

GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE  
PUERTO RICO FILM COMMISSION

Grant of Film Project Tax Benefits and Exemptions to \_\_\_\_\_ (hereinafter referred to as “Applicant” or “Grantee”), Case No. \_\_\_\_\_, pursuant to the terms of Act No. 27 of March 4, 2011, as amended (hereinafter referred to as the “Act”)<sup>1</sup>;

GRANT

WHEREAS, the Act empowers the Secretary of the Department of Economic Development and Commerce of the Government of Puerto Rico (the “Secretary of Development”) to Grant tax credits and exemptions from specified taxes to eligible persons when it is proved to the satisfaction of the Secretary of Development that the applicant will produce an eligible Film Project, as such term is defined in the Act and that the same will be in the best interest of Puerto Rico;

WHEREAS, pursuant to Article 3.5 of the Act and Administrative Order No. OA-01-2011 of March 4, 2011, the Secretary of Development delegates to the Executive Director of the Puerto Rico Motion Picture Arts, Sciences, and Industry Development Corporation (the “Film Commissioner”) to carry on administrative duties of any kind, related to Grants of tax exemptions issued under the provisions of the Act, including the approval or denial of tax credits allowed under the Act, but excluding the authority to designate Film Development Zones and any other duty specifically bestowed upon the Secretary of Development by Articles 6.1 and 8.4 of the Act;

WHEREAS, the Film Commissioner, after having examined the application presented by the Applicant and the documents attached thereto (the “Application”), is of the opinion that the Applicant has proved that it will produce an eligible Film Project within the meaning of the Act and that the same will be in the best interest of Puerto Rico;

NOW, THEREFORE, BE IT DECREED BY THE FILM COMMISSIONER, that the Applicant be hereby granted: (i) tax credits under Article 7.3 of the Act as provided herein, (ii) the preferential income tax rate of 4%, and (iii) tax exemptions in accordance with the applicable terms of the Act, covering the development, pre-production, production and postproduction of \_\_\_\_\_ (referred hereinafter as the “Applicant’s Film Project”), provided that the activity shall be carried out as described in the Application and that it will comply at all times with the provisions of the Act;

BE IT FURTHER DECREED, that all the provisions of any regulations not specifically referred to in this Grant, as well any administrative determinations, circular letters and other official pronouncements issued by the Secretary of Development or the Film Commissioner under the Act, shall apply for purposes of interpreting, applying and implementing this Grant, to the extent the Film Commissioner does not determine that they are inconsistent with the dispositions of the Act;

BE IT FURTHER DECREED, that the benefits hereby granted will be available to the Grantee for the taxable years during which the covered activity is being carried out, commencing on the date the Application is duly filed and as described below. In the case of a Grantee which holds a Pre-application Conference with the Film Commissioner, eligible production and/or postproduction expenses may be considered for purposes of calculating the tax credit set forth below from the date of such Pre-application Conference. In the case of the Grantee, the Pre-application Conference Date is \_\_\_\_\_;

BE IT FURTHER DECREED, that pursuant to Article 8.1(a)(1)(A)(i) of the Act, and during the term of this Grant, Grantee shall be subject to a fixed income tax rate of four percent (4%) on its income derived from the activities covered in this Grant, in lieu of any other income tax rate. The covered period will commence on \_\_\_\_\_ and end on the last day of the taxable year in which Applicant’s Film Project is completed;

BE IT FURTHER DECREED, that pursuant to Article 8.1(a)(1)(B) of the Act, the distributions of dividends and benefits derived from the covered activity and total liquidations to stockholders, investors, members and/or partners of grantee shall be one hundred percent (100%)

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<sup>1</sup> All terms not defined herein shall have the meaning ascribed to them in the Act.

exempt from income taxes including alternative minimum tax and alternative basic tax imposed in the Internal Revenue Code for a New Puerto Rico (the "Code"). The covered period will commence on \_\_\_\_\_ and end on the last day of the taxable year in which Applicant's Film Project is completed;

BE IT FURTHER DECREED, that as provided by Article 8.1(a)(2) of the Act, the Grantee shall enjoy ninety percent (90%) exemption from municipal and state, personal and real property taxes, over property used in the preproduction and production of a project or activity covered under the Grant, during the exemption period provided herein. The covered period will commence on \_\_\_\_\_ and end on the last day of the taxable year in which Applicant's Film Project is completed;

BE IT FURTHER DECREED, as provided by Article 8.1 (a)(3), the Grantee shall be one hundred percent (100%) exempt from the payment of any license fees, excise taxes, and other municipal taxes levied by any ordinance of any municipality with regard to the covered activity. The covered period will commence on \_\_\_\_\_ and end on the last day of the taxable year in which Applicant's Film Project is completed;

BE IT FURTHER DECREED, as provided by Article 8.1 (a)(3)(B), the Grantee and any of its contractors or subcontractors shall be one hundred percent (100%) exempt from the payment of any municipal construction excise tax levied by any ordinance any municipality with regard to the covered activity. The covered period will commence on \_\_\_\_\_ and end on the last day of the taxable year in which Applicant's Film Project is completed;

BE IT FURTHER DECREED, that, as provided by Article 8.1(a)(4) of the Act, the Grantee shall be exempt from the payment of taxes levied under Subtitle C of the Code, or any substitute law, with respect to articles that are acquired and used in the covered activities under the Grant.

BE IT FURTHER DECREED, that, notwithstanding anything else contained herein, all the credits, deductions, exemptions, and other benefits and incentives contained in the Act, shall be applicable with respect to the Grantees, their income, property, and volume of business;

BE IT FURTHER DECREED, that in the case the Grantee is eligible for the credits provided by Article 7.3 of the Act, which shall be available at the commencement of the activities covered in this grant, the same shall be subject to the limitations imposed by Article 7.3(b)(3) of the Act. Pursuant to such Article 7.3 and regulations, circulars and administrative determinations thereunder, production and/or postproduction expenses may be considered toward the Puerto Rico Production Expenses from the Pre-application Conference Date confirmed by the Film Commissioner in writing;

BE IT FURTHER DECREED, that the Grantee is eligible for a forty percent (40%) tax credit on all the Puerto Rico Production Expenses (except Production Expenses paid to Nonresident Above the Line) as defined by the Act and certified by the Auditor;

BE IT FURTHER DECREED, that the Grantee is eligible for a twenty percent (20%) tax credit on the Production Expenses paid to Nonresident Above the Line as defined by the Act and certified by the Auditor, without the limitations imposed by Article 7.3(b)(3) of the Act, provided that: (1) pursuant to Article 8.3 (b), the Grantee shall withhold from the Nonresident Above the Line the twenty percent (20%) of his payments, (2) the Grantee shall remit such withholding to the Department of Treasury as payment of the special tax to Nonresident Above the Line established in Article 8.3(a), and (3) the Grantee shall file the appropriate informative returns. In the case of non compliance by the Grantee as withholding agent, it will be liable to the Department of Treasury for the tax amount due.

BE IT FURTHER DECREED, that the Grantee shall always comply with the obligations set forth in Article 8.3 of the Act with respect to the applicable special tax in the case of all Nonresident Above the Line that form part of the Applicant's Film Project, whether or not such Nonresident Above the Line was originally informed in the Application and whether or not such Nonresident Above the Line was directly hired by the Grantee or by means of a loan out company;

BE IT FURTHER DECREED, that the Grantee pursuant to Article 7.3(c) of the Act could use the tax credits granted against any tax liability imposed pursuant to Subtitle A of the Code or

Article 8.1(a)(1)(A) of the Act and can be claimed in the tax year of commencing of the activities covered by this Grant.

BE IT FURTHER DECREED, that the tax credits granted are non refundable but pursuant to Article 7.3 (e) of the Act are transferable to third parties subject to the limitations of Article 7.3 (c) of the Act and Internal Revenue Circular Letter No. 11-03 with respect to the use of the credit.

BE IT FURTHER DECREED, that, based on the statements made by the Concessionaire in the Application, the following determinations are made:

1. Of the total Production Expenses of \_\_\_\_\_ in the Applicant's Film Project, the total estimated Puerto Rico Production Expenses are \_\_\_\_\_ (which is equal to \_\_\_\_\_ paid to Puerto Rico Residents and \_\_\_\_\_ paid to Nonresident Above the Line) for purposes of determining the credit for the Applicant's Film Project under the provisions of Article 7.3 of the Act;
2. Pursuant to Article 7.3 of the Act, the maximum amount of film tax credit available will be \_\_\_\_\_ (the "Tax Credits"), which is equal to forty percent (40%) of the total estimated Puerto Rico Production Expenses (except for Production Expenses paid to Nonresident Above the Line) of the Applicant's Film Project as determined by the Film Commissioner (this portion totals \_\_\_\_\_), and twenty percent (20%) of the expenses paid to Nonresident Above the Line of the Applicant's Film Project as determined by the Film Commissioner (this portion totals \_\_\_\_\_);
3. In the event the corresponding Auditor Report for the Applicant's Film Project, as reviewed and certified by the Film Commissioner and the Department of the Treasury of the Government of Puerto Rico, provides for a higher tax credit amount than the Tax Credit established in sub-paragraph 2 above, such additional tax credits shall be available to the Grantee subject to: (i) tax credit availability at the time of Auditor Report; (ii) the approval of the Film Commissioner and the Department of the Treasury of the Government of Puerto Rico; and (iii) the corresponding amendment of this Decree.

BE IT FURTHER DECREED, that the tax benefits granted herein shall be applicable only to the property directly used in connection with the production of the activities covered by the Grant.

BE IT FURTHER DECREED, that the Grant shall not include exemption from:

1. Workmen's compensation premiums as provided by law;
2. Fees for motor vehicle licenses or plates; and
3. Taxes levied under Act No. 286, of April 6, 1946;

BE IT FURTHER DECREED, that the Grantee must comply with all the laws, rules, regulations, orders and ordinances promulgated by the Government of Puerto Rico, its agencies and municipalities which are applicable to Grantee's operations, including all the provisions of the Act, which are applicable to Grantee, and all rules and regulations promulgated pursuant to the Act, regardless of whether or not said provisions are specifically mentioned in this Grant;

BE IT FURTHER DECREED, that the Grantee shall operate the business covered by this Grant in good faith and in accordance with principles of normal business operations, and shall not willfully attribute to the operations, and accounts for the activities covered by this Grant, activities carried in Puerto Rico or any other place, which are not part of the operation of tax exempt business covered by this Grant;

BE IT FURTHER DECREED, that the Grantee must pay or clarify any possible income tax debt, employee withholding income tax and any other debt notified by the Department of the Treasury of the Government of Puerto Rico. Otherwise, the Grant could be temporarily or permanently revoked;

BE IT FURTHER DECREED, that the Grantee shall pay the 50% of the required filing fees established in Article 3.3 of the Act within fifteen (15) working days after the receipt of this Grant by the Grantee, that is, 1% of the budgeted expenses that qualify for the tax credits, up to a maximum amount of \$250,000 (the "Filing Fees"). The initial fifty percent (50%) of the Filing Fees are computed based on an estimate of the Puerto Rico Production Expenses and payable upon filing of the sworn statement accepting the Grant described in the paragraph above. Failure to accept the Grant and/or pay the required Filing Fees will be deemed as a failure to comply with the procedures established by the Film Commissioner, a non-compliance with this Grant and will result in the revocation of this Grant and forfeiture of the Filing Fees paid. The non-compliant Grantee may re-submit the Application and request that the Filing Fees paid be credited with respect to a new Application. The new Application will be subject to tax credit availability at the date of its filing;

BE IT FURTHER DECREED, that the Grantee shall commence Principal Photography in Puerto Rico within 30 calendar days of the acceptance of the Grant. Failure to commence Principal Photography within this term will be deemed as a failure to comply with the procedures established by the Film Commissioner, a non-compliance with this Grant and will result in the revocation of this Grant and forfeiture of the Filing Fees paid and the tax credits reserved. The non-compliant Grantee may re-submit the Application and request that the Filing Fees paid be credited with respect to a new Application. The new Application will be subject to tax credit availability at the date of its filing;

BE IT FURTHER DECREED, that the once the Applicant's Film Project is completed and the Grantee furnishes the Auditor the necessary information for the Auditor Report, the Auditor shall have a term of 30 days to complete the Auditor Report which may be extended by the Film Commissioner for 30 additional days for reasonable cause. Failure to submit the Auditor Report on the required date will be deemed as a failure to comply with the procedures established by the Film Commissioner, a non-compliance with this Grant and will result in the revocation of this Grant and forfeiture of the Filing Fees paid and the tax credits reserved. The non-compliant Grantee may re-submit the Application and request that the Filing Fees paid be credited with respect to a new Application. The new Application will be subject to tax credit availability at the date of its filing;

BE IT FURTHER DECREED, that in order for the remaining tax credits to be available, once the Grantee receives the tax credit confirmation issued by the Film Commissioner, it will have a period of 15 working days from the date of the confirmation to pay the remaining balance of the Filing Fees. Failure to pay the remaining balance of the Filing will be deemed as a failure to comply with the procedures established by the Film Commissioner, a non-compliance with this Grant and will result in the revocation of this Grant and forfeiture of the Filing Fees paid and the tax credits reserved. The non-compliant Grantee may re-submit the Application and request that the Filing Fees paid be credited with respect to a new Application. The new Application will be subject to tax credit availability at the date of its filing. The terms and conditions of Transfer of tax credits shall be governed by Internal Revenue Circular 11-03, or any substitute determination;

BE IT FURTHER DECREED, that the Grantee must include a screen credit in connection with Puerto Rico's Film Incentives Program in the form provided by the Film Commissioner. Failure to such screen credit will be deemed as a failure to comply with the procedures established by the Film Commissioner, a non-compliance with this Grant and will result in the revocation of this Grant and forfeiture of the Filing Fees paid and the tax credits reserved. The non-compliant Grantee may re-submit the Application and request that the Filing Fees paid be credited with respect to a new Application. The new Application will be subject to tax credit availability at the date of its filing;

BE IT FURTHER DECREED, that the Grantee shall comply with all the procedural requirements established by the Act and established by the Film Commissioner through regulation, circular or administrative determination, including the payment of the required Filing Fees. Failure to comply with the procedures established by the Film Commissioner will be deemed as a failure to comply with this Grant and will result in the revocation of this Grant and forfeiture of the Filing Fees paid. The non-compliant Grantee may re-submit the Application and request that the Filing Fees paid be credited with respect to a new Application. The new Application will be subject to tax credit availability at the date of its filing;

BE IT FURTHER DECREED, that upon its acceptance by the Grantee, this Grant constitutes a contract between the Government of Puerto Rico and the Grantee its shareholders, partners or owners, and said contract will be the law between the parties involved. Said contract will be interpreted liberally, pursuant to the purposes of the Act of promoting the economic and social development of Puerto Rico. The Film Commissioner has the discretion to include, in the name and in representation of the Government of Puerto Rico, all the terms and conditions, concessions and exemptions that are consistent with the purpose of this Law and that promote the creation of jobs through the economic and social development of Puerto Rico, taking into consideration the nature of the Application or the request submitted including the facts and other related circumstances with respect each case in particular that could be applicable;

BE IT FURTHER DECREED, that during the term of this Grant, the Grantee will be subject to all of the provisions and administrative requirements of the Act and established by the Film Commissioner through regulation, circular or administrative determination and Grantee shall comply with all of the obligations set forth in this Grant, the Act, the Code and all requirements established by the Film Commissioner through regulation, circular or administrative determination in this regard; provided that the failure to comply with such obligations may expose the Grantee to fines, penalties and/or other administrative sanctions, as well as the revocation of the Grant, which revocation may be effective as of the first date of non-compliance, pursuant to provisions of the Grant or the Act; provided further that if the Grantee chooses to avail itself of any of the administrative or judicial review procedures available to it under the Act or Puerto Rico law generally, the remedies for failure to comply shall not be imposed until such review procedures have been exhausted, provided that if the remedies are ultimately upheld, they shall be effective as of the date that they would have applied in the absence of such review; provided further that these remedies are in addition to, and not in lieu of, any other remedies under the Act or Puerto Rico law generally;

BE IT FURTHER DECREED, that the Grantee shall file with the Puerto Rico Motion Picture Arts, Sciences, and Industry Development Corporation, within fifteen (15) working days after the receipt of this Grant by the Grantee, a duly notarized and sworn declaration wherein the Grantee expresses its unconditional acceptance of this Grant and of all the conditions, provisions, and findings which are an integral part hereof;

BE IT FURTHER DECREED, that upon receipt of this Grant, the Puerto Rico Motion Picture Arts, Sciences, and Industry Development Corporation shall immediately forward a copy to the Grantee.

\_\_\_\_\_  
DATE

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FILM COMMISSIONER

ANNEX A

SAMPLE