



GOVERNMENT OF PUERTO RICO

Puerto Rico Tourism Company

OFFICE OF THE EXECUTIVE DIRECTOR

Concession of Tax Exemption and Tax Credits granted to **CABO ROJO LAND ACQUISITION, LLC.** with Employer Identification No. 66-0920011 (the "Applicant") **Concession Number 20-74-T-43**, pursuant to the provisions of Act No. 74-2010, as amended (the "Act") and the Regulation No. 8185 approved by the Secretary of State on April 20, 2012 (the "Regulation") of the Puerto Rico Tourism Company;

MASTER CONCESSION

WHEREAS, the Act empowers the Executive Director (the "Director") of the Puerto Rico Tourism Company (the "Tourism Company") to grant (i) alternative tax credits from tourism investment under Section 5(b) of the Act (the "Alternative Tax Credits" or "Total Alternative Tax Credits") and (ii) Tax Exemptions from specified taxes to an Eligible Business, if the Applicant proves, to the satisfaction of the Director, that an Eligible Business, as defined in the Act, has been established, or will be established, and that such Eligible Business will be in the best interests of the Government of Puerto Rico;

WHEREAS, on May 21, 2019, the Applicant submitted a request for Tax Benefits under the provisions of the Act (the "Application for a Concession") in connection with the development, ownership and operation of a resort that will be known as "**Cabo Rojo Resort and Spa**" located in the municipality of Cabo Rojo, Puerto Rico (the "Tourism Activity or "Exempt Business");

WHEREAS, on July 24, 2020, Applicant requested an amendment to the Application in order to treat the Application as a Master Concession by requesting the qualification of each of all the Project's Tourist components in phases as follows: (i) **Phase I** comprises of the land acquisitions and/or contributions, the development of a one hundred forty (140) rooms hotel complex, including a beach club (Hotel Complex I), the general infrastructure of the Project, including roads & streets, utilities, landscaping and green space, renewable energy micro grid, waste water treatment/rain water recapture system, and water storage facilities ("Phase I"); (ii) **Phase II** covers the development of a two hundred (200) rooms hotel complex (Hotel Complex II), an airport, an entertainment village & services complex (including spa, childcare, restaurants, bars, retail space), a Surf Park and Action Sports Facilities (including Surf Pool, Moto X Facilities (track, trails

& jumps)), a BMX and Mountain Bike Facilities, including related infrastructure, ("Phase II"); (iii) **Phase III** comprises the development of a one hundred twenty (120) rooms hotel complex (Hotel Complex III), a two hundred (200) hotel room complex (Hotel Complex IV), including related infrastructure, ("Phase III"); and (iv) **Phase IV** comprises the development of a two hundred (200) rooms hotel room complex (Hotel complex V), a one hundred forty (140) rooms hotel complex (Hotel Complex VI), a Wellness Community Center, and related infrastructure ("Phase IV").

WHEREAS, the Director, after having examined the report of the Investment and Incentives Division of the Tourism Company, the endorsement of the Secretary of the Treasury Department (the "Secretary"), the application for a Master Concession of tax exemption and tax credits (the "Application"), and other documents relating to this case submitted by the Applicant has determined that the Applicant will develop an Eligible Business within the meaning of the Act and that the same will be in the best interests of the Government of Puerto Rico;

NOW, THEREFORE, BE IT DECREED, that in accordance with the terms and conditions of this Concession, the Director grants to Applicant: (i) Alternative Tax Credits under Section 5(b) of the Act and (ii) tax exemptions in accordance with the applicable provisions of the Act, for such tourism activities as defined in Section 2(a)(1)(A) of the Act and Section 2-1(A)(1) of the Regulation, in connection with the **development, ownership and operation** of the Tourism Activity; **PROVIDED**, that the operations of the Tourism Activity shall be carried out substantially as described in the Application and in accordance with the terms and conditions of the Act;

BE IT FURTHER DECREED, that Applicant qualifies as a New Business, as such term is defined in Section 2(ff) of the Act, since it will use new facilities that have not been used in a tourism activity during the thirty-six (36) month period prior to the filing date of the Application;

BE IT FURTHER DECREED, that Applicant qualifies as an Eligible Business under Section 2(cc) of the Act since it is not covered by a resolution or Concession of Tax Exemption under the Tourism Incentives Act of 1983 or the Puerto Rico Tourism Development Act of 1993;

BE IT FURTHER DECREED, that based on the statements made by Applicant, the calculation of the Tourism Activity's **Eligible Investment** and **Total Project Cost**, as defined in Sections 2(u)(2)¹ and 2(k) of the Act, respectively, **excludes** (i) any expense

¹With the approval of Act 136 of August 5, 2016 and the Act 137 of August 6, 2016, the paragraphs of the Act were re-enumerated. There are discrepancies in the drafting and intention of both laws. Therefore, the Tourism Company will be working on the final

incurred before **March 29, 2019**, the date of the Pre-application Meeting; (ii) any cost associated to non-tourism activities; (iii) the estimated cost for the time spent by the Developers or by any stockholder of the Exempt Business; (iv) expenditures for the acquisition of land, construction and habilitation of a Condohotel under the Section 5(c)-5 of the Regulation; (v) the money used to acquire facilities which have been dedicated to a Tourism Activity in a way that could not be categorized as "incidental" at any time during the thirty-six (36) months prior to the filing of an application for a Concession under the Act, unless such facilities shall undergo a substantial renovation or expansion requiring an investment exceeding one hundred percent (100%) of the value of said property, which under no circumstances shall be considered in the computation of what constitutes the total estimated cost of the Tourism Activity and/or the eligible investment; and (vi) any money incurred **after** the date of completion of the Tourism Activity *except* for those expenditures related to periods after said completion date;

BE IT FURTHER DECREED, that based on the statements contained in the documents submitted with the Application, the following determinations are made:

1. The Applicant chose the Alternative Tax Credit for Tourism Investment of **thirty percent (30%)**;
2. The **total estimated eligible project cost for this Master Concession is \$646,283,450** and will be allocated in phases for purposes of determining the alternative tax credit for tourism investment of thirty percent (30%), under the provisions of Article 1, Section 5(b)(2)) of the Act;
3. The **eligible investment** as defined on Section 2(u)(2) of the Act for this Master Concession is:
 - a. The amount of cash used by the Exempted Business, or Eligible Business that subsequently receive a Concession under the Act, to cover the total cost of the project; and
 - b. The investment of tax-exempt business, or eligible business made with cash from a loan, bond or credit facility from any financial institution, intercompany loans, loan provided by government banks, etc., which are guaranteed by the exempt business itself or eligible business that a with a Concession under the Act or that subsequently receives such Concession, or by its assets, or any

entity, parent or affiliated to the exempted business, or eligible business with a Concession under the Act or that subsequently receives such Concession, or by its assets.

In the present case, based on the information provided by Applicant, the provisions of Section 2(u)(2) of the Act, and this Master Concession of Tax Credits and Exemptions, the eligible investment is an aggregate of **\$646,283,450** for purposes of determining the alternative tax credit for tourism investment of thirty percent (30%) under the provisions of Article 1, Section 5(b)(2) of the Act, as determined by the Director and the Secretary. The Eligible Investment is allocated for each phase in the amounts set forth in the table below:

Phase	Total Cost	Eligible Investment	Date of Completion
I	\$177,247,238	\$177,247,238	12-31-23
II	\$165,859,622	\$165,859,622	12-31-24
III	\$137,325,343	\$137,325,343	12-31-26
IV	\$165,851,247	\$165,851,247	12-31-27
Total	\$646,283,450	\$646,283,450	

For purposes of Section 2(k), Section 2(u)(2) and Section 5(b) of the Act, the contributions of land and property made by any of the Applicant's member(s), to the Concessionaire shall be considered as a contribution of cash by such member(s) in exchange for a membership interest in Concessionaire.

4. Pursuant to Article 1, Section 5(b)(2) of the Act, the maximum amount of Alternative Tax Credit available for the Exempt Business will be allocated in phases for an estimated Alternate Tax Credit in the sum of **\$193,885,035.00**.

Pursuant to Article 1, Section 5(b)(2) of the Act, the maximum amount of Alternative Tax Credit (the "ATC") available for each Phase of the Exempt, is the thirty percent (30%) of its eligible investment made after the effective date of the Act of each Phase, of which ten percent (10%) of Eligible Investment (the "FTP"), may be taken in the year in which the exempt business obtained the necessary financing to complete the construction of the tourism project, and the remaining twenty percent (20%) of Eligible

Investment (the "STP") may be taken in three (3) equal installments, the first in the year in which the exempt business receives its first paying guest of such Phase; the second in the year of the first anniversary after the exempt business received its first paying guest of such Phase; and the third in the year of the second anniversary after the exempt business received its first paying guest of such Phase.

The FTP and STP for the Tourism Activity shall be allocated for each phase up to the amounts set forth in the table below:

Phases	Alternate Tax Credits		
	10% (FTP)	20% (STP)	Total ATC
Phase I	\$17,724,723.80	\$35,449,447.60	\$53,174,171.40
Phase II	\$16,585,962.20	\$33,171,924.40	\$49,757,886.60
Phase III	\$13,732,534.30	\$27,465,068.60	\$41,197,602.90
Phase IV	\$16,585,124.70	\$33,170,249.40	\$49,755,374.10
TOTALS	\$64,628,345.00	\$129,256,690.00	\$193,885,035.00

For Phase I, the Total Alternate Credit Allowed is \$53,174,171.40 which is the thirty percent (30%) of its eligible investment made after the effective date of the Act, of which \$17,724,723.80, that is the ten percent (10%) of Eligible Investment, may be taken in the year in which the exempt business obtained the necessary financing to complete the construction of Phase I, and the remaining \$35,449,447.60, that is the twenty percent (20%) of Eligible Investment, may be taken in three (3) equal installments of \$11,816,482.53 as follows: the first in the year in which the exempt business receives its first paying guest for Hotel Complex I; the second in the year of the first anniversary after the exempt business received its first paying guest for Hotel Complex I; and the third in the year of the second anniversary after the exempt business received its first paying guest for Hotel Complex I.

For Phase II, the Total Alternate Credit Allowed is \$49,757,886.60 which is the thirty percent (30%) of its eligible investment made after the effective date of the Act, of which \$16,585,962.20, that is the ten percent (10%) of Eligible Investment, may be taken in the year in which the exempt business obtained the necessary financing to complete the construction of Phase II, and the remaining \$33,171,924.40, that is the twenty percent (20%) of Eligible Investment, may be taken in three (3) equal installments of \$11,057,308.13 as follows: the first in the year in which the exempt business receives its first paying guest for Hotel Complex II; the second in the year of the first anniversary after the exempt business received its first paying

22c

guest for Hotel Complex II; and the third in the year of the second anniversary after the exempt business received its first paying guest for Hotel Complex II.

For Phase III, the Total Alternate Credit Allowed is \$41,197,602.90 which is the thirty percent (30%) of its eligible investment made after the effective date of the Act, of which \$13,732,534.30, that is the ten percent (10%) of Eligible Investment, may be taken in the year in which the exempt business obtained the necessary financing to complete the construction of Phase III, and the remaining \$27,465,068.60, that is the twenty percent (20%) of Eligible Investment, may be taken in three (3) equal installments of \$9,155,022.86 as follows: the first in the year in which the exempt business receives its first paying guest for Hotel Complex III; the second in the year of the first anniversary after the exempt business received its first paying guest for Hotel Complex III; and the third in the year of the second anniversary after the exempt business received its first paying guest for Hotel Complex III.

For Phase IV, the Total Alternate Credit Allowed is \$49,755,374.10 which is the thirty percent (30%) of its eligible investment made after the effective date of the Act, of which \$16,585,124.70, that is the ten percent (10%) of Eligible Investment, may be taken in the year in which the exempt business obtained the necessary financing to complete the construction of Phase IV, and the remaining \$33,170,249.40, that is the twenty percent (20%) of Eligible Investment, may be taken in three (3) equal installments of \$11,056,749.80 as follows: the first in the year in which the exempt business receives its first paying guest for Hotel Complex V; the second in the year of the first anniversary after the exempt business received its first paying guest for Hotel Complex V; and the third in the year of the second anniversary after the exempt business received its first paying guest for Hotel Complex V.

In the event the Eligible Business elects to use for any of the Phases, the first ten percent (10%) of the Alternative Tax Credit as part of the capital structure at the closing of the financing for the development and construction of the Tourism Activity, then Applicant shall furnish the Executive Director and the Secretary a certification, in the form of a joint sworn statement, stating that the financial institution providing the financing for the construction and development of the tourism activity agrees and acknowledges with the election of Applicant; provided, that in the event

there are more than one financial institution or lender, including any government instrumentality, providing the financing for the construction and development of the tourism activity, a certification shall be furnished for each financial institution, lender or government instrumentality providing the financing of the tourism activity;

5. The amount of the Alternative Tax Credits for each phase will be allocated to the Exempt Business. Said allocation shall be irrevocable and binding. Pursuant to Section 5(e)(6) of the Act, within ninety (90) days after the commencement of the development and construction of each phase, Applicant, as applicable, must provide a notification, in the form of a sworn statement, stating the date of commencement of such event.
6. **Cacho Cambó Trust** is the Developer; as such term is defined in Sections 2(m) of the Act;
7. In accordance with Section 5(f)(2)(B) of the Act, Applicant is authorized to sell and transfer the Alternative Tax Credits of any of the Phases allocated in this Master Concession, subject to the following conditions:
 - a. In order to sell and/or transfer the FTP of any of the Phases:
 - i. Applicant must certify, through a sworn statement, that it has obtained the necessary funding for the total construction of such specific Phase of the tourism activity, including financing and cash contribution made in Concessionaire as specified in Section 2(u)(2) of the Act and under those terms and conditions that the Director and the Secretary have previously approved for this case in particular;
 - ii. For each phase in order to sell and transfer the FTP Applicant and/or Developer must place a FTP financial Guarantee bond, letter of credit or other guaranty acceptable to the Director and the Secretary, covering the total amount of the FTP to be sold or transferred by Applicant (the "Guaranty") for such Phase.
 - iii. The Guaranty for each Phase must be maintained in place until the Director certifies individually that the development and construction for such Phase of this Master Concession has been completed and that all the requirements of the Act, it's Regulations and this Master Concession, related to the

MC

investment and expenses, and the sale and reinvestment of the FTP have been complied with (the "Determination"). In order to obtain the Determination, Applicant for each phase shall provide an agreed upon procedures ("AUP") report regarding the sources and uses of funds for the acquisition, construction and habilitation of the Tourism Activity from an independent certified public accountant acceptable to the Director, report which shall be in form and substance approved by the Director pursuant to the terms of Section 5 of the Act and Section 5(d)-4 of the Regulation.

iv. In order to sell and transfer the FTP for Phases II to IV, the Concessionaire must certify through a sworn statement that the development and construction prior to each Phase of this Master Concession has been completed.

b. In order to sell and transfer the STP of any of the Phases:

i. Applicant shall certify, pursuant to a sworn statement, the termination of the development and construction of such specific Phase of this Master Concession.

ii. The Director shall then certify that the development and construction of such Phase of this Master Concession has been completed and that all the requirements of the Act, its Regulations and this Concession, related to the investment and expenses, including but not limited to the sale and reinvestment of the FTP of such Phase, have been complied with (the "Determination"). In order to obtain the Determination, Applicant shall provide an agreed upon procedures ("AUP") report regarding the sources and uses of funds for the acquisition, construction and habilitation of its Tourism Activity from an independent certified public accountant acceptable to the Director, report which shall be in form and substance approved by the Director pursuant to the terms of Section 5 of the Act and Section 5(d)-4 of the Regulation.

iii. Notwithstanding subparagraphs (i) and (ii), Applicant may, before the certification discussed in subparagraph (i) and

me

before the issuance of the Determination discussed in subparagraph (ii), sell the STP of such applicable Phase, upon the placement of a financial guaranty bond, letter of credit or other guaranty acceptable to the Director and the Secretary, covering the total amount of the STP of such Phase to be sold and/or transferred (the "STP Guaranty"); The STP Guaranty must be maintained in place unless a substitute Guaranty is provided to the Secretary or until the issuance of a determination by the Director, as further described in paragraph 7(b)(ii) hereof.

8. Pursuant to Section 5(b) of the Act, the Alternative Tax Credits will be made available to the Applicant as provided in Section 5(b) of the Act, the Regulations, Paragraph 4 hereof and compliance with Paragraph 7 above; PROVIDED that the procedures set forth above are complied with, in as much as cash contributions, made by the Exempt Business, pursuant to Section 2(u)(2) of the Act, including a legally binding commitment to make cash contributions after the closing date of the financing;
9. Any person that purchases the Alternative Tax Credits (singly and jointly referred to as the "Purchaser") may use it against any tax imposed pursuant to Subtitle A and/or any tax under Subtitle F that applies to Subtitle A of the Code, including the alternative minimum tax under Section 1022.03, or the alternative personal tax under Section 1021.02; and any other tax imposed under the Act, Act 20-2012, Act 73-2008, Act 273-2012, Act 60-2019 known as the Puerto Rico Incentives Code, or as subsequently amended.
10. Pursuant to Section 5(f)(7) of the Act, the Director and the Secretary shall be notified, through a sworn statement, of the Alternate Tax Credits sale or transfer, in accordance with the procedures established in Sections 5(e)-4 of the Regulation.
11. If Applicant violates the terms of the Regulations regarding the use and investment of the funds, this Concession may be terminated as of a date to be determined by the Director and the investment tax credits allocated shall be deemed to be excess the alternative tax credits taken and subject to recapture from the Developer pursuant to the terms of Section 5(e) of the Act.

BE IT FURTHER DECREED, that during the three (3) year period beginning on the date of the notification of the completion of the development and construction of the

72c
Tourism Activity described in Section 5(e)(6) of the Act, the Exempt Business shall submit an annual report to the Director and the Secretary disclosing the total investment applicable to such Phase of the Tourism Activity as of the date of each such report. At the expiration of such period or at a later date that may be determined by order of the Director, the Director shall determine the total investment made by the Exempt Business in such Phase of the Tourism Activity. If the Alternate Tax Credits described in Section 5(b)(1) of the Act to be claimed by the Exempt Business pursuant to the preceding paragraph exceed the allowable credit pursuant to the investment in the Tourism Activity, such excess shall be due as income tax to be paid by the Exempt Business in the case of alternate tax credit for tourism investment, in two installments, beginning with the first taxable year following the expiration date of the period of three (3) years of the applicable Phase or longer period that may be determined by order of the Director pursuant to Section 5(e)(3) of the Act, as mentioned above, or the first taxable year after the issuance of the Determination by the Director, whichever is later. The Director shall notify to the Secretary of the excess of credit taken by the Exempt Business; **PROVIDED**, that for purposes of this paragraph, the annual report to the Director and the Secretary disclosing the investment in the Tourism Activity by Applicant after the Closing Date shall be first submitted by Applicant within twelve (12) months after the issuance of the Concession or the Closing Date, whichever is later;

BE IT FURTHER DECREED, that According to Section 5(f)(8) of the Act, the alternate tax credits proceeds must be used first, for the repayment of the financing provided by any governmental entity or financial institution, if any, to make the construction and development; and second, for the repayment of all other loans, if any, granted to the exempt business to cover the project total cost or to cover any disbursement that is part of the project total cost;

BE IT FURTHER DECREED, that taking into consideration **May 21, 2019 as the date when the application was duly filed**, Applicant herein shall be entitled to a **ten (10) year tax exemption period** (the "Exemption Period") and the effective dates of said exemption periods shall be the following:

- A. **Municipal and Government Taxes on Personal and Real Property**
Applicant's property used in the operations of the Tourism Activity described above shall enjoy a **ninety percent (90%) exemption** from any municipal and state Government taxes on personal and real property. For these purposes, the tax exemption period shall commence on **January 1, of the year Phase I of the Tourism Activity initiates operation**;

As provided in Article 7.093 of Act No. 107 of August 14, 2020, as

amended, known as the "Puerto Rico Municipal Code (the "Municipal Code"), for exempted businesses under the Act 74-2010 whose property tax exemption period has not started as per the terms of its grant for real property and which submits an application for exemption under this Section of the Municipal Code to the CRIM, the portion of land in which the construction is being carried out or in which the equipment and machinery is installed or used for the term of the exemption provided in this Section shall also be deemed to be exempted from property taxes for no more than three (3) years from the date such machinery, material or equipment is available in Puerto Rico for its installation or use in a construction in progress.

B. License Fees, Excise Taxes, and Other Municipal Taxes

Applicant shall be **one hundred percent (100%) exempt** from the payment of any license fees, excise taxes, and other municipal taxes with regards to the Tourism Activity that are levied pursuant to any ordinance of any municipality. For these purposes, the tax exemption period shall commence on **July 1, 2019**;

C. Municipal Construction Excise Taxes

Applicant, as well as any of its contractors or subcontractors, shall be **one hundred percent (100%) exempt** from the payment of any municipal construction excise taxes with regards to the Tourism Activity that are levied pursuant to any ordinance of any municipality. For these purposes, the tax exemption period shall commence on **May 21, 2019**;

D. Taxes on Articles of Use and Consumption

Excise Taxes

Applicant shall be **one hundred percent (100%) exempt** from the payment of taxes levied under Subtitle C of the Code with respect to articles that are acquired and used in the development, construction, or operation of the Tourism Activity.

The exemption conferred herein shall not apply to goods or other property of such nature that would be considered as part of the inventory of the Eligible Business pursuant to Section 1031.01(a)(2)(B) of the Code. In addition, articles, furniture, or merchandise that is not used directly in the operation of the Eligible Business shall not be exempt from excise taxes. For these purposes, the tax exemption period shall commence on **June 20, 2019**;

ANC

Sales and Use Tax

Applicant shall enjoy a **one hundred percent (100%) tax exemption** from the payment of sales and use taxes levied under Sections 4020.01 and 4020.02 of Subtitle D and Sections 4210.01 and 4210.02 of Subtitle DDD of the Code with respect to articles that are acquired and used in the development, construction, or operation of the Tourism Activity.

The exemption conferred herein shall not apply to goods or other property of such nature that would be considered as part of the inventory of the Eligible Business pursuant to Section 1031.01(a)(2)(B) of the Code. In addition, articles, furniture, or merchandise that is not used directly in the operation of the Eligible Business shall not be exempt from excise taxes. For these purposes, the tax exemption period shall commence on **June 20, 2019**;

E. Income Tax

One hundred percent (100%) exempt from payment of income taxes on (i) income derived by Applicant from the Tourism Activity and the reinvestment thereof in other Tourism Activities, as specified in Sections 2(u) and 3(a)(1) of the Act; (ii) the dividends distributed by Applicant from earnings and profits attributable to "Tourism Development Income" ("TDI") to its members; and (iii) any gain derived during the Exemption Period from the sale or exchange of the membership interest in Applicant (including a redemption or liquidation of said membership interest), that is attributable to the Tourism Activity, or of substantially all or all of the assets used by Applicant in the Tourism Activity, provided all the rules contained in Section 3(a)(1) of the Act are met.

The exemption for TDI shall apply to TDI allocated to Applicant's members for every taxable year Applicant qualifies as a special partnership under Subchapter D of Chapter 11 of Subtitle A of the Code, or is subject to taxation pursuant to the provisions of Chapter 7 of Subtitle A of the Code, and to any distribution by Applicant's members that is a corporation, limited liability company or partnership that has not made an election under Subchapter D of Chapter 11 of Subtitle A of the Code, or is not subject to taxation pursuant to the provisions of Chapter 7 of Subtitle A of the Code, to its shareholder(s), member(s) or partner(s); any subsequent distribution of TDI by a shareholder(s), member(s) or partner(s) of such corporation, limited liability company or partnership shall be one hundred percent (100%) exempt from income tax under the Code. In the event Applicant does not

ANC

qualify as a special partnership under Subchapter D of Chapter 11 of Subtitle A of the Code, or is not subject to taxation pursuant to the provisions of Chapter 7 of Subtitle A of the Code, during a taxable year, the exemption for TDI shall apply initially at Applicant's level.

This exemption provided in this Subsection E for a gain derived from the sale, exchange, or other disposition, including redemption or liquidation, of stock or membership interests during the Exemption Period, is subject to the conditions contained in this Concession. Such exemption shall not apply to the extent that such gain is attributable to non-tourism activities. Upon the sale, exchange, or other disposal of stock or membership interest by a Developers, the assets of Applicant must continue to be used in Tourism Activities for a period of not less than twenty-four (24) months.

This exemption provided in this Subsection E for a gain derived from a sale or exchange of substantially all of the assets of Applicant used in the Tourism Activity, is subject to the condition that such assets continue to be used in Tourism Activities after the date of such sale for a period of not less than twenty-four (24) months, or any shorter period in which a genuine effort is made to conduct a Tourism Activity, as determined by the Director. This exemption shall not apply in the case of a sale of (i) less than substantially all of the assets of Applicant used in a Tourism Activity; (ii) all of the assets of Applicant used in the Tourism Activity, if the sale occurs after ten (10) years from the commencement of the income tax exemption period; and (iii) any assets not used in a Tourism Activity.

The Applicant shall have the option to elect that TDI for a specific taxable year not be covered by the income tax exemption granted herein. To elect such option, Applicant shall file a notice to such effect with its income tax return, or partnership information income tax return, as applicable, for such taxable year, to be filed on or before the date provided by the Code for the filing of such return, including any extension of time to file granted by the Secretary. Any taxable year elected not to be covered by the income tax exemption granted herein shall not be included for purposes of calculating the Exemption Period during which Applicant is entitled to income tax exemption under this Concession. For these purposes, the tax exemption period shall commence **the date when Phase I of the Tourism Activity initiates operation;**

F. Fuel Tax

Exemption to fuel used by an exempted business. All exempted businesses shall be entitled to an exemption of **one hundred (100%) percent** for the payment of all petroleum products (excluding residual no. 6 or bunker C) and any other hydrocarbon mixture (including propane and natural gas) used as fuel for the Exempt Business in the generation of electricity or thermal energy used by the exempted business in connection with tourism, will be totally exempt from tax under Sections 3020.07 and 3020.07 (a) of the Code. For these purposes, the tax exemption period shall commence on **the date when Phase I of the Tourism Activity initiates operation;**

mc
BE IT FURTHER DECREED, that the Applicant may elect to postpone each one of the **dates of commencement of the various exemptions** hereby granted by filing a notice to this effect before the Director, the Secretary, the Executive Director of the Municipal Revenue Collection Center ("CRIM", for its Spanish acronym), the Commissioner of Municipal Affairs and the Municipal Treasurer of the Municipality where the Tourism Activity will take place. Said notices must be filed together with the Application during the thirty-six (36) months period calculated from the date provided for the commencement of the exemption on or before the filing date of any return (including extensions) of: (i) income tax; (ii) property tax; or (iii) license fee or municipal excise tax, and, in connection with excise taxes and municipal construction taxes, such notice may be filed at any time after the issuance of this Master Concession. The commencement of any exemption **may be postponed** for a period not greater than thirty-six (36) months following the date such exemption otherwise would have commenced;

BE IT FURTHER DECREED, that the **tax exemption hereby granted shall expire** according to the effective dates established in this Master Concession in accordance with the provisions of the Act, unless previously terminated or revoked in accordance with the applicable provisions of the Act and its Regulations;

BE IT FURTHER DECREED, that the income tax exemption is conditioned to the Applicant's investment of no less than the twenty percent (20%) of its net income derived from its Tourism Activities in:

1. A promotion, publicity and marketing plan for its Tourism activities according to the particular circumstances and needs of the Eligible Business;
2. The compliance with adequate standards of sanitation and of protection and security to the clientele;
3. A training and re-training program of its personnel;

4. A reasonable percentage of facilities for physically disabled persons; and
5. A conservation plan of improvements and maintenance of its plant and of the environmental and aesthetic infrastructure;

For the purpose of determining if the above referenced investment requirement is met, the Applicant's net income shall exclude those expenses paid or incurred on the aforesaid categories;

BE IT FURTHER DECREED, that as an essential condition to the issuance and continuance of this Master Concession, the Applicant, individually or in conjunction with an Operator, must maintain, after the completion of all the phases of the Tourism Activity, an aggregate average annual **employment requirement of nine hundred (900)** direct employees in the activities covered by all the phases of this Master Concession (the "Employment Requirement"); **PROVIDED**, that the average annual Employment Requirement will be computed based on a calculation of the monthly average employment generated; the term "direct employees" used in this Employment Requirement includes Concessionaires' full-time, part-time and temporary employees engaged in the activities covered by the Concessions, and the employees of other employers (or subcontracted employees) who have been engaged to provide services to the Concessionaires directly related to the activities covered by the Concessions, including personnel working for the Concessionaires and activities covered by the Concessions pursuant to services or employee leasing contracts, provided that such other employers do not count such employees for purposes of obtaining any tax benefits provided for by any laws, rules, regulations or programs of the Government of Puerto Rico (including any agency, instrumentality, public corporation or political subdivision thereof) or of the United States, but shall not include independent contractors, consultants or providers of professional services, such as attorneys, accountants, or any kind of freelance consultant. Compliance with the Employment Requirement shall be verified pursuant to the amounts of full-time equivalents ("FTEs") employed by the Concessionaires, and pursuant to Section 9(d)-4 of the Regulation. For purposes of this Master Concession, the amounts of FTEs shall be equal to the total amount of hours worked by all persons employed by the Concessionaires in any given month divided by 160.

BE IT FURTHER DECREED, that the Applicant must always comply with the Employment Requirement of the preceding clause, except in cases of unforeseen circumstances, which may cause a **reduction of employment beyond the control of the Applicant**, at which occurrence or at the earliest date when such occurrence is contemplated, the Applicant is subject to one of the following alternatives:

1. If the **reduction represents less than ten percent (10%)** of the Employment Requirement, Applicant, shall have no obligation to notify the Director of such reduction;

2. If the **reduction represents ten percent (10%) or more** but less than twenty-five percent (25%) of the Employment Requirement, Applicant, shall notify the Director, with copy to the Puerto Rico Department of Labor and Human Resources ("DLHR"), and the Department of the Treasury ("Treasury"), of said reduction of employees on a sworn statement sent by certified mail with return receipt requested, or in the alternative, should file said sworn statement personally at the Office of the Director with copy to the DLHR and Treasury or sent by certified mail return receipt requested;

3. If the **reduction represents twenty-five percent (25%) or more** of the Employment Requirement, the Applicant, must file a Sworn Statement to the satisfaction and acceptance of the Director, which acceptance shall not be unreasonably withheld, requesting approval of the Director for such reduction and notifying the number of direct jobs generated by the Tourism Activity at the time the Sworn Statement is filed. Applicant must also file a copy of such Sworn Statement with DLHR and Treasury. The Director shall issue a written determination regarding Applicant's compliance with the Employment Requirement within sixty (60) days from the date of receipt and acceptance of such Sworn Statement (the "Employment Requirement Determination"). When evaluating Applicant's compliance with the Employment Requirement, the Director shall take into consideration events that constitute reasonable grounds for a reduction in Applicant's employment, including, but not limited to, strikes, war, action of a Government or the elements, or any other reasonable cause beyond the control of Applicant. If Applicant does not receive the Employment Requirement Determination from the Director within aforementioned sixty (60) day period, then Applicant shall without further action or formality, be deemed to be in compliance the Employment Requirement. The Director may, in lieu of terminating this Concession in those cases in which the Director determines that Applicant is not in compliance with the Employment Requirement:

- a) Reduce the rate of tax exemption according to a proportion of the amount of reduction in employments to the amounts specified herein for the Employment Requirement; or

27c

- b) Approve a temporary reduction of the Employment Requirement when the circumstances merit such a reduction, by negotiating any other reasonable conditions satisfactory to both Applicant and the Government of Puerto Rico, if the Director determines that such negotiation furthers the purposes of the Act;

BE IT FURTHER DECREED, that the Employment Requirement during the development of the phases will be as follows (which may be extended by the Director, at the request of the Applicant):

Phase	Employment Requirement	Starting Date
I	180	1-1-2024
II	135	1-1-2025
III	270	1-1-2027
IV	315	1-1-2028
Total	900	

BE IT FURTHER DECREED, that the tax exemptions granted herein shall be applicable only to the **property used in connection with the Tourism Activity** stated above **and** to the **income** (as defined in the Act and in the corresponding provisions of the Regulation promulgated there under) **derived from the operation of the Tourism Activity** which gives rise to the exemption provided by this Concession, and such other property specifically declared exempt by the Act;

BE IT FURTHER DECREED that the **Concession shall not constitute an exemption from:**

- a) Workmen's compensation premiums required by law;
- b) Fees for motor vehicle licenses or plates;
- c) Taxes levied pursuant to Act Number 286 of April 6, 1946; and
- d) Room Occupancy Taxes pursuant to Act Number 272-2003, as amended (the "Room Tax Act");

BE IT FURTHER DECREED, that Applicant shall fully comply with its obligations under the Room Tax Act or any subsequent act regarding room occupancy taxes; PROVIDED that, in case of Applicant's noncompliance, **the Director may suspend or revoke the tax benefits granted herein for as long as necessary**, until Applicant complies with its obligations under the Room Tax Act;

BE IT FURTHER DECREED, that as an essential condition to the continuance of this Concession, the **Applicant must identify the room occupancy tax separately from other items or charges listed on guests' bills**, as required under the Room Tax Act;

BE IT FURTHER DECREED, that as a condition to the continuance of the tax exemptions and benefits granted herein, the Applicant shall (i) deliver to the CRIM a complete list and correct evaluation of any personal or real property that has been declared tax exempt under the provisions of the Act, of which Applicant is the owner or is in possession of as of January 1st of each year, in accordance with the provisions of Article 7.151 of the Municipal Code, as amended; (ii) file annually with the Secretary, pursuant to the income tax act in effect, an income tax return with respect to the operations of its Tourism Activity; (iii) maintain and keep in Puerto Rico, separately, all the necessary books, records, and files pertaining to the Exempt Business, as such term is defined in Article 2(dd) of the Act, so that the accounting system clearly reflects the gross income, expenses, losses, and any other deductions relative to the operations of the Exempt Business; PROVIDED, that the income tax related to the Exempt Business shall be computed separately; (iv) keep such files, make such sworn statements, file such reports, and comply with the rules and regulations that may be prescribed by the Secretary for the proper fulfillment of the purposes of the Act and that the Secretary may prescribe in connection with the levying and collection of all kinds of taxes; (v) submit any documents or evidence that may be deemed pertinent to the tax exemptions or benefits, post any bonds, and allow periodic inspections or any other kind of inspections; (vi) file, in advance, the contracts, orders, or other information related to permits needed to acquire, transfer, sell, or introduce articles exempt from excise, use or consumption taxes; and (vii) comply with any other conditions that the Secretary may deem pertinent to impose with respect to the enjoyment of any tax exemptions or benefits under the Act, whenever such conditions are necessary to ensure proper compliance with the terms and purposes pursuant to which the tax exemptions or benefits are granted;

BE IT FURTHER DECREED, that the **Secretary shall determine for each taxable year covered by the exemptions granted hereunder what property and income Applicant has used in, or derived from the Exempt Business**; PROVIDED, that nothing contained herein shall deprive Applicant of its right to administrative and judicial review of determinations made by the Secretary, pursuant to applicable laws, rules, and regulation;

BE IT FURTHER DECREED, that the Secretary, in determining what property has been used in, and what income has been derived from, the Exempt Business, may review the books, receipts, accounts, and records of the Exempt Business in order to determine

if all purchase prices, sales prices, rates of lease, overhead, and any other prices, rates, and cost allocations, are fixed on the basis of normal business operations and not for the purposes of (i) avoiding taxes ordinarily chargeable to activities not within the scope of the operations covered by the tax exemptions granted hereunder; or (ii) charging to the operations carried out in Puerto Rico under the terms of this Concession the costs, expenses, profits, and other accounts attributable to the operations of Applicant carried out outside of Puerto Rico; PROVIDED, that whenever the Secretary finds that such prices, rates, or cost allocations are made for purposes of extending the coverage of the tax exemptions granted hereunder beyond the scope of the Exempt Business, he shall make the adjustments that he may deem necessary in the calculation of the amount of taxes payable by Applicant, if any, and provide recommendations to the Director regarding other actions that may have to be taken under the provisions of the Act and the Regulation. Nothing contained herein shall deprive Applicant of its right to administrative and judicial review of determinations of the Secretary and the Director pursuant to applicable laws, rules, and regulations;

BE IT FURTHER DECREED, that Applicant shall operate the Tourism Activity covered by this Concession in good faith and in accordance with the principles of normal business operations, and shall not willfully attribute to the operations and accounts of the Exempt Business activities carried out in Puerto Rico or any other place which are not part of the Exempt Business covered by this Concession;

BE IT FURTHER DECREED, that as an essential condition to the continuance of this Master Concession, Applicant shall be required to comply with all relevant provisions of the Act, and all rules and regulations promulgated by the Secretary and the Director in accordance with the provisions of the Act, regardless of whether or not said provisions are specifically mentioned in this Master Concession;

BE IT FURTHER DECREED, that the authorized personnel of the Tourism Company may perform periodic inspections of the Tourism Activity;

BE IT FURTHER DECREED, that as an essential condition to the continuance of this Master Concession, the Applicant shall be required to comply with a minimum average of ninety percent (90%) in the initial evaluation. In the subsequently evaluations the Applicant shall be required to comply with a minimum average of eighty five percent (85%), pursuant to the Regulation of Hostleries of Puerto Rico of the Tourism Company (the "Regulation of Minimum Requirements"). That's evaluations shall be made by the Tourism Quality Program of the Tourism Company, or any similar program created and implemented by the Tourism Company, and/or the periodical minimum allowed by the Director after determination of Applicant's effort to comply with this condition;

BE IT FURTHER DECREED, that the continuance of this Master Concession shall be conditioned upon the Applicant's continuous compliance throughout the duration of this Concession with the **Puerto Rico Environmental Quality Board** rules, regulations, and requirements that may be applicable to Applicant related to the control of water, air, ground, and any other types of environmental pollution;

BE IT FURTHER DECREED, that the continuance of this Master Concession shall be conditioned upon the Applicant's continuous compliance with the **Code of Ethics for Contractors, Suppliers of Goods and Services and Financial Incentives Applicants of the Executive Agencies of the Government of Puerto Rico** (Act No. 2-2018, as amended and its regulations);

BE IT FURTHER DECREED, that the continuance of this Master Concession shall be conditioned upon Applicant filing, and the Director's approval, of any documentation the Director so requires;

BE IT FURTHER DECREED, that as an essential condition to the continuance of this Master Concession, Applicant **must** provide the statistical information requested by the Puerto Rico Tourism Company, **within ten (10) days** after the end of every month and assign a hotel employee to handle this task. **If the Applicant does not submit the information requested, the Director may suspend or revoke the tax benefits** for as long as necessary, until the Exempt Business complies with its responsibility. The authority to request said information is recognized in Article 5(q) of Act No. 10 of June 18, 1970 known as "Puerto Rico Tourism Company Act". The information submitted by the Applicant concerning the operation of its business will be treated confidentially by the Puerto Rico Tourism Company. However, the aggregate statistical data obtained through the information provided by the different businesses endorsed by the Puerto Rico Tourism Company may be made public;

BE IT FURTHER DECREED, that as an essential condition to the continuance of the Concession, **the Applicant shall not introduce, manufacture, possess, use or operate vending or other machines that are used for games of chance or lotteries (slot machines)**, including, without limitation, those defined in Act No. 11 of August 22, 1933, as amended, unless said machine is located within the perimeter of a licensed gaming room (casino), as such term is defined in Act No. 221 of May 15, 1948, as amended;

BE IT FURTHER DECREED, that as an essential condition to the continuance of the Concession, **Applicant shall not install's or operates any Electronic Video**

Game System; as such term is defined in Act No. 139-2004;

BE IT FURTHER DECREED, that this Master Concession may be suspended or revoked pursuant to the provisions of Section 8 of the Act and Section 9(d)-7 of the Regulation, if Applicant (i) does not comply with the provisions, requirements, and conditions of the Act, the Regulation, this Concession, and/or any other applicable law or regulation, and/or any other requirements determined by the Director; and/or (ii) has submitted false or fraudulent information or made any false or fraudulent representations in the Application pursuant to which the Tourism Company based its decision for the issuance of this Master Concession. This Master Concession may only be suspended or revoked after the Tourism Company has complied with all applicable legal requirements under Act No.38-2017, as amended, known as the Uniform Administrative Procedure Act, and the administrative procedures established by the Tourism Company;

BE IT FURTHER DECREED, that this Master Concession may be cancelled if Applicant does not submit within ninety (90) days after the commencement date of Phase I of the Tourism Activity or such longer period as approved by the Director the following documents:

1. Final blueprints, Construction Permit and Use Permit approved by OGPe;
2. Alcoholic Beverages License issued by Treasury Department;
3. Financial Statements of the investors
4. Sanitary License;
5. Certificate of Inspection of the Fire Department of Puerto Rico Financial Statements;
6. Certificate of public liability insurance issued by an agency certificate by the Commissioner of Insurance of Puerto Rico, with endorsement in favor of the Puerto Rico Tourism Company as additional insured and holds harmless agreement;
7. Inventory of any real and personal property which will be used in the Tourism Activity;
8. Annual Payroll;
9. Marketing Plan;
10. Facilities for the Physically Handicapped;
11. Security Measures.
12. Environmental Safety Measures.
13. Municipal License.
14. Puerto Rico Fire Service Certificate of Inspection.
15. Plan for training and retraining personnel.

16. Certificate of Public Liability Insurance.

BE IT FURTHER DECREED, that this Concession may be terminated if Applicant fails to file before the Director, **within ninety (90) days after receipt of the same**, a duly notarized sworn statement wherein the Applicant **expresses its unconditional acceptance** of this Master Concession and all of the conditions and provisions which are an integral part hereof; PROVIDED, that this Master Concession shall upon its acceptance by Applicant constitute a contract between the Government of Puerto Rico and the Applicant; and

BE IT FURTHER DECREED that a certified copy of this Concession shall be forwarded to Applicant, the Secretary, the CRIM, and to the Mayor of the Municipality of Cabo Rojo, Puerto Rico.

In San Juan, Puerto Rico, this 12 day of december 2020.



CARLA G. CAMPOS VIDAL
EXECUTIVE DIRECTOR