

**Exhibit 2**

Amended Guidelines

**GUIDELINES FOR THE GOVERNANCE AND ADMINISTRATION  
OF THE PUERTO RICO PLAN OF ADJUSTMENT PENSION RESERVE TRUST AND  
MONITORING OF PLAN OF ADJUSTMENT PENSION BENEFITS**

**I. INTRODUCTION; PENSION RESERVE TRUST; PENSION BENEFITS COUNCIL;  
PENSION RESERVE BOARD**

**1.1 Purpose:** The Plan Support Agreement between the Financial Oversight and Management Board for Puerto Rico (the “**Oversight Board**”) and the Official Committee of Retired Employees of the Commonwealth of Puerto Rico (the “**Retiree Committee**”), dated June 7, 2019 (the “**COR PSA**”) <sup>1</sup>, in connection with the prospective confirmed Plan of Adjustment (the “**Plan of Adjustment**” or “**Plan**”) for the Commonwealth of Puerto Rico (“**Puerto Rico**” or the “**Commonwealth**”) in its PROMESA Title III case, provides for (among other things) the creation of: (a) a Commonwealth Plan of Adjustment Pension Reserve Trust (the “**Pension Reserve Trust**”) to provide financial support for the Commonwealth’s pension obligations under the PayGo System (defined below); and (b) a Commonwealth Plan of Adjustment Pension Reserve Board of Trustees (the “**Pension Reserve Board**”) that shall be responsible for, among other things, the custody, administration, and investment of the funds held in the Pension Reserve Trust. In accordance with the COR PSA, the guidelines set forth herein (the “**Guidelines**”) provide for the creation and governance of the Pension Reserve Trust and Pension Reserve Board, as set forth below. In addition, these Guidelines set forth the terms under which a Commonwealth Plan of Adjustment Pension Benefits Council (the “**Pension Benefits Council**”) shall be established for the purpose of ensuring the Commonwealth’s compliance with certain provisions of the Plan of Adjustment related to the funding of the Pension Reserve Trust and shall, along with the Pension Reserve Board, administer requests by the Commonwealth to withdraw funds from the Pension Reserve Trust. These Guidelines will be included in the Plan Supplement <sup>2</sup>, and the terms and conditions set forth herein shall be incorporated into the Pension Reserve Deed of Trust, which will be executed and put into effect on or before the Plan Effective Date. <sup>3</sup> The Pension Reserve Trust, the Pension Benefits Council, and the Pension Reserve Board shall operate on a July 1 to June 30 fiscal year.

**1.2 Responsibilities of the Pension Benefits Council**

- A. Pension Reserve Trust Funding and Withdrawals. The Pension Benefits Council shall have responsibility and authority to monitor the proper and timely funding of the Pension Reserve Trust by the Commonwealth in accordance with the terms and conditions of the Plan. The Pension Benefits Council shall also have responsibility and authority, in consultation with the Pension Reserve Board pursuant to Sections 5.2(B) and (C) below, to approve the release of funds deposited into the Pension Reserve Trust

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<sup>1</sup> The Oversight Board also entered into a Plan Support Agreement (the “**AFSCME PSA**”) with the American Federation of State, County and Municipal Employees (“**AFSCME**”), which also provides (albeit with somewhat different terminology) for the creation of a Pension Reserve Board and a Pension Reserve Trust as reflected in the term sheet annexed to the AFSCME PSA.

<sup>2</sup> Any capitalized terms not defined herein shall have the meanings ascribed to such terms in the Plan of Adjustment.

as necessary for the Commonwealth to satisfy its obligations pursuant to the Plan to all Participants who are entitled to receive, as of the Effective Date or thereafter, defined benefit pension payments or annuities through the PayGo system (or any substitute or successor system) pursuant to the Plan for services rendered on or prior to the Effective Date (the “**Pension Reserve Trust Participants**”), as further set forth in Article V below. The Pension Benefits Council shall have no authority with respect to the management or investment of the assets of the Pension Reserve Trust other than as expressly set forth in these Guidelines.

- B. PayGo Fees. The Pension Benefits Council shall monitor the calculation and collection of PayGo Fees (as defined in Act 106 of 2017; such act, as it may be amended from time to time or supplanted by subsequent legislation, “**Act 106**”) by the pension board created under Act 106 (together with any successor to such board under any supplanting legislation, the “**Act 106 Board**”), consistent with Section 4.3 below, for the purposes of (i) performing its AWM Study pursuant to Section 1.4(B) below and (ii) confirming whether the conditions for withdrawal of funds from the Pension Reserve Trust in Section 5.3(C) below have occurred. For the avoidance of doubt, the Pension Benefits Council shall not have any responsibility or authority to administer the calculation and collection of PayGo Fees (such matters being governed, without limitation, by Act 106 and the Act 106 Board).
- C. Act 80-2020. On December 20, 2021, the Oversight Board filed an adversary proceeding, seeking to have Acts 80, 81, and 82 of 2020 and Joint Resolution 33 of 2021 enjoined and nullified as violative of numerous provisions of PROMESA. ECF No. 1 (Adv. Proc. No. 21-00119 in 17 BK 3283-LTS). On March 22, 2024, the Title III Court approved the final stipulation for the partial implementation of an incentivized retirement program similar to that provided by Act 80 of 2020 and Joint Resolution 33 of 2021 (the “**Final Stipulation**”). The Final Stipulation requires that the Commonwealth make additional contributions to the Pension Reserve Trust pursuant to Section 83.2(c) of the Plan of Adjustment (the “**Act 80 Contributions**”) to fully offset the increased costs related to the Final Stipulation’s enhanced retirement benefits to certain retirees. The Pension Benefits Council shall have the right to monitor and enforce the collection of the Act 80 Contributions pursuant to Section 4.4 below.
- D. Enforcement Rights. The Pension Benefits Council’s enforcement remedy for a failure to properly and timely fund the Pension Reserve Trust, per subparagraph 1.2(A) above, the failure by the Commonwealth to provide sufficient and necessary information to the Pension Benefits Council so that it may effectively meet its responsibilities under these Guidelines and the Deed of Trust, or the failure to return any Advance Withdrawal Amount to the Trust pursuant to Section 5.6 below, or the failure to timely pay the Act 80 Contributions, shall be limited to seeking in the U.S. District Court for the District of Puerto Rico or any other court having jurisdiction (and any appellate court) to enjoin or compel the Commonwealth, the Act 106 Board, and/or such other entity or entities as may have responsibility for such matters to comply with the Plan and, provided further, that the Pension Benefits Council shall provide the Commonwealth, the Act 106 Board, and/or such other entity or entities with written notice setting forth a

description of such failure or issue at least ninety (90) calendar days prior to the Pension Benefits Council bringing an action as described above.

**1.3 Term of the Pension Benefits Council:** Subject to modification of the Pension Reserve Deed of Trust, the Pension Benefits Council shall exist until sixty (60) calendar days after the earlier of (i) the first date on which all funds held in the Pension Reserve Trust are withdrawn in accordance with these Guidelines or (ii) the first date on which the retirement benefits owed to all Pension Reserve Trust Participants under the Plan have been fully satisfied.

#### **1.4 Responsibilities of the Pension Reserve Board**

- A. Management of Funds. The Pension Reserve Board shall have sole responsibility for the custody, administration, and investment of the funds held in the Pension Reserve Trust.
- B. Asset and Withdrawal Modeling. To prudently invest the assets held in the Pension Reserve Trust in anticipation of future funding levels and withdrawals pursuant to Article V, the Pension Reserve Board shall retain a nationally recognized actuarial firm to perform an asset and withdrawal management study (the “**AWM Study**”) no less frequently than every three (3) years, which shall be presented to the Pension Reserve Board for consideration in the evaluation of different investment strategies. The projected cash inflows and related assumptions in the AWM Study shall be based on best estimates of the funding into the Pension Reserve Trust by the Commonwealth and investment returns at the time the AWM Study is being performed. The projected cash outflows and related assumptions in the AWM Study shall be based on best estimates of projected Commonwealth cash flow deficits and projected PayGo payments.
- C. Pension Reserve Trust Withdrawals. The Pension Reserve Board shall also have responsibility and authority to review and evaluate any request made for the withdrawal of any funds from the Pension Reserve Trust pursuant to Article V below and to make a recommendation to the Pension Benefits Council regarding the propriety of such request pursuant to Section 5.2(B) or (C) below.

**1.5 Term of the Pension Reserve Board:** The Pension Reserve Board shall exist until sixty (60) calendar days after the date all funds held in the Pension Reserve Trust are withdrawn in accordance with these Guidelines and the remaining Pension Reserve Trust assets are transferred to the Commonwealth.

**1.6 Relationship Between the Pension Benefits Council and the Pension Reserve Board:** These Guidelines set forth separate and distinct roles and responsibilities for each of the Pension Benefits Council and the Pension Reserve Board (each, a “**Pension Reserve Trust Entity**”), and are designed to provide each Pension Reserve Trust Entity with sufficient authority to discharge its respective duties independent of the other. Notwithstanding the foregoing, in the event that a Pension Reserve Trust Entity determines that the other Pension Reserve Trust Entity is not complying with its obligations under these Guidelines or applicable law, each Pension Reserve Trust Entity shall attempt to resolve such dispute in good faith. In the event those efforts do not resolve the dispute, either

Pension Reserve Trust Entity may commence a lawsuit to resolve the dispute in accordance with Sections 4. or 8.4 below, as applicable.

- A. In the development of the separate annual budget limitations for each of the Pension Benefits Council and the Pension Reserve Board set forth in Sections 3.4 and 7.3 below, respectively, it is anticipated that the Pension Reserve Board shall retain an Executive Director and/or other administrative staff. The staff retained by the Pension Reserve Board shall also execute such administrative tasks as requested of it by the Pension Benefits Council consistent with the Pension Benefits Council's duties and authority under these Guidelines, including but not limited to financial management, procurement, maintenance of a website (which may be a single website if the Council and Board agree), logistical support for meetings and any other operational functions of the Council. Similarly, for ordinary-course administrative accounting services of the two Pension Reserve Trust Entities, absent any conflict of interest, the Pension Reserve Board shall retain an independent and reputable accounting firm to render accounting services on behalf of both Pension Reserve Trust Entities and the Pension Reserve Trust itself; provided, that the annual audited financial statements of the Pension Reserve Trust Entities and the Pension Reserve Trust must be audited and issued by an independent and nationally-recognized accounting firm; provided further, that where there are issues and required analyses (apart from ordinary-course administrative accounting) that touch upon the responsibilities of both Entities, the Entities may (as deemed appropriate in each Entity's judgment), and are encouraged to, jointly engage the requisite professional(s) under a common interest agreement in order to avoid duplication of efforts and unnecessary expenses. For the avoidance of doubt, ordinary-course administrative accounting services would not include, without limitation, any accounting services that the Pension Benefits Council determines are needed in order to discharge its responsibilities under Section 1.2(A) or 1.2(B) above.
- B. In addition to the annual audited financial statements, an annual compliance audit (the "**Annual Compliance Audit**") of the Pension Reserve Trust Entities and the Pension Reserve Trust must be completed by an independent and nationally-recognized accounting firm to review compliance with these Guidelines and with the Court Approved Policies (as defined herein). The Parties shall establish agreed-upon procedures for the Annual Compliance Audit within one hundred eighty (180) days following the Court's approval of the amendments to the Guidelines and said procedures shall be updated by the Parties every three (3) years, to the extent necessary. To the extent that either of the Pension Reserve Trust Entities fails to engage an independent and nationally-recognized accounting firm by August 30 of each year, the Comptroller's Office shall have jurisdiction over every year for which the Annual Compliance Audit is not completed.

#### **1.7 Account Structure and Initial Funding of the Pension Reserve Trust:**

- A. Account Structure of the Pension Reserve Trust: The Pension Reserve Trust shall include (i) investment accounts, (ii) an account for administrative and operating expenses of the Pension Reserve Board, and (iii) an account for administrative and operating expenses of the Pension Benefits Council. The Pension Reserve Board shall have the authority to establish additional accounts as deemed necessary in the exercise

of the Pension Reserve Board's duties. All such accounts shall be in the name of, and controlled by, the Pension Reserve Board, except that the account for administrative and operating expenses of the Pension Benefits Council shall be in the name of, and controlled by, the Pension Benefits Council. From time to time as appropriate, the Pension Reserve Board shall promptly transfer appropriate sums into the account for administrative and operating expenses of the Pension Benefits Council for the payment of the Pension Benefits Council's expenses.

- B. Initial Funding: The Commonwealth shall deposit an initial funding of \$5,000,000.00 as provided for in the Plan into the Pension Reserve Trust, as follows: (i) \$550,000.00 shall be deposited into the administrative and operating account of the Pension Benefits Council immediately after the establishment of said account by the Oversight Board pursuant to Section 8.6 below; and (ii) \$4,450,000 shall be deposited into the administrative and operating account of the Pension Reserve Board immediately after the establishment of said account by the Oversight Board pursuant to Section 8.6 below;.

## II. PENSION BENEFITS COUNCIL MEMBERS & ELECTIONS

### 2.1 Composition of the Pension Benefits Council Following the Transitional Period:

- A. Membership: Following the Transitional Period defined in Section 2.2 below, the Pension Benefits Council shall consist of nine (9) members, as follows:
- i. Five (5) members, each of whom as of the date the Election Process Notice is posted pursuant to Section 2.3(B) below (the "**Election Process Notice Date**"), (x) must be receiving a pension or annuity as a Pension Reserve Trust Participant, and (y) is not an active employee of Puerto Rico or any of its agencies, instrumentalities, or public corporations (each, an "**Eligible Retiree**"); provided, however, that at all times there shall specifically be two (2) Pension Benefits Council members who were participants in the Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("**ERS**"), two (2) Pension Benefits Council members who were participants in the Teachers Retirement System ("**TRS**"), and one (1) Pension Benefits Council member who was a participant in the Judiciary Retirement System ("**JRS**"); and provided further, that if there are insufficient Eligible Retirees who were participants in ERS, JRS or TRS, as the case may be, elected to fill the applicable seat or seats on the Pension Benefits Council, such seat or seats shall then be filled by Eligible Retirees who were not participants in such retirement system receiving the highest number of votes regardless of which retirement system he/she was a participant of, after the other seats have been filled to meet the composition requirements above. In the event an Eligible Retiree receives a pension or annuity as a result of being a participant in more than one of ERS, TRS and JRS, that person shall be deemed to be an Eligible Retiree with respect to the last retirement system as to which he/she accrued any vested pension benefits;

- ii. One (1) member who as of the Election Process Notice Date (x) is a Pension Reserve Trust Participant, and (y) is an active employee of the Commonwealth or any of its agencies, instrumentalities, or public corporations (other than PREPA and UPR) (an “**Eligible Active Employee**”); provided, however, that if an Eligible Active Employee is not elected to fill the seat on the Pension Benefits Council, such seat(s) shall then be filled by the Eligible Retiree receiving the highest number of votes regardless of which retirement system he/she was a participant of, after the other seats have been filled to meet the composition requirements of this Section 2.1;
- iii. One (1) appointee by AFSCME, who may but is not required to meet the qualifications of an Eligible Active Employee;
- iv. One (1) appointee by the Governor of Puerto Rico, who may delegate his appointment to a representative of his choosing, subject to any requirements or limitations imposed by the Governor of Puerto Rico in such appointment; and
- v. One (1) member appointed by the Oversight Board, while it is in existence in accordance with the Plan.

Upon termination of the Oversight Board, the Governor of Puerto Rico shall appoint a member to the Pension Benefits Council to fill the seat occupied by the Oversight Board’s appointee, as necessary, and shall then have the right prospectively to appoint two (2) members to the Pension Benefits Council in accordance with these Guidelines.

- B. Eligibility: Each Pension Benefits Council member, other than the appointees of the Governor, the Oversight Board, and AFSCME, must be a Pension Reserve Trust Participant, as described above, and individuals who are solely beneficiaries of such participants cannot be members of the Pension Benefits Council. Members of the Pension Benefits Council other than the appointees of the Oversight Board and AFSCME, must be residents of Puerto Rico. The Executive Director of the Act 106 Board cannot be a member of the Pension Benefits Council. In addition, each person seeking to be elected to the Pension Benefits Council must comply with the requirements set forth in Section 2.3(C) below.
- C. Term: Following the Transitional Period, members of the Pension Benefits Council shall serve for terms of four (4) years, beginning on January 1 of the applicable calendar year. If an appeal is filed pursuant to these Guidelines challenging the results of an election and the arbitration case or remedies provided under the case are not resolved or completed before January 1 of the beginning of the term of the new Pension Benefits Council, the members of the prior Pension Benefits Council who represented the group or groups whose elections are under appeal (ERS, TRS, JRS or the representative of the active participant) will carry over their term until the arbitration case or the remedies provided under arbitration are completed. If the appeal pertains to the election of an individual and does not impact the other elected representative from that group, the member whose election is uncontested will assume office on January 1. The seat under dispute will be temporarily held and carried over by the member of the Pension Benefits Council from the same group whose election is being challenged, and

who received the highest number of votes in the previous election from that group. If that member is unavailable, the other member of the group will carry over the position, and if none of them are available the Pension Benefits Council will appoint a substitute to carry over the position until the new elected member takes possession. If an elected member's term on the Pension Benefits Council begins on a date other than January 1, due to an appeal or any other reason, their term shall encompass the remaining portion of the original four-year term. The terms of the members under Sections 2.1 (A)(iii)(iv) and (v) shall begin after their appointment and they will remain in their positions at the discretion of the entity appointing them. Provided that elected and appointed persons must comply with the requirements of Sections 3.7 and 10.3 of these Guidelines before becoming members of the Pension Benefits Council. If a member of the Pension Benefits Council who is an Eligible Retiree does not complete his or her term for any reason, the remaining Eligible Retirees on the Pension Benefits Council, acting through majority vote (or as otherwise provided in the Pension Benefits Council's bylaws), shall promptly appoint a person who is eligible to serve in such position and shall seek to maintain the composition of the Eligible Retiree seats in accordance with Section 2.1(A)(i) above. If a member of the Pension Benefits Council who is an Eligible Active Employee retires, leaves his or her government employment, or otherwise does not complete his or her term for any reason, the Pension Benefits Council, acting through majority vote (or as otherwise provided in the Pension Benefits Council's bylaws), shall promptly appoint a person who is eligible to serve in such position. The term of any such appointment under this Section 2.1(C) shall be until the next regularly scheduled election for any Pension Benefits Council seat, at which point such position shall be filled in accordance with this Article II. If the member being replaced does not remain on the Pension Benefits Council pending appointment of a replacement member, the Pension Benefits Council shall nonetheless be authorized to conduct business as if it had a full roster of members.

## 2.2 Transitional Period:

- A. Membership During Transitional Period: The Pension Benefits Council shall initially consist of (w) five (5) Eligible Retirees appointed by the Retiree Committee, (x) two (2) appointees by AFSCME who may but are not required to meet the qualifications of an Eligible Active Employee, (y) the Governor's appointee or his representative, and (z) the Oversight Board's appointee. The persons described in clauses (w) through (z) shall be appointed or designated no later than the Effective Date of the Plan; provided, however, that in the event any of such persons is not timely appointed or designated, such delay shall not delay or impair the operation of the Pension Benefits Council. The period from the Effective Date to the date of commencement of the terms of the Pension Benefits Council members appointed or elected pursuant to Sections 2.1, 2.2(B), and 2.3 shall be referred to herein as the "**Transitional Period.**" Each member of the Pension Benefits Council serving during the Transitional Period, other than the appointees of AFSCME, the Governor, and the Oversight Board, shall serve until replaced by the applicable new member elected in accordance with Sections 2.1, 2.2(B), and 2.3. During the Transitional Period, an election shall be conducted as provided in Sections 2.2(C) and 2.3 below.

- B. Initial Meeting: An initial meeting of the Pension Benefits Council shall be scheduled by the Oversight Board's designee for a date, time, and location reasonably convenient to all Pension Benefits Council members for as soon as practicable after the Effective Date (subject to the proviso above that tardy appointment or designation of a member shall not delay or impair the calling of the meeting); provided, however, that if the Oversight Board has failed to designate its member as of the Effective Date, any other Pension Benefits Council member may call the meeting. This initial meeting shall address, among other potential matters, initiatives for (i) the selection of counsel to the Pension Benefits Council and any other professionals it deems necessary to fulfill its responsibilities in accordance with Section 4.6 below, (ii) the development of bylaws for the Pension Benefits Council in accordance with Section 3.1 below, and (iii) the creation and conducting of an orientation program for the Pension Benefits Council members in accordance with Section 3.7 below.
- C. Transitional Period Election: The Pension Benefits Council shall facilitate an election among the Eligible Retirees and the Eligible Active Employees to elect the six (6) new members who will, along with the appointees by the Governor, the Oversight Board, and AFSCME, constitute the Pension Benefits Council in accordance with Section 2.1 above. Such election shall be conducted with the intent of being completed by October 1, 2023, so that the elected slate can assume their positions on the Council on or about January 1, 2024, in accordance with Section 2.3(H) below, or to be completed as soon as practicable thereafter, but no later than two (2) years after the Effective Date of the Plan, subject to the requirements of Section 2.1(A) above, as follows:
- i. Two (2) Pension Benefits Council seats shall be designated for Eligible Retirees who shall have been participants in ERS, two (2) Pension Benefits Council seats shall be designated for Eligible Retirees who shall have been participants in TRS, one (1) Pension Benefits Council seat shall be designated for an Eligible Retiree who shall have been a participant in JRS, and one (1) Pension Benefits Council seat shall be designated for Eligible Active Employees.
  - ii. Each Eligible Retiree who was a participant in a particular retirement system may only vote for an Eligible Retiree who was a participant in that system and who is a proper candidate pursuant to the procedures set forth in Section 2.3(C) below. The number of votes cast by an Eligible Retiree in any election shall be equal to the number of Pension Benefits Council seats designated for an Eligible Retiree who was a participant of the voting Eligible Retiree's retirement system (i.e., one or two). The elected Eligible Retirees shall be those who are proper candidates pursuant to the procedures set forth in Section 2.3(C) below and who garner the highest number of votes in each applicable retirement-system category. Each Eligible Active Employee may cast one vote for an Eligible Active Employee who is a proper candidate pursuant to the procedures set forth in Section 2.3(C) below for the Pension Benefits Council seat designated for an Eligible Active Employee. The elected Eligible Active Employee shall be the Eligible Active Employee who is a proper candidate pursuant to the procedures set forth in Section 2.3(C) below and who garners the highest number of votes.

**2.3 Transitional Period Election Process:** The election occurring during the Transitional Period shall follow the process set forth in this Section 2.3.

- A. Election Process: The Pension Benefits Council shall retain an independent third party service with experience in conducting elections similar to the Pension Benefits Council elections (the “**Election Administrator**”) to be responsible for providing notices, facilitating the nomination and balloting process, and determining candidate eligibility as provided for in Sections 2.3(B), (C), and (F) below and may retain such Election Administrator to assist, as deemed desirable by the Council, in conducting the election in any other respect in accordance with methods decided by the Pension Benefits Council. The Pension Benefits Council, in consultation with the Election Administrator, shall develop procedures for voting in the election after consideration of best practices in order to reasonably meet the specific needs and purposes of the election. Such procedures shall be set forth in the Election Process Notice and/or in the Election Notice.
- B. Election Process Notice: A notice of the process for nominating and electing Pension Benefits Council members (the “**Election Process Notice**”) will be posted by the Election Administrator in at least two (2) newspapers of general daily circulation in Puerto Rico, both in print and in any corresponding Internet version of each publication, once in each of two consecutive weeks, at least ninety (90) days prior to the election. The Election Process Notice will also be posted on the website of the Pension Benefits Council no later than the time of the first publication and will remain continuously posted on the website until completion of the election process.
- C. Nomination Process:
  - i. *Nomination:* In the Election Process Notice, the Election Administrator will give notice of the availability of a nomination form (“**Nomination Form**”), which each Eligible Retiree and Eligible Active Employee may obtain electronically from the Pension Benefits Council’s website or by making a written request by mail to the Pension Benefits Council or Election Administrator. Any Eligible Retiree or Eligible Active Employee may nominate himself or herself to stand for election to serve on the Pension Benefits Council by submitting a completed Nomination Form to the Election Administrator or by serving on the Election Administrator other written notice that contains all of the information required by the nomination form. The Nomination Form will request such information as the Election Administrator reasonably determines is required to establish whether a person meets the eligibility requirements set forth in these Guidelines, and shall identify the date by which a completed Nomination Form must be submitted to the Election Administrator. Members of the Pension Benefits Council may be a candidate for re-election; provided, however, that members who have served two consecutive terms (with service during the Transitional Period not qualifying as a term for purposes of this provision) may not be a candidate in the election immediately following their second term; provided further, however, that such member may be a candidate in any subsequent election (subject to a new two-consecutive-term limitation).

- ii. *Candidate Eligibility Determinations:* All Eligible Retirees and Eligible Active Employees are eligible to be a candidate unless such person is disqualified by the express terms of these Guidelines. The Election Administrator shall, in consultation with the Pension Benefits Council, determine the eligibility of all candidates but may not create additional eligibility requirements. Eligible candidates shall be notified by mail by the Election Administrator (and, to the extent practicable, electronic mail) of their eligibility and mailed a copy of the election rules no later than fifteen (15) calendar days prior to commencement of the Candidate Meetings described in Section 2.3(C)(iii) below. Ineligible nominees shall also be advised by overnight mail by the Election Administrator (and, to the extent practicable, electronic mail) not later than fifteen (15) calendar days prior to commencement of the Candidate Meetings of the reason(s) they are not eligible. Such nominees shall have ten (10) calendar days from the date of mailing of said notice to appeal the decision to the Pension Benefits Council. If the appeal has not been resolved prior to the Candidate Meetings, the nominee may attend a Candidate Meeting pending resolution of the appeal.
  - iii. *Candidate Meetings:* The Pension Benefits Council will hold at least one meeting in San Juan and one meeting in Ponce, on separate days, to provide information about the term of service and responsibilities of the members (each, a “**Candidate Meeting**”). Each candidate who has been notified of their eligibility to serve must attend at least one Candidate Meeting, which attendance may be by videoconference. In the event a person who has submitted a Nomination Form does not attend a Candidate Meeting, that person shall not be eligible to stand for election.
  - iv. *Election Notification:* Once a definitive list of candidates is assembled by the Election Administrator, the list will be included in an election notice (the “**Election Notice**”) posted by the Election Administrator in the same newspaper(s) as employed in Section 2.3(B) above, both in print and in any corresponding Internet version of each publication, once in each of two consecutive weeks, and on the Pension Benefits Council’s website. The Election Notice shall also provide any additional specific information not previously included in the Election Process Notice regarding the manner by which the election shall take place.
- D. Tally of Ballots: Ballots shall be submitted by voters directly to the Election Administrator, who shall then tabulate and certify the election results promptly after the deadline for submitting ballots. The candidate who receives the highest number of votes cast for each vacant seat (determined pursuant to Section 2.2(B) above) shall be declared elected. Any tie votes shall be decided by a coin toss conducted by the Election Administrator, in the presence of the candidates who are tied, and in the presence of the Election Administrator and the Pension Benefits Council or their designees.

- E. Notification of Election Results: Notification of the election results shall be mailed by the Election Administrator to the candidates, posted on the Pension Benefits Council's website, and concurrently issued by general press release.
- F. Protests and Appeals: Any candidate may challenge an election by delivering a protest in writing to the Pension Benefits Council so that is received by the Council within ten (10) calendar days after the election results are mailed and posted on the Pension Benefits Council's website.
- G. Arbitration: Any timely request for appeal submitted pursuant to Section 2.3(C)(ii) or Section 2.3(F) above shall be resolved through a mandatory expedited arbitration process to be conducted by an arbitrator licensed by the Supreme Court of Puerto Rico and selected by the Pension Benefits Council. The arbitrator's award and decision shall be final and binding as to all parties. The Pension Reserve Trust shall bear the expenses of the arbitration process incurred by the Pension Benefits Council and the arbitrator. Candidates shall be responsible for the cost of their own representation in the arbitration process.
- H. Commencement of Term: The term of service for the members of the Pension Benefits Council elected during the Transitional Period pursuant to Sections 2.1, 2.2(B), and 2.3 shall begin sixty (60) calendar days following the certification of the results of the election by the Pension Benefits Council; provided, however, that the term of a replacement member appointed pursuant to Section 2.1(C) shall begin immediately upon appointment.
- I. Rules and Procedures for the Election: Except as otherwise provided in Section 2.3(C)(ii) above with respect to establishing additional eligibility criteria, the Pension Benefits Council is authorized to adopt, amend, or supplement all rules and regulations that it deems necessary and prudent to implement the Transitional Period election process established in this Section 2.3.

## 2.4 Elections Following the Transitional Period

- A. Election Cycle: Subject to Section 2.1(C) above, following the Transitional Period, elections of new members shall occur every four (4) years, in the fourth year of the term of the Pension Benefits Council, with the intention to complete the election process and certification of the results by the Pension Benefits Council on or before one hundred eighty (180) days before the end of the fourth year following the prior elections. After the completion of the election process and the final resolution of any appeal, the Pension Benefits Council shall certify the election results for all the elected members pursuant to Sections 2.1 (A)(i) and (ii). Subject to Pension Benefits Council bylaws, new member terms shall begin on January 1 of the calendar year following the elections.
- B. Election Policies and Procedures: Subject to the limitation in Section 2.3(C)(ii) above on creating additional eligibility criteria, following the end of the Transitional Period, the Pension Benefits Council may, but is not required to, adopt the Transitional Period election process, as set forth in Section 2.3, for future elections. The Pension Benefits

Council may establish at any time and from time to time new election policies and procedures that are designed to create a process that reasonably promotes accessibility for voters and an efficient and cost-effective process. In designing the election policies and procedures, the Pension Benefits Council will consider the merits of the Transitional Period election process and any voting impediments known to the Pension Benefits Council. These election policies and procedures shall be included in or incorporated by reference into the Pension Benefits Council's bylaws.

- C. Arbitration: Following the Transitional Period, any appeal submitted pursuant to the new election policies and procedures shall be resolved through a mandatory expedited arbitration process to be conducted by an arbitrator licensed by the Supreme Court of Puerto Rico and selected by the Pension Benefits Council. The arbitrator's award and decision shall be final and binding as to all parties. The Pension Reserve Trust shall bear the expenses of the arbitration process incurred by the Pension Benefits Council and the arbitrator. Candidates shall be responsible for the cost of their own representation in the arbitration process. Upon completing the arbitration process, a notification of the result of the arbitration process shall be mailed by the Pension Benefit Counsel to the affected candidates, posted on the Pension Benefits Council's website, and concurrently issued by general press release.

### III. PENSION BENEFITS COUNCIL GOVERNANCE

**3.1 Bylaws:** As soon as practicable after formation of the Pension Benefits Council, the Pension Benefits Council shall adopt by an affirmative vote of at least six of its members, with at least one of said votes being that of the Governor's or the Oversight Board's appointees, a set of bylaws to govern the Pension Benefits Council's conduct, which shall be consistent with the Plan and these Guidelines. Such bylaws shall include appropriate provisions regarding fiduciary duties and obligations of the Pension Benefits Council; meetings of the Pension Benefits Council (which shall allow for attendance by videoconference); guidelines for disclosure of conflicts of interest for Pension Benefits Council members; removal and replacement of Pension Benefits Council members; voting on matters by Pension Benefits Council members. In particular, without otherwise limiting the Pension Benefits Council's ability to develop appropriate bylaws, the Pension Benefits Council's bylaws shall provide that each Pension Benefits Council member shall have one vote, subject to any disqualifying conflict of interest, with respect to any matter being voted upon. The bylaws shall also provide that, if any subcommittee is formed by the Pension Benefits Council, at least one appointee of the Governor shall be a member of such subcommittee. The Pension Benefits Council bylaws shall include the following policies (the "**Court Approved Policies**"): (1) Conflict of Interest Policy, attached hereto as Exhibit \_\_\_; (2) Code of Conduct and Ethics Policy, attached hereto as Exhibit \_\_\_; (3) Public Disclosure Policy, attached hereto as Exhibit \_\_\_; and (4) Procurement and Contracting Policy, attached hereto as Exhibit \_\_\_. The Pension Benefits Council may, from time to time, amend the Pension Benefits Council's bylaws by an affirmative vote of at least six (6) of its members, of which at least one of such members must be the Governor's appointee or the Oversight Board's appointee, solely to facilitate the purposes and functions of the Pension Benefits Council pursuant to the Plan and these Guidelines; provided, however, that if the majority of the members of the Pension Benefits Council promoted an amendment and did not receive an affirmative vote from one of the Governor's appointee (if pursuant to Section 2.1(A), the Government has two members) or the Oversight Board's appointee, the Pension

Benefits Council may bring the issue before the U.S. District Court for the District of Puerto Rico for resolution; furthermore, that if any non-consenting member believes the amendment is improper and inconsistent with the purposes and functions of the Pension Benefits Council, that member may bring the issue before the U.S. District Court for the District of Puerto Rico for resolution. Any such amendments shall be promptly posted to the Council's website and on its social media platforms.

**3.2 Compensation:** Pension Benefits Council members shall meet as often as is reasonably necessary and prudent to address the business of the Pension Benefits Council. For each meeting of the Pension Benefits Council or any designated sub-committees of the Pension Benefits Council, members shall be entitled to a reasonable stipend. The Eligible Active Employee under Section 2.1 (A)(ii) above and any other member appointed by AFSCME, the Governor of Puerto Rico or the Oversight Board pursuant to Sections 2.1 (A)(iii),(iv) and (v) above, that is also a public employee of the Commonwealth or any of its agencies, instrumentalities, municipalities or public corporations (provided that being a public employee is not a requirement for such appointment) and receives a salary from any such public entity shall not be entitled to receive the stipend for participating in meetings of the Pension Benefits Council or any designated sub-committees, but will be entitled to be reimbursed for their reasonable expenses incurred in attending meetings and otherwise carrying out their responsibilities as members. As of the Effective Date of the Plan of Adjustment, the stipend shall be \$125 per meeting. The amount of the stipend may be reviewed and adjusted from time to time by a two-thirds vote of the Pension Benefits Council, consistent with reasonable and customary practice in the market and to reflect regular increases in respect of inflation. Pension Benefits Council members shall also be reimbursed for their reasonable expenses incurred in attending meetings and otherwise carrying out their responsibilities as Pension Benefits Council members. The Pension Benefits Council's compensation and travel policy will be incorporated into the Pension Benefits Council's bylaws.

**3.3 Transitional Operating Budget:** For informational purposes, as soon as practicable after its establishment, the Pension Benefits Council shall make public on its website and social media platforms and provide a copy to the Director of the Office of Management & Budget of Puerto Rico, a budget of anticipated expenses to be incurred during the period from the Effective Date through the following June 30 for ordinary and recurring activities of the Pension Benefits Council and for other non-recurring activities reasonably foreseeable to occur during said period; provided, however, that such budget shall not exceed the amount of the initial deposit made into the administrative and operating expense account of the Pension Benefits Council pursuant to Section 1.7(B) above.

**3.4 Administrative Operating Budget:** For informational purposes, by July 1 of each year, the Pension Benefits Council shall make public on its website and social media platforms and provide a copy to the Director of the Office of Management & Budget of Puerto Rico, a budget of anticipated expenses to be incurred in the forthcoming fiscal year for ordinary and recurring activities of the Pension Benefits Council and for other non-recurring activities reasonably foreseeable to occur in such fiscal year, which budget shall have been approved by a two-thirds vote of the Pension Benefits Council. The annual actual aggregate administrative expenses for the Pension Benefits Council in any given fiscal year shall not be higher than \$400,000.00 (adjusted for actual inflation rate); provided that (i) the cost of a competitively procured D&O insurance policy, (ii) the cost of the Annual Compliance Audit, and (iii) the non-ordinary course expenses including, but not limited to, (x) litigation-related fees and expenses, if any, and (y) election-related expenses are excluded from the calculation of administrative expenses. The Oversight Board, as long as it is in existence, shall review

the annual expenditures of the Pension Benefits Council and adjust its budget for ordinary course expenses at its reasonable discretion from time to time based on actual spending requirements; provided, however, that if there is a dispute between the Oversight Board, or the Commonwealth upon termination of the Oversight Board, and the Pension Benefits Council regarding the budget or expenses incurred by the Council, the parties will use good-faith best efforts to resolve it consensually; provided further, however, that if such dispute is not resolved consensually within thirty (30) days of the dispute being identified, either party may seek resolution of the matter in the U.S. District Court for the District of Puerto Rico; and provided further, however, that pending resolution of the matter the Pension Benefits Council shall receive funding in accordance with the prior year's budget. The payment of these administrative expenses shall be made from the account for administrative and operating expenses of the Pension Benefits Council of the Pension Reserve Trust. Additionally, to the extent that legal action is taken against the Pension Benefits Council or other parties which would require funds from the Pension Reserve Trust, the Commonwealth will reimburse the Pension Reserve Trust for such expenses.

**3.5 Annual Report:** Following the end of each fiscal year, the Pension Benefits Council, with the assistance of its retained professionals as described in Section 4.6 below, shall promptly prepare and issue a public report, as of the end of the fiscal year, regarding (x) any projected or actual deposits into, or withdrawals from, the Pension Reserve Trust, (y) an itemized report of all expenditures made to Council professionals and an itemized report of any payments made to Council members, including payments made on behalf of Council members to travel to and attend any meeting, and (z) such other information related to the Pension Benefits Council's responsibilities and activities that the Pension Benefits Council determines is relevant to Participants, including, for example, a comparison of the Pension Benefits Council's expenses that were actually incurred during such fiscal year to the Pension Benefits Council's budgeted expenses. Each such annual report shall be posted on the Pension Benefits Council's website and social media platforms.

**3.6 Orientation and Continuing Education Policy:** The Pension Benefits Council shall adopt a program for the orientation of new members and the continued education of existing members regarding their duties, relevant provisions of the Plan, financial matters, and governance of the Pension Benefits Council. The goal of the program shall be for the Pension Benefits Council members to maintain the skill and knowledge necessary to meet their obligations and duties. With respect to the initial Pension Benefits Council formed on or about the Effective Date of the Plan, the Pension Benefits Council shall use its reasonable best efforts to develop and conduct an initial orientation program as soon as practicable after the Effective Date, pursuant to the Initial Meeting described in Section 2.2(B) above. Pending the conducting of such orientation program, the initial Pension Benefits Council members may conduct business solely to address initial start-up matters, in accordance with the Initial Meeting described in Section 2.2(B) above. For the avoidance of doubt, the items described in Section 2.2(B) constitute a non-exhaustive list of start-up matters, and the Pension Benefits Council may address any other such matters that it deems prudent to address pending conducting of the orientation program. With respect to any person elected or appointed to the initial or any subsequent Pension Benefits Council after the orientation program is developed, such person must attend the orientation program before assuming its position on the Pension Benefits Council.

**3.7 Public Employees as members of the Pension Benefits Council:** For Pension Benefits Council members, who are also public employees of the Commonwealth, agencies, instrumentalities, municipalities, or public corporations, the time committed to attending meetings or carrying out their

responsibilities as members of the Pension Benefits Council shall be: (i) deemed to be part of their official responsibilities as employees of the applicable governmental entity, and (ii) shall not be deducted from their salary, accrued vacation days, or any other similar license or accrued benefit; provided, however, that each such public employee shall provide her/his respective employer a notice at least three (3) days in advance of any such meeting (except for extraordinary or emergency meetings) or other time commitment that is related to the discharging of her/his responsibility as a member of the Pension Benefits Council. To the extent requested by an employer of a member of the Pension Benefits Council, the Pension Benefits Council shall certify the attendance and participation of said member in the meeting or other activities related to the discharging of Pension Benefits Council member's obligations.

#### IV. POWERS OF THE PENSION BENEFITS COUNCIL

The Pension Benefits Council shall have the power to take any action reasonably necessary in order to fulfill its responsibilities as set forth in Section 1.2 above, including, but not limited to:

**4.1 Request for Documents and Information:** The Pension Benefits Council shall have the right to request and receive from the Commonwealth (on behalf of itself and any of its agencies and instrumentalities) and the Act 106 Board the following information deemed by the Pension Benefits Council as reasonably necessary to carry out its responsibilities as set forth in Section 1.2 above:

- A. Contact Information: The Pension Benefits Council shall have the right to request and receive the Commonwealth's most current information regarding the mailing address and such other contact information (e.g., telephone number and electronic mail address, if available) on file for each person who is entitled to cast a ballot in any election to select the members of the Pension Benefits Council, at any time within the six (6) month period preceding such election. The received information shall exclusively be used for said election process.
- B. Actuarial/Valuation Data: In addition to the information and documents above, the Pension Benefits Council shall receive from the Commonwealth, and shall share with the Pension Reserve Board, the most current actuarial and valuation data on an annual basis within a reasonable time after this information is available.

**4.2 Review Regarding Funding of and Withdrawals from Pension Reserve Trust:** Pursuant to Section 1.2(A) above, in addition to the right to request documents and information set forth in Section 4.1 above, the Pension Benefits Council shall have the right, once every fiscal year, to review all records and processes related to the calculation and deposit of funds into the Pension Reserve Trust by the Commonwealth, including, without limitation, any report of the Commonwealth's independent calculation agent relating to such deposit or lack of deposit. The Pension Benefits Council and the Pension Reserve Board shall also have the right to review all information reasonably necessary to evaluate the calculation and propriety of a request by the Commonwealth for the withdrawal of funds from the Pension Reserve Trust, in accordance with Article V below, including, without limitation, any report of the Commonwealth's independent calculation agent relating to such withdrawal request. The Pension Benefits Council and Pension Reserve Board shall also be given reasonable access to the independent calculation agent to review such materials.

**4.3 Review of PayGo Fee Collections:** The Pension Benefits Council shall have the right, once every fiscal year, to review the collections of PayGo Fees, in order to assess compliance with Act 106. The Commonwealth shall continue to publish information regarding the calculation and collection of PayGo Fees in accordance with its current practices.

**4.4 Monitor and Enforce the Act 80 Contributions:** The Pension Benefits Council shall have the responsibility and authority to monitor the Commonwealth's timely payment of the Act 80 Contributions to the Pension Reserve Trust. Beginning on August 15, 2024, the Department of Treasury of Puerto Rico ("**Treasury**") will make a contribution to the Pension Reserve Trust pursuant to the Act 80 Contribution Schedule included as Exhibit B to the Final Stipulation. Treasury shall pay the Act 80 Contributions to the Pension Reserve Trust on or before the fifteenth (15<sup>th</sup>) day of each month through the end of Fiscal Year 2031.

**4.5 Power to Sue and Jurisdiction of U.S. District Court:** Subject to the limitations on scope of authority and responsibility in Section 1.2 and on remedies in Section 1.2(C) above, the Pension Benefits Council has legal capacity and the power to bring any cause of action on behalf of the Pension Benefits Council and/or the Pension Reserve Trust, as appropriate, against the Commonwealth, or any other appropriate party (as to the Oversight Board, subject to Section 8.6(C) below), regarding: the improper implementation of the Pension Reserve Trust relative to the Council's scope of responsibilities under Section 1.2 above, including deposits into and proper return of any Advance Withdrawal Amount to the Pension Reserve Trust pursuant to Article V below; and the Commonwealth's non-compliance with any Plan provision pertaining to the rights of all Pension Reserve Trust Participants, as well as any other dispute or matter in connection with the performance of the Pension Benefits Council's duties under these Guidelines. The Pension Benefits Council on behalf of the Council and/or the Pension Reserve Trust, as appropriate, may also bring any cause of action to resolve a dispute pursuant to Section 1.6 or 3.1 above. Except as provided in Section 2.3(G) above, the U.S. District Court for the District of Puerto Rico shall have original and exclusive jurisdiction over any such causes of action of the Pension Benefits Council described in this paragraph, as well as any causes of action against the Pension Benefits Council or controversies related to the rights, powers, duties, obligations, liabilities, limitations and responsibilities of the Pension Benefits Council under the Guidelines, the Pension Reserve Deed of Trust or the Plan of Adjustment.

**4.6 Employment of Professionals:** Subject to Section 1.6(A) above, the Pension Benefits Council shall engage in a public Request for Proposal ("**RFP**") process in order to retain certain service providers, such as attorneys, insurance advisors, accountants, the Election Administrator, and actuaries, and whose contract amount is greater than \$250,000.00 for a fiscal year (provided that retention of the Election Administrator and any outside counsel shall require an RFP process regardless of the projected contract amount). Selection of all such providers shall require a positive vote of a 2/3 majority of the Pension Benefits Council members who participate in the vote. The Pension Benefits Council shall have the authority to enter into contracts to assist in the performance of the duties of the Pension Benefits Council hereunder, and incur reasonable fees and expenses in connection with hiring such service providers; provided, however, that (i) while the Oversight Board is in existence with respect to the Commonwealth, all engagement agreements with any such service providers or any consultant engaged to assist with the RFP process shall be subject to review and approval by the Oversight Board pursuant to its Contract Review Policy as in effect from time to time; and (ii) all contracts executed by the Pension Benefits Council shall be made public and shall be registered with the Office of the Comptroller of Puerto Rico (the "**Comptroller Office**"). All such

fees and expenses shall be paid from the Pension Reserve Trust. An individual or organization that has provided a cash or in-kind contribution to any candidate for membership or any member of the Pension Benefits Council shall be ineligible to serve as a professional for five years from the date of such contribution.

**4.7 Independence:** The Pension Benefits Council shall be incorporated under the laws of Puerto Rico as a not-for-profit entity. For the avoidance of doubt, the Pension Benefits Council shall not be, and shall not be deemed, an instrumentality of the Commonwealth, nor is it responsible for the obligations of the Commonwealth under the Plan.

## V. PENSION RESERVE TRUST WITHDRAWALS

**5.1 Scope:** This Article V governs, among other things, withdrawals from the Pension Reserve Trust that shall be made pursuant to the request of the Commonwealth. No provision of these Guidelines modifies the obligation of the Commonwealth to deposit funds into the Pension Reserve Trust pursuant to the Plan of Adjustment. For the avoidance of doubt, any disputes arising in connection with the matters governed by this Article V shall be heard by the U.S. District Court for the District of Puerto Rico, which shall have original and exclusive jurisdiction.

### 5.2 Withdrawals:

- A. Funds may be withdrawn from the Pension Reserve Trust at any time to pay the costs and expenses of the Pension Benefits Council and the Pension Reserve Board as budgeted pursuant to these Guidelines, respectively, in each case in accordance with these Guidelines. The Pension Benefits Council and the Pension Reserve Board shall each have the authority to withdraw funds necessary to pay such costs and expenses. Funds cannot be withdrawn for any other purpose during the period beginning as of the Effective Date of the Plan of Adjustment and ending on the last day of the 2031 Fiscal Year, subject to Section 5.2(D) below.
- B. Beginning on the first day of the 2032 Fiscal Year, the Commonwealth may make a request to the Pension Benefits Council (“**Withdrawal Request**”) (with a copy served concurrently upon the Pension Reserve Board) in which it asserts that the conditions set forth in Section 5.3 below were fully satisfied with respect to the prior fiscal year (the “**Applicable Fiscal Year**”) and therefore that a lump-sum withdrawal should be made from the Pension Reserve Trust calculated in accordance with Section 5.4 below (“**Withdrawal**”). The Commonwealth shall submit to the Pension Benefits Council and the Pension Reserve Board all necessary information for their evaluation of such Withdrawal Request, consistent with their rights to receive and review such information under Section 4.2 above. Within 45 days of receiving the Withdrawal Request and said necessary information, the Pension Reserve Board shall make a written recommendation to the Pension Benefits Council regarding the Board’s view as to whether each of the conditions set forth in Section 5.3 below is satisfied and, if so, the amount of the Withdrawal that is appropriate under Section 5.4 below. Within 60 days of receiving the Withdrawal Request and said necessary information, and taking into consideration the recommendation of the Pension Reserve Board, the Pension Benefits Council shall determine whether each of the conditions set forth in Section 5.3 below is satisfied and, if so, the Pension Benefits Council shall (a)

determine the amount of the Withdrawal and (b) authorize and direct the Pension Reserve Board to (i) liquidate such assets of the Pension Reserve Trust as the Pension Reserve Board determines to be necessary or prudent to fund the Withdrawal and (ii) facilitate the Withdrawal and transfer of such sum to the Treasury Single Account (the “TSA”) or other appropriate account designated by the Commonwealth. If the Pension Reserve Board disagrees with the determination of the Pension Benefits Council with respect to a Withdrawal Request under this Section 5.2(B), any such disagreement shall be resolved by the U.S. District Court for the District of Puerto Rico, consistent with Sections 1.6, 4.5, and 8.4.

- C. Beginning with the first day of the 2032 Fiscal Year, the Commonwealth may make a request to the Pension Benefits Council (“**Fully Funded Withdrawal Request**”) (with a copy served concurrently upon the Pension Reserve Board) in which it asserts that the condition set forth in Section 5.5 below was fully satisfied with respect to the prior fiscal year (the “**Fully Funded Fiscal Year**”), and therefore that a lump-sum withdrawal should be made from the Pension Reserve Trust calculated in accordance with Section 5.5 below (the “**Fully Funded Pension Reserve Trust Withdrawal**”). The Commonwealth shall submit to the Pension Benefits Council and the Pension Reserve Board all necessary information for their evaluation of such request, consistent with their rights to receive and review such information under Section 4.2 above. Within 45 days of receiving the Withdrawal Request and said necessary information, the Pension Reserve Board shall make a written recommendation to the Pension Benefits Council regarding the Board’s view as to whether each of the conditions set forth in Section 5.5 below is satisfied. Within 60 days of receiving the Fully Funded Withdrawal Request and said necessary information, having taken into consideration the recommendation of the Pension Reserve Board, and in the event the Pension Benefits Council determines that the condition set forth in Section 5.5 below is satisfied, the Pension Benefits Council shall authorize and direct the Pension Reserve Board to (i) liquidate such assets of the Pension Reserve Trust as the Pension Reserve Board determines to be necessary or prudent to fund the Fully Funded Pension Reserve Trust Withdrawal and (ii) facilitate the Fully Funded Pension Reserve Trust Withdrawal and transfer of such sum to the TSA or other appropriate account designated by the Commonwealth. If the Pension Reserve Board disagrees with the determination of the Pension Benefits Council with respect to a Withdrawal Request under this Section 5.2(C), any such disagreement shall be resolved by the U.S. District Court for the District of Puerto Rico, consistent with Sections 1.6, 4.5, and 8.4.
- D. The Pension Benefits Council shall not have the authority to approve any withdrawal of funds that is not in compliance with these Guidelines, subject to amendment of the Guidelines as set forth in Section 10.1 below.

**5.3 Conditions for Withdrawals:** The Pension Benefits Council shall approve a Withdrawal Request if the Pension Benefits Council determines that each of the following conditions is satisfied:

- A. Puerto Rico generates an actual cash flow deficit after contractual debt service pursuant to the Certified Fiscal Plan in effect as of the Effective Date of the Plan of Adjustment for the Applicable Fiscal Year (a “**Cash Flow Deficit**”), determined in each case pursuant to the “cash surplus” reported in the Net Cash Flow in the Treasury Single

Account Cash Flow Report issued by the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”, for its acronym in Spanish). For the avoidance of doubt, the calculation and reporting of the Cash Flow Deficit and the Unrestricted Cash Balance of Puerto Rico, as defined in Section 5.3(B) below, shall remain consistent with the calculation and reporting methodology in effect as of the Effective Date regardless of any subsequent or future changes to the Commonwealth’s central cash management system and/or reporting of the TSA.

- B. The sum of the cash balance in all TSA accounts plus the cash balances in the two TSA sweep accounts (the “**Unrestricted Cash Balance of Puerto Rico**”) shall be lower than \$2.0 billion as of the end of the Applicable Fiscal Year. For the avoidance of doubt, the Unrestricted Cash Balance of Puerto Rico shall exclude any such amounts related to the emergency reserve fund (of up to \$1.3 billion) and the revolving facility for reconstruction and capital works (of up to \$750 million).
- C. (i) the municipalities and government entities obligated to pay PayGo Fees, as identified in the monthly PayGo reporting package periodically published by AAFAF, have paid at least 75% of their PayGo Fees on an aggregate and cumulative basis during the period beginning as of July 1, 2017 (the inception of the PayGo System) and ending as of the last day of the Applicable Fiscal Year, (ii) the Commonwealth has offset delinquent PayGo Fees against any appropriations from and obligations of the Commonwealth to the delinquent municipalities and government entities, (iii) the Commonwealth and/or ERS have instructed CRIM to withhold amounts from the Basic Tax remittances to satisfy any past due PayGo Fees, if applicable, (iv) the Commonwealth has instructed AAFAF to withhold amounts to fund any past due PayGo Fees from any request by a municipality for release of any excess Special Additional Tax (“**Excess CAE**”), if applicable, and (v) the Commonwealth is diligently pursuing payment plans pursuant to ERS Resolution 2019-02 to collect past due PayGo Fees from all municipalities and government entities that were more than six (6) months past due as of the end of the Applicable Fiscal Year.

**5.4 Amount of Withdrawal:** In the event the Pension Benefits Council determines that each of the conditions in Section 5.3 has been satisfied for a Withdrawal, then the Pension Benefits Council shall, in consultation with the Pension Reserve Board, perform the following calculations to determine the amount of the Withdrawal:

- A. First, determine the present value as of the end of the Applicable Fiscal Year of all projected pension benefits to be paid by the PayGo System based on the most recent actuarial valuation report prepared by the Commonwealth’s actuarial advisor, by discounting each projected pension benefit cash flow with the segment rate from the corresponding year of the rates defined by the US Internal Revenue Service under Internal Revenue Code Section 417(e)(3) (the “**417(e) rates**”) published for the third month prior to the measurement date used for the present value calculation (the “**Benefits Present Value**”); provided, however, that in the event the measurement date of the most recent valuation report is more than eighteen (18) months old, then the Pension Benefits Council shall use the most recent estimates of the projected pension benefits provided by the Commonwealth to the Pension Benefits Council or, absent such information, the Pension Benefits Council shall use the projected PayGo liabilities

contained in the most recent AWM Study prepared for the Pension Reserve Board if such data is more current than the most recent actuarial valuation report. In the event that the IRS ceases to publish 417(e) rates, the Act 106 Board shall implement a new publicly available basis for determining the present value that is market based and reflects a similar level of risk to the rates most recently reflected in the 417(e) rates;

- B. Second, divide the balance of the Pension Reserve Trust as of the end of the Applicable Fiscal Year by the Benefits Present Value, and express the result as a percentage (the “**Funded Percentage**”);
- C. Third, determine the product of (x) the Funded Percentage, and (y) the amount of all pension benefits actually paid by the PayGo System during the Applicable Fiscal Year, excluding all administrative and other costs that are not pension benefits (the “**PayGo Benefits Amount**”), with such product expressed as an amount in U.S. dollars (the “**Withdrawal Formula Amount**”); provided, however, that in the event in any Fiscal Year (i) of a federally-declared natural disaster, (ii) of a federally – declared pandemic other than the current Covid-19 pandemic, or (iii) that the Cash Flow Deficit is generated by a material negative variance between projected Non-Own Source Revenues and actual Non-Own Source Revenues for such Fiscal Year, the PayGo Benefits Amount shall be multiplied by two (2) for such Fiscal Year; and
- D. Fourth, determine the lower of (y) the PayGo Benefits Amount and (z) the Withdrawal Formula Amount (such lower amount defined as the “**Applicable Withdrawal Amount**”); provided, however, that in the event that the Funded Percentage as of the end of any Applicable Fiscal Year is ten (10) percent or lower, then the Applicable Withdrawal Amount shall be equal to (i) the lower of (a) the PayGo Benefits Amount and (b) the balance of the Pension Reserve Trust less (ii) the sum of (A) the amount, if any, that the Pension Benefits Council reasonably determines is necessary and appropriate to satisfy its actual and projected costs and expenses to complete its functions under these Guidelines, plus (B) the amount, if any, that the Pension Reserve Board reasonably determines is necessary and appropriate to satisfy its actual and projected costs and expenses to complete its functions under these Guidelines (the sum of (ii)(A) and (B), the “**Wind-Down Expenses**”).

The amount that shall be withdrawn from the Pension Reserve Trust shall be the lesser of (y) the Applicable Withdrawal Amount and (z) the Cash Flow Deficit for the Applicable Fiscal Year (the “**Pension Reserve Trust Withdrawal Amount**”).

**5.5 Fully Funded Pension Reserve Trust Withdrawals:** The Pension Benefits Council shall approve a Fully Funded Withdrawal Request in the event that the Pension Benefits Council determines that the Funded Percentage as of the end of the Fully Funded Fiscal Year is one hundred (100) percent or higher after accounting for any Applicable Withdrawal Amount for such Fully Funded Fiscal Year. In the event that the Pension Benefits Council determines this criterion is satisfied, the amount of the Fully Funded Pension Reserve Trust Withdrawal shall be equal to the amount of the aggregate pension benefits to be paid by the PayGo System during the following fiscal year. For the avoidance of doubt, the conditions and provisions of Sections 5.3 and Section 5.4 above shall not be applicable with respect to any Fully Funded Withdrawal Request or Fully Funded Pension Reserve Trust Withdrawal.

**5.6 Timing of Pension Reserve Trust Withdrawals:** Withdrawals from the Pension Reserve Trust, as allowed for an Applicable Fiscal Year pursuant to Sections 5.3, 5.4, and 5.5 above, shall occur within six (6) months after the end of such Applicable Fiscal Year, provided that all requisite information pursuant to Section 5.3 has been provided to the Pension Benefits Council; provided, however, that if at the beginning of an Applicable Fiscal Year the sum of (a) the Unrestricted Cash Balance of Puerto Rico at the beginning of such Applicable Fiscal Year and (b) the projected Net Cash Flow for such Applicable Fiscal Year in the Treasury Single Account Cash Flow Report is less than \$500 million, the Commonwealth may request to withdraw funds from the Pension Reserve Trust during the Applicable Fiscal Year (the “**Advance Withdrawal Request**”); provided that the condition pursuant to Section 5.3(C) has been satisfied

- A. Advance Withdrawal Amount: The allowed withdrawal amount for an Advance Withdrawal Request shall be the product of (a) 50% and (b) the calculation of the Pension Reserve Trust Withdrawal Amount pursuant to Section 5.4 but replacing (x) the actual Cash Flow Deficit for such Applicable Fiscal Year with the projected Cash Flow Deficit for such Applicable Fiscal Year, (y) the Benefits Present Value at the end of the Applicable Fiscal Year with the Benefits Present Value at the beginning of the Applicable Fiscal Year, and (z) the Pension Reserve Trust balance at the end of such Applicable Fiscal Year with the Pension Reserve Trust balance at the beginning of such Applicable Fiscal Year (the “**Advance Withdrawal Amount**”).
- B. True-up of Advance Withdrawal Request: At the end of the Applicable Fiscal Year in which an Advance Withdrawal Request is made, the absolute difference between the Advance Withdrawal Amount and the Pension Reserve Trust Withdrawal Amount pursuant to Section 5.4 shall be calculated (the “**Advance True-up Amount**”). If the Pension Reserve Trust Withdrawal Amount for the Applicable Fiscal Year exceeds the Advance Withdrawal Amount already made during the Applicable Fiscal Year, additional withdrawal in the amount of the Advance True-up Amount shall be permitted. However, if the Advance Withdrawal Amount made during the Applicable Fiscal Year exceeds the Pension Reserve Trust Withdrawal Amount for the Applicable Fiscal Year, the Commonwealth shall deposit the Advance True-up Amount back into the Pension Reserve Trust within six (6) months of the end of the Applicable Fiscal Year. For the avoidance of doubt, if the conditions pursuant to Section 5.3 are not met at the end of the Applicable Fiscal Year, the Commonwealth shall deposit the Advance Withdrawal Amount in its entirety back into the Pension Reserve Trust within six (6) months of the end of the Applicable Fiscal Year.

**5.7 Commonwealth Power to Sue and Jurisdiction of U.S. District Court:** In addition to any rights under applicable law, the Commonwealth shall have legal capacity and the right to bring any cause of action to resolve any dispute relating to or arising from this Article V of these Guidelines, including but not limited to, any claim or matter related to or arising from a Withdrawal Request, a Fully Funded Withdrawal Request, or Advance Withdrawal Request. The U.S. District Court for the District of Puerto Rico shall have original and exclusive jurisdiction over any said causes of action, as well as any other causes of action against the Pension Benefits Council or the Pension Reserve Board.

**5.8 Taxes:** The funds held in the Pension Reserve Trust shall be exempt from the payment of any taxes to Puerto Rico and its municipalities and instrumentalities to the maximum extent permitted by applicable law (including PROMESA).

## VI. PENSION RESERVE BOARD MEMBERS

### 6.1 Composition of the Pension Reserve Board:

- A. Membership: The Pension Reserve Board shall consist of five (5) trustees, to be appointed within three (3) months after the occurrence of the Effective Date. The Pension Benefits Council shall, by a two-thirds vote of the Pension Benefits Council's members, appoint two (2) trustees, the Governor of Puerto Rico shall appoint two (2) trustees, and the Oversight Board shall appoint one (1) trustee; provided, however, that in the event any of such persons are not timely appointed or designated, such delay shall not delay or impair the operation of the Pension Reserve Board, which shall commence its activities on the first business day of the first calendar week following expiration of the three-month period following the Effective Date on which there are at least three (3) appointed Pension Reserve Board trustees (the "**Commencement Date**"). As each trustee is appointed, the appointing entity shall certify to the Oversight Board, the Governor's office, and the Pension Benefits Council such appointment and the trustee's specific qualifications that satisfy the criteria in Section 6.1(C) below. If the Oversight Board no longer exists, the fifth trustee shall be appointed by the Pension Benefits Council. A person may not serve more than two (2) terms as a member of the Pension Reserve Board, regardless of whether such person has served consecutive terms.
- B. Inaugural Meeting. On or as soon as practicable after the Commencement Date, the Pension Reserve Board shall call and convene an inaugural meeting of the Board. At that meeting, the Oversight Board shall deliver custody of all documents and information regarding or related to the Oversight Board's activities on behalf of the Pension Reserve Trust and the Pension Reserve Board, including, without limitation, all bank account information for the administrative and operating accounts opened by the Oversight Board for the Pension Reserve Trust in the name of the Pension Reserve Board and the Pension Benefits Council. By convening said meeting, the Oversight Board's duties and authority under Section 8.6 of these Guidelines shall automatically cease. At or immediately after the inaugural meeting, the Oversight Board shall take all other necessary and reasonable steps to transfer to the Pension Reserve Board control of all bank accounts and any other assets of the Pension Reserve Trust, and any documents and information of or belonging to the Pension Reserve Trust or the Pension Reserve Board.
- C. Eligibility and Qualifications: No trustee shall be appointed to the Pension Reserve Board who has a known or reasonably perceived conflict of interest. Except for the Governor's appointee, trustees of the Pension Reserve Board cannot concurrently be active employees of Puerto Rico or any of its agencies, instrumentalities, or public corporations, and for the avoidance of doubt, no trustee (including the Governor's appointee) can concurrently be a member of the Act 106 Board. In addition, no trustee can be a former member of the boards of ERS, TRS, or JRS. Each trustee of the Pension

Reserve Board shall have proven leadership skills and have expert knowledge or extensive experience with respect to either (with at least one Board trustee satisfying each of the two categories of qualifications below):

i. Economics, finance, institutional investments, or public accounting as evidenced by one or more of the following:

- (a) A Ph.D. in economics or finance from a doctorate-granting U.S.-accredited institution, or a Master's degree in economics or finance from US accredited institution with a minimum of fifteen (15) years of professional experience in economics and finance; or
- (b) The Chartered Financial Analyst credential of the CFA Institute with a minimum of fifteen (15) years of professional experience; or
- (c) A minimum of fifteen (15) years of professional experience as a certified public accountant with audit expertise of financial management, pension, or insurance clients;

*or*

ii. Asset management expertise, as evidenced by one or both of the following:

- (a) At least fifteen (15) years of asset management industry experience; and
- (b) At least fifteen (15) years of experience applying technical competencies including investment strategy, investment management across different asset classes, investment risk management, third party management of external asset managers and custodians, corporate governance, financial management, strategic leadership, communication and stakeholder management and networking.

D. Term: Trustees of the Pension Reserve Board shall serve for a term of six (6) years, beginning on January 1 of the relevant year; provided, however, that if the term of the initial Pension Reserve Board begins on a date other than January 1, the term of service for the members of that initial Pension Reserve Board shall consist of that partial first year plus five (5) additional calendar years; provided further, that a Trustee can be reappointed at the expiration of his or her term. If a trustee of the Pension Reserve Board does not complete his or her term for any reason, the entity or person that appointed such person pursuant to Section 6.1(A) above or 6.1(D) below shall appoint a replacement trustee who is eligible to serve in such position. In each case, the replacement trustee shall serve for the remainder of the six-year term.

## VII. PENSION RESERVE BOARD GOVERNANCE

**7.1 Bylaws:** As soon as practicable after the Commencement Date, the Pension Reserve Board shall by an affirmative vote of at least four trustees (or a simple majority if any appointing party fails to timely appoint trustees to the Pension Reserve Board) adopt a set of bylaws to govern the Pension Reserve Board's conduct, which shall be consistent with the Plan and these Guidelines. It shall include appropriate provisions regarding fiduciary duties, obligations of the Pension Reserve Board, meetings of the Pension Reserve Board, removal and replacement of Pension Reserve Board trustees, and voting on matters by Pension Reserve Board trustees. In particular, without otherwise limiting the Pension Reserve Board's ability to develop appropriate bylaws, the Pension Reserve Board's bylaws shall provide that each Pension Reserve Board trustee shall have one vote, subject to any disqualifying conflict of interest, with respect to any matter being voted upon. The bylaws shall also provide for appointment by the trustees of committees and committee chairs, provided that if any committee is formed by the Pension Reserve Board, at least one appointee of the Governor shall be a member of such committee. The Pension Reserve Board may, from time to time, amend its bylaws by an affirmative vote of at least four trustees (or a simple majority if any appointing party fails to timely appoint a trustee to fill a vacancy on the Board) to ensure that the Pension Reserve Board satisfies its purposes and functions pursuant to these Guidelines; provided, however, that if any non-consenting trustee believes the amendment is improper and inconsistent with the purposes and functions of the Pension Reserve Board, that member may bring the issue before the U.S. District Court for the District of Puerto Rico for resolution. Any such amendments shall be promptly posted to the Board's website or on its social media platforms, if the Board elects to have any social media platform. The Pension Reserve Board shall adopt Court Approved Policies. The adoption of the Court Approved Policies into the bylaws of the Pension Reserve Board shall not affect its status as an independent entity that is not an instrumentality of Puerto Rico, as more fully described in Section 8.5 below.

**7.2 Compensation:** Pension Reserve Board members shall be paid an annual compensation in an amount not to exceed \$75,000.00 (subject to adjustment for inflation), paid in four equal installments at the end of each calendar quarter; provided, however, that if, in the judgment of the Oversight Board or the Pension Benefits Council, it is determined that this amount is inadequate to attract appropriate and desirable trustees to serve on the Board with the requisite level of skills and qualifications identified in Section 6.1B above, the Oversight Board or Pension Benefits Council, as the case may be, may seek to amend this annual compensation amount upon application to the U.S. District Court for the District of Puerto Rico, in accordance with Section 8.4 below. Compensation for the period from the Commencement Date to the end of the first calendar quarter thereafter shall be prorated and paid on the first business day following said calendar quarter. Pension Reserve Board members shall also be reimbursed for their reasonable expenses incurred in attending meetings and otherwise carrying out their responsibilities as Pension Reserve Board members. The Pension Reserve Board's compensation and travel policy shall be incorporated into the Pension Reserve Board's bylaws. Notwithstanding the foregoing, any Pension Reserve Board member employed by the Government of Puerto Rico or any public corporation or instrumentality shall not receive compensation for his or her service on the Pension Reserve Board while so employed, but may receive reimbursement of expenses as provided in this Section 7.2.

**7.3 Budget:** For informational purposes, by July 1 of each year, the Pension Reserve Board shall make public on its website and provide a copy to the Director of the Office of Management & Budget of Puerto Rico, a budget of anticipated expenses to be incurred in the forthcoming fiscal year for

ordinary and recurring activities of the Pension Reserve Board and for other non-recurring activities reasonably foreseeable to occur in the forthcoming fiscal year. The annual actual aggregate administrative expenses for the Pension Reserve Board in any given fiscal year shall not be higher than \$1,650,000.00 (adjusted for actual inflation rate); provided that non-ordinary course expenses including, but not limited to, litigation-related fees and expenses, if any, as well as investment-related expenses are excluded from the calculation of administrative expenses. The Oversight Board, as long as it is in existence, shall review the annual expenditures of the Pension Reserve Board and adjust its budget for ordinary course expenses at its reasonable discretion from time to time based on actual spending requirements; provided, however, that if there is a dispute between the Oversight Board, or the Commonwealth upon termination of the Oversight Board, and the Pension Reserve Board regarding the budget, the parties will use good-faith best efforts to resolve it consensually; provided further, however, that if such dispute is not resolved consensually within thirty (30) days of the dispute being identified, either party may seek resolution of the matter in the U.S. District Court for the District of Puerto Rico; and provided further, however, that pending resolution of the matter the Pension Reserve Board shall receive funding in accordance with the prior year's budget. The payment of these administrative expenses shall be made from the account for administrative and operating expenses of the Pension Reserve Board within the Pension Reserve Trust.

**7.4 Reports to Pension Benefits Council:** On a quarterly basis, the Pension Reserve Board shall comply with its reporting obligations as detailed in its adopted Public Disclosure Policy and shall participate in a meeting with the Pension Benefits Council and the Act 106 Board to report on the asset management activities of the Pension Reserve Board, including, without limitation, (w) the composition of the Pension Reserve Trust assets and investments, and the performance of said investments, (x) all investment management fees, commissions and similar compensation to investment managers and (y) other matters regarding the performance of the Pension Reserve Board pursuant to these Guidelines. Such reports shall be posted to a website to be maintained by the Pension Reserve Board.

**7.5 Annual Report:** Following the end of each fiscal year, the Pension Reserve Board, with the assistance of its retained professionals as described in Section 8.1 and Section 8.3 below, shall promptly prepare and issue a public report, as of the end of the fiscal year, regarding (w) the composition of the Pension Reserve Trust assets and investments over the course of the reporting period and the performance of said investments by asset class and by each investment manager during the calendar year just ended, (x) a list of current investment managers and assets under management within the Pension Reserve Trust, (y) an itemized report of all receipts and distributions during the reporting period, all expenditures made to professionals and investment managers, and an itemized report of any payments made to Board members, including payments made on behalf of Board members to travel to and attend any meeting, and (z) such other information that the Pension Reserve Board determines is relevant to Participants, including a comparison of the Pension Reserve Board's expenses that were actually incurred during such fiscal year to the Pension Reserve Board's budgeted expenses. Each such annual report shall be posted on the Pension Reserve Board's website.

## VIII. POWERS OF THE PENSION RESERVE BOARD

**8.1 Management of Pension Reserve Trust:** The Pension Reserve Board shall be responsible for the management of the Pension Reserve Trust, including, but not limited to, employing staff as needed for the Pension Reserve Trust, selecting a custodian to hold the assets of the Pension Reserve Trust, directing (in consultation with the investment advisor(s) selected pursuant to this Section 8.1)

the investment of the assets of the Pension Reserve Trust, and managing the administration of the Pension Reserve Trust. The Pension Reserve Board shall also have responsibilities with respect to withdrawal requests pursuant to Article V of these Guidelines, including making recommendations to the Pension Benefits Council with respect to withdrawal requests pursuant to Sections 5.2(B) and (C). The Pension Reserve Board will also have the authority to take any and all steps it determines are necessary or desirable in its discretion to maximize the tax efficiency of the assets and investments of the Pension Reserve Trust.

- A. Selection of Investment Advisor(s): The Pension Reserve Board shall retain one or more qualified investment advisors through a competitive and public process. The Pension Reserve Board shall set minimum qualification requirements, including the following requirements: (i) the investment advisor must be registered as an investment advisor under the Investment Advisers Act of 1940, (ii) the investment advisor and each of its key professionals must not have material conflicts of interest with the Pension Reserve Board, (iii) the investment advisor must agree to serve as a fiduciary, and (iv) the investment advisor must have a verifiable and successful operating history with at least three (3) pension fund clients each of which has a minimum of \$5 billion in assets under management. As soon as reasonably practicable following the Effective Date of the Plan, the Pension Reserve Board shall conduct a public RFP process in order to search for such investment advisor(s). The goal of the RFP shall be to solicit and evaluate proposals in a fair and objective manner, and the RFP process shall be documented and public. The Pension Reserve Board may retain a qualified consultant to manage the RFP process. As it determines to be necessary or prudent, the Pension Reserve Board may renew the RFP process from time to time to select one or more additional or replacement investment advisor(s). Provided, however that: (i) while the Oversight Board is in existence with respect to the Commonwealth, any engagement agreements with any such investment advisor(s) or any consultant engaged to assist with the RFP process shall be subject to review and approval by the Oversight Board pursuant to its Contract Review Policy as in effect from time to time; and (ii) all contracts executed by the Pension Reserve Board on behalf of the Pension Reserve Board and/or the Pension Reserve Trust shall be made public and shall be registered with the Comptroller Office.
- B. Roles & Responsibilities: The investment advisor(s) shall have the following roles and responsibilities, and the terms of such relationship shall be set forth in a written agreement in which the advisor shall acknowledge its fiduciary status:
- i. Advising the Pension Reserve Board on issues concerning the selection of investments for the Pension Reserve Trust;
  - ii. Assisting in the development and maintenance, and periodic review and modification as appropriate, of an investment policy statement designed to set forth the goals, objectives and risk tolerances of the Pension Reserve Trust's investment program (the "**Investment Policy Statement**"), as described below;
  - iii. Advising in the development of the Pension Reserve Trust's asset allocation strategy;

- iv. Providing investment advice to the Pension Reserve Board with respect to the Pension Reserve Trust;
- v. Assisting in the analysis, selection, monitoring and replacement of investments and investment managers;
- vi. Assisting the Pension Reserve Board with the review of the performance and risk of the selected investments, on at least a semi-annual basis, in comparison to their stated objectives and their related performance and pricing as compared to their peers and benchmarks;
- vii. Bringing information to the Pension Reserve Board, on an ad hoc basis as appropriate, that the investment advisor feels may be relevant to the Pension Reserve Board's assessment of a given investment, asset class or strategy.

The Pension Reserve Board, working with the investment advisor(s), shall select investment manager(s) to manage the investments of the Pension Reserve Trust. The Pension Reserve Board shall conduct a public RFP process in order to search for such investment manager(s). The goal of the RFP shall be to solicit and evaluate proposals in a fair and objective manner, and the RFP process shall be documented and public. The Pension Reserve Board may retain a qualified consultant to manage the RFP process. As it determines to be necessary or prudent, the Pension Reserve Board may renew the RFP process from time to time to select one or more additional or replacement investment manager(s); provided, however that: (i) while the Oversight Board is in existence with respect to the Commonwealth, any engagement agreements with any such investment manager(s) or any consultant engaged to assist with the RFP process shall be subject to review and approval by the Oversight Board pursuant to its Contract Review Policy as in effect from time to time; and (ii) all contracts executed by the Pension Reserve Board on behalf of itself and/or the Pension Reserve Trust shall be made public and shall be registered with the Comptroller Office. Subject to the provisions of these Guidelines, the roles and responsibilities of the Pension Reserve Board and any third party shall be set forth in a written agreement and, as appropriate, the Investment Policy Statement.

- C. Development of Investment Policy Statement: The Pension Reserve Board, together with expert assistance from its investment advisor(s), shall develop the Investment Policy Statement. The Investment Policy Statement shall be designed to provide meaningful direction for the Pension Reserve Board, the investment advisor(s), and investment managers in the management of the Pension Reserve Trust. The Investment Policy Statement shall:
- i. Provide a mechanism to establish and review the Pension Reserve Trust's investment objectives and risk tolerances;
  - ii. Establish the roles, responsibilities and reporting requirements of the Pension Reserve Board, investment advisor(s), investment managers, custodian bank, and any other Pension Reserve Trust service providers;

- iii. Establish a public RFP process in order to search for investment advisor(s), investment managers, custodian bank, and any other Pension Reserve Trust service providers with the goal of soliciting and evaluating proposals in a fair and objective manner in a documented and public process;
  - iv. Identify appropriate investment asset classes, asset allocation targets and ranges that are designed to facilitate achievement of the Pension Reserve Trust's objectives;
  - v. Identify asset class and investment manager guidelines, evaluation, selection and monitoring criteria and performance benchmarks;
  - vi. Document a prudent monitoring and measurement process that includes criteria for replacing and retaining investment managers;
  - vii. Identify investment constraints and limitations, including any prohibited types of investments and minimum ratings for assets.
  - viii. Require any private equity manager with whom the Pension Reserve Board invests to comply with the reporting guidelines developed by the Institutional Limited Partners Association (the "ILPA") as such guidelines are amended from time to time by the ILPA and require any private equity manager to offer financial terms for any investment placed by the Pension Reserve Board that are no less favorable than the terms offered by that private equity manager to other investors in the same fund or investment.
- D. Investment Objective: The Pension Reserve Board, investment advisor(s), and investment managers shall perform their duties for the exclusive benefit of and in the best economic interest of the Commonwealth and the Pension Reserve Trust Participants. The objective of the Pension Reserve Trust's investment program is to generate returns within an appropriately risk-constrained framework, net of reasonable investment fees and expenses, in order to serve the intended purposes of the Pension Reserve Trust under the Plan of Adjustment. This will be accomplished through a carefully planned and executed long-term investment program that allocates and manages the assets of the Pension Reserve Trust.
- E. Prudent Management of the Pension Reserve Trust: This Section 8.1 is meant to serve as a general framework for the prudent management of the Pension Reserve Trust. Changing conditions, economic trends or other factors may necessitate modification of this framework. The Investment Policy Statement at all times shall reflect the current objectives and guidelines for the Pension Reserve Board's management of the Pension Reserve Trust, and the Investment Policy Statement may be modified by written approval of the Pension Reserve Board. The Pension Reserve Board shall promptly provide a copy of such modified Investment Policy Statement to the Pension Benefits Council and the Act 106 Board, and shall post that documentation at the Pension Reserve Board website.

**8.2 Requests for Documents and Information:** In order to prudently invest the assets held in the Pension Reserve Trust in view of the intended purposes of the Pension Reserve Trust under the Plan of Adjustment, the Pension Reserve Board shall have the right to request and receive, on an annual basis, such actuarial and pension benefit information regarding Eligible Retirees and Eligible Active Employees, or information related to projections of future Commonwealth surpluses, as it reasonably determines is necessary.

**8.3 Employment of Professionals:** In addition to the investment professionals retained pursuant to Section 8.1 above, the Pension Reserve Board shall engage in a public RFP process in order to retain necessary and desirable service providers whose contract amount is greater than \$250,000.00 (provided that retention of any outside counsel shall require an RFP process regardless of the projected contract amount). The Pension Reserve Board shall have the authority to enter into contracts and incur fees and expenses in connection with hiring such service providers. All such fees and expenses shall be paid from the Pension Reserve Trust. Provided, however that: (i) while the Oversight Board is in existence with respect to the Commonwealth, any engagement agreements with any such service providers or any consultant engaged to assist with the RFP process shall be subject to review and approval by the Oversight Board pursuant to its Contract Review Policy as in effect from time to time; and (ii) all contracts executed by the Pension Reserve Board on behalf of itself and/or the Pension Reserve Trust shall be made public and shall be registered with the Comptroller Office.

**8.4 Power to Sue and Jurisdiction of U.S. District Court:** The Pension Reserve Board has legal capacity and the power to bring any cause of action in the name of the Pension Reserve Board and/or the Pension Reserve Trust, as appropriate, against the Commonwealth and/or the Act 106 Board, or any other appropriate party, regarding any matters in connection with the performance of the Pension Reserve Board's duties pursuant to these Guidelines. The Pension Reserve Board has legal capacity and power to bring any cause of action in the name of the Pension Reserve Board and/or the Pension Reserve Trust, as appropriate, to resolve a dispute pursuant to Section 1.6 or 7.1 above. The U.S. District Court for the District of Puerto Rico shall have original and exclusive jurisdiction over any such causes of action of the Pension Reserve Trust, as well as any and all causes of action brought against the Pension Reserve Board or Pension Reserve Trust. In addition to any rights under applicable law, the Commonwealth, as grantor, shall have legal capacity and the right to bring any cause of action to resolve any dispute relating to the performance of the Pension Reserve Board, including and not limited to the administration and investment of the funds held in the Pension Reserve Trust. The U.S. District Court for the District of Puerto Rico shall have original and exclusive jurisdiction over any said causes of action, as well as any and all causes of action against the Pension Reserve Board or the Pension Reserve Trust.

**8.5 Independence:** For the avoidance of doubt, neither the Pension Reserve Board nor the Pension Reserve Trust shall be an instrumentality of the Commonwealth, nor are they responsible for the obligations of the Commonwealth under the Plan, and under no circumstances shall be treated as a department, administration, agency, instrumentality or public corporation of the Commonwealth. The Pension Reserve Board from time to time may adopt such rules and regulations as may be necessary or desirable for its proper and efficient administration. All reasonable and proper expenses incurred in the administration of the Pension Reserve Board's responsibilities pursuant to an approved budget will be paid out of the Pension Reserve Trust. Further, for the avoidance of doubt, notwithstanding the foregoing, the Pension Reserve Board is not to be incorporated and is not to be deemed to have legal personality separate from the Pension Reserve Trust.

**8.6 Interim Role of the Oversight Board:** Upon the execution of the Pension Reserve Deed of Trust, the Oversight Board shall perform certain of the start-up functions of the Pension Benefits Council and the Pension Reserve Board for the purpose of performing initial tasks to establish and commence administration of the Pension Reserve Trust as set forth below, for a period concluding upon the earlier to occur of October 1, 2022 or the day the Pension Reserve Board commences its inaugural Board meeting.

- A. Upon the execution of the Pension Reserve Deed of Trust, the Oversight Board shall have the authority to establish two interest-bearing checking accounts with a federally-insured bank, one in the name of the Pension Benefits Council and one in the name of the Pension Reserve Board, to serve as administrative and operating accounts and to receive the initial funding under Section 1.7(B) above. Pending the inaugural meeting of the Pension Reserve Board pursuant to Section 6.1(B) above, the Oversight Board shall be authorized to pay all expenses of the Pension Benefits Council consistent with the Council's budget from the Council's administrative and operating account. The Oversight Board shall keep complete records of any such payment and undertake reasonable steps to confirm that such expenses are consistent with the Council's budget. For the avoidance of doubt, the Oversight Board shall not invest the funds in the administrative and operating accounts or otherwise manage them other than as described herein. In accordance with Section 6.1(B), the Oversight Board shall cease any bank authorization it has upon the convening of the inaugural Board meeting and deliver any records and documents in its possession or control in connection with the Pension Reserve Trust to the Pension Reserve Board and the Pension Benefits Council, as applicable. The Oversight Board shall also file appropriate documents with the appropriate agency for the incorporation of the Pension Benefits Council as a not-for-profit corporation.
- B. If, after expiration of the three-month period following the Effective Date, the Commencement Date and the inaugural Pension Reserve Board meeting have not occurred pursuant to Sections 6.1(A) and (B) above, but the Oversight Board has made its appointment of a trustee to the Pension Reserve Board, then pending the Commencement Date and inaugural meeting, the Oversight Board is authorized to take any reasonable actions to support the timely and effective operations of the Pension Reserve Board, which may include any of the following:
  - i. commence and engage in an RFP process to select an investment advisor pursuant to Section 8.1 above, subject to Pension Reserve Board review and approval;
  - ii. commence and engage in an Expression of Interest (EOI) and RFP process to recommend a custodian bank, subject to Pension Reserve Board review and approval;
  - iii. commence and engage in an EOI and RFP process regarding a third party asset servicer, asset managers and other essential partners. Any formal retention decisions will be subject to formal ratification by the Pension Reserve Board;

- iv. conduct reasonable steps to identify and recommend to the Pension Reserve Board suitable Executive Director candidates;
  - v. if applicable, interact with the United States Internal Revenue Service regarding the taxation of the Pension Reserve Trust; and
  - vi. undertake any other reasonable measures or initiatives that a prudent board of trustees would undertake to enable governance, operational and organizational readiness of the Pension Reserve Trust, the Pension Benefits Council, and the Pension Reserve Board by October 1, 2022, subject to review and ratification by the Pension Reserve Board or Pension Benefits Council in accordance with their respective roles as set forth in these Guidelines.
- C. The actions of the Oversight Board described in this Section 8.6 are in furtherance of the implementation of the Plan of Adjustment and carrying out its responsibilities in accordance with PROMESA. Pursuant to PROMESA section 105, the Oversight Board, its members, and its employees shall not be liable for any obligation of or claim against the Oversight Board or its members or employees or the territorial government resulting from actions taken with respect to these Guidelines.

## IX. INDEMNIFICATION & INSURANCE

**9.1 Indemnification:** Except for acts determined by a final order of the U.S. District Court for the District of Puerto Rico or an appellate court to constitute criminal acts, willful misconduct, fraud, or a material violation of the Code of Conduct and Ethics Policy, and to the extent not covered by insurance as set forth in Section 9.2, the members of the Pension Benefits Council, the trustees of the Pension Reserve Board, the staff of the Pension Reserve Board, the staff of the Pension Benefits Council, and the Election Administrator shall be indemnified by the Pension Reserve Trust against all expenses (including costs and attorneys' fees) actually and necessarily incurred or payable by the member or the Election Administrator in connection with the defense of any action, suit or proceeding to which the member may be made a party by reason of the member being or having been so designated as a member of the Pension Benefits Council or the Pension Reserve Board, respectively, or by reason of any action or omission or alleged action or omission by the member in such capacity or to which the Election Administrator may be made a party.

**9.2 Insurance:** The Pension Benefits Council, the Pension Reserve Board shall each maintain appropriate amounts of fiduciary liability insurance (as to the Pension Reserve Board) or other professional liability/error and omissions insurance, crime and computer crime insurance covering any loss due to dishonest acts, and any other insurance that the Pension Benefits Council and Pension Reserve Board each reasonably determines is necessary. Such insurance shall be provided by a nationally-recognized insurance carrier. Such insurance policies shall provide for both (i) non-indemnifiable coverage (commonly referred to as "Side A" coverage) pursuant to which the insurer will pay to, or on behalf of, the insured person the applicable amount with respect to any covered loss, except to the extent the Pension Reserve Trust has paid such amount to, or on behalf of, the insured person as indemnification or as an advance, and (ii) indemnification coverage (commonly referred to as "Side B" coverage) pursuant to which the insurer will pay to, or on behalf of, the Pension Reserve

Trust the applicable amount with respect to any covered loss arising from claims first made against an insured person, to the extent that the Pension Reserve Trust has paid such amount to, or on behalf of, the insured person as indemnification or advancement. All reasonable insurance costs shall be paid from the Pension Reserve Trust. The Pension Benefits Council and the Pension Benefits Board, as the case may be, shall each have the right to provide AAFAF with the opinion of an independent insurance consultant on the availability of any insurance required hereunder (including the limits or deductibles thereof) at commercially reasonable rates. If such independent insurance consultant determines that such insurance is not available at commercially reasonable rates, the Pension Benefits Council or the Pension Benefits Board, as the case may be, shall not be required to maintain such insurance so long as such insurance shall not be available at commercially reasonable rates; *provided* that during such period, the Pension Benefits Council or the Pension Benefits Board, as the case may be, maintains the maximum amount of such insurance otherwise available at commercially reasonable rates. The determination if insurance is available at commercially reasonable rates shall be made on an annual basis.

## X. OTHER PROVISIONS

**10.1 Amendment of Guidelines:** The Pension Reserve Board, the Pension Benefits Council, or the Commonwealth may recommend that these Guidelines, Policies, and/or the Deed of Trust, as applicable, be amended to ensure that the Pension Reserve Trust satisfies its purpose and function pursuant to the Plan. In the event of such a recommendation, the Pension Reserve Board, the Pension Benefits Council, and the Commonwealth shall confer in good faith to reach agreement on any such amendment. If a consensus is reached, then the parties shall present such amendment to the U.S. District Court for the District of Puerto Rico for its approval, with notice and opportunity to be heard. If consensus is not reached by the parties, the recommending party may nonetheless seek such amendment in the District Court. The U.S. District Court for the District of Puerto Rico shall have original and exclusive jurisdiction to approve or reject any proposed amendments of these Guidelines and Policies, and these Guidelines and Policies may only be modified pursuant to a final, non-appealable order of that Court. For the avoidance of doubt, the Policies may only be amended pursuant to the amendment procedures set forth in this Section 10.1. For the absence of doubt, pursuant to Section 83.3 of the Plan, any amendments to these Guidelines, Policies, or the Pension Reserve Deed of Trust shall not affect the Commonwealth's obligations to Participants under the Plan, unless the procedures for doing so under Section 83.3 of the Plan are complied with.

**10.2 Termination of Pension Reserve Trust:** The Pension Reserve Trust shall terminate sixty (60) calendar days after the first date on which all funds held in the Pension Reserve Trust are withdrawn in accordance with Article V and the remaining Pension Reserve Trust assets are transferred to the Commonwealth. Upon termination of the Pension Reserve Trust, all of its assets, property, and causes of action shall be transferred to the Commonwealth. Consistent with Section 5.4(D) above, any termination of the Pension Reserve Trust and transfer of assets and property to the Commonwealth shall take into account and provide for the Wind-Down Expenses.

**10.3 Acceptance of Appointments:** Each elected and appointed member of the Pension Benefits Council and each trustee of the Pension Reserve Board shall accept his or her position by execution of a public deed of trust, before assuming any duties of such position. Except as (i) provided below for the Governor's appointee in the Pension Benefits Council and (ii) it relates to the delegation of investment fiduciary duties by the Pension Reserve Board, no member of the Pension Benefits Council or trustee of the Pension Reserve Board shall be permitted to delegate their responsibilities to another

person. The Governor's appointee to the Pension Benefits Council may designate another person to serve as his or her designee for one or more meetings or matters. The Governor's appointee or his or her designee must accept such designation by execution of a public deed of trust, before assuming any duties pursuant to such designation; provided, however, that the execution of a public deed of trust shall not be construed, nor limit the Governor's appointee or her designee from acting or representing the Governor's public policy or the interest of the Government of Puerto Rico as members of the Pension Benefits Council.

**End of Document**

**Exhibit 3**

Public Disclosure Policy

## **PUBLIC DISCLOSURE POLICY**

**Approved**  
[\_\_\_\_], 2024

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**I. PURPOSE OF THIS POLICY.**

Reference is made to Deed Number 2 of Public Trust executed on March 12, 2022 before notary Edgardo Nieves Quiles, as amended (the “Pension Reserve Deed of Trust”), 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, as amended (the “Guidelines”), which created the Commonwealth Plan of Adjustment Pension Reserve Trust (the “Trust”), the Commonwealth Plan of Adjustment Pension Reserve Board (the “Board”), and the Commonwealth Plan of Adjustment Pension Benefits Council (the “Council” and, collectively with the Board, the “Trust Entities” and each a “Trust Entity”). Capitalized terms used herein and not otherwise defined shall be defined as set forth in the Pension Reserve Deed of Trust and in the Guidelines.

This Public Disclosure Policy (the “Policy”) is designed to promote transparency and the open and honest disclosure of information to all stakeholders. This Policy defines what may be considered public information and to guide all Trustees, members of the Council, officers, executive employees of the Trust, investment consultants, investment managers and any other person to whom the Trust Entities have delegated fiduciary functions (the “Covered Persons”) on how to manage requests of information.

All Covered Persons are required to be familiar with this Policy and comply with its provisions. Each existing, newly hired, or newly elected Covered Person shall be required to review a copy of this Policy and to acknowledge in writing that he or she has done so before commencing any duties related to the Trust.

Each Trust Entity may proactively and periodically publish and disclose information in its website.

**II. DISCLOSURE GUIDELINES**

The following table outlines the information to be shared publicly by the Trust Entities.

Type of Information	Confidentiality Treatment
<b>General Information</b>	
Pension Reserve Deed of Trust	Public
Guidelines	Public
By-Laws	Public
Code of Conduct and Ethics	Public
Conflicts of Interest Policy	Public
Public Disclosure Policy	Public
Pension Reserve Board composition	Public
Pension Reserve Board’s meeting minutes	Public*
Pension Benefits Council composition	Public
Pension Benefits Council’s meeting minutes	Public*
Results of Annual Compliance Audit	Public*
<b>Contracts**</b>	
List of Major Contracts and Summary Sheet	Public*

<b>Type of Information</b>	<b>Confidentiality Treatment</b>
Professional Services Contracts	Public*
Requests for Proposals or Requests for Qualifications	Public
<b>Human Resources</b>	
Organizational Chart	Public
Organizational Chart with Names	Public
Compensation of Trustees	Public
Annual Conflicts of Interest Disclosure	Public
Reports and investigations of any violations to the Code of Conduct and Ethics	Public*
<b>Finance</b>	
Annual Budget Summary and Allocation	Public
Audited Financial Statements	Public
Quarterly Financial Reports	Public
Quarterly Reports, which include: <ul style="list-style-type: none"> <li>• Asset Allocation;</li> <li>• Investment Policy;</li> <li>• Total Portfolio Value;</li> <li>• Quarter over Quarter and Year to Date Change in Total Portfolio Value;</li> <li>• Comparison of actual performance during each quarter to investment benchmarks established at the beginning of the corresponding fiscal year;</li> <li>• Material reallocation of investments during each quarter, if any;</li> <li>• Administrative and Operational Updates;</li> <li>• Budget to Actual Performance; and</li> <li>• Any other material changes.</li> <li>• The 3QFY Quarterly report includes, in addition to the above-mentioned documents, (i) the proposed budget for the next fiscal year; (ii) any proposals for the next fiscal year, (iii) risk management matters, and (iv) sustainability and ESG factors.</li> </ul>	Public

\* Confidential, strategic or proprietary information may be redacted or excluded as necessary.

\*\* Contracts of the Board and the Council shall be made public pursuant to the Guidelines and filed with the Office of the Comptroller and published on the Comptroller’s website.

### III. General Provisions:

These General Provisions are applicable to documents that are not listed in Section II above, which are considered public and required to be disclosed in the applicable website. The following provisions will apply to all other documents generated or produced by the Board or the Council

the nature or publication of which is not specifically provided for in the table set forth in Section II above.

1 - Documents of the Trust Entities: The documents originated, kept, or received by the Trust Entities can be requested by the public, unless deemed confidential or privileged as established under these Policy or resolutions of the Trust Entities. The Trust Entities may approve any other resolution or regulation regarding the retention, classification and disposition of documents.

2 - Document Administrators: The Trust Entities shall appoint a committee or delegate the functions on a person or retain the services of a professional to be responsible for the administration, classification, access and disposition of the documents of the Trust Entities.

3 – Document Retention: The Trust Entities will approve internal regulations regarding the period of retention of documents and digitalization of documents.

4 - Confidential Documents: Confidential Documents will not be available for review by the general public. Any document within the following categories will be considered a Confidential Document:

A. Any document that contains information covered by any privilege contemplated in the Federal Rules of Evidence or the Rules of Evidence of Puerto Rico.

B. Any document whose disclosure may constitute a clear and unjustified invasion of personal privacy.

C. Legal opinions of advisors of the Trust Entities.

D. Any document that is not available by law or court order to the litigating party in a lawsuit.

E. Reports and statements of strategy or labor matters.

F. Reports and statements of strategy or negotiations related to investments or loans, until the time in which such transactions are entered.

G. Any document of a discussion to be held in an executive session of the Trust Entities.

H. Documents that contain information related to the evaluation of offers or tenders in an auction, while the evaluation and award process of the auction is being carried out and the corresponding contract is finally awarded.

I. Documents related exclusively to internal policies and practices of employees and Members of the Trust Entities.

J. Notes, memoranda, correspondence and writings of the employees and Members of the Trust Entities, which arise incidentally to the administration, whose disclosure may cause damage to the proper functioning of the entity.

K. Information declared confidential and exempt from disclosure by law or and by regulations approved under its protection.

L. Documents received by the Trust Entities on a confidential basis.

M. Documents related to the Pension Benefit Council election process that include:  
(a) lists of eligible voters and the information they contain about the participants,  
(b) internal working documents of the Election Administrator, and (c) the voters' ballots pursuant to the Election Regulations.

5 - Document Requests: The Trust Entities will establish internal procedures for the public to request documents and information. Said procedure will be made public pursuant to this policy.

6- Denial of a Request: If a Trust Entity denies the request for information, the affected party may, within a period of ten (10) calendar days from receiving the determination, appeal it before the Title III Court or through binding arbitration, which decision of the forum selected by the appellant shall be binding on the parties. The Pension Reserve Trust shall bear the expenses of the appeal process incurred by the Trust Entities. The soliciting party shall be responsible for the cost of their own representation in the appeals process.

7. Costs and expenses: The Trust Entities can approve internal regulations to establish the costs of document production, which includes the cost of copies and the expenses that may be incurred to obtain the information.

8. These General Provisions shall not be applicable to information or documents requested by AAFAF or the Department of the Treasury, which shall have a right to request, and promptly receive, any information or documents requested without the application of any of the requirements set forth hereunder; provided, that information or documents protected from disclosure by a privilege or right recognized by law shall be not be subject to disclosure to AAFAF or the Department of the Treasury under this subsection.

**Exhibit 4**

Code of Conduct and Ethics Policy

## **CODE OF CONDUCT AND ETHICS POLICY**

**Approved**  
[\_\_\_\_\_] , 2024

## Contents

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## I. PURPOSE OF THIS POLICY.

Reference is made to Deed Number 2 of Public Trust executed on March 12, 2022 before notary Edgardo Nieves Quiles, as amended (the “Pension Reserve Deed of Trust”), 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, as amended (the “Guidelines”), which created the Commonwealth Plan of Adjustment Pension Reserve Trust (the “Trust”), the Commonwealth Plan of Adjustment Pension Reserve Board (the “Board”), and the Commonwealth Plan of Adjustment Pension Benefits Council (the “Council” and, collectively with the Board, the “Trust Entities” and each a “Trust Entity”). Capitalized terms used herein and not otherwise defined shall be defined as set forth in the Pension Reserve Deed of Trust and in the Guidelines. This Code of Conduct and Ethics Policy (the “Policy”) is designed to:

- (i) promote honest and ethical conduct including the ethical handling of any reported or suspected violations of honest and ethical conduct, conflicts of interest, self-dealing, and breaches of confidentiality;
- (ii) promote full, fair, accurate, timely and understandable disclosure in reports and documents in all public communications made by the Trust Entities;
- (iii) promote compliance with the Plan, the Deed, the Guidelines and the adopted policies and codes;
- (iv) promote the protection of assets of the Trust, including confidential information;
- (v) promote fair dealing practices;
- (vi) deter wrongdoing; and
- (vii) ensure accountability for adherence to this Policy.

All Covered Persons (as defined herein) are required to be familiar with this Policy, comply with its provisions and report any suspected violations as described below in Section X, Reporting and Investigation of Violations.

Each existing, newly hired, or newly elected Covered Person shall be required to review a copy of this Policy and to acknowledge in writing that he or she has done so before commencing any duties related to the Trust.

## II. DEFINITIONS.

A. A “Benefit” shall mean any advantage, use, profit or gain, without limiting such term to a monetary or material gain, but denoting any form of reward.

B. The “Commonwealth” shall mean the Commonwealth of Puerto Rico.

C. A “Covered Person” shall mean all Trustees, members of the Council, officers, executive employees of the Trust Entities, and any other person to whom any of the Trust Entities has delegated fiduciary functions.

D. An “External Contractor” shall mean the investment consultants, investment managers and other advisors and consultants of the Trust Entities.

E. An “Immediate Family Member” shall mean the parents, spouses, in-laws, children or siblings of a Covered Person.

F. The “Official Duties” shall mean the functions and duties performed by a Covered Person within the scope of authority delegated as per the Deed of Trust, the Guidelines and the bylaws and regulations of the Trust Entities.

### **III. STANDARD OF CARE.**

A. Covered Persons shall perform their responsibilities with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character with like aims.

B. Covered Persons shall conduct all business in connection with a Trust Entity in a fair and prudent manner.

### **IV. HONEST AND ETHICAL CONDUCT.**

The Trust’s policy is to promote high standards of integrity by conducting its affairs honestly and ethically. Each Covered Person must act with integrity and observe the highest ethical standards of conduct in his or her dealings with any person whom he or she has contact in the course of performing his or her job.

Bullying, harassment, and discrimination on the basis of race, color, religion, sex, pregnancy, sexual orientation, gender identity, age, national origin, political affiliation, social condition, marital status, disability, armed forces status, etc. are expressly forbidden and a direct violation of this policy whether the incident occurred during conducting Trust and Trust Entities business or outside of such settings.

### **V. GENERAL ETHICAL PROHIBITIONS.**

A. No Covered Person shall solicit any Benefit for the Trust Entities, whether directly or indirectly, from a private person, business or entity under contract with any of the Trust Entities, nor carry out any acts conducive to obtaining a contract. A Covered Person may only accept a Benefit for the Trust Entities from a private person, business or entity under contract with any of the Trust Entities, or that does not carry out actions leading to obtaining a contract, provided that he or she complies with this Policy.

B. No Covered Person shall exploit the duties and powers of his or her position in any of the Trust Entities, or property or funds belonging to the Trust Entities, to directly or indirectly obtain any Benefit not permitted by law for himself or herself or for a private person or business.

C. No Covered Person shall accept or solicit from a private person or business, whether directly or indirectly, a Benefit as a compensation for carrying out, expediting, delaying, or not discharging the duties and responsibilities of his or her position in any of the Trust Entities.

D. No Covered Person shall accept or solicit from a private person or business, whether directly or indirectly, Benefits for himself or herself, or for any person, business or entity, in exchange for carrying out actions that are biased to favor himself or herself or another private person or business.

E. No Covered Person shall suggest, ensure or purport to have influence over another Covered Person in carrying out his or her functions in exchange for obtaining or attempting to obtain any Benefit.

F. No Covered Person shall reveal or use confidential information or documents obtained as a result of his or her position in any of the Trust Entities to obtain, directly or indirectly, any Benefit for him or herself or for any other private person or business.

G. Political Activities. (i) No Covered Person shall use on any real or personal property of the Trust Entities any symbol, slogan, image, picture, pin, logo, sticker, label, sign, insignia, technological application, written message or any other paraphernalia that may identify or promote directly or indirectly the electoral interest of any political party or candidate.

(ii) No Covered Person shall, in the performance of the Official Duties of his or her position in any of the Trust Entities, wear or use on his or her person, in his or her property, or in any other property under his or her care, any symbol, slogan, image, picture, pin, logo, sticker, label, sign, insignia, technological application, written message or any other paraphernalia that may identify or promote directly or indirectly the electoral interest of any political party or candidate.

(iii) No Covered Person shall, in the performance of the Official Duties of his or her position in any of the Trust Entities, lead or promote activities that directly or indirectly promote the electoral interest of any political party or candidate in the Commonwealth.

(iv) No Covered Person shall, in the performance of the Official Duties of his or her position in any of the Trust Entities, make monetary contributions or use his or her time to carry out or participate in any political activity in the Commonwealth.

(v) No Covered Person shall, in the performance of the Official Duties of his or her position in any of the Trust Entities, demand or request other Covered Persons to make monetary contributions or devote their time to carry out or participate in any political activity in the Commonwealth.

(vi) No Covered Person shall solicit or accept himself or herself, or through a private person or business, any Benefit from a contractor or an entity regulated by the Trust Entities for a political activity.

(vii) Trust assets are expressly forbidden from being placed with an advisor or placement agent (or similar service provider) who, at the individual or entity level, has contributed to a political candidate for any elected office of the Commonwealth during preceding five (5) years or towards a Commonwealth plebiscite during the previous five (5) years. Such contributions are prohibited while providing such services to any of the Trust Entities.

H. No Covered Person shall usurp a position or task to which he or she has not been appointed or designated, nor perform the same without being duly qualified to do so. No Covered person shall persist in obstinately performing the duties of his or her position in any of the Trust Entities or the tasks entrusted to him or her once his or her term has concluded, or after having received an official communication ordering the termination or suspension of his or her duties.

I. No Covered Person shall alter, destroy, mutilate, remove or conceal, in whole or in part, property belonging to the Trust Entities or to the Commonwealth under his or her custody.

J. No Covered Person authorized by law to issue certifications and other documents may knowingly issue a certification or document containing false statements.

K. No Covered Person shall fail to comply with any of his or her duties as provided by the Deed of Trust, the Guidelines or the By-Laws, or by any other applicable law or regulation, if such action shall result in the loss of funds or cause damages to property of the Trust Entities.

L. No Covered Person shall carry out any action that may call the impartiality and integrity of the Trust Entities into question.

## **VI. PROHIBITIONS RELATED TO OTHER EMPLOYMENT, CONTRACTS OR BENEFITS.**

A. No Covered Person shall accept or maintain employment or contractual or business relationship or any other responsibilities in addition to those of his or her position in any of the Trust Entities, whether it is in the Commonwealth of Puerto Rico or in the private sector, which, although legally permitted, may have the effect of impairing his or her freedom of judgment in the performance of his or her Official Duties.

B. No Covered Person shall accept or maintain employment or contractual relations from which he or she obtains an undue advantage with a private person or business that has contractual business or financial relations with the Trust Entities when such Covered Person has the authority to decide or influence the official actions of the Trust with respect to such private person or business. Trustees, members of the Council and the Trust's executive employees shall not agree to be employed or to represent a firm which provides services to the Trust Entities for the provision of services to the Trust Entities for a period of two (2) years after the termination of his or her status as Trustee, member of the Council or executive employee.

C. No Covered Person who is authorized to contract, or approve or recommend the execution of a contract on behalf of any of the Trust Entities shall intervene or participate in the execution of a contract with a private person or business in which he or she, or any Immediate

Family Member of the Covered Person, has or has had, directly or indirectly, a monetary interest during the last two (2) years before his or her appointment.

D. An authorized person in any of the Trust Entities may not execute a contract in which a Covered Person or an Immediate Family Member of a Covered Person has or has had a direct or indirect monetary interest in the last two (2) years preceding his or her appointment.

No Covered Person shall approve or authorize a contract with a private person or business knowing that such person or business is representing cases or matters which involve a conflict of interest between the Trust Entities and the personal interests that said private person or business is representing. To such effects, a contractual clause shall be included in which such private person or business certifies that it is not involved in a conflict of interest.

## **VII. ETHICAL PROVISIONS APPLICABLE TO EXTERNAL CONTRACTORS**

A. All External Contractors shall treat the Covered Persons of the Trust Entities with respect and professionalism and shall require the same from such Covered Persons at all times.

B. Every External Contractor shall observe the precepts and principles of excellence and honesty applicable to his or her profession, in addition to the ethical standards or rules imposed by any association or college that regulates his or her profession with respect to his or her relationship with competitors and with the Commonwealth and its employees or officials. If the association or college governing an External Contractor's profession does not have a code of ethics for the members thereof, the External Contractor shall observe the general principles of ethical conduct that are deemed reasonable in his or her profession or trade.

C. An External Contractor shall not accept or solicit from a private person or business, whether directly or indirectly, any Benefit for himself or herself, or for any person, business or entity, in exchange for carrying out actions in connection with his or her position in any of the Trust Entities that are biased to favor himself or herself or another private person or business.

D. No External Contractor shall offer or deliver to a Covered Person, or any Immediate Family Member of a Covered Person, any Benefit in exchange for carrying out actions in connection with such Covered Person's position in any of the Trust Entities that are biased to favor the External Contractor or another private person or business, even if such actions are within the Covered Person's scope of authority within the Trust Entities.

E. No External Contractor shall be involved in matters that could give rise to a conflict of interest or the appearance of a conflict of interest.

F. No External Contractor shall use confidential information acquired in the course or as a result of any task entrusted thereto under a contract with any of the Trust Entities for purposes other than the contracted task, or to obtain, directly or indirectly, any Benefit for himself or herself, for an Immediate Family Member, or for any other private person or business.

G. No External Contractor shall request or obtain confidential information from a current or former Covered Person to obtain, directly or indirectly, any Benefit for himself or herself, for any Immediate Family Member, or for any other private person or business, or for any purposes other than those of the contracted task with the Trust Entities.

H. No External Contractor shall accept or maintain contractual or business relations with any private person or business which, although legally permitted, has the effect of impairing his or her independent judgment in his or her performance of the contracted task with the Trust Entities.

## **VIII. COMPLIANCE.**

Each Covered Person must comply, both in letter and spirit, with the applicable provisions of the policies of the Trust, the Guidelines and this Code, unless compliance is contrary to the Covered Person's fiduciary responsibilities with any of the Trust Entities. Additionally, all External Contractors must comply, both in letter and spirit, with the applicable provisions of the policies of the Trust, the Guidelines, the Trust Entities, and this Code, unless compliance is contrary to the contracted task with the Trust Entities.

Although Covered Persons and External Contractors are not expected to know the details of all applicable provisions of the policies of the Trust, the Guidelines, the Trust Entities, or this Code, it is important to know enough to determine when to seek advice from appropriate personnel. Questions about compliance should be addressed to the Board for consultation with the Trust's legal counsel.

## **IX. PROTECTION AND PROPER USE OF TRUST ASSETS.**

All Covered Persons shall protect the Trust's assets and ensure their efficient use. Theft, carelessness, and waste have a direct impact on the value of the Trust and its ability to fulfill its proposed purpose and are therefore prohibited.

All Trust assets shall be used only for legitimate business purposes. Any suspected incident of fraud or theft should be reported for investigation immediately to the Trust's legal counsel.

## **X. CONFIDENTIALITY.**

A. Covered Persons may be provided with or have access to confidential information, including material nonpublic information. It is the duty of covered persons to maintain the confidentiality of information and not misuse confidential information, including material, nonpublic information, belonging to or relating to the Trust Entities or the committees of any of the Trust Entities.

B. Covered Persons may not access, disclose, or use confidential information acquired in their positions without proper authorization by the applicable Trust Entity.

C. Covered Persons may not access, disclose, or use confidential information for any purpose other than in the performance of all duties and responsibilities with the Trust Entities.

D. Covered Persons may not accept employment or engage in any business or professional activity that will require the disclosure of confidential information they have gained by reason of their covered person status.

## **XI. REPORTING AND INVESTIGATION OF VIOLATIONS.**

A. Pension Reserve Board. Actions prohibited by this Policy involving any Covered Person or External Contractor employed or contracted by the Board must be promptly reported to the Executive Director, or in the event the person involved is the Executive Director, to any of the Trustees or the Trust's legal counsel. After receiving a report of an alleged prohibited action, the Trustees receiving the report or the Executive Director shall refer the same to the chair of the Audit & Compliance Committee of the Board which shall review the report, make such investigation as it considers appropriate, and recommend any appropriate action to the Board.

B. Pension Benefits Council. Actions prohibited by this Policy involving any Covered Person or External Contractor employed or contracted by the Council must be promptly reported to any of the members of the Council. After receiving a report of an alleged prohibited action, the member of the Council receiving the report shall refer the same to Council, which shall review the report, make such investigation as it considers appropriate, and take any appropriate action.

C. All Covered Persons and all External Contractors will cooperate in any internal investigation of misconduct.

## **XII. ENFORCEMENT.**

The Trust Entities will ensure prompt and consistent action against violations of this Policy.

If, after investigating a report of an alleged prohibited action by a Covered Person or an External Contractor the Board (excluding any Trustee whose conduct is being investigated, as applicable) or the Council (excluding any member whose conduct is being investigated, as applicable) determines that a violation of this Code has occurred, the applicable Trust Entity will prepare a report summarizing the findings of the violation and the preventive or disciplinary action it deems appropriate, including, but not limited to, removal, reassignment, demotion, dismissal and, in the event of criminal conduct or other serious violations of the law, notification of appropriate governmental authorities. The Trust Entities may engage a third party to conduct such an investigation and report. Any report prepared by the Board under this section shall be kept in a separate file under the custody of the Executive Director or in the event the person involved is the Executive Director, the Trust's legal counsel. Any report prepared by the Council under this section shall be kept in a separate file under the custody of the Council or, in the event that a member of the Council is involved, the Trust's legal counsel.

## **XIII. PROHIBITION ON RETALIATION.**

The Trust Entities do not tolerate acts of retaliation against any Covered Person who makes a good faith report of known or suspected acts of misconduct or other violations of this Policy.

**Exhibit 5**

Conflict of Interest Policy

**CONFLICTS OF INTEREST POLICY**

**Approved**  
[\_\_\_\_\_] , 2024

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## I. PURPOSE OF THIS POLICY

Reference is made to Deed Number 2 of Public Trust executed on March 12, 2022 before notary Edgardo Nieves Quiles, as amended (the “Pension Reserve Deed of Trust”), 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, as amended (the “Guidelines”), which created the Commonwealth Plan of Adjustment Pension Reserve Trust (the “Trust”), the Commonwealth Plan of Adjustment Pension Reserve Board (the “Board”), and the Commonwealth Plan of Adjustment Pension Benefits Council (the “Council” and, collectively with the Board, the “Trust Entities” and each a “Trust Entity”). Capitalized terms used herein and not otherwise defined shall be defined as set forth in the Pension Reserve Deed of Trust and in the Guidelines.

This Conflict of Interest Policy (the “Policy”) is designed to help Trustees, members of the Council, officers, executive employees, advisors, consultants and independent contractors of the Trust identify situations that present potential conflicts of interest and to provide the Trust Entities with a procedure which will allow a transaction to be treated as valid and binding even though a Responsible Person (as defined herein) has or may have a conflict of interest with respect to the transaction.

## II. TERMS and DEFINITIONS

### 1. Definitions.

- A. A “Responsible Person” is any person serving as Trustees, members of the Council, officers, executive employees, advisors, consultants of any of the Trust Entities, and independent contractors hired by any of the Trust Entities whose compensation exceeds \$5,000 per year.
- B. An “Immediate Family Member” is a parent, spouse, in-laws, child, or sibling of a Responsible Person. Reference to Conflict of Interest regarding a Family Member refers only to information the Responsible Person has knowledge of. The Responsible Person is not required to conduct any type of investigation to corroborate or verify if a Conflict of Interest exists. However, if a Responsible Person has knowledge of a relationship of another family member that might create the appearance of a Conflict of Interest, that relationship should be reported to the Trust.
- C. A “Material Financial Interest” in an entity is a financial interest in a single transaction or in the aggregate amounts to \$5,000 or more in a single year. For purposes of this policy, a financial interest with respect to a Contract or Transaction shall constitute a Material Financial Interest if, but only if, an ordinarily prudent person in a like position would reasonably conclude that such interest would affect his or her judgment with respect to the Contract or Transaction. If the Responsible

Person has any question as to whether a Material Financial Interest exist, he or she should submit his/her question to the Audit & Compliance Committee.

D. A “Contract or Transaction” is any agreement or relationship involving the sale or purchase of goods, services, or rights or any kind, the providing or receipt of a grant or loan, or the establishment of any other type of pecuniary relationship with any of the Trust Entities.

2. Conflict of Interest Defined. For the purposes of this Policy, a “Conflict of Interest” occurs when an individual’s private interest (or the interest of a member of his or her Immediate Family Member) interferes, or even appears to interfere, with the interests of the Trust Entities. A Conflict of Interest can arise when a Responsible Person takes actions or has interests that may make it difficult to perform his or her work for the Trust or receives improper personal benefits as a result of his or her position with the Trust Entities. The following circumstances shall be deemed to create Conflicts of Interest:

A. Direct Interests. A Contract or Transaction between any of the Trust Entities and a Responsible Person or Immediate Family Member, including compensation from a Trust Entity to a Responsible Person or Immediate Family Member.

B. Indirect Interests. A Contract or Transaction between any of the Trust Entities and an entity in which a Responsible Person or Immediate Family Member has a Material Financial Interest or of which such person is a compensated or uncompensated director, officer, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative.

C. Gifts, Gratuities and Entertainment. Payment, gifts, or other things received with a value of \$75 or more (“Gifts”) in any 12-month period from any party seeking or having responsibility to invest the Trust’s funds or provide goods or services for compensation to any of the Trust Entities directly, or indirectly by subcontractor, affiliate, or other such relationship with a professional or vendor.

### III. ROLES AND RESPONSIBILITIES

A. Each existing, newly hired, or newly elected Responsible Person shall be required to review a copy of this Policy and to acknowledge in writing that he or she has done so before commencing any duties related to the Trust Entities.

B. Each Responsible Person shall annually complete a disclosure form which shall be established by each Trust Entity.

C. Each Responsible Person shall disclose any new potential or actual Conflicts of Interest within ten (10) days of when he or she first becomes aware of this new

potential or actual Conflict of Interest. Failure to timely disclose any new relationships may result in disciplinary action.

- D. The Trust Entities and Responsible Persons are subject to the anti-fraud provisions of the federal securities laws and the Rules of the Securities and Exchange Commission (“SEC”). Section 10(b) of the Securities Exchange Act of 1934 (“1934 Act”) and SEC Rule 10b-5 under the 1934 Act prohibit the purchase or sale of securities on the basis of material, nonpublic information in breach of a duty of trust or confidence. In addition, the Trust Entities and their employees who fail to prevent insider trading may be subject to civil penalties under Section 21A of the 1934 Act.

#### **IV. PROHIBITED ACTIONS**

The following actions are expressly forbidden:

1. A Responsible Person shall not accept Gifts.
2. A Responsible Person shall not accept anything of value from the Pension Benefits Council or the Commonwealth (other than compensation for any Trustee that is government employee or Member of the Pension Benefits Council).
3. No Responsible Person shall under any circumstances accept offers by reason of their position with any of the Trust Entities to trade in any security or other investment on terms more favorable than those available to the general investing public.
4. No Responsible Person shall borrow from investment managers, outside service providers, professional advisors or consultants, banks, or other financial institutions with which any of the Trust Entities has a business relationship, unless such entities are normally engaged in such lending in the usual course of their business and not because of its relationship with the Trust Entities and the terms of such borrowing are similar to those obtained by the general public or non-Trust-related customers.
5. Responsible Persons may only accept invitations to seminars, conferences, educational meetings, or other functions so long as the following conditions are met:
  - (i) The invitation is not seeking to engage in any form of business relationship with any of the Trust Entities nor the person making the invitation is participating in any procurement process for a Trust Entity, provided however that this restriction will not apply if, at the time of the invitation, a business relationship with a Trust Entity already exists.
  - (ii) The seminar/conference/educational meeting is widely attended by other clients of the organizer.

- (iii) The Responsible Person does not accept payment for speaking at or attending the event.
- (iv) The Responsible Person or the Trust Entities must cover all his or her travel and lodging expenses.

6. No Responsible Person shall intervene, either directly or indirectly, in any matter in which he or she has a Conflict of Interest, or potential Conflict of Interest, that may result in his or her benefit. In addition, no Responsible Person shall intervene, directly or indirectly, in any matter in which any Immediate Family Member has a Conflict of Interest, or potential Conflict of Interest, that may result in benefit for the Immediate Family Member.

7. A Responsible Person with influence on a hiring decision shall not intervene, either directly or indirectly, in the appointment, promotion, compensation or contracting of an Immediate Family Member of the Responsible Person.

8. Trustees and members of the Council must abstain from voting on any matter in which a Conflict of Interest or potential Conflict of Interest exists. This includes situations where a Trustee or a member of the Council, an Immediate Family Member thereof, or any entity with which the Trustee or the member of the Council has a Material Financial Interest, may stand to gain, directly or indirectly, from the outcome of the matter under consideration.

## **V. PROCEDURES**

### **1. Onboarding of new Responsible Persons**

Any time a new Responsible Person is onboarded, he or she shall complete the disclosure forms.

### **2. Review of Conflict of Interest in potential new Contracts or Transactions**

Before any of the Trust Entities enters a new Contract or Transaction with a new entity, it shall review any actual or potential Conflicts of Interest.

### **3. Handling of known or perceived Conflict of Interest**

Prior to Board or Council action on a Contract or Transaction involving a potential Conflict of Interest, a Trustee, Member of the Council or executive staff of the applicable Trust Entity who knows he or she has or could appear to have a Conflict of Interest shall disclose all facts material to the Conflict of Interest and shall not be present when the potential Conflict of Interest issue is being evaluated for approval. Such person's ineligibility to participate shall be reflected in the minutes of the meeting.

### **4. Reporting Procedure**

- A. Pension Reserve Board. If a Responsible Person becomes aware of a potential conflict of interest regarding his or her employment or role as a Trustee of the Board or another Responsible Person, the Responsible Person must promptly speak to, write, or otherwise contact the Executive Director as soon as possible. In the event that the person involved is the Executive Director, to any of the Trustees or the Trust's legal counsel.
- B. Pension Benefits Council. If a Responsible Person becomes aware of a potential conflict of interest regarding his or her employment or role as a Member of the Council or another Responsible Person, the Responsible Person must promptly speak to, write, or otherwise contact the Members of the Council as soon as possible. In the event that the person involved is one of the Members of the Council, to the Trust's legal counsel.

#### **5. Disciplinary Action: Failure to Disclose.**

All conflicts of interest will be reviewed on a case-by-case basis. In the case of the Board, any violation or perceived violation to this Policy shall be referred to the attention of the chair of the Audit & Compliance Committee of the Board which shall recommend the appropriate action to the Board. In the case of the Council, any violation or perceived violation to this Policy shall be referred to the attention of the members of the Council which shall recommend the appropriate action to the Council. Each Trust Entity has full discretion to decide what disciplinary action is appropriate and necessary.

#### **6. Enforcement.**

If, after investigating a report of an alleged prohibited action by a Responsible Person, the Board (excluding any Trustee whose conduct is being investigated) or the Council (excluding any Member whose conduct is being investigated) determines that a violation of this Policy has occurred, the applicable Trust Entity will prepare a report summarizing the findings of the violation and the preventive or disciplinary action it deems appropriate, including, but not limited to, removal, reassignment, demotion, dismissal and, in the event of criminal conduct or other serious violations of the law, notification of appropriate governmental authorities. The Trust Entities may engage a third party to conduct such an investigation and report. In the case of the Board, any report prepared under this section shall be kept in a separate file under the custody of the Executive Director. In the case of the Council, any report prepared under this section shall be kept in a separate file under the custody of the Council.

#### **7. Prohibition on Retaliation.**

The Trust Entities do not tolerate acts of retaliation against any Trustee, Member of the Council, officer or employee who makes a good faith report of known or suspected acts of misconduct or other violations of this Policy.

**Exhibit 6**

Purchasing and Procurement Policy

## PROCUREMENT POLICY

### ~ CHAPTER I ~ LEGAL BASIS AND APPLICABILITY

**Article 1.1 - Legal Basis:** These Procurement Policy is approved pursuant to the deed number 2 of March 14, 2022, executed before the notary Edgardo Nieves Quiles creating the Pension Reserve Trust, as amended by deed number [ ] of [ ], 2024, executed before notary [ ], 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”, as amended (both, as amended, under Documents No. 20353 and [ ], Civil Case No. 17-BK-3283-LTS).

**Article 1.2 - Applicability:** The provisions of this Policy will apply to the procurement of Non-Professional Services and Goods by the Pension Benefits Council and the Pension Reserve Board (“Trust Entities”). In addition, it will apply to Bidders, participants in the purchasing processes, suppliers and Members, employees, and representatives of the Trust Entities. The procurement of Professional Services by each of the Trust Entities will be governed by the provisions of the Guidelines.

### ~ CHAPTER II ~ DEFINITIONS

**Article 2.1 – Definitions:** The terms used in this Procurement Policy will have the meanings that are expressed below, except where the context clearly indicates another definition. The terms in the singular include the plural and terms in the masculine includes the feminine:

- A. General Services Administration - General Services Administration of the Commonwealth created under Act No. 73 of July 19, 2019, as amended, and better known as the "General Services Administration Act for the Centralization of the Purchases of the Commonwealth of Puerto Rico of 2019".
- B. Goods - Set of things and rights capable of being used or of producing value. They can be movable or immovable as well as credits, rights and actions. Also, those items necessary for the performance of a service or to perform a work.
- C. Exceptional Purchase - any purchase that is exempt from being processed pursuant to this Policy.
- D. Pension Benefits Council - The Pension Benefits Council incorporated on May 9, 2022, as the Commonwealth Plan of Adjustment Pension Benefits Council Corp.
- E. Emergency – Circumstance that requires immediate or short-term acquisition of equipment, materials or non-professional services to avoid adversely affecting the interests of any of the Trust Entities. Also, an emergency shall be understood as any circumstance that threatens to interrupt the operation of any of the Trust Entities or that

- puts at risk the lives of the members, trustees, employees, property or funds of any of the Trust Entities.
- F. Trust Entities – The Pension Benefits Council and the Pension Reserve Board.
  - G. Deed of Trust - The deed number 2 of March 14, 2022, executed before the notary Edgardo Nieves Quiles creating the Pension Reserve Trust established in the Plan of Adjustment.
  - H. Trust – the Pension Reserve Trust created on March 14, 2022 pursuant to the Deed of Trust.
  - I. Guidelines - 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.
  - J. Commonwealth – The Commonwealth of Puerto Rico.
  - K. Pension Reserve Board - The Board of Trustees of the Pension Reserve Trust.
  - L. Financial Oversight Board – The Financial Oversight and Management Board for Puerto Rico.
  - M. Member(s) - The members of the Pension Benefits Council as established under the Guidelines and the Deed of Trust.
  - N. Plan of Adjustment – the Eight Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et. al., dated January 14, 2022 (Docket Entry No. 19784) in Case No. 17-BK-3283-LTS.
  - O. Non-Professional Services - Those services that are not offered by a natural or legal person with specialized knowledge or skills who is required to have a university degree or license that accredits him as a specialized professional.
  - P. Professional services - Those services that are offered by a natural or legal person with specialized knowledge or skills who is required to possess a university degree or license that accredits him or her as a specialized professional; or whose main service consists of the product of intellectual, creative or artistic work, or in the management of highly technical or specialized skills.
  - Q. Trustee – The trustees of the Pension Reserve Trust, who are also members of the Pension Reserve Board.
  - R. Title III Court – The United States District Court for the District of Puerto Rico, before which the petition of the Commonwealth filed under Title III of the Puerto Rico Oversight, Management and Economic Stability Act of 2016 is pending consideration in Case No. 17-BK-3283-LTS.

### ~ CHAPTER III ~ FORMS OF ACQUISITION

**Article 3.1 – General:** Each Trust Entity can obtain Non-professional Services and Goods under the norms established in this Policy. Furthermore, the Trust Entities may (a) approve internal procedures to supplement the purchase of Non-professional Services and Goods established herein and (b) create internal administrative structures or retain professionals to administer the purchases of Non-Professional Goods and Services, as established in this Policy.

This Policy will only be applicable to the procurement of Goods, Works and Non-Professional Services. The procurement of Professional Services by any of the Trust Entities will be governed by the provisions of the Guidelines.

**Article 3.2 - Purchase Methods:** The procedures for purchases and auctions of Goods, Works and Non-Professional Services of ten thousand dollars (\$10,000.00) (adjusted for actual inflation rate) and over, will be carried out using one of the purchase or bidding methods established below:

**Section 3.2.1 - Informal Purchase:** Procurement method to be used when acquiring Goods, Non-professional Services and Works whose cost exceeds ten thousand dollars (\$10,000.00) but does not exceed seventy-five thousand dollars (\$75,000.00) (adjusted for actual inflation rate). No auction is necessary for Informal Purchases.

- A. The Trust Entities or its authorized representative, will request a minimum of three (3) Quotes from providers. The requirement of (3) Bidders will be subject to the existence of sufficient providers and receiving the Quotes.
- B. If the minimum number of Quotes are not obtained, that will not preclude to proceed with the purchase. The Quotes must be received on or before the date and time indicated in the request for Quote.
- C. The best Quote will be chosen taking into account the totality of the circumstances and the best interests of the applicable Trust Entity.

**Section 3.2.2 - Informal Auction:** Purchase method to be used when obtaining Goods, Works and Non-professional Services whose cost exceeds seventy-five thousand dollars (\$75,000.00), but do not exceed the amount of two hundred fifty thousand dollars (\$250,000.00) (adjusted for actual inflation rate). The procedure to be followed in Informal Auctions will be the one provided in Article IV of this Policy.

**Section 3.2.3 - Formal Auction:** Purchase method to be used when obtaining Goods, Non-professional Services and Works whose cost exceeds the amount of two hundred fifty thousand dollars (\$250,000.00). The procedure to be followed in Formal Auctions will be the one provided in Article V of this Policy.

**Section 3.2.4 - Exceptional Purchases:** All excepted purchases will be known as exceptional purchases that are exempt from being processed pursuant to this Policy. The following purchases will be considered exceptional:

- A. When the minimum prices are set by the competent law or government authority;
- B. When the purchase is made to the Government of the United States of America, one of their states or through their agencies and instrumentalities or departments, corporations quasi-public, its subsidiaries and affiliates, or to any governmental entity of the Commonwealth;
- C. When using a supplier that has a contract with the General Services Administration;
- D. When there is only one source of supply and this is established by means of manufacturer's certification that the company in Puerto Rico is the exclusive

- representative and the entity is the only one that can provide the good or provide the service, as applicable;
- E. When an Emergency situation exists in any of the Trust Entities;
  - F. When replacement parts, accessories, additional Equipment or services are needed for Equipment whose repair or service is under Contract;
  - G. When it is necessary to acquire the Goods, Works and Non-Professional Services outside from Puerto Rico for not having qualified suppliers in the local market, or the conditions offered in those markets represents a greater advantage than those of the local market;
  - H. When no offers are received after requests for Quotes have been issued or invitation to auction;
  - I. When all Quotes, offers and proposals received are rejected because they do not comply with the Specifications, conditions or because their price is unreasonable;
  - J. When the purchase is made under the terms of contracts or auctions carried out previously, as long as it is for the benefit of the applicable Trust Entity;
  - K. When Non-Professional Services, articles, Materials, Equipment or Works to be acquired are of a specialized nature, or it is desired to buy a certain type or brand in particular, for the good service proven that analog units have rendered, for the economy involved in maintaining uniformity in multiple units or by superiority in type and quality of service to be obtained in the purchased unit and its conservation, all of which it must be justified in writing in the requisition.

### **Article 3.3 – Administration and Procurement:**

**Section 3.3.1 – Powers:** Each of the Trust Entities will have the authority to establish the administrative structures and internal regulation for the implementation of this Purchasing and Procurement Policy.

**Section 3.3.2- Registry of Bidders:** The Trust Entities will have the authority to establish their own registry of bidders, including the requirements to be a participant of such registry, and also utilize providers included in the registry of bidders of the Commonwealth of Puerto Rico or the Federal Government.

**Article 3.4 - Purchases that require the approval of the Financial Oversight Board:** All purchases in excess of the aggregate amount of ten million dollars (\$10,000,000.00) will be subject to review and approval of the Financial Oversight Board prior to the execution of a formal contract, in compliance with its Contract Review Policy effective as of November 6, 2017, as amended. Additionally, the Financial Oversight Board shall have the right to select, on a random basis or otherwise in its sole discretion, any contract below the threshold of ten million dollars (\$10,000,000.00) to assure that such contracts promote market competition and that they are not inconsistent with the approved fiscal plan.

For new contracts for the purchases in excess of the aggregate amount of ten million dollars (\$10,000,000.00), the Trust Entity must submit to the Financial Oversight Board the required documents under the Contract Review Policy within a minimum of fifteen (15) business days prior to the contract's proposed execution date. For proposed amendments to existing contracts, the

Trust Entity must submit the required documents under the Contract Review Policy within a minimum of thirty (30) calendar days prior to the proposed execution date of such amendment.

#### ~ CHAPTER IV ~ INFORMAL AUCTION

**Article 4.1 - Informal Auction:** Purchase method to be used when obtaining Goods, Works and Non-Professional Services whose cost exceeds seventy-five thousand dollars (\$75,000.00), but does not exceed the amount of two hundred fifty thousand dollars (\$250,000.00) (adjusted for actual inflation rate).

**Article 4.2 - Procedure for Informal Auctions:** This type of auction will be done through the request for Quotes in writing to a minimum of three (3) suppliers. If the minimum number of Quotes is not obtained, that will not be an obstacle to proceed with the purchase, however, the reasons for not obtaining the three (3) Quotes must be documented. The Trust Entities will approve internal regulations to establish the procedure and requirements for Informal Auctions including but not limited to the invitation to an informal auction, review of offers and adjudication.

#### ~ CHAPTER V ~ FORMAL AUCTION

**Article 5.1 - Formal Auctions:** Purchase method to be used when obtaining Goods, Non-Professional Services and Works whose cost exceeds the amount of two hundred fifty thousand dollars (\$250,000.00). It is the means to acquire a good or service through which the largest number of Bidders who meet the requirements established in these Policy are requested to offer prices and terms according to the specifications and conditions requested, thus stimulating commercial competition. The Trust Entities will approve internal regulations to establish the procedure and requirements for Formal Auctions, including but not limited to the notification of the invitation to a formal auction, the requirements of the formal auction, the presentation of offers, types of acceptable offers, modifications of offers, withdrawal of offers, award of formal auctions, guarantees and reconsiderations.

**Article 5.2 - Reconsideration:** A party affected by a determination under Article 5.1 of this Procurement Policy may request review of the Trust Entity's determination within a period of ten (10) calendar days from receiving the determination, before an arbitrator under the Arbitration Rules approved by the Trust Entities. The arbitrator's decision will be in accordance with the law and his ruling will be final and binding on the parties. The Pension Reserve Trust shall bear the expenses of the arbitration process incurred by the Trust Entities and the arbitrator. The soliciting party shall be responsible for the cost of their own representation in the arbitration process.

**Article 5.3 - Other Purchases:** The reconsideration and review process will not be available for Informal Purchases, Informal Auctions and Exceptional Purchases.

**~ CHAPTER VI ~**  
**GENERAL PROVISIONS**

**Article 6.1 - Separability:** If any provision of this Policy is declared unconstitutional or incompatible with the Plan of Adjustment, the Guidelines, the Deed of Trust or the laws of Puerto Rico, in whole or in part, by a court with jurisdiction, the ruling will not affect, nor will it invalidate, revoke or amend the remaining provisions of this Policy and its effect will be limited to the clause, paragraph, article or part declared unconstitutional or incompatible.

**Article 6.2 – Adjustment for Inflation:** the minimum amount of a purchase to be regulated under this Purchase Policy, the minimum and maximum amounts for informal purchases, informal auction and formal auction shall be adjusted for inflation to reflect the most current costs of the goods and services under procurement.

**Article 6.3 - Validity:** This Procurement Policy will come into force immediately after being approved by the Title III Court and adopted by each of the Trust Entities.