including telephone numbers, fax, emails, and contact person, during the term of this Contract. -----

---- **NOTICE:** No payment or consideration under this Contract may be required until presented for registration before the Office of the Comptroller in accordance with the provisions of Law No. 18 of October 30, 1975, according to amended. -----

--- **TENTH: VALIDITY AND ACCEPTANCE:** -----

----This Agreement is granted and effective from May 23, 2023, through June 30, 2023.

-----The **PARTIES** accept all the clauses and conditions of this Contract and thus confirm it by signing the last page and starting it on the left margin of the remaining ones. -----

**Commonwealth Plan of Adjustment
Pension Benefits Council Corp.
EIN 66-1009098**


Carmen H. Núñez Rodríguez

**Emmalind García García
Contractor
SSN 583-24-3515**


Emmalind García García