RRQB
LEGAL SOLUTIONS

DOING BUSINESS IN MEXICO

I. OVERVIEW.

A. STRUCTURE OF STATE AND GOVERNMENT.

1. Constitution. The Political Constitution of the United Mexican States was enacted in 1917 (the "Constitution") and has been amended on multiple occasions. The Constitution is the supreme law in Mexico and establishes (a) that the country is a republic, representative, democratic and federal, (b) the powers and responsibilities of the federal government, which is divided into three branches: the Legislative Branch, the Executive Branch and the Judicial Branch (the "Branches of the Federation"), and (c) that the government is divided for its organization into three levels: Federal, State and Municipal.

2. Regulatory Hierarchy. The hierarchical order establishes that below the Constitution are treaties and federal laws at the same level. However, in human rights matters, international treaties are at the same level as the Constitution. In the next step, we find the regulations issued by the federal Executive. Finally, there are the decrees, ordinances and particular norms.

At the state level, the legal normative order is as follows: first, the constitution of each State, then the laws issued by the general congress of each State, then the regulations issued by the Governor of each State and, finally, the decrees and ordinances issued by the State Executive.

Municipalities are also empowered to issue municipal regulations and ordinances that apply in their territory.

3. Branches of the Federation.

(a) The Executive Branch. This branch governs the country in federal matters in accordance with the powers granted to it by the Constitution and federal laws. The head of the executive branch is the constitutional president of the United Mexican States. He is democratically elected every six years by the principle of relative majority, without the possibility of reelection.

(b) The Legislative Branch. This power is in charge of issuing federal laws that regulate the structure and internal functioning of the entire Nation. The legislative power is vested in the Congress of the Union, which is divided into two chambers (i) House of Representatives comprised of 500 (five hundred) members, among which 300 (three hundred) are elected by the principle of relative majority vote and 200 (two hundred) are elected by the principle of proportional representation, and (ii) Senate composed of 128 (one hundred and twenty-eight) members, of which the citizens of each State elect 3 (three) members and 32 (thirty-two) Senators are elected by the principle of proportional representation from a single national list.

(c) The Judicial Branch. This branch is in charge of resolving disputes under the terms established in the Constitution and interpreting the laws enacted by the Congress. The judicial branch is formed by, among others, the Supreme Court of Justice of the Nation, the Council of the Federal Judiciary, the Collegiate and Unitary Circuit Courts and the District Courts. In particular, in electoral matters in Mexico there is an Electoral Tribunal, which is part of the Federal Judicial Power.

4. **Autonomous Governmental Bodies**. Mexico also has public agencies that, due to the tasks they perform, enjoy autonomy in accordance with the Constitution and are not part of the Branches of the Federation. Among others, this is the case of the National Electoral Institute, the National Institute of Transparency, Access to Information and Protection of Personal Data, the National Human Rights Commission, the Federal Court of Administrative Justice, the Attorney General's Office and the Bank of Mexico.

5. State Governments. Mexico is a federation composed of 32 (thirty-two) free and sovereign states. The citizens of each state elect their own Governor and members of their legislature. There is only one House of Representatives, as there are no senators at the state level. Each state has a judicial branch represented by the Supreme Court of Justice and the local Courts.

6. Municipalities. In addition to the Federal Entities, there are municipalities and, in the case of Mexico City, delegations. The mayors and members of the city council are

elected by the local citizens. As mentioned above, they may issue local decrees and ordinances.

II. CORPORATE MATTERS.

A. GENERAL ASPECTS.

Foreign investment may carry out commercial activities in Mexico by means of (a) the habitual performance of commercial acts, (b) the establishment of a branch office, and (c) the incorporation of a Mexican corporation.

For purposes of this document we will analyze exclusively the legal provisions applicable to the establishment of a branch and the incorporation of a company.

1. Branch Office. A foreign investor may conduct its business activities through the establishment of a branch. Foreign companies duly organized under the laws of their place of incorporation are recognized as legal entities in Mexico. However, a branch itself has no independent legal standing and therefore the foreign entity shall be directly and fully liable for all obligations and commitments of its branch in Mexico.

In order to establish a branch, foreign companies must obtain an authorization from the Ministry of Economy under the terms of the Foreign Investment Law. However, for certain companies incorporated in certain countries it is not necessary to obtain such authorization, as long as they file a notice declaring certain aspects of the company in accordance with the applicable regulations. Once such notice is filed, the incorporation documents of the country in question must be registered before the Mexican Public Registry of Commerce, and from that moment on they may engage in commercial activities.

Foreign companies must publish annually a balance sheet approved by an authorized public accountant in the electronic system of the Ministry of Economy. In addition to their registration with the Public Registry of Commerce, branches must be registered with the National Registry of Foreign Investment (the "RNIE") as indicated below and with the corresponding Mexican tax and labor authorities.

RRQB
LEGAL SOLUTIONS

2. Incorporation of Companies. Foreign investors may incorporate Mexican corporations under Mexican civil and commercial legislation: (a) the Civil Code of each state regulates the incorporation and operation of civil corporations; and (b) the General Law of Commercial Companies (the "Corporations Law") regulates the incorporation and operation of commercial companies in Mexico. Civil corporations have a preponderantly economic purpose, without commercial speculation. Mercantile Corporations are those that are incorporated for the purpose of commercial speculation.

For the purposes of this document we will study exclusively the two most commonly incorporated companies, the Stock Corporation (SCo) and the Limited Liability Company (LLC).

B. CHARACTERISTICS OF CORPORATIONS.

1. Stock Corporations. The Corporations Law defines a corporation simply and clearly as a company that exists under one name and is composed exclusively of partners whose obligation is limited to the payment of their shares. The corporate name may be freely formed, but it shall be different from that of any other company and when used it shall always be followed by the words "Stock Corporation" (*sociedad anonima*) or its abbreviation SCo (S.A.)

Failure to indicate that a business partnership is a stock corporation may result in all partners being jointly and severally liable without limitation for the partnership's obligations.

(a) Shareholders and Capital. The incorporation of a corporation requires at least 2 (two) shareholders and no minimum capital is required. The capital is represented by shares.

(b) Shares. The shares into which the capital of a corporation is divided are represented by securities payable to the holder. They serve to evidence the ownership and the transfer thereof.

(c) Administrative Body. The corporation shall be administered by a sole administrator or a board of directors

composed of two or more members, which shall be appointed by the ordinary shareholders' meeting.

The administrators are jointly and severally liable to the corporation, among other things, for: (i) the reality of the contributions made by the shareholders, (ii) compliance with the legal and statutory requirements established with respect to the dividends paid to the shareholders, (iii) the existence and maintenance of the accounting, control, registration, filing or information systems provided by law, and (iv) the exact compliance with the resolutions of the shareholders' meetings.

(d) Statutory Auditor. Every corporation has a supervisory body. In Mexico, this body is known as the statutory auditor. The ordinary general shareholders' meeting must appoint one or more statutory auditors. They are usually accountants and supervise the financial and accounting work of the directors and officers of the corporation.

(e) General Meeting of Shareholders. The general shareholders' meeting is the highest authority of the corporation; it may resolve and ratify all acts and operations of the corporation and its resolutions shall be executed by the person designated by the meeting, in the absence of designation, by the directors.

There are ordinary general meetings, general extraordinary meetings and special meetings of lesser relevance. They shall be held at the corporate domicile; otherwise they shall be null and void, except in the case of an act of God or force majeure, in which case the meetings may be held outside the corporate domicile.

(f) Ordinary General Shareholders' Meetings. Ordinary general shareholders' meetings are those that are held to deal with any matter that is not reserved by law or by the Company's bylaws to an extraordinary shareholders' meeting. In particular, an annual ordinary general shareholders' meeting must be held within the first 4 (four) months of the year, where the report of the directors, the appointment of new directors and the discussion and approval of the financial statements of the previous year shall be considered.

RRQB
LEGAL SOLUTIONS

In order for an Ordinary Shareholders' Meeting to be considered legally convened, at least half of the capital must be represented, and resolutions shall only be valid when adopted by a majority of the votes present.

(g) Extraordinary General Shareholders' Meetings. According to the Corporations Law, an extraordinary shareholders' meeting may be held at any time to discuss (i) the extension of the duration of the corporation, (ii) the early dissolution of the corporation, (iii) the increase or reduction of the capital, (iv) the change of corporate purpose, (v) the change of nationality of the corporation, (vi) the transformation of the corporation, (vii) the merger with another corporation, (viii) the issuance of preferred shares, (ix) the amortization by the corporation of its own shares and the issuance of profit shares, (x) the issuance of bonds, (xi) any amendment to the bylaws and (xii) any other matters for which the law or the bylaws require a special quorum.

Unless a higher majority is established in the bylaws, at Extraordinary Meetings, at least three-fourths of the capital must be represented and resolutions shall be adopted by the vote of the shares representing half of the capital.

(h) Corporate Books, Records and Accounting Books. As a matter of law, all corporations must keep their books and records, both legal and fiscal. For (i) mercantile purposes these shall be kept for the entire duration of the corporation, (ii) accounting purposes these shall be kept for a period of 10 (ten) years, and (iii) tax purposes these shall be kept for at least 5 (five) years.

Corporations shall keep a share registry book, a capital variation book and a minutes book. The Corporations Law requires that the company shall consider as the owner of the shares the person who is registered as such in the share registry book. Any transfer of shares must be recorded in the share register at the request of any owner.

(i) Other Agreements. In addition to the above, the stock corporation allows: (i) impose restrictions on the transfer of ownership or rights; (ii) establish grounds for exclusion of shareholders or to exercise separation rights, withdrawal rights or to amortize shares; (iii) issue shares that (i') do not confer voting rights or that voting is restricted to

certain matters, (ii') grant non-economic rights other than voting or exclusively voting rights, and (iii') confer veto rights or require the favorable vote of one or more shareholders; (iv) implement mechanisms to be followed in the event that the shareholders do not reach agreements on specific matters; (v) extend, limit or deny the preemptive right of subscription of the capital; and (vi) limit the liability for damages caused by its directors and officers.

(j) Investment Promotion Stock Corporation. Corporations may be incorporated as Investment Promotion Stock Corporations or, subsequently, may adopt such modality. These companies are regulated by the Securities Market Law, and in all matters not provided for in said law, by the Corporations Law.

The Investment Promotion Stock Corporation differs mainly from the general corporation in that: (i) it allows limiting or extending the rights to receive profits or other special economic rights, (ii) it allows non-competition agreements, and (iii) it grants greater rights to minorities.

2. Limited Liability Company. The Corporations Law defines a limited liability company as a company formed between partners who are only obligated to pay their contributions, and the corporate shares may not be represented by negotiable securities, to order or to bearer. This type of company may exist under a denomination or a corporate name, which must be followed by the words *Sociedad de Responsabilidad Limitada* or its abbreviation, *S. de R.L.* (Limited Liability Company).

Failure to indicate that a company is a limited liability company may result in all partners being liable without limitation, jointly and severally, for the obligations of the company.

(a) Partners and Capital. The incorporation of a limited liability company requires at least 2 (two) partners and shall not have more than 50 (fifty) and no minimum capital is required.

(b) Social Units. The value and categories of the capital may vary among themselves, but in any case they shall be a multiple of $1.00 (one) peso. Each partner owns only one social unit. Although it is not mandatory, it is common for companies to issue certificates to prove ownership of the social unit.

RRQB
LEGAL SOLUTIONS

The social units can be assigned with the approval of the majority of the partners.

(c) Administrative Body. Limited liability companies shall be managed by a sole manager or a board of managers composed of two or more members, who shall be appointed by the general meeting of partners.

(d) Supervisory Board. There are no statutory auditors, but the partners may decide to create a supervisory board to oversee the management of the company.

(e) General Partners' Meeting. The general partners meeting is the supreme authority of the company; it may resolve and ratify all the acts and operations of the company and its resolutions shall be executed by the person designated by the meeting; in the absence of designation, they shall be executed by the administrators.

There is no distinction between ordinary, extraordinary and special meetings. Partners' meetings shall be held at the domicile of the corporation at least once a year on the date provided for in the bylaws.

The partners' meetings are held to deal with any matter reserved to them as a matter of law or by the bylaws. The partners' meetings approve resolutions by a majority vote of the capital. Every member has the right to participate in the decisions of the meetings and has one vote for each peso contributed to the company or a multiple thereof.

Partners' meetings may be held at any time to discuss, among other matters, (i) the balance sheet for the year ended, (ii) distribution of profits, (iii) appointment and removal of managers, (iv) appointment, if applicable, of the supervisory board, (v) division and amortization of social units, (vi) demand, if applicable, of supplementary contributions and accessory benefits, (vii) the attempt against the corporate bodies or against the partners, of any action to demand damages, (viii) amendment of the corporate bylaws, (ix) consent to the transfer of social units and admission of new partners, (x) increase and reduce the capital, (xi) dilute the company, and (xii) any others that correspond to it according to the law or the corporate bylaws.

(f) Corporate Books, Records and Accounting Books. As a matter of law all corporations must keep their books and records during the periods indicated above for corporations.

The limited liability company shall keep a special book of partners, a book of minutes and a book of variations of capital, which shall be kept by the administrators of the company, who shall be personally and jointly and severally liable for their existence and accuracy. The transfer of the social units shall not take effect with respect to third parties until after the registration in the special book of partners.

C. REGISTRIES APPLICABLE TO PARTNERSHIPS.

There are federal and state registrations that may apply to corporations. However, in the following, we will only mention federal registrations, since state registrations vary from state to state and are rarely applicable:

1. Public Registry of Commerce. Once the corporation is incorporated, it must be registered in the Public Registry of Commerce. The amount of the fees for this registration is different in each state, for example in the state of Nuevo Leon it is determined based on the value of the operation, being $5.00 Mexican pesos for each thousand or fraction thereof, having as minimum cost the amount of approximately $519.00 Mexican pesos and as maximum limit approximately the amount of $59,132.00 Mexican pesos.

2. Tax Administration Service. Finally, corporations must register in the Federal Taxpayers Registry to obtain their unique registration key ("RFC") and their electronic signature provided by the SAT (the "FIEL"), at any Taxpayer Services Administration assigned to the Tax Administration Service (the "SAT"), which is a decentralized agency of the Ministry of Finance and Public Credit (the "SHCP"). This procedure is free of charge, however, failure to complete it on time may result in fines.

Foreign resident partners or shareholders of legal entities resident in Mexico, as well as foreign resident partners of *associations in participation*, are not required to apply for their RFC, provided that the Mexican resident legal entity or the associate presents to the tax authorities within

the first three (3) months following the close of each fiscal year, a list of the foreign resident partners or shareholders, indicating their domicile, tax residence and tax identification number.

3. National Registry of Foreign Investment. It must be registered in the RNIE, if the company has foreign investment in its capital. This procedure is free of charge, however, failure to do so on time may result in fines.

4. Employer Registration and Inscription. As soon as the company hires any employee, it must register as an employer and register its employees with (a) the Mexican Social Security Institute ("IMSS"), (b) the National Workers' Housing Fund Institute, and (c) the Retirement Savings System. This procedure is free of charge; however, failure to complete it in a timely manner may result in fines.

5. Other Registrations. Other registrations that may apply when the entities have a very specialized corporate purpose, but this is not very common.

D. FOREIGN INVESTMENT

During the last few years, Mexico has become one of the main recipients of foreign investment, particularly in the manufacturing, commercial and financial sectors.

In this matter, the legal framework is mainly composed of: (a) the Foreign Investment Law ("LIE"), (b) the Regulations of the Foreign Investment Law and the National Registry of Foreign Investments, and (c) the Free Trade Agreements, ("FTA") subscribed by Mexico.

Some states have laws that grant incentives and benefits for domestic and foreign companies to set up in those states. It is advisable to review the particular laws in force in the state where the investment shall be made.

1. Types of Foreign Investment. Foreign investors may participate fully as owners of the capital issued by Mexican companies, acquire fixed assets, develop businesses in most economic activities, manufacture new products, initiate and operate commercial establishments and expand or relocate

existing establishments, except as otherwise provided in the LIE.

Foreigners may invest in Mexico by: (a) incorporating a Mexican corporation, or (b) investing as partners or shareholders in existing Mexican corporations.

In case of incorporation, a foreigners admission clause shall be included in the bylaws, which shall be notified to the Ministry of Foreign Affairs ("SRE") within 30 (thirty) days after incorporation.

2. Economic Activities Subject to Restrictions. The LIE determines the rules that allow the entry of foreign direct investment into the country. Pursuant to the provisions of the LIE, foreigners are free to engage in or carry out on their own any lawful economic activity, provided they do not engage in (a) activities reserved to the Mexican Government, (b) activities reserved to Mexicans or Mexican companies, (c) activities with specific regulations, and (d) activities subject to the authorization of the National Foreign Investment Commission ("CNIE").

(a) Activities Reserved to the Government. The activities reserved to the Mexican Government are the following: (i) Exploration and extraction of oil and other hydrocarbons; (ii) Planning and control of the national electric system, as well as the public service of transmission and distribution of electric energy; (iii) Generation of nuclear energy; (iv) Radioactive minerals; (v) Telegraphs; (vi) Radiotelegraphy; (vii) Post Office; (viii) Issuance of banknotes; (ix) Coinage of currency; and (x) Control, supervision and surveillance of ports, airports and heliports.

(b) Activities Reserved to Mexicans or Mexican Corporations. The activities reserved to Mexicans or Mexican corporations with a foreigner exclusion clause are the following: (i) Domestic land transportation of passengers, tourism and cargo, not including courier and parcel services; (ii) Development banking institutions; and (iii) Rendering of professional and technical services expressly indicated in the applicable legal provisions.

(c) Activities with Specific Regulation. The activities and companies in which foreign investment may participate, but

only up to a maximum limit of shareholding, are the following: (i) Up to 10% in production cooperative companies; (ii) Up to 25% in domestic air transportation, air cab transportation and specialized air transportation; and (iii) Up to 49% in (i') manufacturing and commercialization of explosives, firearms, cartridges, ammunition and fireworks, without including the acquisition and use of explosives for industrial and extractive activities, nor the elaboration of explosive mixtures for the consumption of such activities; (ii') printing and publication of newspapers for exclusive circulation in national territory; (iii') series "T" shares of companies that own agricultural, livestock and forestry lands; (iv') fishing in fresh water, coastal and in the exclusive economic zone, not including aquaculture; (v') integral port administration; (vi') port pilotage services to vessels to carry out inland navigation operations under the terms of the Law of the matter; (vii') shipping companies engaged in the commercial exploitation of vessels for inland navigation and cabotage, with the exception of tourist cruises and the exploitation of dredges and naval artifacts for the construction, conservation and operation of ports; (viii') supply of fuel and lubricants for vessels and aircraft and railroad equipment; and (xi') radio broadcasting.

(d) Activities in which CNIE Authorization is Required for a Majority Foreign Ownership. The activities and companies in which foreigners must obtain a favorable resolution from the CNIE in order to acquire a shareholding greater than 49% are the following: (i) Port services to vessels to carry out their inland navigation operations, such as towing, mooring of lines and launching; (ii) Shipping companies dedicated to the operation of vessels exclusively in offshore traffic; (iii) Companies holding concessions or permits for aerodromes serving the public; (iv) Private pre-school, elementary, middle school, high school, higher and combined education services; (v) Legal services; and (vi) Construction, operation and exploitation of railroads that are general means of communication, and provision of public railroad transportation services.

3. Acquisition of Real Estate. Foreigners are entitled to acquire real estate in Mexican territory, depending on the location of such real estate:

(a) *Restricted Zone*. Under no circumstances may foreigners own real estate in the 100 kilometer strip along

the borders and a 50 kilometer strip along the beaches of Mexico (the "Restricted Zone").

However, through a 50 (fifty) year trust with the authorization of the SRE, foreigners may acquire rights to use real estate located within the Restricted Zone. In this case, the trustee, which shall always be a credit institution, acquires ownership rights over the real estate and the foreigner as beneficiary has the right of use and enjoyment.

On the other hand, in order for Mexican companies that admit foreigners to acquire real estate within the Restricted Zone, they must identify the type of use to which the real estate shall be put and, in accordance therewith, carry out the corresponding procedures.

(b) Non-Restricted Zone. Any real estate located outside the Restricted Zone may be acquired directly by foreigners, with the understanding that the SRE shall grant the permit, in which the foreigner agrees to be considered a Mexican national with respect to such property and waives the right to invoke the protection of its government with respect to such property.

On the other hand, in order for Mexican companies that allow the participation of foreigners to acquire real estate outside the Restricted Zone, they must include in their bylaws an agreement in which they consider themselves as Mexican nationals with respect to such property and waive the right to invoke the protection of their governments with respect to such property.

4. Registration in the RNIE. The LIE establishes that foreign individuals or legal entities that habitually carry out commercial activities in Mexico must register in the RNIE; Mexican companies in which foreign investment participates in their capital stock and trusts of shares or social parts, of real estate or of neutral investment, by virtue of which rights in favor of foreign investment are derived.

The application for registration in the RNIE must be filed within forty business days following the date: (a) on which commercial activities have begun; (b) of incorporation of the company or participation of the foreign investment; (c) of formalization or protocolization of the related documents of the foreign company; and (d) of incorporation of the respective

trust or granting of beneficiary rights in favor of the foreign investment.

The procedure can be carried out either by the interested party or its legal representative and is free of charge, unless it is subject to a penalty for untimely compliance.

It is important to keep in mind that once registered in the RNIE, the company is obliged to report quarterly and annual information, in case the thresholds established by the CNIE are exceeded.

III. LABOR MATTERS.

A. GENERAL ASPECTS.

The Federal Labor Law (the "Labor Law") governs all aspects of the employer-employee relationship, including union negotiations, the right to strike, minimum wage rates, hours of work and compensation, and occupational health and safety.

1. Wages. The government does not have the authority to require wage increases, except for the minimum wage. The National Minimum Wage Commission periodically sets the minimum wage rate by geographic area, and also establishes specific minimum wage ranges for a number of occupations.

2. Extraordinary Wages. Workers may only work up to 3 (three) hours of overtime in a single day for which they are entitled to double salary. The extension of overtime in excess of 9 (nine) hours per week, obligates the employer to pay the worker overtime at triple the daily wage.

3. Working Day. The worker and the employer shall establish the duration of the workday, without exceeding the legal maximums.

There are three types of workdays: (a) Daytime. It is the one between 6:00 a.m. and 8:00 p.m., with a maximum of 48 (forty-eight) hours per week (b) Nocturnal. Is the one comprised between 8:00 pm to 6:00 am, with a maximum of 42 (forty two) hours per week, and (c) Mixed. It is the one that comprises periods of time of the day and night shifts, provided that the night period is less than 3 1/2 (three and a half) hours, with a maximum of 45 (forty-five) hours per week.

RRQB
LEGAL SOLUTIONS

B. EMPLOYMENT AGREEMENTS.

1. Types of Employment Relationships. The Labor Law establishes that employment relationships may be: (a) for a specific work or time; or (b) seasonal or indefinite term (in which case the employee may be subject to probation or training). In the absence of express stipulations, the relationship shall be for an indefinite period of time.

Notwithstanding the foregoing, the designation of a specific work may only be stipulated when required by the nature of the work and the designation of a specific time may only be stipulated (a) when required by the nature of the work, (b) when it is intended to temporarily replace another worker, and (c) in the other cases provided for by the Labor Law.

2. Employment Agreements. In Mexico there are two types of employment agreements: (a) the individual employment agreement, which is entered into by and between an employee and an employer, in the case of an individual interest, and (b) the collective agreement, which is commonly entered into by and between labor unions and employers, in the case of a group interest.

The Labor Law establishes that employment agreement must be formalized in writing. The lack of a written agreement shall not affect the employee's rights under the labor law. In addition, in the event of a conflict with the employee, the employer has the burden of proving the terms and conditions of employment; therefore, the absence of a written employment agreement shall only affect the employer.

Likewise, the Labor Law establishes that employment agreements shall contain, among other things, the following information: (a) name, nationality, age, sex, marital status, Unique Population Registry Code (CURP), RFC and domicile of the worker and the employer, (b) duration of the employment relationship, (c) services to be rendered by the worker, (d) places where the work is to be performed, (e) length of the working day, (f) form of payment and amount of salary, (g) other working conditions, such as days of rest, vacations and others agreed upon by the parties, and (h) designation of beneficiaries of the worker.

RRQB
LEGAL SOLUTIONS

The employment relationship may only be terminated for the causes set forth in the Labor Law; additional causes of termination set forth in the employment contracts shall be null and void.

C. MANDATORY EMPLOYEE BENEFITS.

1. Vacations and Vacation Bonus. After one year of work, an employee is entitled to an annual period of paid vacation, which in no case may be less than 12 (twelve) working days, and which shall be increased by 2 (two) working days, until reaching 20 (twenty) days. After the sixth year, the vacation period shall increase by 2 (two) days for every 5 (five) years worked (the "Vacation").

Likewise, employees shall be entitled to a bonus of not less than 25% (twenty-five percent) of the wages corresponding to them during the vacation period (the "Vacation Bonus").

2. Christmas Bonus. Employees shall be entitled to an annual bonus that must be paid before December 20, equivalent to at least 15 (fifteen) days of salary (the "Christmas Bonus").

3. Housing Fund. Employers must contribute to the National Workers' Housing Fund Institute (the "INFONAVIT") 5% (five percent) of the salaries of the workers in their service, up to a maximum equivalent to 10 (ten) times the general minimum wage of the corresponding geographic area of application.

Housing contributions are deposited with INFONAVIT in the employee's name. Employees may use the funds to acquire, build, repair or improve their housing units and for the payment of liabilities acquired for these concepts based on a preference policy followed by INFONAVIT. The net balance of the fund, if any, shall be paid to the employee in the event of disability, retirement or death.

4. Profit Sharing. Employers are required to distribute among their workers a percentage of the profits generated by the company during the year. Workers are entitled to receive an amount equal to the percentage determined by the National Commission for Workers' Profit Sharing. This percentage currently amounts to 10% (ten percent) of the taxable income

RRQB
LEGAL SOLUTIONS

calculated for Income Tax ("IT") purposes under the Income Tax Law (the "IT Law").

The profit sharing distribution must be made no later than May 30. The amount of the profit sharing shall have a maximum limit of 3 (three) months of the employee's salary or the average of the profit sharing received in the last 3 (three) years; the amount that is more favorable to the employee shall be applied.

According to the Labor Law, employees who are not entitled to receive profit sharing payments are: (a) directors, general managers and administrators, (b) temporary workers who have worked less than 60 (sixty) days, (c) partners and stockholders, (d) employees under a fee-based payment scheme, and (e) domestic workers.

The employers that are not obligated to pay profit sharing are: (a) newly created companies, during the first year of operation; (b) newly created companies, engaged in the production of a new product, during the first two years of operation, (c) extractive industry companies, newly created, during the exploration period, (d) private assistance institutions, recognized by law, (e) the IMSS and decentralized public institutions with cultural, welfare or charitable purposes, and (f) companies that have a capital less than that set by the Secretary of Labor and Social Welfare.

5. Social Security. All employers are required to register and register their workers with the IMSS, as well as to communicate their registrations and cancellations and changes in salaries within 5 (five) business days after the changes occur. This is so that all workers may receive medical services and the corresponding economic and social benefits, among others, occupational risk insurance, sickness and maternity insurance, disability and life insurance, day care and social benefits, and retirement, unemployment, advanced age and old age insurance.

Social security contributions are paid monthly to the IMSS by both the employer and the employee (via withholding) and are capped at the equivalent of 25 (twenty-five) times the general minimum wage in Mexico City, with a lower limit of the general minimum wage of the respective geographic area. The contributions and percentages contributed by each

employee vary, since their calculation depends on different concepts and values, among them, (a) the employee's base contribution salary, (b) the Unidad de Medida y Actualizacion, (c) the percentages established in the Social Security Law (the "IMSS Law"), and (d) the insurance and social benefits provided to employees.

6. Rest Days. Pursuant to the Labor Law, for every six (6) days of work, the worker shall enjoy at least one day of rest, with full pay. In the jobs that require continuous work, the workers and the employer shall establish by mutual agreement the days in which the workers must enjoy the weekly rest days.

It shall be ensured that the weekly day of rest is Sunday. In the event that workers render services on Sundays, they shall be entitled to an additional premium of at least 25% (twenty-five percent) over the salary for ordinary working days.

The following are mandatory rest days in Mexico: (a) January 1, (b) the first Monday of February, (c) the third Monday of March, (d) May 1, (e) September 16, (f) the third Monday of November, (g) December 1 of every six years, when it corresponds to the transfer of power of the Executive Branch of Government, (h) December 25, and (i) those determined by federal and local electoral laws.

In the event that workers render their services on mandatory rest days, they shall be entitled to be paid, independently of the salary corresponding to them for the mandatory rest, a double salary for the service rendered.

7. Maternity Leave. Working mothers shall be entitled to a 6 (six) weeks' leave before and 6 (six) weeks' leave after childbirth. At the express request of the worker, with the prior written authorization of the doctor, taking into account the opinion of the employer and the nature of the work performed, up to 4 (four) of the 6 (six) weeks of leave prior to delivery may be transferred to after delivery.

Likewise, during the breastfeeding period, up to a maximum term of 6 (six) months, they shall have two extraordinary breaks per day, of half an hour each, to feed their children, in a suitable and hygienic place designated by the company,

RRQB
LEGAL SOLUTIONS

or, when this is not possible, upon agreement with the employer, their workday shall be reduced by one hour during the aforementioned period.

8. Paternity Leave. Male employees shall be entitled to paternity leave of 5 (five) working days with pay for the birth of their children and likewise in the case of adoption of an infant.

9. Seniority Premium. Regular employees are entitled to a seniority premium, which shall consist of 12 (twelve) days of salary for each year of service (the "Seniority Premium").

10. Workers' Training. Workers have the right to receive on-the-job training to enable them to raise their standard of living, labor competence and productivity, in accordance with the plans and programs formulated, by mutual agreement, by the employer and the union or the majority of the workers.

11. Savings Fund. A company's savings fund is not a mandatory benefit under the Labor Law; however, the National Joint Committee for Wage Protection qualifies it as a social benefit.

The savings fund is the economic contributions made by the company and the workers. It is a benefit that is achieved through the negotiation of the collective agreement, in which the company agrees to make periodic contributions, which can be weekly, biweekly or monthly, while the workers agree to make discounts from their salaries, for the amounts agreed upon by both parties.

The contribution modalities to the fund may vary according to the negotiation, either as a percentage of the salary or amounts in pesos. The company's contribution may be equal to or different from that of the employees.

Discounts for the promotion of savings are prohibited, in accordance with the provisions of the Labor Law, if the employee receives a general minimum salary or a salary which, when the discount is made, is reduced to an amount lower than the minimum salary.

The Labor Law establishes a maximum limit for salary deductions of 30% (thirty percent) of the excess of the minimum

salary over the difference resulting from subtracting the general minimum salary in effect in the geographic area in which the employee works from the income received.

D. HIRING OF FOREIGN WORKERS.

In Mexican companies, at least 90% (ninety) of the workforce shall be composed of Mexican workers. This provision does not apply to directors, administrators and general managers.

If the employer cannot find a Mexican worker with sufficient capacity or training to perform specialized work, foreign workers may be hired temporarily, but the percentage of foreign employees may not exceed 10% (ten percent) of the personnel dedicated to this specialized work.

In this case, the employer and the foreign employees shall train the Mexican workers in the corresponding specialty. Under immigration regulations, in order to make job offers and hire foreign personnel, the employer must obtain a document called Employer's Registration Certificate (*Constancia de Inscripción de Empleador*) from the National Immigration Institute (Instituto Nacional de Migración).

The applicable regulations require the renewal of the Employer Registration Certificate on an annual basis.

All workers shall obtain a work visa in order to work in Mexico. Obtaining this visa depends on several factors, including (a) the regulations governing the employment relationship (domestic or foreign), and (b) the length of time the worker shall be in the country. Foreign workers shall also take into account the tax regulations applicable to them.

E. TERMINATION OF EMPLOYMENT RELATION.

The Constitution and the Labor Law establish the right to employment stability, which refers to the permanence of workers in their jobs, as long as they comply with their obligations and do not incur in conduct that justifies dismissal.

By virtue of the foregoing, the Labor Law establishes that the following are causes for termination of employment relationships, among others: (a) mutual consent of the parties;

(b) death of the worker; (c) termination of the work or expiration of the term or investment of the capital; (d) physical or mental incapacity or manifest inability of the worker, which makes the rendering of the work impossible; (e) force majeure or an act of god; (f) notorious and manifest unaffordability of the exploitation; (g) exhaustion of the material object of an extractive industry; and (h) legally declared bankruptcy or insolvency. In the cases of paragraphs (e), (f), (g) and (h) it shall be collectively. There are also causes for suspension of the employment relationship.

In the event of termination of the employment relation for the causes referred to in the preceding paragraph, the employee is entitled to the proportional payment of the Christmas Bonus, Vacation, Vacation Bonus, Seniority Premiym if the employee has been working for more than 15 (fifteen) years, among other benefits that have been contemplated in the employment contract.

However, if the employment relation terminates due to the employee's physical or psychological disability as a result of an occupational hazard, the employee shall be entitled to the payment of a pension in accordance with the IMSS Law. If the disability is due to other causes, employees are entitled to a monthly salary, in addition to the proportional payment of Christmas Bonus, Vacations, Vacation Bonus, Seniority Premium if the employee has been working for more than 15 (fifteen) years, among other benefits contemplated in the employment agreement.

1. Justified Dismissal. The employment relation may also be terminated by the employer without incurring liability for it, when any of the causes provided in the Labor Law occur, mentioning without limitation, the following: (a) incompetence or professional negligence; (b) deliberate damage to the property of the company; (c) more than 3 (three) unjustified absences in a period of 30 (thirty) days; (d) unjustified disobedience to superiors; (e) intoxication or use of drugs in the workplace; (f) dishonest or violent actions towards the employer and other employees; and (g) criminal acts (the "Justified Causes"). The employer who terminates the employment relation shhall give written notice to the employee who has been terminated.

RRQB
LEGAL SOLUTIONS

It is important to mention that employment agreements cannot establish other justified causes for dismissal other than the Justified Causes. Workers with more than 20 (twenty) years of seniority are protected against dismissal for any cause, unless the conduct is serious, making it impossible to continue, the conduct is recurrent or commits other Justified Causes, which shall be determined by the corresponding authority.

(a) Termination for Justified Dismissal. Justified dismissal in Mexico means that the employer is not obligated to pay a severance payment to the employee. Only the employer is obligated to pay the employee the days worked during the period, the proportional amount of the Christmas Bonus, Vacations, Vacation Bonus, Seniority Premium if the employee has been working for more than 15 (fifteen) years, among other benefits contemplated in the employment contract.

2. Unjustified Dismissal. Unjustified dismissal is the termination of the employment relationship by the employer for causes other than a Justified Cause or for failure to give notice of termination to the employee. An employee who considers that he/she was unjustifiably dismissed may optionally request (a) reinstatement in his/her job and payment of wages due, or (b) indemnification.

(a) Termination of Unjustified Dismissal. The employee who has been unjustifiably dismissed shall have the right to receive from the employer a severance payment consisting of 3 (three) months' salary, the wages due, the proportional amount of the Christmas Bonus, Vacations, Vacation Bonus, Seniority Premium if the employee has been working for more than 15 (fifteen) years, among other benefits contemplated in the employment contract.

In the event that the employer refuses to reinstate the employee, it must pay 20 (twenty) days of salary per year worked and the corresponding indemnity.

F. OUTSOURCING OF EMPLOYEES.

In accordance with the Labor Law, labor outsourcing is prohibited; only the outsourcing of specialized services or the execution of specialized works that are not part of the

corporate purpose or the main economic activity of the employer is allowed.

Individuals or companies that provide or wish to provide services under a outsourcing regime must register with the Registry of Specialized Service Providers or Specialized Works "REPSE" administered by the Ministry of Labor and Social Welfare (STPS). Registration is granted as long as the contractor proves that it is up to date with its tax and social security obligations. The registration is valid for a period of three years.

The individual or company that subcontracts specialized services or execution of specialized works with a contractor that does not comply with its labor obligations shall be jointly and severally liable.

IV. TAX MATTERS.

A. GENERAL ASPECTS.

In the Mexican Tax System, the provisions contained in the Mexican Constitution, the international treaties to which Mexico is a party, the Federal Tax Code ("CFF"), the Income Tax Law, the Value Added Tax Law (the "VAT Law"), the Special Tax on Production and Services Law, the Customs Law, the Foreign Trade Law, the Federal Revenue Law, the Tax Coordination Law, as well as the tax codes and the state and municipal finance laws, and various regulations, decrees and circulars. In the absence of an express tax regulation, the provisions of common federal law shall be applied supplementarily.

Mexico has a federal tax system, which impacts companies doing business in Mexico primarily through the following taxes: (a) the IT (b) value added tax ("VAT"), (c) special tax on production and services ("IEPS"), and (d) social security contributions payable by employers.

In order to avoid the excessive burden that double taxation may place on taxpayers, the Federal Government has entered into tax coordination agreements with each of the federal entities, whereby the Federal Government shares certain revenues with the Federal Entities, provided that the Federal

Entities do not impose any taxes on certain items. As a result, local taxes are minimal, the most common being the Real Estate Tax (for owners of real estate), the Payroll Tax (on salaries paid to employees) and the Real Estate Acquisition Tax ("ISAI").

Thus, the Federal Entities may, through their legislatures, establish the taxes necessary to cover their budgets, as long as they are not imposed in areas exclusive to the federation and have not been expressly prohibited in the Constitution.

B. FEDERAL TAX CODE CFF).

The CFF is the legal system that integrates the regulation of the interactions between individuals and the authorities in tax matters, including the obligations of taxpayers, the powers of the tax authorities, tax offenses and crimes, as well as the administrative procedures carried out by the authority to inspect and sanction and those available to individuals as a means of defense.

1. Obligations of Taxpayers. The main obligations of taxpayers that are legal entities are, among others: (a) register with the RFC, (b) provide and keep updated their tax information before the SAT, (c) declare to the RFC their tax domicile, (d) request their e-Signature, (e) note in their corporate records and minutes of assembly the RFC of the shareholders or partners, (f) provide and keep updated before the SAT the RFC of the shareholders or partners, (g) keep and maintain an accounting system with the requirements established by the applicable provisions, (h) issue tax receipts to support its operations, (i) withhold taxes in cases specified by the applicable regulations, (j) file monthly and annual tax returns, and (k) pay the applicable taxes.

2. Tax Authorities. The Mexican tax authorities are competent to audit and gather additional information on any tax return or accounting record during the 5 (five) years after the corresponding tax return was filed or should have been filed. However, in certain cases and in the event of non-compliance with legal requirements by the taxpayer, such period may be 10 (ten) years.

The main authorities in Mexico are the SHCP, the SAT, the IMSS and the Infonavit. However, there are agencies and bodies with competence in tax matters at the local and state government levels. The Taxpayer's Defense Attorney's Office (*Procuraduría de Defensa del Contribuyente*) is an autonomous agency that advises and assists in resolving interpretative conflicts in the application of regulations and issues recommendations to the tax authorities.

3. Joint and Several Liability. Third parties are jointly and severally liable to other corporate taxpayers, among others, in the following cases: (a) withholders, with respect to taxes withheld, (b) those obligated to make payments on behalf of third parties, up to the amount of such payments, (c) liquidators and receivers of companies in liquidation or bankruptcy for the contributions they should have paid on behalf of the company, (d) acquirers of negotiations, (e) the representatives of a resident abroad, with respect to the taxes generated by the activities carried out with their intervention, (f) those who acquire such character voluntarily, (g) those who guarantee the tax interest owed by a third party, (h) in certain cases of noncompliance with the obligations of the legal entity, the partners or shareholders who have effective control of the company, regarding the contributions that would have been caused in connection with the activities carried out by the company when it had such capacity, in the part of the tax interest that cannot be guaranteed with the assets of the company, without the liability exceeding the participation it had in the capital of the company, and (i) companies resident in Mexico or residents abroad that have a permanent establishment in Mexico that carry out transactions with related parties resident abroad, regarding to which there is effective control or that are effectively controlled by the related parties resident abroad, when the residents abroad constitute by virtue of such transactions, a permanent establishment in Mexico in terms of the tax provisions.

C. INCOME TAX LAW.

The Income Tax Law regulates income tax, which is a direct tax applied on income obtained during a fiscal year, meaning that (a) companies that are resident in Mexico pay taxes on the taxable income (deducting tax losses from prior years) corresponding to their total income, and (b) non-resident companies pay taxes only on income with a source of wealth in

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LEGAL SOLUTIONS

Mexico. The source of wealth of the income is assumed to be in Mexico when the activities and/or assets are located in Mexico, or when there are payments made by Mexican companies to foreign residents.

The corporate IT rate is 30% (thirty percent). IT is an annual tax, so it is paid for each fiscal year. Companies must pay the tax through a tax return no later than March of the year following the fiscal year being reported, however, companies are required to make monthly provisional payments no later than the 17th day of the month following the monthly period to which the payment corresponds.

1. **Tax Residence**. The definition of a company's tax residence allows it to determine in which country it must pay its tax obligations, as well as to determine in which country the benefits of the international treaties to avoid double taxation would be applicable; that is, once it is defined in which country it is a resident for tax purposes.

For these purposes, the CFF establishes that a company is considered a resident of Mexico when the main administration of the business or its effective place of management is located in Mexico.

When the conditions to be a tax resident in Mexico are no longer met, a notice shall be filed with the tax authorities at least 15 (fifteen) days prior to the change of residence.

It is relevant to consider that when individuals who are tax residents abroad, have a stay in Mexican territory equal to or greater than 183 (one hundred and eighty-three) calendar days, whether consecutive or not, in a period of 12 (twelve) months, they shall be automatically considered tax residents in Mexico.

2. **Permanent Establishment**. Pursuant to the Income Tax Law, a permanent establishment is considered to be any place of business in which business activities or personal services are carried out, in whole or in part, or in which personal services are rendered (the "Permanent Establishment"). Non-resident companies that have a permanent establishment in Mexico, such as a Branch, are taxed at the rate of 30% (thirty percent) with respect to the income of such Permanent Establishment, as if it were a legal entity resident in Mexico

only with respect to the income of such branch. If a non-resident corporation does not have a Permanent Establishment in Mexico, it shall be taxed on income from sources of wealth located in Mexico, although the rate may vary.

The (a) tax resident entities in Mexico and non-resident entities that, if they have a permanent establishment in Mexico, shall be taxed under Title II of the Income Tax Law, and (b) foreign residents that do not have a permanent establishment in Mexico shall be taxed under Title V of the Income Tax Law, with respect to income from sources of wealth in Mexico.

3. Title II of the Income Tax Law.

(a) Tax Income. The gross income of a company resident in Mexico includes all income received in cash, in kind, in services or in credit, as well as those coming from abroad, in the understanding that all operating income, passive income such as interest, royalties and rents, and capital gains are also part of the gross income.

The taxable income of a company is the result of subtracting costs, deductible expenses and investments, as well as tax losses incurred during the previous ten fiscal years, from the annual gross income. In general terms, income and expenses are recognized on an accrual basis.

The Income Tax Law specifies that it shall not be considered income obtained by a company, those arising from: (i) capital increase, (ii) payment of a loss by the stockholders, (iii) premiums obtained from the placement of shares issued by the company, (iv) use of the equity method for the valuation of its shares, and (v) those arising from the revaluation of its assets and capital.

(b) Deductions. The Income Tax Law establishes certain deductions, among others, the following: (i) returns, rebates or discounts, (ii) cost of sales, (iii) investments, (iv) bad debts and losses due to acts of God, force majeure or in certain cases due to disposal of assets, and (v) accrued interest for the year, without adjustments.

It should be noted that there are general requirements for deductions and some of them have specific and limiting requirements.

(c) Capital Profits. For Mexican resident companies, capital profits derived from the sale of fixed assets, shares and real estate are considered taxable income subject to the general rate of 30% (thirty percent).

Non-residents who carry out the sale of shares of Mexican entities are subject to IT at a rate of 25% (twenty-five percent) on the total amount of the transactions, or they may choose to pay 35% (thirty-five percent) on the gain if they have a legal representative in Mexico.

(d Dividend Distribution and Return of Capital. In addition to withholding taxes applicable to dividends, Mexican companies must keep a record of earnings that have been taxed with corporate income tax in a specific account known as Net Tax Income Account (*Cuenta de Utilidad Fiscal Neta or CUFIN*).

In essence, dividends or excess profits distributed from the balance of this account shall be subject to tax payment by the distributing entity. However, the tax paid may be offset either against the tax of the tax year in which it was paid or in the following two years.

Similarly, Mexican taxpayers are required to keep a record of the capital contributions received from their shareholders through the so-called Contribution Capital Account (*Cuenta de Capital de Aportación or* "CUCA"). Initially, capital reductions backed by the balance of this account could be delivered to the shareholders without an additional levy. However, when the amount of such reduction exceeds the balance of the CUCA, the difference shall be treated as a profit distribution for tax purposes, subject to the rules outlined in the preceding paragraph.

4. Title V of the Income Tax Law. Companies that make payments to non-residents of Mexico are required to withhold and pay the tax in favor of the Mexican tax authorities under certain circumstances. Companies in their capacity as withholders are required to file an annual tax return detailing the transactions carried out with foreigners in the immediately preceding year. Taxes withheld, as a general rule, must be paid

no later than the 17th day of the month following the month in which the transaction took place.

The withholders are responsible for the withholding and its payment to the tax authorities, otherwise they may be liable for the payment of interest and fines imposed by the tax authorities.

(a) Dividends. Mexico generally imposes a withholding tax of 10% (ten percent) on dividends distributed by a Mexican company to a non-resident entity in Mexico, which by virtue of an international treaty may consist of a withholding tax of a lower percentage. This withholding is considered as a definitive payment.

(b) Interest. Mexico establishes the following withholding tax rates on interest paid abroad of: (i) 10% (ten percent) to financial entities resident abroad, provided they comply with the requirements requested by the tax authorities; (ii) 4.9% (four point nine percent) on interest from debt securities placed among the general investing public and interest paid by financing entities resident abroad; (iii) 15% (fifteen percent) on interest paid to reinsurance companies; (iv) 21% (twenty-one percent) on interest that is not subject to the rates of 4.9% (four point nine percent) or 10% (ten percent), and those paid to non-resident suppliers, which finance the acquisition of machinery and equipment included in the company's fixed assets; and (v) 35% (thirty-five percent) in all other cases.

(c) Royalties. Payments made abroad for royalties, technical assistance or advertising shall pay the corresponding tax by applying to the income, without any deduction, the following rates: (i) 5% (five percent) for the temporary use or enjoyment of railroad cars, containers or trailers imported on a temporary basis and vessels with permission for their commercial exploitation; (ii) 25% (twenty-five percent) for technical assistance and in other cases different from the previous paragraph; and (iii) 1% (one percent) for royalties for the temporary use or enjoyment of airplanes with permission for their commercial exploitation, provided they are used directly by the lessee for transportation of passengers or goods.

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LEGAL SOLUTIONS

D. VALUE ADDED TAX LAW.

VAT is an indirect tax that is generated every time a good or service is purchased (with some exceptions), and it is imposed on any value added to the merchandise in the production process. This is done through the figure of the transfer, by which the taxpayer does not suffer any economic loss under the tax, since it is transferred to the person who provides a service or sells a good. Thus, the tax is borne by the final consumer.

Those who carry out the following acts or activities are subject to the payment of this tax: (a) sale of goods, (b) rendering of independent services, (c) leasing of goods, and (d) importation of goods or services.

1. General Rate. As a general rule, VAT must be calculated and paid by applying the rate of 16% (sixteen percent) to the taxable base. Exceptionally, a rate of 8% (eight percent) applicable to certain municipalities in border regions, and provided that the material delivery of goods or the rendering of services takes place in such border region, shall be applied.

2. 0% Rate. There are activities taxed at a 0% (zero percent) tax rate, such as: export of goods, sale of medicines and patented dietary products, books, newspapers and magazines edited by the taxpayers themselves, etc.

VAT on imports is calculated on the customs value of the imported good. Likewise, a 0% (zero percent) rate is applied to exports and services used abroad, if they are contracted and paid by a foreigner without a Permanent Establishment in Mexico.

3. Exemptions. The VAT Law establishes several exemptions, among which are the following:

(a) Exempt Transfers of Ownership. VAT shall not be paid on the transfer of ownership of, among others, land (real estate without buildings), constructions destined for housing, books, used personal property not sold by companies, tickets for contests, foreign currency, negotiable instruments, social units, gold bars, among others.

(b) Exempt Services. VAT shall not be paid for the rendering of, among other services, commissions for the granting of mortgage loans, those rendered free of charge, education, land public transportation rendered in urban areas, those derived from derivative financial operations, professional medical services, among others.

(c) Exempt Leases. VAT shall not be paid for the leasing of, among others, real estate destined exclusively for housing, farms destined for agricultural or livestock purposes, books, among others.

(d) Exempt Imports. VAT shall not be paid for, among others, the following imports, temporary imports, luggage, works of art, gold, among others.

4. Crediting. Finally, it is important to mention that companies may credit the VAT payments made against the VAT payable by them, in the event that a credit balance is generated, a refund may be requested.

VAT is payable no later than the 17th day of the month following the month to which the tax corresponds. The taxpayer shall pay the difference between the VAT he withheld and transferred (the one he collected) and the VAT he paid when acquiring goods and services necessary for the development of his activity.

E. EXCISE TAX ON PRODUCTION AND SERVICES LAW.

The IEPS is an excise tax levied on the production of certain goods and services. These goods and services generally cause social harm or their consumption is not wanted. In addition, like VAT, it is a tax that can be carried forward.

The IEPS applies to certain specific products and services such as the importation into Mexico and the sale, rendering of services, such as commission, sales promotion, agency, representation, consignment and distribution of certain specific goods in Mexican territory, such as alcoholic beverages and beers, tobacco, gasoline and diesel, with specific rates for each type of product.

Likewise, there is a special tax for high-caloric food of 8% (eight percent), which includes, among others, products such as snacks, ice cream, candy, among others.

Individuals and legal entities in Mexican territory that carry out any act or activity that is expressly taxable are required to pay the IEPS.

Imports into the country under a definitive import customs regime are also subject to IEPS. For such purpose, the tax is calculated taking into account the value used for purposes of the General Import Tax ("IGI") plus the amount of other taxes and duties payable on such importation, except for VAT.

The IEPS is paid no later than the 17th day of the month following the month to which the tax corresponds, except in the case of importation of goods, which is paid jointly with the IGI.

F. REGULATION OF THE PAYROLL TAX.

Payroll tax in Mexico is a charge on transactions corresponding to the payment of wages and benefits to workers. It is a state tax corresponding to employers that generate income in Mexico and pay benefits to their employees.

Thus, the rate that the employer has to calculate depends on the state in which it is located. Currently, this rate ranges between 2% (two percent) and 4% (four percent) of the salary and benefits, depending on each state. This tax must be paid by means of a sworn declaration that shall be filed before the 17th day of the month immediately following the month in which the payment is made.

The items to be included in the calculation of the payroll tax are: (a) salary, (b) overtime worked by employees, (c) any type of bonus or award, (d) sales commissions, (e) Vacation Bonus, (f) Christmas Bonus, (g) Seniority Premium, and (e) any other compensation paid to employees.

G. PROPERTY TAX REGULATION.

The owners and, in some cases, the possessors of real estate are obligated to pay this tax.

Each municipality shall specifically indicate the manner in which the cadastral value of the land shall be calculated, which may vary depending on whether there are buildings, whether the land is destined for housing or some other use, or whether the land is leased or not.

H. IMPORT TAXES.

In addition to the VAT and the tariff rates that may be applicable, individuals or companies importing goods into Mexico must pay import taxes. The rate applicable to imported goods is determined based on the commercial identification number of the tariff classifications set forth in the General Import and Export Taxes Law (*Ley de los Impuestos Generales de Importación y Exportación*) published in the Journal of the Federation (*Diario de la Federación)* on June 7, 2022 (the "Import and Export Tax Law"). Import taxes are not always applicable. Under the Customs Law, taxes and duties are determined based on the purpose of the transaction. In principle, import taxes are only levied on goods imported under the definitive import regime.

I. OTHER TAX OBLIGATIONS.

1. Report on Financial Statements. One of the most accessible ways for the tax authorities to verify the due compliance with the tax obligations of companies is the review of the report on the financial statements for tax purposes, which is issued by registered public accountants and where the disclosure that such accountants must make regarding possible tax offenses incurred by the companies stands out.

Companies resident in Mexico may choose to submit the tax report to the tax authorities, provided that (a) in the immediately preceding fiscal year they have obtained accumulable income in excess of $122 million pesos, (b) the value of their assets exceeds $97 million pesos, restated for inflation, or (c) at least 300 of their employees have rendered services in each of the months of the immediately preceding fiscal year.

Companies resident in Mexico that in the last immediately preceding fiscal year have obtained accumulable income equal to or greater than $1,650 million pesos, as well as those that, at the close of the immediately preceding fiscal year, have

shares placed among the general investing public in a stock exchange market, are required to file the tax report.

2. Information on the Tax Situation of the Taxpayer (ISSIF). As part of the tax report for the fiscal year, companies resident in Mexico must file the Information on their Tax Status when, among other assumptions, they have obtained, in the last immediately preceding fiscal year, accumulated income equal to or greater than $842 million pesos, restated; as well as those that, at the close of the immediately preceding fiscal year, have shares placed among the general investor public, in the stock exchange, and taxpayers that are related parties of the companies required to file a tax return.

Companies that have opted to file a tax report are not required to submit the information, nor are those that are required to file a tax report.

3. Disclosure of reportable schemes. The CFF establishes that both companies and their tax advisors are required to disclose 14 reportable schemes established in such law, which they design, commercialize, organize, implement or manage and that generate present or future tax benefits, and there is a threshold of $100 million pesos of tax benefit for the schemes not to be disclosed to the tax authority.

4. Controlling Beneficiary. In order to comply with international transparency standards, companies, as well as the contracting parties or members of any company, must obtain and keep as part of their accounting the information related to the controlling beneficiaries, as well as provide it to the SAT when it so desires, which in turn may be provided to foreign authorities upon request under an international treaty.

This obligation extends to notaries public and any person involved in the drafting or execution of contracts or legal acts that give rise to the incorporation of companies or the execution of trusts or any other figure, as well as to financial entities in the case of information related to financial accounts.

Controlling beneficiary is defined as the individual or group of individuals who directly or indirectly obtain a benefit derived from a company, trust or any other legal entity, or exercise control over such entities.

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LEGAL SOLUTIONS

J. INTERNATIONAL TREATIES.

Mexico has entered into multiple international treaties with the purpose of avoiding double taxation, which follow the model of the Organization for Economic Cooperation and Development ("OCDE"). These treaties establish different rules for the taxation of Permanent Establishments and income from sources of wealth in Mexico.

It is necessary to consider that, in order to obtain the benefits of the tax treaties, the beneficiary of the income must prove its residence in the corresponding jurisdiction and comply with the requirements established by each treaty according to the country in question and mention that Mexico has signed the "Multilateral Instrument for the Implementation of Measures Related to Tax Treaties to Prevent Tax Base Erosion and Profit Shifting" (*Instrumento Multilateral para la Implementación de Medidas Relacionadas con Tratados Tributarios para Prevenir la Erosión de la Base Fiscal y el Traslado de Utilidades*)("MLI"), which was ratified by the Mexican Senate on November 22, 2022. The MLI may become fully effective in Mexico, including the provisions related to withholding taxes, in January 2024 if the Mexican government deposits the instrument with the OECD by September 30, 2023.

Mexico currently has several tax treaties in place in accordance with the following:

(a) Convention on Mutual Administrative Assistance in Tax Matters and its Protocol, to which the following countries are parties: Argentina, Austria, Barbados, Bermuda, Colombia, Chile, Cook Islands, Ecuador, France, Germany, Greece, India, Ireland, Marshall Islands, Israel, Japan, Lebanon, Luxembourg, Morocco, Netherlands, Norway, Peru, Qatar, Samoa, Slovak Republic, Slovenia, South Africa, Thailand, Ukraine, USA and Venezuela;

(b) Multilateral Convention on the Implementation of Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, to which the following countries are parties: Aruba, Bahamas, Belgium, Brazil, Brazil, China, Egypt, Estonia, British Virgin Islands, Gibraltar, Hong Kong, Indonesia, Isle of Man, British Virgin Islands, Guernsey, Italy, Kuwait, Korea, Liechtenstein, Malaysia, Monaco, New Zealand, Pakistan,

Philippines, Poland, Romania, St. Lucia, Netherlands Antilles, Sweden, Turks and Caicos, United Kingdom, Uruguay and Vietnam.

(c) Convention for the Harmonization of Tax Treatment under Double Taxation Avoidance Agreements between the States Parties to the Pacific Alliance Framework Agreement, to which the following countries are party: Australia, Bahrain, Belize, Canada, Costa Rica, Czech Republic, Denmark, Finland, Guatemala, Hungary, Iceland, Iran, Cayman Islands, Iceland, Jamaica, Latvia, Lithuania, Malta, Nicaragua, Oman, Panama, Portugal, Saudi Arabia, Singapore, Spain, Switzerland, Turkey, United Arab Emirates, United Arab Emirates, United Kingdom, United States of America and Vanuatu. Czech Republic, Russia, Singapore, Switzerland, Turkey and Vanuatu.

V. FOREIGN TRADE MATTER.

A. GENERAL ASPECTS.

The legal framework of this section is (a) the Constitution, (b) international treaties, (c) the Import and Export Tax Law, (d) the Customs Law and its regulations, (e) the Foreign Investment Law, (f) the Foreign Trade Law and its regulations, (g) the Decree for the Promotion of the Manufacturing Industry, Maquiladora and Export Services Industry (the "IMMEX Decree"), (h) Decree Establishing Various Sector Promotion Programs (the "PROSEC Decree"), (i) Agreement by which the Ministry of Economy issues Rules and Criteria of a General Nature, in the Matter of Foreign Trade, as amended.

Mexico's adherence to free trade agreements is part of its overall strategy to increase the competitiveness of its economy and become a major player in world trade. The open economy strategy began in the mid-1980s with Mexico's accession to the General Agreement on Tariffs and Trade. Specifically, Mexico's FTAs ("FTAs") have enabled it to become one of the world's largest manufacturers of export goods.

B. IMPORT AND EXPORT

1. Imports in General. Mexican import controls have been considerably relaxed, but in recent years some control measures have been applied for certain sensitive sectors, such as steel, textiles and footwear. In Mexico, however, most products do not require prior import permits, and import duties have been

reduced. Duties are calculated based on the customs value of products imported into Mexico and may be reduced and/or deferred under applicable foreign trade programs enacted by the government. All tariff and non-tariff regulations applicable to merchandise upon import or export are determined based on the tariff classification of the merchandise in question. Therefore, an accurate tariff classification is crucial.

Import duties and non-tariff regulations and restrictions are determined based on the tariff classification ("HS" code of the Harmonized Commodity Description and Coding System) of the merchandise. The HS code of the merchandise is generally determined by the customs agent authorized by the SHCP considering the characteristics of the merchandise and the provisions of the Import and Export Tax Law.

Even though customs agents are authorized to process customs clearance of merchandise and *pedimentos* (i.e., import and export customs declarations), companies and individuals may process customs clearance and *pedimentos* without a customs agent if they are authorized to do so by the Mexican National Customs Agency ("ANAM") and if they have a customs legal representative.

2. Importers' Registry. In order to import into Mexico, it is required to be registered in the importers' registry issued by SAT (the "Importers' Registry"). For the importation of certain types of merchandise, such as: chemical products, cigarettes, footwear, textiles, hydrocarbons, steel products and automotive industry merchandise, among others, it is also necessary to be registered in the specific sectors of the Importers' Registry. The requirements to obtain registration in the specific sectors of the Importers' Registry depend on the applicable sector.

In order to obtain the Importers' Registry, the company must have an RFC, e-Signature, its fiscal domicile must appear as located in the SAT lists, and prove to be up to date in the fulfillment of its fiscal obligations, as well as indicate the license number of the customs agent or agents that shall process the company's imports.

It is advisable to sign an agreement with each of the customs agents, in order to have certainty as to their responsibilities and obligations.

3. Non-Tariff Regulations and Restrictions ("NTRs"). To import merchandise, it is also necessary to verify and, if applicable, comply with the applicable non-tariff regulations and restrictions, which include permits and notices prior to the importation of merchandise, sanitary, zoo sanitary, environmental permits and/or certificates, among others. In addition, it is important to consider whether the technical or commercial information of the Mexican Official Standards ("NOMS") is applicable. It is advisable to review this type of regulations prior to importation, since in most cases it is necessary to demonstrate compliance at the time of customs clearance.

The application of any NTRs or NOMS shall depend mainly on the HS code of the merchandise to be imported or exported. Once the HS code is determined, it is necessary to verify if there is any exception to the NTRs or NOMS, based on the different customs provisions.

C. CUSTOMS MATTER.

In general, the Customs Law regulates a series of activities and mechanisms related to foreign trade in order to facilitate and protect the operation of the customs system in Mexico.

This law establishes the authorized areas for customs clearance, i.e., to carry out the import or export of merchandise. It also establishes the format and documents necessary to carry out a foreign trade operation, i.e., the completion of the import or export customs declaration, according to the type of operation in question.

1. Customs Procedure. The customs procedure is the set of operations that are related to a specific customs destination of a merchandise according to the declaration presented by the interested party at customs. Its objective is to determine responsibilities and obligations when carrying out an international commercialization of merchandise.

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All merchandise entering or leaving the country need to be assigned to a customs procedure, through an official document specifying the intended use of the merchandise.

There are the following 6 customs regimes that have different objectives depending on the merchandise to be exported:

(a) Definitive Customs Regime. Definitive customs procedures are the most commonly used in Mexico and establish the conditions that exist and must be complied with in order to export or import. They oblige importers or exporters to pay the foreign trade taxes that may be incurred, as well as to comply with non-tariff regulations. Such definitive customs regimes may be for import or export:

(i) **Import**, which is considered when the merchandise of foreign origin are intended to remain in the country for an unlimited period of time and the general import procedure is carried out.

With respect to these types of customs regimes, it is important to take into account that, once the definitive importation of the merchandise in question is completed, it has the possibility of being able to return abroad, without the need to pay the IGE, for a period that cannot exceed 3 months (it can also be 6 months, in the case of some type of equipment and machinery).

(ii) **Export**, consists of the exit of merchandise from the national territory for an unlimited period of time. RFC is required, as well as to be in the Sectorial Exporters' Register if the merchandise are beverages with alcoholic content and beer, energy drinks, alcohol, denatured alcohol, uncrystallizable honeys and processed tobacco.

In this case the DTA must be paid. In the case of national (or nationalized) merchandise, it shall have the possibility of returning to the country, without the need to pay the general import tax when (i') the merchandise has undergone some type of modification abroad, or (ii') not more than one year has elapsed since it left the territory of origin.

(b) Temporary Customs Regime. Like the definitive customs procedures, temporary customs procedures are divided into two

categories, depending on whether they are an export or an import.

(i) **Import**, is when the merchandise that enters the country remains in the country for a limited time and for a specific purpose. The temporarily imported merchandise shall have the following characteristics: (i') foreign trade taxes and countervailing duties shall not be paid, except in certain cases, and (ii') they shall comply with the other obligations in regulations and non-tariff restrictions and formalities for the dispatch of the merchandise destined under this regime.

There are two forms of temporary importation: (i') merchandise that are returned abroad in the same condition in which they were imported (they must not undergo any alteration), and (ii') merchandise that undergo manufacturing, transformation or repair processes by companies that have the IMMEX Program.

Both options are exempt from the payment of foreign trade taxes and countervailing duties, except in the cases provided for in Articles 63-A, 105, 108, section III, 110 and 112 of the Customs Law.

(ii) **Export**, this regime is understood as the exit of merchandise from the country for a limited time and for a specific purpose, in this regime foreign trade taxes are not paid, but the obligations regarding regulations and non-tariff restrictions and formalities for the clearance of merchandise destined to this regime must be complied with.

There are two forms of temporary export: (i') to return to the country in the same state, that is, to return without any modification, and (ii') to undergo a transformation, repair or production process.

(c) Customs Regime of Tax Deposit. This is the storage of foreign or domestic merchandise in warehouses, which must be accredited by the customs authorities.

This merchandise may be withdrawn from such warehouse only under any of the following four conditions: (i) to be definitively imported, (ii) to be definitively exported, (iii) to be returned abroad or reincorporated into the domestic market, and (iv) to be temporarily imported by maquiladoras or

companies with export programs authorized by the Ministry of Economy.

This regime allows in times of insecurity, uncertainty or external risks the postponement of the choice of the customs regime to be assigned to the goods. This allows the goods to be kept in storage for the necessary time, respecting the expiration date of the storage contract and making the corresponding payment for the service.

In the event that this type of regime is to be used, the tariff fractions must be reviewed in advance, since there are certain merchandise that cannot be destined to this type of regime, such as arms, ammunition or explosives.

When goods are required to be removed from the warehouses, in whole or in part, it is important that a customs regime other than the tax deposit be assigned, the corresponding taxes be paid, and the non-tariff rules and restrictions of the selected regime be complied with.

The tax deposit regime is applied once the foreign trade taxes and countervailing duties have been determined.

(d) Customs Regime for Transit of Merchandise. This type of customs regime is divided into internal or international and consists of the transfer of merchandise from one national customs office to another. All under fiscal control.

(i) **Internal**, is the transfer of merchandise under fiscal control from one national customs office to another. The transit of merchandise is considered to be internal when it is carried out according to the following assumptions: (i') the customs of entry sends the merchandise of foreign origin to the customs that shall be in charge of the clearance for their import; and (ii') the customs of clearance sends the national or nationalized merchandise to the customs office of exit, for their export.

In the case of (i') imports, the customs office through which the foreign merchandise enter the country shall allow them to be transferred within the country to another customs office that shall be in charge of the clearance, and (ii') export, the customs office of clearance shall be in charge of sending the national merchandise to the customs office of exit

for exportation, both customs offices located in the same territory.

(ii) **International**, is the transfer of merchandise under fiscal control from one international customs office to another, but crossing through our country. The transit of international merchandise is valid as long as one of the following cases is involved: (i') the entry customs office sends to the exit customs office the foreign merchandise arriving to national territory with destination abroad, and (ii') the national merchandise is moved through foreign territory to return to its destination in national territory.

(e) Customs Regime for Manufacturing, Transformation or Repair in Fiscal Precint. The regime of elaboration, transformation or repair in bonded warehouse consists of the introduction of foreign or national merchandise, to such warehouse for its elaboration, transformation or repair, to be returned abroad or to be exported, respectively.

In no case may the merchandise destined for this procedure be removed from the bonded warehouse if it is not for its return abroad or export.

When this customs procedure is used, merchandise coming from abroad shall be subject to the payment of general import taxes in the cases provided for in article 63-A of the Customs Law and the countervailing duties applicable to this procedure. The IGI must be determined when the merchandise is destined to this regime.

There are cases of certain merchandise that cannot be destined under this type of regime, such as petroleum products.

(f) Customs Regime of Strategic Fiscal Precint. It is a property located within the jurisdiction of any customs office, owned by a private individual, which is enabled for the introduction of merchandise under the customs regime called strategic bonded warehouse.

This regime allows the introduction of foreign, national or nationalized merchandise for unlimited time for handling, storage, custody, exhibition, sale, distribution, processing, transformation, or repair and courier services, with the benefit of not paying foreign trade taxes or countervailing

duties, as well as compliance with non-tariff regulations and restrictions, except for foreign merchandise.

The difference between the fiscal precinct and the strategic fiscal precinct is that the latter is authorized to carry out the same activities as the fiscal precinct, only that it is located in strategic zones for the companies or interested parties.

With respect to foreign merchandise or goods destined to this type of regime, they may remain for up to two years in strategic fiscal precint.

2. Customs Duties and Other Applicable Taxes. In order to carry out the customs clearance, it is indispensable to pay the taxes related to customs, which may be, among others, (a) the IGI, (b) the General Export Tax ("IGE"), (c) the Customs Processing Duty ("DTA"), (d) the VAT, (e) IEPS, (f) Antidumping Duties, and (g) Countervailing Duties, depending on the merchandise in question.

(a) IGI. It is the tax that must be paid for the internment of goods and services into Mexican territory, in accordance with the rates established by the laws and international treaties entered into by Mexico.

(b) IGE. Mexico's open trade policy exempts most merchandise from export taxes. However, there are cases of products derived from animals or plants where taxes are applied, mainly in the case of endangered and protected species.

(c) DTA. It is the payment that companies have to make for the use of customs facilities, as well as the services they offer through their authorities. The DTA has different applicable rates, the most common being 0.008% (zero point zero zero zero eight percent) of the value of the merchandise to be imported, seizure, however, in some cases a fixed amount may apply.

(d) VAT. The general import VAT rate is 16% (sixteen percent) on the customs value of the merchandise, plus VAT and countervailing duties when applicable to the merchandise.

(e) IEPS. The IEPS rate to be paid shall depend on the HS code of the merchandise to be imported.

D. FREE TRADE AGREEMENTS.

FTAs offer more than preferential access to tariffs, they also provide companies with the ability to predict the treatment of their products and services, as well as their investments in the destination country. FTA provisions include National Treatment for the other party's goods and investments, as well as Most Favored Nation Treatment for its goods and services. FTAs also eliminate performance requirements by eliminating the need to comply with domestic or export content requirements.

In the area of investment, Mexico's FTAs provide for the free transfer of capital without restrictions and reimbursement in the event of expropriation, as well as the creation of dispute settlement mechanisms that constitute a solid guarantee of the administration of justice. Some of Mexico's FTAs include intellectual property rights protection, antitrust provisions and improved thresholds for government procurement. In addition, FTAs often require the standardization of customs documents, making import and export transactions faster and more efficient.

Currently, Mexico has 13 (thirteen) FTAs in force that give it preferential access to 50 (fifty) countries, among them: United States and Canada through the new free trade agreement signed between Mexico and the aforementioned countries; Colombia and Venezuela in 1995 (only Colombia since 2006); Chile in 1999; Israel in 2000; the European Union in 2000; Norway, Switzerland, Iceland and Liechtenstein in 2001; Uruguay in 2004; Japan in 2005; Peru in 2012; Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua in 2012 and 2013 ; Panama in 2015, as well as the Pacific Alliance: Chile, Colombia and Peru in 2016. In addition to the above, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, was already signed by Mexico, and now Mexico shall have preferential access to import from and export to: Australia, Brunei, Darussalam, Canada, Chile, Japan, Malaysia, New Zealand, Peru, Singapore and Vietnam in 2018.

It is important to mention that as a result of the United Kingdom's exit from the European Union, Mexico and the United

Kingdom entered into a Continuing Trade Agreement whereby both parties maintain the preferential trade regime currently in place under the Free Trade Agreement with the European Union while a new one is being negotiated. In addition, it is expected that Mexico shall continue to seek to strengthen its trade relations with other countries.

In addition to the FTAs, Mexico is party to multiple Reciprocal Protection and Promotion of Investment Agreements ("APRIS"). These agreements protect investments made by investors from the signatory countries.

Mexico has signed APPRIS in Latin America and the Caribbean with Argentina, Cuba, Panama, Trinidad and Tobago, Haiti and Uruguay; in Asia and Oceania with Australia, China, South Korea, India and Singapore; in the Middle East with Bahrain and Kuwait; in Europe with Austria, Belarus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Netherlands, Portugal, Slovakia, Spain, Sweden, Switzerland, Turke, United Kingdom and the Belgium-Luxembourg Union.

The FTAs that include an investment chapter are with Australia, Austria, Belgium, Brunei, Canada, Central America (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua), Chile, Colombia, Darussalam, Denmark, Finland, France, Germany, Greece, Japan, Ireland, Italy, Iceland, Liechtenstein, Luxembourg, Malaysia, Norway, Netherlands, New Zealand, Panama, Peru, Portugal, Spain, Sweden, Switzerland, Singapore, United Kingdom, United States, Uruguay and Vietnam.

1. Tariff Preference. For many years, FTAs have established great benefits and opportunities for the commercialization of products, representing competitive advantages for the partners involved. One of them is the application of tariff preferences, i.e., paying less than the rest of the trading partners to exchange goods between those that are part of an FTA.

The application of these preferences occurs when it is demonstrated that the merchandise being imported originates in the FTA countries.

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If the parameters established in the rules of origin are met, then the merchandise can be considered as originating and the importer obtains the right of tariff preference.

From a practical point of view, the application of preferential tariff treatment has among the most important benefits the application of preferential rates at the time of importation, that is to say, there shall not be a general rate for IGI, for DTA, and in a certain way, there is also a reduction in the payment of VAT at the time of importation.

2. **Free Trade Agreement between the United Mexican States and the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua ("TLCTN")**. The TLCTN is comprised of 21 chapters ranging from general provisions (objectives and definitions), market access, technical restrictions to trade, trade in services and administration of the TLCTN.

The chapters that regulate market access for goods include: national treatment and market access for goods, the agricultural sector, sanitary and phytosanitary measures, rules of origin, customs procedures for handling rules of origin, safeguard measures and investment. The most important aspects of these are:

(a) National Treatment and Market Access for Goods. National treatment means that all goods entering one of the parties shall be treated in the same way as domestic goods. This principle is one of the central elements of the TLCTN and defines to a large extent the reciprocal nature of trade relations. It also states that no foreign goods, once brought into the other country, shall be subject to discrimination of any kind. Regarding the access of goods to the market, it shall be done through a tariff reduction program that shall progressively eliminate tariffs. On the other hand, it is prohibited to maintain or adopt restrictions on exports and imports, as well as customs duties on services rendered by them. As for the institutional framework, the Committee on Trade in Goods is established as a consultative body.

The agreement establishes a differentiated time horizon for the removal of tariff barriers to trade that restrict the mobility of goods between countries. The process should lead to the creation of a free trade zone between the signatory countries.

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LEGAL SOLUTIONS

(b) Agricultural Sector. In the case of agricultural goods, access shall be in accordance with the tariff reduction program. The treaty provides that no non-tariff measures may be adopted for the import and export of agricultural products; it should be noted that, in the case of these goods, it was agreed that domestic support measures may be adopted for the sector, but these shall be in such a way that they have minimal or no effect on trade and production. It is also established that after 5 years of the TLCTN in force, the parties shall not be able to apply subsidies to exports, thus establishing a special agricultural safeguard and creating the Agricultural Trade Committee. Regarding the latter, it is defined as a consultation forum that makes recommendations only.

(c) Rules of Origin. These comprise the set of rules for the determination of the origin and content of the merchandise traded between the parties. In such a way that the benefits of the treaty shall be only for the goods of the parties that integrate the TLCTN.

Under the TLCTN a good shall be considered originating when it meets any of the following requirements: (i) it is wholly obtained or produced entirely in the territory of one or more of the parties; (ii) it is produced in the territory of one or more of the parties exclusively from materials that qualify as originating in one or more of the parties and complies with the other applicable provisions; (iii) it is produced in the territory of one or more of the parties from non-originating materials that comply with a change in tariff classification and complies with the other applicable provisions; (iv) is produced in the territory of one or more of the Parties and complies with a regional value content requirement and complies with the other applicable provisions; and (v) is produced in the territory of one or more of the Parties, but one or more of the non-originating materials used in the production of the good does not comply with a change in tariff classification, except for certain types of goods, and complies with the other applicable provisions.

In order for preferential tariff treatment to be granted to a good under this treaty, the importer must request it in writing through the corresponding form.

(d) Customs Procedures. The customs procedures for the handling of the origin of the merchandise are established, in such a way that it is sought to homogenize such procedures between the parties. The parties shall develop a single format for the certification and declaration of origin. The procedure for verifying origin is also described.

(e) Safeguard Measures. The rules for the adoption of safeguard measures are established, which are measures to be applied when imports have grown at a rate that causes serious damage or threatens to do so. Bilateral safeguards shall be of tariff type, up to 3 (three) years after the end of the tariff reduction program may be applied. These measures may be applied for up to 4 (four) years, extendable for a period of one year. In general, the safeguard measures seek to establish clear rules regarding the treatment that the parties shall grant to the goods and their access, the measures aimed at the protection of health, human and animal life, the content of the goods and the procedures to determine it, and the measures aimed at providing support and temporary protection to domestic producers affected by substantial increases in imports.

(f) Investment. Each Party shall grant to investors of the other Party and to their investments, treatment consistent with international law, including fair and equitable treatment, as well as protection and legal certainty within its territory, and, in addition, each Party shall grant to an investor of a Party and to the investment of an investor of a Party, treatment no less favorable than that it grants, in similar circumstances, to its own investors and to the investments of such investors with respect to the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of investments.

E. EXPORT PROMOTION PROGRAMS.

The export promotion programs (the "Promotion Programs") are aimed at promoting productivity and the quality of processes that increase the competitiveness of companies and allow their adequate incorporation into the world market. The above, based on the reduction of tariff charges for inputs, parts and components to be incorporated into the export product and the simplification of administrative procedures by the federal government.

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LEGAL SOLUTIONS

Among the Promotion Programs are the following: (a) the IMMEX Program, (b) Highly Exporting Companies (the "ALTEX Program"), and (c) Sectorial Promotion Programs (the "PROSEC Program").

1. IMMEX Program. It is an instrument that allows the temporary import of goods necessary to be used in an industrial or service process for the manufacturing, transformation or repair of merchandise of foreign origin temporarily imported for export or for the rendering of export services, without paying the general import tax, the value added tax and, if applicable, the countervailing duties.

This instrument integrates the programs for the Promotion and Operation of the Maquiladora Export Industry (Maquila) and the one that Establishes Temporary Import Programs to Produce Export Articles (PITEX), whose companies together represent 85% of Mexico's manufacturing exports.

The validity shall be subject to the holder's continued compliance with the requirements established for its granting and with the obligations set forth in the IMMEX Decree.

The procedures related to the IMMEX Program are free of charge and may be carried out at the public service offices of the federal representative offices of the Ministry of Economy that correspond to the domicile of the plant where the production process or service is carried out.

(a) Beneficiaries. Companies engaged in manufacturing operations and export services, residing in Mexican territory.

(b) Benefits. The IMMEX Program offers its holders the possibility of temporarily importing free of import taxes and VAT, the goods necessary to be used in an industrial or service process for the manufacturing, transformation or repair of merchandise of foreign origin temporarily imported for export or for the rendering of export services.

These goods are grouped under the following categories: (i) raw materials, parts and components that are to be totally destined to integrate export merchandise; fuels, lubricants and other materials to be consumed during the productive process of the export merchandise; containers and packaging; labels and brochures; (ii) containers and trailer boxes; and

(iii) machinery, equipment, tools, instruments, molds and spare parts destined to the productive process; equipment and apparatus for pollution control, research or training, industrial safety, telecommunication and computing, laboratory, measuring, product testing and quality control; as well as those involved in the handling of materials directly related to the export goods and others related to the production process; equipment for administrative development.

(c) Modalities. (i) Controlling companies, when in the same program the manufacturing operations of a certified company called controlling company and one or more controlled companies are integrated; (ii) Industrial, when an industrial process of elaboration or transformation of merchandise destined for export is carried out; (iii) Services, when services are performed to export merchandise or export services are rendered, only for the development of the activities that the Ministry determines, prior opinion of the Ministry of Finance and Public Credit (SHCP); (iv) Hosting, when one or more foreign companies provide the technology and productive material, without the latter directly operating the Program, and (v) Outsourcing, when a certified company that does not have facilities to carry out productive processes, carries out manufacturing operations through third parties registered in its program.

(d) Time Periods of Permanence. Goods temporarily imported under an IMMEX Program may remain in Mexican territory for the terms established in Article 108 of the Customs Law. For the merchandise included in Echibits II and III of the IMMEX Decree, when imported as raw material, the term of permanence shall be up to twelve months. In the case of the merchandise included in Exhibit III of the IMMEX Decree, when imported as raw material, only when they are destined to activities under the modality of services, the term of permanence shall be of up to 6 (six) months. The merchandise indicated in Exhibit I of the IMMEX Decree can not be imported under the Program.

(e) Commitments. In order to enjoy the benefits of an IMMEX Program, the terms established in the relevant Decree must be complied with. The authorization of the program shall be granted under the commitment to make annual sales abroad for a value greater than $500,000 dollars of the United States of America, or its equivalent in national currency, or to

invoice exports for at least 10% (ten percent) of its total invoicing.

(f) Suspension of the IMMEX Program. If activities are suspended, a request for the temporary suspension of the benefits granted by the IMMEX Program must also be made, by submitting a written document explaining the reasons for the suspension (original and copy).

(g) Cancellation of the IMMEX Program. If it is decided to terminate the IMMEX Program, a written document must be submitted for its cancellation (original and copy).

2. ALTEX Program. The ALTEX Program is an instrument for the promotion of exports of Mexican products, aimed at supporting their operation through administrative and fiscal facilities.

As a result of the agreement between the Ministry of Economy and the SHCP, which is considered one of the most important achievements of this program, the Highly Exporting Companies ("ALTEX") obtain the refund of VAT balances in favor of exports in a short period of time. In addition, this program offers other benefits, including free access to the Commercial Information System.

The ALTEX certificate (document that accredits the holders of this program) is valid indefinitely as long as the holder submits its annual report on time and complies with the requirements and commitments established.

(a) Beneficiaries. Companies (i) established in the country producing non-oil merchandise that demonstrate direct exports for a value of $2 million dollars or equivalent to 40% (forty percent) of their total sales, in the period of one year, (ii) established in the country producing non-oil merchandise that demonstrate annual indirect exports equivalent to 50% (fifty percent) of their total sales, (iii) of foreign trade, with current registration issued by the Ministry of Economy, and (vi) direct and indirect exporters may comply with the export requirement of 40% (forty percent) or $2 million dollars, adding the two types of exports.

(b) Benefits: (i) refund of VAT credit balances within a short period of time, (ii) free access to the Commercial

Information System, (iii) exemption from the requirement of second review of export merchandise at the customs office of departure when the merchandise has been previously cleared through an inland customs office, (iv) the power to appoint a customs proxy for several customs offices and different products.

(c) Commitments. Demonstrate compliance with the minimum export requirements and submit the annual report of foreign trade operations in a timely manner.

3. PROSEC Program. This is an instrument aimed at legal entities that produce certain merchandise, through which they are allowed to import with preferential ad-valorem tariff (General Import Tax) various goods to be used in the production of specific products, regardless of whether the merchandise to be produced is destined for export or for the domestic market.

The term of the programs shall be annual and shall be automatically renewed once the producers submit the annual report of the operations carried out under the program, as referred to in Article 8 of the PROSEC Decree.

(a) Beneficiaries. The beneficiaries of the PROSEC Program are the legal entities that manufacture the merchandise referred to in Article 4 of the PROSEC Decree, using the goods mentioned in Article 5 of the PROSEC Decree.

(b) Benefits. The legal entities that manufacture the merchandise referred to in Article 4 of the PROSEC Decree may import with the preferential ad-valorem tariff specified in Article 5 of the PROSEC Decree, several goods to be incorporated and used in the production process of the merchandise mentioned.

The goods to be imported and the merchandise to be produced are grouped by sector as follows: (i) Electrical Industry, (ii) Electronics Industry, (iii) Furniture Industry, (iv) Toy, Recreational Games and Sporting Goods Industry, (v) Footwear Industry, (vi) Mining and Metallurgical Industry, (vii) Capital Goods Industry, (viii) Photographic Industry, (ix) Agricultural Machinery Industry, (x) Miscellaneous Industries, (xi) Chemical Industry, (xii) Rubber and Plastic Manufacturing Industry, (xiii) Iron and Steel Industry, (xiv) Pharmaceuticals, Drugs and Medical Equipment Industry, (xv)

Transportation Industry, except the Automotive Industry Sector, (xvi) Paper and Cardboard Industry, (xvii) Wood Industry, (xviii) Leather and Fur Industry, (xix) Automotive and Auto Parts Industry, (xx) Textile and Apparel Industry, (xxi) Chocolate, Confectionery and Similar Industries, (xii) Coffee Industry, and (xiii) Food Industry

The benefits of the program are only with respect to the goods to be imported contained in the sector in question, i.e., for the production of a merchandise, a good contained in a different sector may not be imported.

(c) Time Periods of Permanence. When the importation of the goods is carried out (i) additionally using an IMMEX program, they may remain in Mexican territory for the terms established in Article 108 of the Customs Law, and (ii) under the definitive import regime, they may remain indefinitely. In both cases, the holder of a PROSEC Program must use the imported merchandise for the manufacture of the merchandise included in the sectors authorized.

(d) Commitments. In order to enjoy the benefits of a PROSEC Program, the terms established in the PROSEC Decree and in the writ of authorization of the program must be complied with.

VI. MIGRATION MATTER.

A. GENERAL ASPECTS.

Foreigners must apply for the following types of Mexican visas, which are granted within 10 (ten) business days, depending on the activities they intend to carry out during their stay in Mexico:

1. Visitor's Visa without Permission to Perform Remunerated Activities. This visa authorizes the foreigner to present himself at any place destined for the international transit of persons and request his entry into national territory, with the purpose of staying for an uninterrupted period of no more than 180 (one hundred and eighty) days, counted from the date of entry, without permission to carry out activities subject to remuneration in the country. To apply for this visa it is required: (a) application form duly

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LEGAL SOLUTIONS

completed and signed, (b) valid passport or identity and travel document in accordance with international law, (c) 1 photograph, (d) document proving economic solvency, (e) document proving legal stay (only applies to nationals of the country from which the visa is requested), and (f) payment of fees, which currently is approximately $51.00 U.S. dollars.

2. **Visitor's Visa with Permission to Perform Remunerated Activities**. This visa authorizes the foreigner to present himself at any place destined for the international transit of persons and request his entry into national territory, with the purpose of staying for an uninterrupted period of no more than 180 (one hundred and eighty) days, counted from the date of entry and to carry out remunerated activities. To apply for this visa it is required: (a) application form duly completed and signed, (b) valid passport or identity and travel document in accordance with international law, (c) authorization from the National Immigration Institute, (d) 1 photograph, (e) document proving legal stay (only applies to nationals of the country from which the visa is requested), and (f) payment of fees, which is (i) approximately $51.00 U.S. dollars for the issuance of a visa in a foreign passport, and (ii) approximately $254.00 U.S. dollars for the issuance of the migratory document that certifies the status of visitor with permission to carry out remunerated activities.

3. **Temporary Residence Visa**. This visa authorizes the foreigner to present himself at any place destined for international transit of persons and request his entry to national territory, with the purpose of staying for a period of no more than 4 (four) years. In order to apply for this visa, the following is required: (a) application form duly completed and signed, (b) passport or identity and travel document in force according to international law, (c) 1 photograph, (d) document proving economic solvency, (e) document proving legal stay (only applies to nationals of the country from which the visa is requested), and (e) payment of fees, which currently is approximately $51.00 US dollars.

It is important to take into account that the specific immigration regime of investor no longer exists in the applicable legislation, and it is now equated to temporary resident.

RRQB
LEGAL SOLUTIONS

4. Permanent Residence Visa. This visa authorizes the foreigner to present himself/herself in any place destined for international transit of persons and request his/her entry to the national territory, with the purpose of staying indefinitely. In order to apply for this visa, the following is required: (a) application form duly completed and signed, (b) valid passport or identity and travel document in accordance with international law, (c) 1 photograph, (d) document proving economic solvency, (e) document proving legal stay (only applies to nationals of the country from which the visa is requested), (f) payment of fees, which currently is approximately $51.00 US dollars.

VII. INTELLECTUAL PROPERTY MATTER.

A. GENERAL ASPECTS.

The Mexican intellectual property system is divided into industrial property and copyrights. Industrial property is regulated by the Federal Law for the Protection of Industrial Property, and regulates, among others, (i) trademarks, (ii) patents, (iii) utility models and industrial designs and their licensing, (iv) trade secrets, (v) advertisements and trade names and their licensing. Copyrights are regulated by the Federal Copyright Law.

The competent authorities in Mexico for intellectual property matters are the Mexican Institute of Industrial Property ("IMPI") and the National Copyright Institute.

Mexico is a party to several international treaties on intellectual property and copyrights, such as (i) the Paris Convention for the Protection of Industrial Property, (ii) the Agreement on Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization, (iii) the Madrid Protocol, among others. These provide standards of protection similar to those of most developed countries, with specific laws and regulations governing intellectual property in Mexico.

B. TRADEMARKS.

The registration for exclusive use of a distinctive sign and the protection of trademarks in Mexico is processed before the IMPI. In Mexico, the use of a trademark is not indispensable

to obtain its registration, so it is advisable that any investor, as a foreign company that shall be established in Mexico, file as soon as possible its trademark registration applications to ensure its protection before starting operations in Mexico.

Trademarks, by virtue of the Nice Agreement to which Mexico is a party, are classified according to the International Classification of Goods and Services for the registration of trademarks.

The approximate time to obtain the registration of a trademark in Mexico is up to six months and has a cost of approximately $2,695.18 (two thousand six hundred ninety-five pesos 18/100 M.N.) plus VAT. There is a possibility that the Mexican Institute of Industrial Property may reject the application, mainly if it considers that it is similar to an existing trademark, this resolution may be appealed. Once the trademark registration is obtained, it must be used with the legend "*Marca Registrada*", the abbreviation "*MR*" or the symbol "®".

The owners of a trademark may transfer or license it. Any transfer of trademark rights must be registered before the Mexican Institute of Industrial Property in order to be effective against third parties. On the other hand, it is no longer necessary to register trademark license agreements, but it is advisable to do so.

The owners of a trademark in Mexico must declare the real and effective use of the trademark within 3 (three) months after the 3 (three) years after the registration has been granted. Failure to file such declaration shall result in the expiration of the trademark registration. Trademarks are valid for periods of 10 years, extendable for subsequent equal periods.

C. PATENTS.

The Federal Law for the Protection of Industrial Property stipulates that inventions in all fields of technology that are new, the result of an inventive activity and susceptible of industrial application are patentable.

The law determines that the following are not patentable: (i) inventions whose commercial exploitation is contrary to public order or contravenes any legal provision, (ii) plant varieties and animal breeds, except in the case of microorganisms, (iii) essentially biological processes for obtaining plants or animals and the products resulting from these processes, (iv) methods of surgical or therapeutic treatment of the human or animal body and diagnostic methods applied to them, (v) the human body in the different stages of its constitution and development, as well as the simple discovery of one of its elements, including the total or partial sequence of a gene.

The time to obtain the patent title depends on how the registration procedure is developed and has a cost of approximately $4,550.00 (four thousand five hundred and fifty pesos 00/100 M.N.) plus VAT for each 30 (thirty) pages and for each additional page approximately $61.00 (sixty one pesos 00/100 M.N.) plus VAT.

The owners of a patent may license or transfer it. Any transfer of patent rights must be registered with the Mexican Institute of Industrial Property in order to be effective against third parties. Patents are valid for a period of 20 years without extension.

D. INDUSTRIAL SECRETS

The Federal Law for the Protection of Industrial Property defines industrial secrets as any information of industrial or commercial application kept confidential by the person exercising its legal control, which means obtaining or maintaining a competitive or economic advantage over third parties in the performance of economic activities and with respect to which it has adopted sufficient means or systems to preserve its confidentiality and restricted access to it.

Pursuant to applicable law, information that is in the public domain, that is generally known or easily accessible to persons within the circles in which such information is normally used, or that must be disclosed by law or court order, is not considered an industrial secret.

Disclosure of secrets is a crime in Mexico.

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LEGAL SOLUTIONS

E. COPYRIGHT.

Copyright in Mexico is the recognition made by the Mexican State in favor of all creators of literary and artistic works by virtue of which it grants protection so that the author enjoys exclusive prerogatives and privileges of a personal and patrimonial nature.

Copyright is recognized regarding works of the following branches: (i) literary, (ii) music, (iii) drama, (iv) dance, (v) painting or drawing, (vi) sculpture or plastic character, (vii) cartoons and comics, (viii) architectural, (ix) cinematographic and other audiovisual works, (x) radio and television programs, (xi) computer programs, (xii) photographic, (xiii) works of applied art, and (xiv) compilations.

The following, among others, are not subject to copyright protection: (i) ideas in themselves, formulas, solutions, concepts, methods, systems, principles, discoveries, processes and inventions of any kind, (ii) industrial or commercial exploitation of ideas contained in works, (iii) isolated letters, digits or colors, unless their stylization is such as to convert them into original drawings, (iv) isolated names and titles or phrases (v) unauthorized reproductions or imitations of coats of arms, flags or emblems of any country, state, municipality or equivalent political division, or the names, acronyms, symbols or emblems of international governmental or non-governmental organizations, or of any other officially recognized organization, as well as the verbal designation thereof.

Copyrights do not require registration to guarantee their protection, even though the copyright law establishes a procedure to register works in Mexico. For protection, it is recommended to register copyrights, since this may be presented as evidence in any litigation.

Copyright infringement is a crime in Mexico.

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LEGAL SOLUTIONS

VIII. REAL ESTATE MATTER.

A. GENERAL ASPECTS.

One of the most important decisions a company must make when investing in Mexico is to determine where to establish its offices and/or industrial facilities.

In order to make the right decision it is very important to know the applicable legislation for both the acquisition and leasing of real estate. In addition, it is essential to know what authorizations must be obtained to install the type of business or industry in the place chosen to locate the office or industrial building.

In Mexico, real estate transactions are generally governed by the Civil Code of each state and by other local laws of the jurisdiction where the real estate in question is located, including, but not limited to, those corresponding to urban development, construction and environmental matters. Real estate transactions in Mexico are mainly subject to civil law and may only be subject to commercial law governed by the federal Commercial Code, when the main corporate purpose of the parties is the commercialization of real estate. It is important to mention that each state, and even each municipality, enacts its own regulations, decrees, ordinances and normative bodies and that these have a substantial similarity as to their content.

B. ACQUISITION OF REAL ESTATE.

As stated above in the section on Foreign Investment, there are several restrictions on the acquisition of real estate by foreign individuals, foreign companies and Mexican companies with foreign investment.

1. <u>Recommendations for Real Estate Acquisition</u>. To acquire real estate, the buyer must:

(a) <u>Review the Property Title</u>. The property title shall be registered before the corresponding Public Registry of Property.

(b) Free of Liens. Confirm at the local Public Registry of Property that the property is free of liens and/or encumbrances by obtaining a free of liens certificate.

(c) Writ of Location of Land. In the case of any acquisition of Land in rural areas, it is indispensable to verify in the National Agrarian Registry that the Land to be acquired is not subject to the Mexican agrarian regime (*ejido*) according to agrarian regulations.

(d) Land Use Licenses. Check that the Land, in accordance with local zoning ordinances, has the appropriate land use license required by the buyer to carry out its activities. Zoning classifications vary from town to town, however, they are mainly divided into the following types:

(i) **Residential**, generally only residential housing are allowed in this zone;

(ii) **Commercial**: This zone generally allows the establishment of all types of businesses, such as stores, restaurants and banks;

(iii) **Industrial**, All types of industry are allowed in this zone. It is important to note that there are usually several types of industrial use, such as heavy or light industry.

(e) Property Tax Payment. Request (i) property tax payment receipts for the last five years, in order to guarantee that there are no outstanding amounts to be paid for such concept, and (ii) a certificate of no property tax debt issued by the local tax authority;

(f) Utility Payments. Request (i) utility payment receipts for the last five years, to ensure that there are no outstanding amounts due, and (ii) a certificate issued by the utility companies confirming that there are no outstanding amounts due to the utility companies;

(g) Water Services. Confirm that the property has sufficient water for production processes. If there is a well, verify that it is legal according to the applicable water legislation and is up to date in the payment of the corresponding fees;

(h) Electrical Power. Make sure that there are enough KVAs in a nearby substation; that the federal commission of electricity (*Comisión Federal de Electricidad)* will have the feasibility of connecting electric power to the industrial plant in question or, if applicable, that the capacity of the industrial park is sufficient for the company's purposes.

(i) Other Services. Confirm that the infrastructure for the other required services is duly installed and obtain the corresponding feasibility letters from the supply companies.

(j) Topographic Survey. Perform a topographic survey of the land and request a site plan to confirm that the total area of the Land and its measurements and boundaries coincide with the lot described in the public deed in which the title to the property is recorded;

(k) Soil Contamination. Take soil samples to confirm that there is no contamination;

(l) Property Dispositions. If the property is within an industrial park or subject to a condominium property regime, carefully review the industrial park or condominium regulations and check the amount to be paid for maintenance fees.

In accordance with the applicable legislation in each of the states of the Mexican Republic, the purchase and sale of real estate shall be recorded in a public deed and filed with the local Public Registry of Property.

C. CONSTRUCTION CONTRACTS

In the event that any investor requires the construction of its industrial building and hires the services of a construction company, it must enter into a construction contract, preferably at a lump sum price, with said company.

Companies usually design their industrial plants internally or through an external design services company through an architectural or design services contract. Companies also usually hire the services of management companies to supervise the construction work. Notwithstanding the above, there are Mexican construction companies that have the capacity to carry out all these works in an integral manner.

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LEGAL SOLUTIONS

1. Recommendations for Construction Contracts. In any of the cases, it is important to take care of the following aspects:

(a) Price. Fix the price, agree on the down payment and other payments, and retain a portion of the price until final delivery of the work.

(b) Dates. Determine dates, if any, for charitable occupancy and final delivery.

(c) Penalties. Agree on penalties for the construction company in case of failure to deliver the work on time.

(d) Guarantees. Negotiate appropriate guarantees on the quality of the works.

(e) Surety. In Mexico it is very common to obtain advance payment, performance and hidden defects surety from construction companies.

(f) Labor Obligations. Ensure that the constructor makes all corresponding payments to IMSS, INFONAVIT and Retirement Savings System (*Sistema del Ahorro para el Retiro)*; otherwise, the owner may be held jointly and severally liable.

D. REAL ESTATE LEASING IN MEXICO.

1. Recommendations for a Lease. As for the acquisition, before leasing any property it is important to verify the following:

(a) Land Use. That the property has the required zoning to be able to install the business or engage in the desired activities.

(b) Utilities. That the property has access to the utilities that lessee requires to operate its business.

(c) Title Deed. That the person claiming to be the owner of the property proves it.

(d) Property Dispositions. If the property is subject to a subdivision or condominium regime, it is important to review

the guidelines that apply to the property, as well as the guidelines for the payment of maintenance fees.

(e) Environmental Matter. If the property to be leased is an industrial plant, it is important to perform a soil analysis to verify that the soil and subsoil of the property are not contaminated.

(f) Relevant Provisions. Properly and clearly negotiate the amount of the rent, the place of payment, as well as increases and possible penalties for late payment or late delivery of the property.

(g) Property Tax and Insurance. It is important to determine who shall pay the property tax and insurance policies for the leased property.

(h) Improvements. Finally, the improvements to be made to the property and the maintenance thereof are an important part of these agreements; it is necessary that there be clarity as to the party responsible for them.

2. Formalities of the Agreement. The lease agreement must be in writing and signed by the parties. In some cases, it must be ratified before a notary. The following obligations are usually included in lease agreements:

(a) Delivery-Reception Report. The obligation to deliver to lessee the leased property with all its accessories and in conditions to serve for the agreed use; normally it is recommended to sign a report of delivery-reception of the property.

(b) Final Conditions. The obligation to maintain the leased property in the same condition during the term of the lease and to make all repairs necessary to keep the leased property in good condition at all times, except for wear and tear due to use and the passage of time.

(c) Damages. Liability for damages suffered by lessee as a consequence of hidden defects of the leased property.

(d) Environmental Indemnity. An environmental indemnity in favor of lessee.

If lessee requires works and adjustments to the property, it is recommended that such works be authorized in writing by lessor before or after the signing of the lease.

IX. ENVIRONMENTAL MATTER.

A. GENERAL ASPECTS.

In Mexico, environmental matters are regulated by both federal and state legislation, depending on the area being protected. The laws that principally comprise the environmental legislation in Mexico are: General Law of Ecological Equilibrium and Environmental Protection (the "Environmental Law"), Law of National Waters, General Law of Sustainable Forest Development (the "Forest Law"), General Law of Wildlife, Law of Sustainable Rural Development, General Law for the Prevention and Integral Management of Waste, Law on Biosecurity of Genetically Modified Organisms, Law on Organic Products, General Law on Sustainable Fisheries and Aquaculture, Law on the Promotion and Development of Bioenergy, Federal Law on Environmental Responsibility and the General Law on Climate Change, each with its regulations. In this section we will analyze the most important areas regulated by environmental legislation in our country.

B. ENVIRONMENTAL IMPACT.

Pursuant to environmental legislation, certain activities must be previously authorized in order to have an environmental impact assessment. The Ministry of Environment and Natural Resources ("SEMARNAT") is responsible for the analysis and evaluation of the environmental impact of works and activities under federal jurisdiction.

1. Environmental Impact Assessment. The Environmental Impact Assessment is the procedure through which SEMARNAT establishes the conditions to which the execution of works and activities that may cause ecological imbalance or exceed the limits and conditions established in the applicable provisions shall be subject, to protect the environment and preserve and restore ecosystems, in order to avoid or minimize their negative effects on the environment.

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LEGAL SOLUTIONS

Projects for works and activities under federal jurisdiction may be evaluated by means of different types of studies according to the following situations:

(a) Environmental Impact Assessment ("MIA"). The MIA is the document through which, based on studies, the significant and potential environmental impact that a work or activity would generate is made known, as well as the way to avoid or mitigate it in case it is negative. For the execution of the works and activities contemplated in Article 28 of the Environmental Law, two modalities are considered: the general and the particular:

(i) **General**, when dealing with: (i') industrial and aquaculture parks, aquaculture farms of more than 500 hectares, highways and railroads, nuclear power generation projects, dams and, in general, projects that alter hydrological basins; (ii') a set of works or activities that are included in a partial urban development or ecological management plan or program; (iii') a set of works projects and activities intended to be carried out in a specific ecological region, and (iv') projects intended to be developed in sites where, due to their interaction with the different regional environmental components, cumulative, synergic or residual impacts are foreseen that could cause the destruction, isolation or fragmentation of ecosystems.

(ii) **Particular**, refers to all other cases not referred to in the general modality.

(b) Risk Study. In the case of highly risky activities defined in Chapter V of the Environmental Law, a risk study must be included in the EIA. This study establishes: (i) scenarios and preventive measures resulting from the analysis of the environmental risks related to the project, (ii) a description of the protection zones around the facilities, if applicable, and (iii) a description of the environmental safety measures.

(c) Unified Technical Document ("DTU"). When the evaluation involves, in addition to the environmental impact activities, a change of land use in forest lands or, of the first and of the use of forest resources, the DTU will be prepared, which combines the impact statement with the

technical justification study indicated in the Forestry Law for its attention in a single procedure.

2. Analysis of Preventive Reports. The environmental impact authorization may be issued based on the presentation of a preventive report and not a MIA when the analysis of it determines that (a) there are official Mexican standards or other provisions that regulate emissions, discharges, use of natural resources and, in general, all relevant environmental impacts that the works or activities may produce; (b) the works or activities in question are expressly foreseen by a partial urban development or ecological ordinance plan that has been evaluated by the Ministry; and (c) the works or activities in question are expressly foreseen by a partial urban development or ecological ordinance plan that has been evaluated by the Ministry; (b) the works or activities in question are expressly provided for in a partial urban development or ecological zoning plan that has been evaluated by the Ministry; and (c) the facilities are located in authorized industrial parks. Otherwise, the presentation of the MIA shall be required.

The Regulations of the Environmental Law authorize SEMARNAT's federal delegations in the states to evaluate and issue rulings, following the general technical and administrative guidelines established, on preventive reports and the MIA, particular modality, for public and private works and activities in the areas where they are located, with the exception of those related to the oil and petrochemical industry, as well as hazardous waste treatment plants.

Once the projects of works or activities have been authorized, the Federal Attorney's Office for Environmental Protection ("PROFEPA") is in charge of verifying compliance with the terms and conditions established. The inspection universe is comprised of: studies and authorizations that are made known to PROFEPA by the General Directorate of Environmental Impact and Risk; complaints filed by citizens regarding environmental damage that may be caused by specific works or activities; projects under construction or in operation that are detected during PROFEPA's systematic inspection actions.

RRQB
LEGAL SOLUTIONS

C. WASTE.

Hazardous waste is mainly regulated by the General Law for the Prevention and Integral Management of Hazardous Waste (the "Waste Law"). This legal instrument establishes, among other things, rights, obligations and administrative sanctions regarding waste management activities.

1. Subjects of the Waste Law. The subjects of the Waste Law and its regulations are the following:

(a) Generator. Individual or legal entity that produces waste through the development of production or consumption processes;

(b) Microgenerators. Industrial, commercial or service establishment that generates an amount of up to four hundred kilograms of hazardous waste per year or its equivalent in another unit of measurement;

(c) Small Generators. Individual or legal entity that generates an amount equal to or greater than four hundred kilograms and less than ten tons in total gross weight of waste per year or its equivalent in another unit of measurement;

(d) Large Generators. Individual or legal entity that generates an amount equal to or greater than 10 tons in total gross weight of waste per year or its equivalent in another unit of measurement.

2. Waste Classification. Waste is classified into the following types:

(a) Special Management Waste. Waste generated in production processes that does not meet the characteristics to be considered hazardous or urban solid waste, or that is produced by large generators of urban solid waste;

(b) Incompatible Wastes. Wastes that upon contact or when mixed with water or other materials or wastes, react to produce heat, pressure, fire, particles, gases or harmful vapors;

(c) Hazardous Waste. Those that possess any of the characteristics of corrosiveness, reactivity, explosiveness, toxicity, flammability, or that contain infectious agents that

make them hazardous, as well as containers, receptacles, packaging and soils that have been contaminated when transferred to another site, in accordance with the provisions of the Waste Law;

(d) Urban Solid Waste. Waste generated in households, resulting from the disposal of the materials used in their domestic activities, the products they consume and their containers, packaging or wrapping; waste from any other activity within establishments or on public roads that generates waste with household characteristics, and waste resulting from the cleaning of public roads and places, provided that they are not considered by the Waste Law as waste of another nature;

3. Management Plans. They shall be obliged to formulate and implement management plans, as appropriate:

(a) Producers, importers, exporters and distributors of products that when discarded become hazardous wastes referred to in sections I to XI of article 31 of the Waste Law and those included in the corresponding official Mexican standards;

(b) The generators of hazardous wastes referred to in sections XII to XV of article 31 of the Waste Law and those included in the corresponding official Mexican standards;

(c) Large generators and producers, importers, exporters and distributors of products that when discarded become urban solid waste or special handling waste included in the lists of waste subject to management plans in accordance with the corresponding official Mexican standards; plastic packaging waste, including expanded polystyrene; as well as importers and distributors of used tires, under the principles of recovery and shared responsibility,

(d) Large generators and producers, importers, exporters and distributors of batteries and electric batteries that are considered special management waste in the corresponding official Mexican standard.

4. Site Remediation. The person responsible for the contamination of a site, as well as for the damage to health as a consequence thereof, is obliged to repair the damage caused, in accordance with the applicable legal provisions. In

addition, the owners or possessors of privately owned Land and the holders of concessioned areas, whose soils are contaminated, shall be jointly and severally liable for carrying out the necessary remediation actions, without prejudice to the right to recover against the person who caused the contamination.

In addition to remediation of the contaminated site, anyone responsible for contamination of a site may incur civil, criminal and/or administrative liability.

It is also worth mentioning that the regulation of the Waste Law establishes that, when due to an act of God or force majeure there are spills, infiltrations, discharges or spills of hazardous materials or hazardous waste, in an amount greater than one cubic meter, during any of the operations that comprise their integral management, the person responsible for the hazardous material or the generator of the hazardous waste and, if applicable, the company that provides the service must: (a) execute immediate measures to contain the released materials or waste, minimize or limit their dispersion or collect them and clean up the site; (b) immediately notify PROFEPA and the competent authorities, that the spill, infiltration, discharge or dumping of hazardous materials or hazardous waste occurred; (c) execute the measures imposed by the competent authorities in accordance with the provisions of Article 72 of the Waste Law; and (d) if applicable, initiate the characterization work of the contaminated site and perform the corresponding remediation actions.

5. Infringements. Pursuant to the Waste Law and its Regulations, the following activities, among others, shall be sanctioned: (a) stockpiling, storing, transporting, treating or finally disposing of hazardous waste, without having the proper authorization to do so; (b) failing to comply during the integral management of hazardous waste, with the provisions set forth in the Waste Law and the regulations derived therefrom, as well as in the authorizations issued for such purpose, in order to avoid damage to the environment and health; (c) mixing hazardous wastes that are incompatible with each other; (d) dumping, abandoning or finally disposing of hazardous wastes in sites not authorized to do so; (e) incinerating or thermally treating hazardous wastes without the corresponding authorization; (f) importing hazardous wastes for a purpose other than recycling; and (g) storing

hazardous wastes for more than six months without the corresponding extension.

D. POLLUTION OF THE ATMOSPHERE.

Air pollution is primarily regulated by the Environmental Law and its regulations. These laws place certain industries under federal jurisdiction and others under state or municipal jurisdiction, which are subject to local laws.

1. Pollution Sources. The sources of atmospheric pollution are classified as follows:

(a) Mobile Source. Airplanes, helicopters, railroads, streetcars, tractor-trailers, integral buses, trucks, automobiles, motorcycles, boats, non-fixed equipment and machinery with combustion engines and similar, which by reason of their operation generate or may generate polluting emissions into the atmosphere.

(b) Multiple Sources. A stationary source that has two or more ducts or stacks through which emissions from a single process are discharged into the atmosphere.

(c) Fixed Source. Any facility established in a single location, whose purpose is to develop industrial, commercial, service or activity operations or processes that generate or may generate polluting emissions into the atmosphere.

The following industries are considered fixed sources under federal jurisdiction: hydrocarbons, chemicals, paints and inks, metallurgy, automotive, pulp and paper, cement and lime, asbestos, glass, electric power, and hazardous waste. The operation and functioning of these industries that emit or may emit odors, gases or solid or liquid particles into the atmosphere require authorization from SEMARNAT.

The regulations of the Environmental Law establish that such industries are generally required to (i') use equipment and systems to control atmospheric emissions, so that they do not exceed the maximum permissible levels established in the corresponding technical ecological standards; (ii') integrate an inventory of their atmospheric pollutant emissions, in the format determined by SEMARNAT; (iii') install sampling platforms and ports; (iv') measure their atmospheric pollutant

emissions, record the results in the format determined by SEMARNAT and submit the records to SEMARNAT when so requested; (v') carry out perimeter monitoring of its atmospheric pollutant emissions, when the source in question is located in urban or suburban areas, when it is adjacent to protected natural areas, and when due to its operating characteristics or due to its raw materials, products and byproducts, they may cause serious deterioration to the ecosystems, in the judgment of SEMARNAT; (vi') keep a log of operation and maintenance of its process and control equipment; (vii') give advance notice to the Ministry of the beginning of operation of their processes, in the case of programmed stoppages, and immediately in the case of circumstantial stoppages, if they may cause contamination; and (viii') give immediate notice to the Ministry in the case of failure of the control equipment, so that it may determine what is appropriate, if the failure may cause contamination.

2. Operating License. In order for fixed sources under federal jurisdiction to operate, an authorization by SEMARNAT is required. To obtain it, companies must provide, among others, the following information: (a) description of the process; (b) distribution of machinery and equipment; (c) raw materials or fuels to be used in their process and form of storage; (d) transportation of raw materials or fuels to the process area; (e) transformation of raw materials or fuels; (f) products, by-products and waste to be generated; (g) storage, transportation and distribution of products and by-products; (h) quantity and nature of expected air pollutants; (i) air pollution control equipment to be used; and (j) a contingency program containing the measures and actions to be taken when weather conditions in the region are unfavorable or when there are extraordinary uncontrolled emissions of odors, gases, and solid and liquid particles.

If the license is granted, SEMARNAT must specify in the license document the following points: (a) the frequency with which the emissions inventory must be submitted to SEMARNAT; (b) the frequency with which the measurement and monitoring of emissions must be carried out; (c) the measures and actions to be taken in the event of a contingency; (d) the equipment and other conditions that SEMARNAT determines to prevent and control air pollution.

RRQB
LEGAL SOLUTIONS

3. Annual Operation Card. Those responsible for fixed sources of federal jurisdiction that have a license granted by the competent administrative units of SEMARNAT must submit to SEMARNAT an Annual Operation Card within the period between March 1st and June 30th of each year, the interested parties must use the Annual Operation Card referred to in Article 10 of the regulations of the Environmental Law.

E. WATER.

The National Water Law (the "Water Law") and its regulations are the laws that regulate this matter, and the National Water Commission ("CONAGUA"), a decentralized administrative agency of SEMARNAT, is the authority responsible for national waters.

In Mexico, Article 27 of the Constitution makes a broad classification of the waters owned by the nation, so that in order to use such national waters it is necessary to have a concession and pay the rights for the water under concession. In addition, a discharge permit is required that establishes the conditions for the discharge of wastewater from the water covered by the corresponding concession title.

Regarding wastewater, the Water Law has required that wastewater be treated before being discharged into water bodies and that it comply with the pollution limits established in the applicable NOMs.

1. Principles in the Water Law. In this matter, Mexican legislation has adopted certain principles that establish that (a) water is a vital, vulnerable and finite asset of federal public domain, with social, economic and environmental value, whose preservation in quantity and quality and sustainability is a fundamental task of the State and society, as well as a priority and a matter of national security, (b) the integrated management of water resources by hydrological basin is the basis of the national water policy; (c) the management of water resources shall be carried out in a decentralized and integrated manner favoring direct action and decisions by local stakeholders and by river basin, (d) the Federal Executive shall ensure that water concessions and allocations are based on the effective availability of the resource in the corresponding hydrological regions and hydrological basins, and shall implement mechanisms to maintain or reestablish the

hydrological balance in the country's hydrological basins and that of the ecosystems vital for water, (e) the conservation, preservation, protection and restoration of water in quantity and quantity, and the protection and restoration of water in quantity and quality, (e) the conservation, preservation, protection and restoration of water in quantity and quality is a matter of national security, therefore, unsustainable use and adverse ecological effects must be avoided, (f) water provides environmental services that shall be recognized, quantified and paid for, in terms of the Water Law, (g) water users shall pay for its exploitation, (g) water users shall pay for its exploitation, use or exploitation under the "user-pays" principle in accordance with the provisions of the Federal Law of Rights, and (h) individuals or legal entities that pollute water resources are responsible for restoring their quality, and the "polluter-pays" principle shall be applied, in accordance with the Laws on the matter.

2. Obligations of Individuals. Among the most important obligations for private parties are the following:

(a) For the use of national waters it is necessary to have a concession for the exploitation, use or profit of national waters, to have equipment to measure the volumes of water consumed and to pay the tariffs for the water used.

(b) For the discharge of wastewater it is necessary to have a discharge permit; treat wastewater prior to discharge into receiving water bodies; have a legal connection to the municipal sewage system; comply with the pollution limits established in its permit and the applicable regulations; have discharge meters installed; pay the fees for the wastewater actually discharged; and submit a report every two years with the chronological analysis and indicators of the quality of the water discharged.

In addition, concessions are required to be registered in the Public Registry of Water Rights. The transfer of the title of a concession without modifications is done through an application for authorization.

3. Sanctions. Failure on the part of a concessionaire to adopt the necessary measures to prevent pollution of the waters under concession shall result in (a) the application of sanctions, the severity of which shall depend on the damage

caused to water quality and the environment; (b) the payment of the fees corresponding to the volume and quality of the discharges; and (c) the possible suspension or revocation of the concession.

The concession may also be revoked if the discharge of wastewater into national water bodies violates the law.

The Water Law also establishes liability for persons who discharge wastewater in violation of the applicable legal provisions, and who cause pollution in a receiving body, shall assume the responsibility to repair or compensate the environmental damage caused in terms of the Water Law and its regulations, without prejudice to the application of the appropriate administrative, criminal or civil sanctions, by removing the pollutants from the affected receiving body and restoring it to the state it was in before the damage occurred.

F. ENVIRONMENTAL RESPONSIBILITY.

Environmental liability in Mexico can be divided into civil, administrative and criminal liability, although in practice it is common for administrative liability to be imposed.

At the administrative level, PROFEPA has the necessary authority to execute the actions and impose the administrative sanctions established by law.

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This document shall not be considered by its reader as an opinion letter and any questions or comments regarding its content shall be sent to Francisco Romero at his email address: fromero@rrqb.mx.