

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

2023-00005

ELECTION ADMINISTRATOR 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 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: Kroll Restructuring Administration LLC d/b/a Kroll Administrative Services ("**Kroll**"), a company organized under the laws of Delaware, represented in this act by Shira Weiner, of legal age, General Counsel and resident of New York, hereinafter referred to as the "**ELECTION ADMINISTRATOR**".

When the two parties are referred to together, they will be referred to as the "**PARTIES**".

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 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 “**GUIDELINES**”).

PURPOSE

The **BENEFITS COUNCIL** is responsible for reviewing the adequate and timely funding of the Pension Reserve Trust by the Commonwealth and approve the release of funds from said Trust to assist in the payment of the pensions of public employees. Six out of the nine members of the Pension Benefits Council are elected among certain government retirees and active employees.

The **BENEFITS COUNCIL** conducted a Request for Proposal for an Election Administrator with experience in conducting elections to be responsible for providing notices, assist in the creation of procedures for voting in the election, facilitate the nomination and balloting process, determine candidate eligibility, and provide support in conducting the election. The **ELECTION ADMINISTRATOR** presented a proposal and was selected by the **BENEFITS COUNCIL**.

The **ELECTION ADMINISTRATOR** has the necessary resources, knowledge, and experience to provide the services to the **BENEFITS COUNCIL** subject to the following:

CLAUSES AND CONDITIONS

FIRST: SERVICES: The **ELECTION ADMINISTRATOR** shall provide the following services:

- A. Provide notices and prepare documents related to the election process as established in the **GUIDELINES**.
- B. Prepare the nomination form for candidates.
- C. Determine candidate eligibility subject to the **GUIDELINES** and election procedures.
- D. Prepare the list of eligible candidates.

- E. Assist in developing procedures for voting in the election after consideration of best practices in order to reasonably meet the specific needs and purposes of the election pursuant to the **GUIDELINES**.
- F. Participate in candidate meetings.
- G. Assist in conducting the election.
- H. Tabulate ballots and certify voting results.
- I. If a formal challenge to the election is presented, testify, and participate in arbitration.
- J. Provide any other service necessary for the election process of members to the **BENEFITS COUNCIL** pursuant to the **GUIDELINES** and the election procedures adopted.

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The **ELECTION ADMINISTRATOR** submitted to the **BENEFITS COUNCIL** a rate card included in the proposal for services dated January 15, 2023, and the same is incorporated by reference and made part of this Contract, as **Exhibit I**. All professional services contracted in this document will be performed upon request or authorization from the **BENEFITS COUNCIL**. The **BENEFITS COUNCIL** agrees and understands that the **ELECTION ADMINISTRATOR** shall not provide the **BENEFITS COUNCIL** or any other party with legal advice.

SECOND: FEES: The **ELECTION ADMINISTRATOR** will invoice for the services offered based on the fees established on Exhibit I. The total amount of compensation to be paid by the **BENEFITS COUNCIL** to the **ELECTION ADMINISTRATOR** for services and expenses for this Contract shall not exceed FIVE HUNDRED FORTY THOUSAND DOLLARS (\$540,000.00), excluding any fees or expenses for any print publication or other media notice (newspaper, magazine, radio, or otherwise), and provided that there is no deviation from the following assumptions: (i) a pool of no more than 200,000 eligible voters; (ii) three accepted methods for submitting ballots: (A) by mail, (B) by online portal, and (C) in person at one of the **ELECTION ADMINISTRATOR'S** on-island ballot collection sites—with no voting by telephone; (iii) a response rate of no more than 5% of

potential voters (i.e., approximately 10,000 individuals) with approximately 3/4 of voters submitted by paper (either by mail or by hand-delivering to one of our on-island ballot collection centers) and approximately 1/4 of votes submitted online; (v) to minimize costs, the **ELECTION ADMINISTRATOR** will provide final voting results after the voting deadline and will not be required to provide any interim voting reports to the **BENEFITS COUNCIL** or otherwise; (vi) the **ELECTION ADMINISTRATOR** will not be tasked with curing any invalid votes; (vii) the only mailings will be a voting package containing a one-page ballot and a one-page notice and will be sent to the potential voters by first class mail; (viii) there will be no more than seven on-island ballot collection sites; and (ix) the **ELECTION ADMINISTRATOR** will not be responsible for handling any substantive questions, rather, the **ELECTION ADMINISTRATOR** will route such questions to the Communications Agent and will respond only to technical questions regarding the process of submitting votes. The **BENEFITS COUNCIL** agrees to pay for reasonable out of pocket expenses incurred by the **ELECTION ADMINISTRATOR** in connection with providing services hereunder. Where an expense or group of expenses to be incurred is expected to exceed \$10,000, the **ELECTION ADMINISTRATOR** may require advance or direct payment from the **BENEFITS COUNCIL** before the performance of services hereunder. The **BENEFITS COUNCIL** shall pay any fees and expenses for services relating to, arising out of or resulting from any error or omission made by the **BENEFITS COUNCIL**.

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 **ELECTION ADMINISTRATOR** in writing of such determination and said new amount available shall be the maximum amount of the Contract. As a result, the **ELECTION ADMINISTRATOR** 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 **ELECTION ADMINISTRATOR's** proposal, the **BENEFITS COUNCIL** expressly acknowledges that the **ELECTION ADMINISTRATOR** may terminate the Contract and the **BENEFITS**

COUNCIL must pay the **ELECTION ADMINISTRATOR** the amount accrued until the date of cancellation.

If any of the assumptions set forth above prove incorrect and/or the **BENEFITS COUNCIL** determines to increase the scope of the engagement, with the result that the total fees and expenses are expected to exceed FIVE HUNDRED FORTY THOUSAND DOLLARS (\$540,000.00), the **ELECTION ADMINISTRATOR** may submit to the **BENEFITS COUNCIL** a proposal citing the new underlying assumptions and/or setting forth the revised services described in this Contract. In particular, if the number of voters exceeds 10,000 (which is one of the underlying assumptions), the cost for processing additional votes is expected to be approximately \$10 per vote. If the **BENEFITS COUNCIL** accepts such proposal, the **PARTIES** shall sign an amendment to this Contract formalizing the changes. If the **BENEFITS COUNCIL** does not accept the **ELECTION ADMINISTRATOR's** proposal, the **BENEFITS COUNCIL** expressly acknowledges that the **ELECTION ADMINISTRATOR** may terminate the Contract and the **BENEFITS COUNCIL** shall pay the **ELECTION ADMINISTRATOR** the amount accrued until the date of cancellation.

The **ELECTION ADMINISTRATOR** 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 **ELECTION ADMINISTRATOR** shall be charged to the budget item or account number 030261422 or any other budget item or account determined by the **BENEFITS COUNCIL**.

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. If the **BENEFITS COUNCIL** disputes an amount contained in an fee statement, it shall approve and process for payment the undisputed portion of the fee statement and shall notify the **ELECTION ADMINISTRATOR** within forty five (45) days of receipt of the fee statement of the nature and amount in dispute. Upon resolution of

any fee dispute, the resolved amount shall be payable to the **ELECTION ADMINISTRATOR** within fifteen (15) days of such resolution.

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

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"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."

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The **BENEFITS COUNCIL** will notify the Treasury Department of the amount paid per calendar year to the **ELECTION ADMINISTRATOR** 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, only with respect to any services rendered within Puerto Rico. Services rendered outside of Puerto Rico are not subject to the withholding at source of 10%. If this percentage is amended by law, the **ELECTION ADMINISTRATOR** will be notified, and the corresponding adjustment will be made. However, the **ELECTION ADMINISTRATOR** may submit the corresponding release, in which case the withholding will be that indicated in the release.

THIRD: CONFLICT OF INTEREST AND RESPONSABILITIES:

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

The **ELECTION ADMINISTRATOR** certifies that he 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 **ELECTION ADMINISTRATOR** acknowledges that in the discharge of his professional function he has a duty of loyalty 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 **CONTRATOR** agrees that in the event that the **BENEFITS COUNCIL** determines that such a conflict exists, the Contract will be terminated immediately, with subsequent written notice to the **ELECTION ADMINISTRATOR** with the reasons for the termination.

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The **ELECTION ADMINISTRATOR** represents conflicting interests when, for the benefit of a client, it is his duty to promote what he must oppose in compliance with his obligations to another previous, current or potential client.

CONTRACTS WITH THE GOVERNMENT: At the time of the signing of this Contract, the **ELECTION ADMINISTRATOR** certifies that it maintains a professional services contract with the Financial Oversight and Management Board for Puerto Rico and that it does not represent a conflict with this Contract.

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FOURTH: ETHICS:

The **ELECTION ADMINISTRATOR** 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 **ELECTION ADMINISTRATOR** certifies that it has not made any contribution in cash or in kind to any member of the **BENEFITS COUNCIL**.

The **ELECTION ADMINISTRATOR** certifies that it will comply with the Code of Ethics for Suppliers, 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. The **ELECTION ADMINISTRATOR** also

certifies that he knows the ethical standards of his 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 **ELECTION ADMINISTRATOR** 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 he has no tax debts of any kind with the Commonwealth of Puerto Rico, for which he certifies that he 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. If you are included in a payment plan, you certify that you are in compliance with the terms and conditions of said plan.

C. The **ELECTION ADMINISTRATOR** has submitted to the **BENEFITS COUNCIL** its Single Supplier Certificate (RUP) from the General Services Administration, which is made part of this Contract as Exhibit B, and the **ELECTION ADMINISTRATOR** agrees to maintain the current certification at all times, 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, to the extent required, he 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 he certifies, under penalty of perjury, that he 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 he is not He has pleaded guilty to none of these crimes. Also, certifies that he 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 he 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 he 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 Contract will be terminated immediately.

I. That during the term of the Contract, all personnel who represent the **BENEFITS COUNCIL** in any forum or for any of the procedures of this Contract are duly authorized and licensed in their profession. The **ELECTION ADMINISTRATOR** certifies that said personnel is not under investigation by the Court or corresponding entity that accredits it and that their license or permit has not been revoked or suspended.

J. The **ELECTION ADMINISTRATOR** 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 **ELECTION ADMINISTRATOR** any sum of money disbursed for services rendered under the Contract. If, during the term of the Contract, the **ELECTION ADMINISTRATOR** incurs in any of the disqualifying causes established in these paragraphs (G) and (H) above, the **ELECTION ADMINISTRATOR**

must notify it immediately and the Contract will be terminated immediately, but without the penalty of recovery.

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K. The **ELECTION ADMINISTRATOR** 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:

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The **ELECTION ADMINISTRATOR** may not subcontract the services covered by this Contract nor may it hire experts or other persons without the prior written consent of the **BENEFITS COUNCIL**. The request to hire a consultant the **ELECTION ADMINISTRATOR** must specify the issues or cases in which the consultant will intervene, and the amount of their fees.

SEVENTH: INDEPENDENT CONTRACTOR:

The contractual relationship established herein is that of an independent contractor and does not make the **ELECTION ADMINISTRATOR**, 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 **ELECTION ADMINISTRATOR'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 Contract at any time by letter or any written notice, including email addressed to the **ELECTION ADMINISTRATOR** thirty (30) days in advance. In addition, the **BENEFITS COUNCIL** may terminate immediately this agreement: (a) under the provisions of this Contract; (b) the **ELECTION ADMINISTRATOR** commits an act of gross negligence or willful misconduct which is not promptly remedied (when possible), and the **ELECTION ADMINISTRATOR** receives the

notification from the **BENEFITS COUNCIL**; or (c) when the **BENEFITS COUNCIL** understands that there is an extraordinary fiscal situation that warrants an immediate cut in expenses.

The **ELECTION ADMINISTRATOR** may terminate this Contract immediately upon written notice for Cause (as defined herein). "**Cause**" means (i) the failure of the **BENEFITS COUNCIL** to pay the **ELECTION ADMINISTRATOR** invoices for more than sixty (60) days from the date of invoice or (ii) the accrual of invoices or unpaid Services in excess of the advance held by the **ELECTION ADMINISTRATOR** where the **ELECTION ADMINISTRATOR** reasonably believes it will not be paid.

At the date of notification to terminate of the Contract, the **ELECTION ADMINISTRATOR** 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: ADITONAL CLAUSES:

A. CONFIDENTIALITY: The **ELECTION ADMINISTRATOR** 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 **ELECTION ADMINISTRATOR** may not disclose, publish, distribute or in any way use information received from the **BENEFITS COUNCIL** or received from any entity from the Commonwealth of Puerto Rico, without prior written authorization. The **ELECTION ADMINISTRATOR** will use its best efforts to store, manage and protect the confidential information received from the **BENEFITS COUNCIL** or received from any entity from the Commonwealth of Puerto Rico. Violation of this subsection will result in the Contract being terminated immediately, apart from any legal actions and damages that may arise from such breach.

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

C. INDEMNIFICATION: The **BENEFITS COUNCIL** shall indemnify and hold harmless the **ELECTION ADMINISTRATOR** and its members, directors, officers, employees, representatives, affiliates, consultants, subcontractors and agents

(collectively, the "**INDEMNIFIED PARTIES**") from and against claims, damages and judgments, whether direct or indirect (including, without limitation, counsel fees and expenses) (collectively, "**LOSSES**") resulting from, arising out of or related to the **ELECTION ADMINISTRATOR'S** performance hereunder , resulting from claims by any third parties against any **INDEMNIFIED PARTY**.

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The **BENEFITS COUNCIL** and the **ELECTION ADMINISTRATOR** shall notify each other in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that either party becomes aware of with respect to the Services provided hereunder.

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The **BENEFITS COUNCIL'S** indemnification of the **ELECTION ADMINISTRATOR** hereunder shall exclude Losses resulting from the **INDEMNIFIED PARTIES** gross negligence, willful misconduct, criminal acts, or breach of confidentiality.

The **BENEFITS COUNCIL'S** indemnification obligations hereunder shall survive the termination of this Contract.

D. LIMITATIONS OF LIABILITY: Except as expressly provided herein, the **ELECTION ADMINISTRATOR'S** liability to the **BENEFITS COUNCIL** for any Losses, unless due to the **INDEMNIFIED PARTIES** gross negligence, willful misconduct, criminal acts or breach of confidentiality, shall be limited to one million dollars (\$1,000,000). In no event shall the **ELECTION ADMINISTRATOR** be liable for any indirect, special or consequential damages (such as loss of anticipated profits or other economic loss) in connection with or arising out of the Services provided hereunder.

E. APPLICABLE LAW, JURISDICTION, AND INTERPRETATION:

1. This Contract and all its terms shall be interpreted in accordance with the laws and regulations of the Government of Puerto Rico.
2. 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.

3. 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.

4. This Contract includes a proposal as an exhibit on services to be provided by the **ELECTION ADMINISTRATOR**. To the extent that this Contract and its annexes conflict with each other, this Contract and its rules of interpretation shall prevail over what is established in the annexes. If a particular element is not considered within the Contract, the terms contained in the exhibit will prevail, unless its application has a result contrary to what is established in the Contract.

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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.

G. INSURANCE POLICIES: The **ELECTION ADMINISTRATOR** shall maintain a public liability policy in force during the term of this Contract. The **ELECTION ADMINISTRATOR** agrees that the policy may not be canceled without prior written notice to the **BENEFITS COUNCIL** with no less than thirty (30) days prior to the date of the cancellation. It will be sufficient cause for the immediate termination of the Contract by the **BENEFITS COUNCIL**, if the **ELECTION ADMINISTRATOR** does not maintain the aforementioned policies in force 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: FORCE MAJEURE: Whenever performance by the **ELECTION ADMINISTRATOR** of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, government requirement, strike, lock-out or other industrial or transportation disturbance, fire, flood, epidemic, pandemic, lack of materials, law, regulation or ordinance, act of terrorism, war or war condition, or by reason of any other matter beyond the **ELECTION ADMINISTRATOR'S** reasonable control, then such performance shall be excused, and this Agreement shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

ELEVENTH: VALIDITY AND ACCEPTANCE:

This Contract is granted and effective from April 20, 2023, through June 30, 2024.

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 Núñez Rodríguez

**Kroll Restructuring Administration LLC
Election Administrator
EIN 82-3588071**


Shira Weiner



January 15, 2023

To the Transition Pension Benefits Council (the “PBC”):

Thank you for the opportunity to provide a Second Revised Proposal to Serve as the Election Administrator for the Commonwealth Plan of Adjustment Pension Benefits Council (the “Second Revised Proposal”) and to assist Marchand Integrated Communications Strategies Group (“MICS”) in its role as information and communications agent for the PBC. Based on Kroll’s proven track record of soliciting Puerto Rico’s retirees and active employees as part of the Commonwealth’s plan of adjustment in 2021 as well as our unmatched experience managing complex voting events—many of them international—we are confident that you will find Kroll uniquely qualified to assist the PBC, MICS, and the PBC’s other professionals in this matter.

As we emphasize in the attached Second Revised Proposal, Kroll is the market leader in soliciting and tabulating participation in the most voluminous and complex voting and election events in the corporate restructuring arena, frequently handling voting events involving hundreds of thousands of voters and billions of dollars under intense time pressures and public scrutiny. Our team is comprised of highly skilled professionals who have front-line experience and a unique depth of subject matter expertise with respect to voting events. We pride ourselves in creating reliable, accurate, and transparent voting procedures that can withstand even the greatest amount of scrutiny whether by a court, government, or interested party. Moreover, our innovative technology and data security measures drive accuracy, efficiency, and cost savings while providing unlimited scalability.

Given Kroll’s pre-existing familiarity with this universe of retirees and active employees as well as the nuances of noticing and communicating with them, the PBC would recognize significant cost savings retaining Kroll, because we understand the context of this voting event, are intimately knowledgeable of the data, and can truly hit the ground running. Further, based on our work on the solicitation of votes on the Commonwealth’s plan of adjustment, we have a customized and honed noticing process, communication platform, and relationship with local publications and radio stations should this engagement call for constructive notice via the media.

In the attached materials you will find information about our services, industry-leading solicitation team, cutting edge technology platform and data security, experienced professionals, and out rates. We understand the deadline of completing the process and are prepared to get started immediately.

We greatly appreciate the opportunity and remain available at any time to discuss our proposal.

Best,

Benjamin Steele

Benjamin Steele

Managing Director

M: +1 212 257 5490

benjamin.steele@kroll.com



Second Revised Proposal to Serve as Election Administrator for the Puerto Rico Pension Benefits Council

January 15, 2023

Kroll Restructuring Administration LLC

Name and Address of the Firm

Kroll Restructuring Administration LLC
55 East 52nd Street
17th Floor
New York, New York 10055

Legal Information of the Business

Kroll Restructuring Administration LLC (which we will hereinafter refer to as “Kroll”) is a Delaware limited liability company providing administrative and business services both inside and out of the restructuring context. We are a wholly-owned subsidiary of Kroll, LLC, the leading independent provider of risk and advisory solutions. As such, Kroll has the capacity to offer “one-stop shopping” across numerous practice areas and can easily accommodate additional work should the scope of the engagement expand.

Description of the Firm (Size, Range, and Types of Services Offered)

With over 150 full-time employees, Kroll Restructuring Administration LLC, formerly Prime Clerk LLC, is an administrative agent that specializes in in-court and out-of-court restructurings, including handling the claims-collection and claims-management process; noticing claim holders and other parties in interest; and managing the solicitation, tabulation, and certification of votes on plans of reorganization, schemes of arrangement, and any voting or election event. With more than 330 engagements since its inception in 2013, Kroll is the undisputed market leader for noticing, claims, and solicitation services in the restructuring industry. In this capacity, Kroll has noticed *hundreds of millions* of creditors worldwide; processed *many millions* of claims, ballots, election forms, registration forms, and other documents; and responded to *hundreds of thousands* of inquiries through our communications center. Moreover, Kroll securely manages *tens of millions* of dynamic data records and consistently provides clients with novel, bespoke, and secure solutions to complex administrative challenges in the claims-management and voting contexts and beyond.

Some of the most high-profile entities ever to restructure have selected Kroll to serve as their claims, noticing, and solicitation/tabulation agent, including *The Commonwealth of Puerto Rico, LatAm Airlines, Purdue Pharma, PG&E, Sears, Hertz, J.C. Penney, and iHeartMedia*, to name but a few. Significantly, many of the world’s most sophisticated law firms, such as Akin, Gump, Strauss, Hauer & Feld LLP; Davis Polk & Wardwell LLP; Kirkland & Ellis LLP; Latham & Watkins LLP; Paul Hastings LLP; Paul, Weiss, Rifkind, Wharton & Garrison LLP; Proskauer Rose LLP; Skadden, Arps, Slate, Meagher & Flom LLP; Sullivan & Cromwell LLP; Weil, Gotshal & Manges, LLP; and White & Case LLP, entrust Kroll to administer their clients’ events in matter after matter. These repeated endorsements are a clear indication of our success in providing the highest level of excellence in the noticing, claims-management, and solicitation/tabulation industry.

Below is a sampling of some of Kroll’s more notable recent engagements (“Representative Engagements”) including the approximate amount of notice parties, voting parties, and total liabilities being reorganized.¹

Representative Engagements			
Engagement	Total Notice Parties	Total Voting Parties	Total Liabilities
TK Holdings Inc. (“Takata”)	87,000,000	11,580	\$3.9 Billion
Commonwealth of Puerto Rico	1,570,000	393,750	\$72 Billion
Toys ‘R Us	967,150	7,750	\$5.2 Billion
Sears Holding Corporation	753,700	376,720	\$10 Billion
Linn Energy	467,800	14,110	\$10 Billion
Altegrity	370,100	6,920	\$1.8 Billion
J.C. Penney Company	360,000	8,780	\$4.9 Billion
Caesars Entertainment Company	306,800	18,100	\$24 Billion
Hertz	303,844	68,830	\$19 Billion

Some of our additional, noteworthy engagements include **Purdue Pharma** (with approximately 1.1 million notice parties), **PG&E** (with approximately 6.4 million notice parties), **24 Hour Fitness** (with approximately 10.7 million notice parties), **LATAM Airlines** (with approximately 111,000 notice parties), and **iHeartMedia** (with approximately 89,000 notice parties).

Most recently, we have been retained by **FTX** and **BlockFi**—both of which will likely involve noticing lists potentially in excess of 1 million parties.

¹ A full listing of Kroll’s restructuring cases is available at: <https://www.kroll.com/en/restructuring-administration-cases>.

Cost Proposal (Monthly Payments and Total Cost)

Below, please find Kroll's estimated budget for this prospective engagement with the Transition Pension Benefits Council (the "PBC"). This estimated budget provides information on our projected fees and expenses on a monthly basis and in total. For ease of reference, we group our work into three stages: (i) advising and collaborating with the PBC, its professionals, and any subcommittees to fine-tune the nomination and election procedures, rules, and forms; (ii) implementing the nomination and voting processes, including the solicitation and tabulation of votes; and (iii) certifying and validating the voting results.

Our estimated budget is based on certain assumptions provided to us in the request for proposal as well as our industry experience (in general) and our experience soliciting votes from employees and retirees on the **Commonwealth of Puerto Rico's** Plan of Adjustment (the "POA") last year (in particular). Those assumptions are as follows:

- There will be approximately 200,000 eligible voters (at most).
- Based on feedback from the PBC's professionals, we will offer three methods to collect ballots: (i) by mail, (ii) by online portal, and (iii) in person at one of our on-island ballot collection sites. We remain prepared to offer a fourth voting method—by phone—should the PBC and its professionals determine it warranted.
- Based on turnout on the POA and feedback from PBC's professionals, we expect no more than 5% of potential voters (i.e., approximately 10,000 individuals) to submit ballots.
- Based on voting by retirees on the POA, we anticipate that approximately 3/4 of voters will submit their votes by paper (either by mail or by hand-delivering to one of our on-island ballot collection centers) and approximately 1/4 of voters will submit their votes online.
- The voting package will contain a one-page ballot and a one-page notice and will be sent to the potential voters by first class mail.
- We will open, maintain, and staff up to seven on-island ballot collection centers and a call center to respond to technical voting questions—all of which will be staffed by local Puerto Ricans, completely fluent and familiar with local dialects and customs.
- We will route all substantive questions to the Communications Agent, with Kroll left to respond only to technical questions regarding the process of submitting votes.

Please note that this estimate does not include fees and expenses for any print publication or other media notice (newspaper, magazine, radio, or otherwise), which can be provided on demand.

While we endeavor to be as accurate as possible, this estimate is not a cap on our fees, which may be more (or less) than estimated.

We estimate that our total fees and expenses for the life of the engagement will be approximately \$540,000, of which approximately \$315,000 will be fees and approximately \$225,000 will be pass-through expenses such as postage and lease costs. Pages 4, 5, and 6 provide our fees and expenses in further detail.

Stage 1 (Engaging and Advising)			
Month	General Description of Election Administrator's Work	Approximate Fees	Approximate Expenses
Dec. 2022	Respond to PBC Proposal and Provide Requested Background Information	\$0	\$0
Jan. 2023	Negotiate Contract with PBC, Execute Agreement, and Commence Engagement; Collaborate with PBC and Its Professionals to Obtain Updated Voter Information (with Additional Data Fields); Standardize Data; and Assist PBC and Its Professionals Fine-Tune the Nomination and Voting Process, Rules, Forms, and Timetables	\$10,000	\$0
Feb. 2023	Continue to Collaborate with PBC and Its Professionals to Obtain Updated Voter Information (with Additional Data Fields); Standardize Data; and Assist PBC and Its Professionals Fine-Tune the Nomination and Voting Process, Rules, Forms, and Timetables	\$10,000	\$0
Mar. 2023	Continue to Collaborate with PBC and Its Professionals to Obtain Updated Voter Information (with Additional Data Fields); Standardize Data; and Assist PBC and Its Professionals Fine-Tune the Nomination and Voting Process, Rules, Forms, and Timetables	\$2,500	\$0
Apr. 2023	Prepare to Launch Nomination Process	\$2,500	\$0
Subtotal (Stage 1 – Engaging and Advising)		\$25,000	\$0

The estimate for Stage 2 is found on page 5.

**Stage 2
(Implementation)**

Month	General Description of Election Administrator's Work	Approximate Fees	Approximate Expenses
May 2023	Launch Nomination Process	\$2,500	\$0
June 2023	Review Nominations and Determine Eligibility; Convey Results of Nomination Process to Nominees and Obtain Nominees' Consent; Inform Nominees of Upcoming Mandatory Candidate Meetings Interview and Coordinate the Hiring of Personnel for Call Center and Ballot Collection Sites	\$10,000	\$0
July 2023	Assist PBC and Its Professionals Host Candidate Meetings to Determine Intent and Eligibility Continue to Interview and Coordinate the Hiring of Personnel for Call Center and Ballot Collection Sites	\$10,000	\$0
Aug. 2023	Customize and Mail Ballots	\$15,000	\$40,000 (printing) \$115,000 (postage)
September 2023	Open On-Island Ballot Collection Centers <i>(the leases will all have been agreed upon previously); and</i> Collect and Process Ballots	\$122,500	\$70,000 (leases, utilities, security, equipment, etc. at 7 locations)
Subtotal: (Stage 2 – Implementation)		\$160,000	\$225,000

The estimate for Stage 3 and the total estimate is found on page 6.

Stage 3 (Verification and Certification)			
Month	General Description of Election Administrator's Work	Approximate Fees	Approximate Expenses
October 2023	Voting Deadline; Conducting Quality Assurance Review and Reconciling Votes; and Certifying and Reporting the Final Vote	\$130,000	\$0
Subtotal (Stage 3 – Verification and Certification)		\$130,000	\$0

Grand Total: (for Entire Engagement (Stages 1, 2, and 3))	\$315,000	\$225,000
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We have attached our pricing chart hereto as [Annex A](#).

Breakdown of Voting through Stages. As illustrated in the month-to-month cost proposal, we believe the PBC would incur approximately \$25,000 in fees and \$0 in expenses for Kroll's advisory work during the first stage of the engagement (December 2022 through April 2023).

Kroll's fees and expenses rise to \$160,000 and \$225,00, respectively, for the second stage of the engagement (May 2023 – September 2023), which involves the implementation of the nomination and voting processes. Stage 2 also includes Kroll's work interviewing and coordinating the hiring local Puerto Rican professionals to staff our call center and ballot collection sites.

Kroll's fees for Stage 3—the final stage of the engagement (October 2023)—are expected to be approximately \$130,000. While the last stage is the shortest stage, it will require a significant amount of work processing the large volume of ballots we would expect to receive on the eve of the voting deadline and conducting all the necessary quality assurance checks, vote reconciliations, and final certifications of the results.

Breakdown of Fees According to Voting Methods. Examining the prospective work from a different angle, we estimate that (i) approximately \$12,500 in fees will be incurred processing ballots electronically through Kroll’s dedicated and user-friendly online voting portal and (ii) approximately \$75,000 of fees will be incurred processing paper ballots submitted either through the mail or at one of our on-island ballot collection centers. As previously mentioned, should the PBC or its professionals request the implementation of voting by phone, Kroll will make such option available and will provide an estimate upon request.

Breakdown of Fees According to Level of Kroll Employee. Kroll staffs its engagement with careful consideration of our clients’ costs. Therefore, the vast majority of work is performed by individuals at our lower billing levels with the appropriate supervision, management, and advisory services provided by our more senior members.

Below is a breakdown of our fees at the various levels of our team members.

Title	Percentage of Fees in This Engagement to Be Billed by Individuals at That Title
Senior Director	0.5%
Director	1.0%
Senior Consultant	8.5%
Consultant	45%
Analyst	30%
Call Center Operator	15%

Bi-Monthly Budget Forecasts. In addition to the above estimated budget, Kroll will also provide PBC with budget forecasts twice per month, which can serve as advanced notice of any budgeting issues and will allow us to work with the PBC to address any issues.

Biographical Information of the Professionals Performing Work for the Pension Benefits Council

Kroll has built a team of highly experienced professionals to lead its cases, including former attorneys from law firms such as Jones Day, Kirkland & Ellis, Skadden Arps, Weil Gotshal, and Willkie, among others. Our ranks also include business school graduates, former employees of financial advisor and auditing firms, former senior paralegals, and experienced professionals who have years of experience working at Kroll and previously at our competitors such as Epiq/Financial Balloting Group, Innisfree, and the proxy agent, Georgeson. These professionals have experience assisting large companies collect and manage claimant and/or voting party data, execute large-scale noticing programs, and administer solicitation and tabulation events.

For the Pension Benefits Council voting event, Kroll will staff the same highly-effective and seasoned team that has already successfully managed the voting for Puerto Rico Sales Tax Financing Corporation (“COFINA”), the Commonwealth of Puerto Rico, Puerto Rico Highways and Transportation Authority (“HTA”), Puerto Rico Infrastructure Financing Authority (“PRIFA”), Puerto Rico Convention Center District Authority (“CCDA”), and Puerto Rico Public Finance Corporation (“PFC”) as part of those entities’ restructurings under PROMESA. As described in detail below, our Pension Benefits Team has more experience working on the most complex and voluminous voting events in the context of restructurings—including from our pre-Kroll careers — than anyone else in the industry.

Craig Johnson

Led by Craig Johnson, Kroll has the largest and most experienced Solicitation team in the industry. Craig has played a senior role in managing all aspects of solicitation and tabulation in the voting events for **American Airlines, Borders Group, Claire’s Stores, Exide Technologies, iHeartMedia, PG&E Corporation, Commonwealth of Puerto Rico, Purdue Pharma, Sears, and Toys ‘R Us**, to name a few. Craig has worked with Kroll’s clients to develop, draft and implement noticing procedures as well as the mechanics and methodology for solicitations and tabulations. Moreover, not only does Craig manage the collection, processing, and quality assurance of votes, he also signs the certification of the final results and appears in court to testify to the methodology of solicitation and tabulation and the final results as well as to respond to inquiries. Craig started his career as an associate at Weil, Gotshal & Manges LLP.

Mariah Dubin

Mariah Dubin will support Craig to oversee the execution of Kroll’s daily responsibilities during a Pension Benefits Council engagement. Mariah, formerly a Senior Manager at Epiq, led the team responsible for coordinating and executing the disbursement of tens of billions of dollars on account of allowed claims in the **Lehman** cases. Since joining Kroll, Mariah has led the noticing, claims management, communications, and special projects teams on some of the largest and most complex chapter 11 matters in the last 10 years, such as **Takata, Purdue, and PG&E**. Mariah will play a key role in a Pension Benefits Council engagement, managing the teams responsible for all aspect of data import, claims processing and quality control, noticing, website management, on-island ballot collection, and special projects.

Moreover, Mariah is Kroll’s resident expert on office and staffing logistics and has led Kroll’s successful efforts in establishing local claim centers and ballot collection centers (most notably) for the **Commonwealth of Puerto Rico** (in Puerto Rico) and **PG&E** (throughout California).

Stacey Corr-Irvine

A former restructuring partner at the law firm Jones Day, Stacey Corr-Irvine is a senior manager at Kroll and will coordinate and manage all communications needs during the Pension Benefits Council engagement, including managing all voting by phone. As an attorney, Stacey represented debtors and creditors in numerous chapter 11 cases and out-of-court restructurings, including **RCS Capital Corporation**, **M&G USA Corporation**, **American Apparel**, and **Catalina Marketing Corporation**. Stacey joined Kroll in 2020 and manages Kroll's Communications team, which handles tens of thousands of inquiries from interested parties through live calls, emails, live chats, and questions submitted through our case websites. The communications team includes former paralegals and other claims administration professionals that have experience managing and responding to inquiries in chapter 11 cases where hundreds of thousands of parties are noticed. Moreover, Stacey's team has designed, implemented, and managed communication plans to handle inquiries resulting from media campaigns reaching tens of millions of interested parties.

Stacey brings a focused approach to ensuring that all our call center personnel are highly trained, knowledgeable of all the details of the project, and appropriately selected to meet (and exceed) our clients particular expectations, which in this engagement will involve staffing a call center in Puerto Rico with local Puerto Ricans fluent in the applicable dialect and familiar with local customs.

Alex Orchowksi

Alex is the Director of Kroll's Solicitation practice group and runs the day-to-day operations of that group. In that capacity, Alex has played an active and instrumental role in the successful solicitation and tabulation in many of Kroll's major voting events, including the **Commonwealth of Puerto Rico**, **LATAM Airlines**, **Purdue Pharma**, **Linn Energy**, **Paddock Enterprises**, **Seadrill Partners**, **Avaya Inc.**, **Bristow Group**, and **Toys "R" Us**, to name a few. Alex serves as an invaluable guide to Kroll's clients and their professionals as they navigate the complicated, time-sensitive, and highly-scrutinized solicitation phase of a restructuring, and he takes a proactive role drafting, reviewing, and trouble-shooting of voting procedures. In addition, Alex frequently appears in Court proceedings to testify regarding Kroll's methodology for voting and certified voting results. In November 2022, Alex was awarded The M&A Advisor Emerging Leaders Award for his notable accomplishments in the solicitation sector and for service to the community. Alex is a 2015 graduate of Brooklyn Law School.

Stan Kesler and Ryan Vyskocil

Stan and Ryan are the experienced Directors who will be managing the voting event for the Pension Benefits Council. Both Stan and Ryan are among Kroll's best and brightest mid-level managers and count among their accomplishments the deft handling of the day-to-day work on some of Kroll's most impressive engagements, including but not limited to the **Commonwealth of Puerto Rico**, **Purdue Pharma**, **Paddock Enterprises**, **EP Energy**, **LATAM Airlines**, **Sears**, **Carlson Travel**, and **Imerys**. In addition, both Stan and Ryan have a long history of collaborating with Craig and Alex and are expert at issue-spotting and trouble-shooting proposed voting processes as well as implementing approved procedures.

These and other senior managers provide Kroll with a deep bench of experienced professionals to ensure that the Pension Benefits Council engagement has significant, experienced coverage. Each of these team members, among many others, will be available to support our team on an as-needed or permanent basis, as appropriate.

Licenses and Professional Accreditations

Kroll's engagement as a claims, noticing, and solicitation agent in chapter 11 matters is subject to approval of the bankruptcy court and clerk of court as well as continuous oversight by the Office of the United States Trustee, the bankruptcy watchdog arm of the Department of Justice. The terms of our retention are publicly available and open to scrutiny from all parties in interest in a chapter 11 case, including professionals whose clients will be bound by voting results certified by Kroll. In addition, our team includes close to a dozen former attorneys, most of whom continue to maintain their bar admissions in good standing. Our professionals consistently demonstrate our stellar reputation for accuracy, transparency, and integrity.

Professional Liability Insurance Coverage

Kroll carries professional liability insurance coverage in excess of \$10 million, which is among the most comprehensive in the industry.

Obtaining Voter Information and Managing and Securing Database of Voter Information

Obtaining Voter Data. Serving as the claims, noticing, and solicitation agent for the *Commonwealth of Puerto Rico* in connection with the POA in 2021, Kroll is uniquely positioned *vis a vis* the employee voter information—we are already in possession of a previous iteration of such information. As such, we are familiar with the data fields, its format, and its sources. Moreover, as we know the data needs updating and supplementation with additional fields to be used for multi-point user authentication, the Kroll team possesses established working relations with the custodians of the information. Any other agent would incur significant start-up costs and delays in obtaining the information.

Our Puerto Rico engagement is not our sole experience of collaborating with governmental agencies to obtain voting information. In our restructuring engagements for *Takata*, *Purdue Pharma*, and *PG&E* (to name but a few) we collected, standardized, cataloged, and/or reconciled voter data from governmental entities or quasi-governmental entities.

Managing Voter Data. Based on Kroll's role as claims, noticing, and solicitation agent for the *Commonwealth of Puerto Rico*, we have demonstrated that we can manage the noticing and voting information of current and former employees. If such pertinent success were not enough, many of Kroll's restructuring engagements require us to manage databases of hundreds of thousands (and sometimes millions) of records. As is evident in the chart of Representative Engagements on page 2 of this proposal, it is clear that Kroll possesses the tools, technology, and expertise to manage voluminous voter databases.

Securing Confidential Databases. Kroll places the utmost emphasis in securing our databases and maintaining the confidentiality of non-public personal information. We frequently handle engagements involving the Health Insurance Portability and Accountability Act ("HIPAA") and the European Economic Area's General Data Protection Regulation ("GDPR"), so our protocols for securing information databases are reliable and robust. That said, the most compelling testimonial in favor of Kroll's care and vigilance in the management of confidential information comes in the form of our clients' continued trust in managing their personally identifiable information or other sensitive data such as their databases of alleged sex abuse victims (*Archdiocese of Camden*), medical records of alleged opioid claimants (*Purdue Pharma*), medical records of alleged victims of asbestosis and other respiratory illnesses (*Mallinckrodt* and *Imerys*), and alleged victims of wildfires—including minors (*PG&E*).

For further technical detail regarding Kroll's security systems, please refer to Annex B attached hereto.

Implementing Voluminous Mailings Including Outside the Continental U.S.

Kroll offers something none of our competitors can: We already conducted a solicitation mailing to the current and former employees of the Commonwealth of Puerto Rico in connection with the solicitation of the POA in 2021. Based on our experience in the Commonwealth engagement, we understand the challenges and obstacles including the on-island mail system as well as the strong preference of the population to not be overburdened with excess notices, and **we are prepared to use the education we received in that matter to improve even further our services.**

Moreover, given our role as noticing agent for large, complex, and international corporations and entities, we are tasked on a near-daily basis with serving notices, claim forms, ballots, and other pleadings to voluminous lists of creditors, prospective claimants, and other parties in interest. We refer you back to the chart of Representative Cases for a sampling of some of the larger mailings we have executed seamlessly. Many of these Representative Engagements involved regularly noticing a significant number of non-U.S. individuals and entities; additional engagements during which Kroll conducted significant noticing outside the United States would include **Weatherford** (Irish notice parties), **Seadrill** (Scandinavian notice parties), **Modern China** (Chinese notice parties), and **Arpeni** (Indonesian notice parties). More pertinent to this proposal is Kroll's experience in successfully conducting mailing to individuals and entities in the Caribbean, Mexico, and Latin America including

- **Commonwealth of Puerto Rico** – noticed well over 100,000 claimants and/or voting parties in Puerto Rico;
- **LATAM** – noticed approximately 105,000 claimants and/or voting parties in Latin and South America;
- **Alpha Latam** – noticed approximately 27,260 of claimants and/or voting parties in Latin and South America; and
- **Inversiones Alsacia** – noticed approximately 10,000 claimants and/or voting parties in Latin and South America.

Moreover, our solicitation mailings typically include ballots customized for each voting recipient including the voter's name, address, unique identifiers, and voting amount. In addition to our solicitation mailing to current and former employees as part of the POA, some of our additional noteworthy customized mailings include close to 47,000 customized ballots mailed in **Hertz**, close to 12,000 customized ballots mailed in **Takata**, and nearly 10,000 customized ballots mailed in **iHeartMedia**.

We have considerable experience with handling undeliverable mail and ensuring that any mail returned with a forwarding address is re-mailed before the conclusion of the event. Finally, based on our partnership with Divergent Language Solutions, we can produce notices in multiple languages upon request.

Designing a Fair and Transparent Election Process that Can Withstand Public Scrutiny and Challenge

Kroll has a long track record of designing fair and transparent election processes for clients such as *PG&E*, *Purdue*, *Mallinckrodt*, *LatAm*, *Sears*, *Hertz*, *JC Penney*, *Claire's Stores*, *iHeartMedia*, and *Weatherford*, to name but a few. As a solicitation agent within the context of chapter 11—a highly public process—Kroll drafts procedures that must withstand close scrutiny by courts, governmental watch-dogs, and potential adverse parties. For those reasons, Kroll prides itself in setting clear standards for voting, including which voting methods will be accepted and which will be rejected; precise rules for tabulation; and comprehensive mechanics for memorializing the vote, such as detailing any invalid votes. It also bears mentioning that once the procedures are drafted—prior to dissemination and implementation—Kroll will work with the PBC and its professionals to trouble-shoot to ensure thoroughness and anticipate any issues or challenges.

Given the transparency of our voting events, it is not often that we are called to provide testimony and/or respond to challenges to our voting events; however, each of our senior directors and directors have experience successfully defending solicitation and tabulation in open court, including in *Takata*, *PG&E*, and *Mallinckrodt*.

Soliciting Votes Widely and Securely, Processing a Large Amount of Returned Votes, Addressing Changed Votes, and Eliminating any Unreasonable Hindrances to Voting

As discussed throughout this proposal, Kroll has an unmatched track record of successfully processing large, voluminous, and complex voting events for companies that are restructuring—both within the context of chapter 11 and outside. We refer you back to the chart of Representative Engagements on page 2 for a sampling of such volumes.

Soliciting Votes Widely. In addition to already soliciting the votes of employees and retirees across Puerto Rico, Kroll has solicited votes across the United States and internationally from some of the largest corporations ever to restructure, including *Sears*, *Toys 'R Us*, *J.C. Penney*, *Hertz*, *iHeartMedia*, and *Caesars Entertainment*. Our team has consistently proved that it has the capacity to collect, process, and tabulate large volumes of votes quickly, reliably, and accurately.

Soliciting Votes in a Reliable But Convenient Manner. One of the most important factors to consider when soliciting votes widely is ensuring that all voter have convenient and reliable access to voting. After consulting with PBC's professionals, for this engagement with the PBC, Kroll will make voting possible by (i) online portal, (ii) mail, or (iii) in person at one of our on-island ballot collection sites. In this way, Kroll provides an avenue for voting by technically-savvy voters (online voting); by individuals wary of postal system (voting online, by phone, or in person); by individuals who prefer to handle voting on paper and have no concerns about the postal system (voting by mail); and by individuals who want to hand their ballot to another human being (voting in person), to address but a few scenarios. Engaging Kroll to establish such a comprehensive voting platform, the PBC can rest assured that the process and results will be beyond any reasonable challenge.

Should the PBC or its professionals determine that voting by telephone is warranted—which may (among other things) increase voter participation—Kroll will provide such option. As we need sufficient time to set-up and implement voting by phone, Kroll strongly encourages the PBC to provide ample advance notice of any decision to that end. Moreover, the costs of voting by phone are not included in the budget provided as part of this proposal and can be provided by Kroll upon request.

Soliciting Votes Securely. Given that the accuracy, security, and reliability of the vote are tantamount, Kroll will implement a multi-data point authentication process, whereby the eligible voter will be assigned a unique code by Kroll and can access the right to vote only if they produce that unique code as well as at least one other piece of unique information (or combination of information) that would be known only to the voter, such as the last four digits of the voter’s social security number, an internally-generated employee number, and/or some identifying employer data. In this way, Kroll can most effectively disrupt, discourage, and deny any attempts by fraudulent voters to influence the vote. Nonetheless, it bears repeating that the level of security in the voting process will largely depend on the state of the underlying employee and retiree data provided by the sources, and those source’s ability to include additional fields of unique, individualized, self-identifying information for each voter.

Reducing Paper and Eliminating Legalese. Two of the most common (and overlooked) hindrances to voting are a flood of paperwork that might swamp the voting process and an overuse of legal jargon and “legalese”, which is inaccessible to the average voter. As such, we propose keeping the ballot and any informational notice to one page each with helpful and readable font. We also strongly encourage eliminating unnecessary legal terminology and verbose caveats and to populate the ballot and notice with simple, clear, and accessible language.

Implementing Quality Assurance Checks of Voting to Ensure Accuracy

Comprehensive quality assurance checks are an integral component of all Kroll does—it’s buried deep within our DNA. In the context of voting, after ballots are processed, such processing results are checked and then double-checked before Kroll finalizes voting results. This comprehensive and careful quality assurance review is handled by seasoned and well-trained members of our team that are not involved with processing the initial ballots they are checking. Our quality assurance initiatives include checking for timeliness, appropriate signatures, and any infirmities. Our quality assurance efforts flag any discrepancies for redress by senior members of our team and/or the client as applicable.

For the Pension Benefits Council voting project, we will employ our quality assurance team and customize their review process to address any unique concerns arising from that event. We will pay particular close attention and build out safeguards to ensure that only eligible employees are voting and to ensure that no person is voting more than once, and (in particular), if voters change their vote, only the one, final superseding vote is counted.

Establishing a Presence on Puerto Rico and Offering On-Island Ballot Collection Centers

Kroll has already established and managed on-island vote collection sites as part of the solicitations of the **Commonwealth of Puerto Rico** and **HTA** and is in the process of preparing those sites for the upcoming solicitation of the Puerto Rico Public Finance Agency (**PREPA**). Such work includes strategically securing centrally-located sites, ensuring that such sites are accessible by voters, customizing such sites to maximize efficiency and effectiveness, ensuring such locations have the technological scaffolding to support Kroll's secure systems, and providing for the safety of voters. In addition to leasing and preparing temporary office space, Kroll hired and trained local, bilingual resources to assist our seasoned onsite staff members to not only perform best-of-class document intake, but also to field process-related inquiries utilizing robust sets of FAQs. For example, during one of the satellite office intervals during the Commonwealth of Puerto Rico's engagement, Kroll's staff received approximately 90,000 physical claim forms over a four-month period, of which over 65,000 were received during the final month.

Importantly for the Pension Benefits Council voting project, we will staff these on-island collection centers with local Puerto Ricans who are familiar with the nuances of the Puerto Rican dialect and local custom and who can assist their fellow Puerto Ricans in navigating the voting process in a neutral manner.

Assisting Spanish-Speaking Residents of Puerto Rico with Voting Inquiries

For this engagement with the PBC, Kroll is committed to staffing our on-island call center with local Puerto Rican operators familiar with the Puerto Rican dialect and nuances of Puerto Rican communication. Our call center staff—managed in-house by our professional staff—is the most experienced, professional, responsive, and efficient in the industry. In fact, at the height of our engagement in the Commonwealth's case, our call center handled multiple days of over 1,000 calls per day. These are the kind of superior call center resources that Kroll will employ to ensure votes are collected by phone seamlessly, efficiently, and cost-effectively.

Moreover, although we understand that voting inquiries will be routed to (and through) the Communications Agent in this engagement, Kroll will make our call center and operators available to supplement the Communications Agent (if necessary). Our operators can be quickly trained to respond to calls based on direction from the Communications Agent.

Coordinating Closely with the Communications Agent

In our role as claims, noticing, and solicitation agent in the context of chapter 11, Kroll understands our role as part of a larger team of professionals, which include attorneys, financial advisors, and communication agents / public relations firms. We also understand that such professionals—especially the communications agents—have a specific expertise in crafting the messaging, press releases, and FAQs for their (and our) clients. To that end, we will defer to the communications agent on the substance of any communications issues. We will, of course, make all of our resources, including our call center, available to assist the communications agent in any capacity necessary to successfully complete the engagement.

Contact Information

Below is a list of our dedicated team's contact information. Please do not hesitate to reach out to any of us at any time if you have any questions or require additional information. As is our customary practice, when engaged, we will create a group e-mail distribution list into which we will embed all members of the team to reduce the number of e-mails and guarantee the most prompt responses.

- Craig Johnson (Senior Director) / craig.johnson@kroll.com / (845) 743-4282
- Mariah Dubin (Senior Director) / mariah.dubin@kroll.com / (516) 578-6420
- Stacey Corr-Irvine (Director) / stacey.corr@kroll.com / (212) 871-3030
- Alex Orchowski (Director) / alex.orchowski@kroll.com / (847) 809-9512
- Stan Kesler (Director) / stan.kesler@kroll.com / (646) 623-6530
- Ryan Vyskocil (Director) / ryan.vyskocil@kroll.com / (973) 255-8096



Annex A

RATES

Quality.
Partnership.
Expertise.
Innovation.

Solicitation and Tabulation Rates	
TITLE	HOURLY RATE
<p>Analyst</p> <p>The Analyst processes incoming written communications, ballots and return mail, and physically executes outgoing mailings with adherence to strict quality control standards.</p>	\$30 - \$60
<p>Call Center Operator</p> <p>Call Center Operators respond to inquiries regarding voting mechanics, methods, and deadlines. Kroll's Call Center Operators are trained to record telephonic votes accurately and efficiently and to communicate with potential voters in the utmost professional and helpful manner. Kroll's Call Center Operators are selected and assigned based on their communication skills and strengths as well as their suitability for a particular project, including fluency in languages (and dialects) other than English.</p>	\$65 - \$95
<p>Technology Consultant</p> <p>The Technology Consultant provides database support for complex reporting requests and administers complicated variable data mailings.</p>	\$35 - \$110
<p>Consultant / Senior Consultant</p> <p>The Consultant is the day-to-day contact for data collection and standardization, prepares and executes mailings, processes ballots for validity, responds to voter inquiries. Kroll's Consultants have between three and five years of experience.</p> <p>The Senior Consultant directs the data collection process for the voter database, oversees all mailings, performs quality control checks on ballots, and generates voting reports. Kroll's Senior Consultants average over five years of experience.</p>	\$65 - \$195
<p>Director / Senior Director</p> <p>The Director is the lead contact for the company, counsel and advisors and oversees all aspects of the engagement, including managing the internal case team. In many instances, the executives of Prime Clerk will serve in this role at this rate. Prime Clerk's Directors have over ten years of experience and are typically former restructuring attorneys or paralegals.</p>	\$175 - \$245

About Kroll

As the leading independent provider of risk and financial advisory solutions, Kroll leverages our unique insights, data and technology to help clients stay ahead of complex demands. Kroll's global team continues the firm's nearly 100-year history of trusted expertise spanning risk, governance, transactions and valuation. Our advanced solutions and intelligence provide clients the foresight they need to create an enduring competitive advantage. At Kroll, our values define who we are and how we partner with clients and communities. Learn more at [kroll.com](https://www.kroll.com).



RATES

Quality.
Partnership.
Expertise.
Innovation.

Printing & Noticing Services	
Printing	\$0.10 per page
Customization/Envelope Printing	\$0.05 each
Document folding and inserting	No charge
Postage/Overnight Delivery	Preferred Rates
Standard E-mail Noticing	No charge
Fax Noticing	\$0.10 per page
Envelopes	Varies by Size
Newspaper and Legal Notice Publishing	
Coordinate and publish legal notices	Available on request

RATES

Quality.
Partnership.
Expertise.
Innovation.

Project Website	
Project Website setup	No charge
Project Website hosting	No charge
Client Access	
Access to secure client login (unlimited users)	No charge
Client customizable reports on demand or via scheduled email delivery (unlimited quantity)	No charge
Real time dashboard analytics measuring ballot information and document processing status	No charge
Data Administration and Management	
<i>Kroll does not charge for automated processes, encrypted bandwidth and other similar components of overhead.</i>	
Inputting ballots	Standard hourly rates (no per claim or ballot charge)
Electronic Imaging	\$0.12 per image
Data Storage, maintenance and security	\$0.10 per record for life of engagement

About Kroll

As the leading independent provider of risk and financial advisory solutions, Kroll leverages our unique insights, data and technology to help clients stay ahead of complex demands. Kroll's global team continues the firm's nearly 100-year history of trusted expertise spanning risk, governance, transactions and valuation. Our advanced solutions and intelligence provide clients the foresight they need to create an enduring competitive advantage. At Kroll, our values define who we are and how we partner with clients and communities. Learn more at [kroll.com](https://www.kroll.com).



Virtual Data Rooms	Available on request
On-line Ballot Filing Services	
On-line ballot filing	No charge
Call Center Services	
Case-specific voice-mail box	No charge
Interactive Voice Response (“IVR”)	No charge
Monthly maintenance	No charge
Call center personnel	Standard hourly rates
Live chat	Standard hourly rates

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Annex B

Additional system security details include the following:

Kroll utilizes Amazon Web Services (AWS), the leading provider of cloud computing services globally, and in terms of security, AWS is without peer. All AWS infrastructure components are continuously scanned and tested, and the underlying AWS infrastructure meets the following security standards: SOC 1, SSAE 16, ISAE 3402 (formerly SAS 70), SOC 2, SOC 3, FISMA, DIACAP, FedRAMP, DOD CSM Levels 1-5, PCI DSS Level 1, ISO 9001 / ISO 27001, ITAR, FIPS 140-2, and MTCS Level 3. Through AWS, Kroll employs additional security protocols to ensure “best-in-industry” level security for our clients.

Kroll utilizes Virtual Private Cloud (VPC), which provides us with an isolated portion of the AWS internet Cloud for its sole and exclusive use. Kroll’s VPC provides Layer 3 (Network Layer IP routing) isolation from the internet. AWS also performs OS Patching monthly to guarantee installation of the latest system and security updates. Any “zero day” vulnerabilities are also monitored by Kroll IT, and patches are applied out of band as appropriate.

Kroll utilizes Amazon’s EC2 firewall, which is configured to default to “deny-all” mode, meaning only necessary ports are explicitly opened to allow inbound traffic. Host access is also controlled through AWS stateful Security Groups, which applies the most secure “least privilege applied” concept and includes an additional layer of security through a network access control list (ACL), which functions as an additional firewall.

Kroll employs an outside security consulting firm, Cascadeo, to provide 24/7 server monitoring and support. Cascadeo is an independently certified AWS Advanced Consulting & Managed Service Partner, a Google Cloud Platform Premier Consulting Partner, and a Certified Microsoft Azure Cloud Partner.

Finally, Kroll encrypts all sensitive data at the database level. To ensure 100% up-time of our client data, we have functional redundancy by load-balancing separate server instances. We maintain complete daily data back-ups, as well as transactional backups every hour. We also take “snapshots” of our servers daily as an additional data security and disaster recovery capability.

APPENDIX B – RESPONDENT CERTIFICATION

Pension Benefits Council

Election Administrator Request of

Proposal KROLL RESTRUCTURING ADMINISTRATION
Prospective Offeror Name

The Prospective Offeror must substantiate that the firm satisfies the following minimum criteria, to the Pension Benefits Council's satisfaction. This certification and the associated documentation must contain sufficient information, as prescribed, to assure the Pension Benefits Council of its accuracy.

The Prospective Offeror must:

1. The responder must have experience with elections processes as indicated in this Request for Proposal.
2. The responder and each of its key professionals must not have material conflicts of interest with the Trust.
3. The responder and its proposed team must have all authorizations, permits, licenses and certifications required by federal and commonwealth laws and regulations to perform the services specified in this RFP at the time responder submits a response to the RFP.

The authorized representative of the Prospective Offeror that signs below certifies:

1. To the best of our knowledge, all information and representations provided are true, complete and accurate.
2. We warrant and represent that our firm did not confer with any other persons or organizations submitting information regarding the search in progress.
3. We have read the complete materials and agree to the terms and requirements upon which this Request for Proposal is conditioned.
4. The signature affixed hereon and dated certifies compliance with all the requirements of this Request for Proposal.


Prospective Offeror – Authorized Signature

Managing Director
Title

Benjamin Steele
Printed Name

11/30/22
Date