COMPACT OF FREE ASSOCIATION

Federal Programs and Services

Agreement between
the UNITED STATES OF AMERICA
and MICRONESIA

Signed at Palikir May 14, 2003

with

Annex

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

MICRONESIA

Compact of Free Association: Federal Programs and Services

Agreement signed at Palikir May 14, 2003;
Entered into force June 25, 2004.
With annex.

FEDERAL PROGRAMS AND SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Concluded Pursuant to

Article III of Title One, Article II of Title Two, (including Section 222), and Section 231

of

the Compact of Free Association, as Amended

Federal Programs and Services Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the Compact of Free Association, as Amended

Article I ..... Definitions ..... Pgs. 1-1 to 1-2

Article II ..... Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel .....Pgs. 2-1 to 2-5

Article III .....Employment of Labor .....Pgs. 3-1 to 3-2

Article IV.....Entry and Departure.....Pgs. 4-1 to 4-2

Article V.....Implementation of Section 223 of the Compact, as Amended, and Title To Property.....Pgs. 5-1 to 5-2

Article VI .....Postal Services and Related Programs.....Pgs. 6-1 to 6-5

Article VII.....Weather Service and Related Programs .....Pgs. 7-1 to 7-3

Article VIII....Civil Aviation Safety Service And Related Programs.....Pgs. 8-1 to 8-3

Article IX.....Civil Aviation Economic Services And Related Programs .....Pgs. 9-1 to 9-4

Article X.....United States Disaster Preparedness and Response Services and Related Programs.....Pgs. 10-1 to 10-2

Article XI.....Federal Deposit Insurance Corporation Services And Related Programs .....Pgs. 11-1 to 11-3

Article XII....Telecommunications Services and Related Programs.....Pgs. 12-1 to 12-7

Article XIII....Transition and Termination of Services and Related Programs.....Pg. 13-1

Article XIV...Effective Date, Amendment and Duration .....Pg. 14-1

Annex A.....Weather Services and Related Programs Provided by DOC NOAA National Weather Service.....Pg. A-1 to A-4

FEDERAL PROGRAMS AND SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Concluded Pursuant to
Article III of Title One, Article II of Title Two (including Section 222) and Section 231
of
the Compact of Free Association, as Amended

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility for the provision of the services and related programs authorized by Article III of Title One, Article II of Title Two (including any additional U.S. services and related programs authorized in accordance with section 222 of such Article II), section 231 of the Compact of Free Association, as amended (the Compact, as amended), or, where not otherwise provided within the Compact, as amended, any other provision of United States law. Unless otherwise provided within the Compact, as amended, or any other provision of United States law, this Agreement also sets forth the rights, privileges, and immunities of United States Government instrumentalities and personnel, as well as those of non-United States Government entities and personnel who provide any such services and related programs under those provisions of the Compact, as amended, or any other provision of United States law.

Article I

Definitions

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact, as amended, is incorporated into this Agreement.

2. For the purposes of this Agreement only, the following terms shall have the following meanings:

   (a) "Federal agency" refers to each department, agency or other instrumentality of the Government of the United States which provides services and related programs in accordance with Title Two of the Compact, as amended or if not otherwise provided, under any other provision of the Compact, as amended including its subsidiary agreements, or any other provision of United States law, including any successor agency or agencies, but does not include:

      (1) The Armed Forces of the United States as defined in Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact, as amended, or

      (2) The Diplomatic Mission and constituent posts, if any, of the Government of the United States to the Government of the Federated States of Micronesia (the "U.S. Diplomatic Mission").

   (b) "United States contractors" means the legal entities, including corporations and natural persons (irrespective of the country of incorporation or citizenship of any such corporation or citizenship of any such natural person), present in the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States (or subcontracts of such contracts), or cooperative agreements, in support of the Federal agencies acting pursuant to Article III of Title One, Article II of Title Two and section 231 of the Compact, as amended, or any other provision of United States law, and who are designated as such by the Government of the United States. The term "United States Contractors" does not include local contractors.

   (c) "Local contractors" means the legal entities, including corporations and natural persons, which are organized under the laws of, or which are present in the Federated States of Micronesia primarily for purposes other than those set forth in paragraph (b) of this section.

(d) "United States personnel" means anyone who is included in any of the following categories:

(1) "civilian employees" – all Federal agency personnel, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Federated States of Micronesia, and who are in the employ of or serving with a Federal agency and who are employed in any of the activities of such Federal agency;

(2) "contractor personnel" – natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Federated States of Micronesia, and who are United States contractors or officers or employees of United States contractors; or

(3) "dependents" – the spouses and dependents of persons included in paragraph (2)(d)(1) (including children of such persons who are born after such persons' arrival in the Federated States of Micronesia) who are listed on official United States Government travel orders and the spouses and dependents of persons included in paragraph (2)(d)(2).

(e) "Third country contractor personnel" means natural persons other than United States contractor personnel or local hire personnel who are in the Federated States of Micronesia and who are United States contractors or officers or employees of United States contractors or dependents of any of them.

(f) "Local hire personnel" means any citizen or national of the Federated States of Micronesia, whether or not ordinarily residing in the Federated States of Micronesia, and any citizen or national of any other country who is ordinarily residing in the Federated States of Micronesia, who is employed in the Federated States of Micronesia, by Federal agencies or United States contractors.

Article II

Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel

Article II

Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel

1. The provision by the Government of the United States of any specific programs and related services to the Government of the Federated States of Micronesia, as may be funded by the Government of the United States, pursuant to this Agreement, shall be contingent upon compliance by the Government of the Federated States of Micronesia with all applicable provisions of U.S. law, including the provisions of the Compact, as amended (including sections 173 and 223 of the Compact, as amended), as they relate to such program or related service.

2.

(a) Subject to subparagraphs (b) and (c) below, the Government of the United States, Federal agencies, United States contractors, United States personnel, and third country contractor personnel, and their respective assets, income and other property shall be exempt from all taxes, including value added taxes (VAT), and shall be exempt from all customs duties and similar charges on the import and export of articles required for official functions and personal use.

(b) Income received by United States personnel or third country contractor personnel for services with or employment by Federal agencies, and income received by United States contractors under contracts or cooperative agreements in support of United States agencies, and income received by United States personnel, third country contractor personnel or United States contractors from sources outside the territory of the Federated States of Micronesia, shall be exempt from any tax, fee or other charge, including income and social security taxes, imposed by the Government of the Federated States of Micronesia, except that United States contractor personnel and third country contractor personnel, including dependents who are themselves United States contractor personnel or third country contractor personnel, shall not be exempt from a personal income tax generally applicable within the Federated States of Micronesia up to a level of five percent of their annual income derived from their employment in the Federated States of Micronesia.

(c) Income derived from and received by United States personnel or third country contractor personnel for services rendered within the FSM other than those specified under subparagraph (b) of this paragraph shall be

subject to the personal income tax and social security taxes that the FSM would impose on its own citizens who provide such services.

3. United States personnel and third country contractor personnel may import into and export from the Federated States of Micronesia furniture, household goods and personal effects for their private use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements and other import and export taxes, fees or charges.

4. Animals and plants, including fruits and vegetables, imported by United States personnel and by third country contractor personnel shall be subject to the laws and regulations of the Federated States of Micronesia governing inspection of and restrictions on such importations.

5. The Federal agencies, in cooperation with the Government of the Federated States of Micronesia, shall take appropriate measures, including inspection, to prevent importation of contraband and to prevent abuse of privileges granted to United States personnel and third country contractor personnel under this Article.

6. Should property imported into the Federated States of Micronesia under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government of the Federated States of Micronesia. This paragraph is without prejudice to the Government of the Federated States of Micronesia adopting laws and regulations that require the giving of notice of such transfer to relevant authorities of the Federated States of Micronesia. The Government of the United States and its Federal agencies shall cooperate with the Government of the Federated States of Micronesia, as necessary, to prevent abuse of the customs privileges granted under this agreement.

7. Without prejudice to any additional privileges and immunities provided under the Compact, as amended, civilian employees shall enjoy immunity from civil and criminal process and liability relating to or resulting from any wrongful act or omission done within the scope and in the performance of official duty, except insofar as such immunity is expressly waived by the Government of the United States. Civilian employees who have been arrested in connection with an offense not related to the performance of their official duties in the Federated States of Micronesia shall be released to the custody of a United States diplomatic representative in the Federated States of Micronesia, unless in the case of a grave crime a competent judicial authority decides that such civilian employees shall remain subject to detention by the local authorities.

8.

(a) The authorities of the Federal agencies shall pay just and reasonable compensation in settlement of meritorious, noncontractual claims arising out of the wrongful acts or omissions occurring subsequent to the effective date of this Agreement in the Federated States of Micronesia of the Federal agencies themselves, or of their civilian employees and local hire personnel, if such act or omission occurred within the scope and in the performance of official duty of the civilian and local hire personnel. All such claims shall be processed and settled by the respective Federal agencies in accordance with the laws and regulations of the United States. Any such claims which cannot be settled as provided for in this paragraph, and which are espoused by the Government of the Federated States of Micronesia, shall be disposed of pursuant to the provisions of Article II of Title Four of the Compact.

(b) Contractual claims against the Federal agencies shall be settled in accordance with the disputes clause of the contract if any, and the laws of the United States relating to the resolution of such disputes. In the absence of such clause, the claims shall be presented to the appropriate United States authority; subject to section 174 of the Compact, as amended, if no settlement is reached, the appropriate court of the United States shall have jurisdiction over such claims.

(c) The Government of the Federated States of Micronesia shall present claims arising under this Article to the United States Diplomatic Mission, which shall forward such claims to the Competent Authority of the Federal Agency concerned.

9. Except as otherwise expressly provided in this or any other subsidiary agreement to the Compact, as amended, any dispute arising under this Agreement shall be disposed of exclusively pursuant to the provisions of Article II of Title Four of the Compact.

(a) The Federal agencies shall not be subject to the jurisdiction of the courts of the Government of the Federated States of Micronesia under Article VII of Title One of the Compact for any claim under paragraph 8 of this Article arising in the Federated States of Micronesia from the acts or omissions of the Federal Agencies occurring subsequent to November 3, 1986. All such claims shall be processed and settled exclusively in accordance with this Article.

(b) Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit pursuant to section 174 of the Compact, as amended, shall be deemed manifestly erroneous as to law if the claim

upon which such judgment is based would have been barred by the statute of limitations if such claim had been brought in a court of the United States.

10. For the purposes of carrying out the provisions of this Agreement, the Government of the United States and the Government of the Federated States of Micronesia shall designate Competent Authorities. The Competent Authorities of the Government of the United States and the Competent Authorities of the Federated States of Micronesia may communicate directly with each other. In the case of the Government of the United States, the Competent Authority shall be the head of or designee of the Federal agency concerned who shall be designated in writing to the Government of the Federated States of Micronesia.

11. The Government of the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States personnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

12. Official vehicles of the Federal Agencies, vehicles owned or operated by United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its Territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. However, the Government of the United States may use local individual markings or license plates in the Federated States of Micronesia.

    (a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Federated States of Micronesia.

    (b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel that are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Federated States of Micronesia. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Federated States of Micronesia.

13. For purposes of this Article the term "vehicles" includes all forms of land, sea and air transportation.

14. Any reference in this Agreement to a provision of the law of the United States constitutes the incorporation of the language of such provision into this Agreement as such provision is in force on November 3, 1986, or as it may have been or may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.

15. The Government of the United States may use local telecommunication systems and, in determining its uses of such systems, shall take into consideration the cost and security of such systems and the availability of alternate United States systems. The Government of the United States shall encourage the use of local telecommunication systems by United States personnel for non-official purposes. To the extent that the Government of the Federated States of Micronesia establishes telecommunications systems compatible with existing United States Government installations, the Government of the United States and the Government of the Federated States of Micronesia may enter into negotiations for a use arrangement which includes normal billing procedures.

Article III

Employment of Labor

Article III

Employment of Labor

1. In providing services and related programs in the Federated States of Micronesia pursuant to Article II of Title Two of the Compact, as amended, any other provision of the Compact, as amended or pursuant to any other provision of United States law, the Federal agencies, United States contractors and local contractors:

   (a) may employ persons possessing requisite skills and qualifications. Employment preference shall be given, without discrimination, to citizens, nationals and persons residing permanently in the Federated States of Micronesia, and to citizens, nationals, and lawful permanent residents of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Federal Agencies and the United States contractors shall exercise their best efforts to employ persons present in the Federated States of Micronesia.

   (b) shall use, without discrimination, consistent with the laws and regulations of the United States, qualified local contractors and contractors which are legal entities of the United States. The Federal Agencies and United States contractors shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement of the goods and services needed by the Government of the United States.

2. Prior to the employment of third country personnel or the use of third country contractors, the Government of the United States shall notify the Government of the Federated States of Micronesia and shall consult, if requested, with that Government as to the availability of qualified local hire personnel or qualified local contractors.

3. The laws and regulations of the Federated States of Micronesia shall not apply to the terms and conditions of employment of United States personnel by Federal agencies, or United States contractors. The Government of the Federated States of Micronesia shall not require United States personnel, third country contractor personnel or United States contractors to obtain any license, permit or certificate, or to undergo any examination, in connection with the performance of their duties on behalf of Federal agencies.

4. In the employment of local hire personnel by the Federal agencies and United States contractors, the Government of the United States shall adopt measures

consistent with the standards of local labor laws to the extent they are compatible with laws, regulations and operational requirements of the United States.

Article IV

Entry and Departure

Entry and Departure

1. The Government of the United States may bring into the Federated States of Micronesia:

   (a) United States personnel and United States contractors; and

   (b) Third country contractor personnel in a manner consistent with those laws of the Federated States of Micronesia relating to the exclusion of individual, undesirable aliens and taking into account paragraph 5 of this Article and Article III of this Agreement.

2. United States personnel shall be exempt from the visa laws and regulations of the Federated States of Micronesia. Taking into account paragraph 1(b) of this Article and Article III of this Agreement, applications of third country contractor personnel for visas shall be adjudicated expeditiously. All such personnel shall comply with the medical immunization requirements of the Federated States of Micronesia.

   (a) No United States personnel or third country contractor personnel shall acquire any right to remain permanently in the Federated States of Micronesia solely as a result of their being United States personnel or third country contractor personnel.

   (b) United States personnel shall be exempt from laws and regulations of the Federated States of Micronesia on the entry, departure, registration and control of aliens and foreign agents.

3. Upon entry into or departure from the Federated States of Micronesia, United States personnel shall have in their possession official orders or documents certifying the status of the individual or group. Such orders or documents shall be shown on request to the appropriate authorities of the Government of the Federated States of Micronesia.

4. For the purpose of their identification while in the Federated States of Micronesia, all United States personnel described in Article I, paragraph (d)(1) of this Agreement, shall have in their possession a personal identification card authorized by the Government of the United States which shall show the name, date of birth, status, and photograph of the bearer. Such card shall be shown on request to the appropriate authorities of the Government of the Federated States of Micronesia.

5. If the Government of the Federated States of Micronesia requests the removal from the Federated States of Micronesia of any United States personnel or any third country contractor personnel, the request shall be directed to the United States diplomatic representative. Upon receipt of such request, the United States diplomatic representative shall consult with the Government of the Federated States of Micronesia on the appropriate action to be taken regarding removal. If the Government of the United States and the Government of Federated States of Micronesia so determine, the person whose removal has been requested shall immediately become subject to the jurisdiction of the Government of the Federated States of Micronesia in accordance with its laws.

6. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

Article V

Implementation of Section 223 of the Compact, as Amended, and Title to Property

Article V

Implementation of Section 223 of the Compact, as amended And Title to Property

1. Specific arrangements for the establishment and use by the Government of the United States of facilities or areas for Federal agencies in the Federated States of Micronesia that were in effect before the effective date of this Agreement, as amended, shall continue in effect, unless otherwise mutually agreed. Any specific arrangements for the establishment and use by the United States Government of other facilities or areas for Federal agencies in the Federated States of Micronesia shall be set forth in Exchanges of Notes, which, when signed, shall be annexed to this Agreement as an Annex.

2. If, in the exercise of its authority and responsibility under Article Three of Title One, Title Two of the Compact, as amended, and unless otherwise provided by any other United States law, the Government of the United States requires the use of facilities or areas in the Federated States of Micronesia in addition to or in place of those covered in paragraph (1) of this Article, it may request the Government of the Federated States of Micronesia to satisfy those requirements through leases or other arrangements. The Government of the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures and provide a prompt response to the Government of the United States.

3. If the Government of the Federated States of Micronesia requires for some other purpose the use of facilities or areas which have been provided the Government of the United States pursuant to this Agreement, the Government of the Federated States of Micronesia shall request the Government of the United States to accept equivalent facilities or areas. The Government of the United States shall sympathetically consider any such request and provide a prompt response. Any pertinent agreement shall be effected in accordance with paragraph 2 of Article XIV of this Agreement.

4. Title to any property which remains vested in the Government of the United States pursuant to section 234 of the Compact on the day prior to the effective date of this Agreement, as amended, shall continue after the effective date of this Agreement, as amended.

5. Title to improvements to real property or to any item of equipment or other personal property hereinafter furnished, acquired, supplied, constructed or purchased by or with funds provided by the Government of the United States in connection with the programs and related services set forth in this Agreement is vested in the Government of the United States, except where expressly sold or otherwise conveyed.

6. Upon relinquishing facilities or areas designated for Federal agency use, or a portion thereof, whether at the termination of a specific service and its related programs or at an earlier date, the Government of the United States shall not be obligated to restore any such site or portion thereof to its former condition, or to make compensation in lieu of such restoration. The Governments of the United States and the Federated States of Micronesia may otherwise agree, based on considerations including the existence of conditions substantially or materially hazardous to human life, health and safety.

7. The Government of the United States has the right to remove any installations or improvements that it has constructed on an area designated for Federal agency use. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishing facilities or areas designated for Federal agency use, or a portion thereof, the Government of the Federated States of Micronesia and the Government of the United States shall consult to determine the residual value, including scrap value, if any, of any such installations or improvements to the Government of the Federated States of Micronesia and to agree upon an appropriate method of compensating the Government of the United States for such residual value.

8. Except as may be otherwise expressly agreed, the Government of the United States, Federal agencies and United States contractors shall retain title to equipment, materials and other movable property brought into or acquired by them in the Federated States of Micronesia and may remove such property at any time from the Federated States of Micronesia, or dispose of it therein.

Article VI

Postal Services and Related Programs

Article VI

Postal Services and Related Programs

1. The Government of the Federated States of Micronesia shall maintain responsibility pursuant to its laws and regulations for all local postal services.

2. The Government of the Federated States of Micronesia shall be responsible for all its own postal staff, facilities and equipment.

3. The Government of the Federated States of Micronesia shall issue postage stamps and other prescribed postal indicia which shall be used for prepayment of postage rates and other postal charges on all mail originating in its territory, except for mail sent through the military postal system provided for in Article VII of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association.

4. The United States Postal Service shall provide the following services for the Federated States of Micronesia for a period of 20 years commencing on the effective date of this Agreement without compensation by The Government of the Federated States of Micronesia; provided that the United States Postal Service is reimbursed for the provision of such services from funds appropriated by the United States Congress in implementation of this agreement:

   (a) The United States Postal Service shall maintain a reasonable and cost effective level of service for conveyance of mail to and from the United States and between the exchange offices of the Federated States of Micronesia as designated in paragraph 7, and

   (b) dispatch, documentation, statistical, accounting, and settlement operations in connection with the international exchange of mail with other countries.

   Express Mail without a guarantee (EMS); registered mail; insured parcel service; recorded delivery and money orders shall be made available only as provided in a further agreement to be negotiated with the United States Postal Service. COD (cash on delivery) orders will no longer be available.

5. The Government of the Federated States of Micronesia shall undertake to protect the postal services provided by the Government of the United States from exploitation for the monetary gain of private or government organizations or of individuals or of commercial enterprises, including the posting of bulk mail, books, catalogues, goods or materials.

The Government of the United States shall provide mail service pursuant to this Agreement with the understanding that the volume of mail may increase in proportion to population increases and ordinary growth of local commercial enterprise. Until January 1, 2009, should an increase in the volume of mail of twenty percent or more within a twelve-month period be anticipated or experienced by The Government of the Federated States of Micronesia, the Government concerned shall enter into a separate agreement with the Government of the United States which shall establish the amount of reimbursement to be paid to the Government of the United States for the volume in excess of twenty percent. After January 1, 2009, and at five-year intervals thereafter, the figure of twenty percent will be reviewed by both parties.

At the discretion of the United States Postal Service and under such terms and conditions as the United States Postal Service may require, including financial accountability and volume limits, mail bearing postage of the Federated States of Micronesia may be accepted at one or more post offices designated by the United States Postal Service within the fifty United States as if it were accepted and mailed from the Federated States of Micronesia. Mail accepted at such a designated post office within the continental United States on behalf of the Federated States of Micronesia shall not be included when calculating volume growth. The Federated States of Micronesia may use their own stamps, but can only use this type of postage for the commercial advancement of their philatelic initiatives.

6. The Government of the Federated States of Micronesia shall ensure that all mail turned over to the United States Postal Service for conveyance to the United States or other countries complies with the postal conventions to which the United States adheres and with the postal laws and regulations of the United States. International documentation (parcel bills for registered and insured parcels, letter bills for registered letters, and AV-7/CN-38 manifests for Express Mail) shall be required for those special services provided between the exchange offices of the Federated States of Micronesia and designated exchange offices of the United States. Pursuant to paragraph 14 of this Article, the Government of the United States shall, upon request, assist The Government of the Federated States of Micronesia in developing local practices and procedures to fulfill the requirements of this paragraph.

7. Except as noted in paragraph 5, pursuant to this Agreement, mail shall be exchanged at the exchange offices designated in this paragraph and outgoing mail from the Federated States of Micronesia shall be merged with United States mail for conveyance to the United States or to other countries. Such outgoing mail from the Federated States of Micronesia shall be treated as though it were mail from the United States for dispatch, documentation, statistical, accounting and settlement operations with other countries. The four designated exchange offices

shall be located in the Federated States of Micronesia at Kosrae, Pohnpei, Chuuk and Yap.

8. The Government of the Federated States of Micronesia may determine postal rates for internal mail to local addresses within the Federated States of Micronesia.

9. After the effective date of this agreement, The Government of the Federated States of Micronesia shall be responsible for determining the postal rates for mail being sent from addresses in the Federated States of Micronesia to addresses in the United States and to other countries. The floor established for postage rates of mail from the Federated States of Micronesia to the United States shall be the published United States domestic postage rates at the time. The floor established for postage rates of mail from the Federated States of Micronesia to other countries, shall be the published United States standard international postage rates at the time. The Government of the Federated States of Micronesia may agree to establish a floor of United States domestic postage rates for mail exchanged between addresses of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. After the effective date of this Agreement, the United States Postal Service may establish special cost-related international rates or may opt to establish standard international rates and classifications for mail from the United States to the Federated States of Micronesia, provided that international rates will be phased in over a period of not less than five (5) years, beginning no sooner than 2006.

10. Revenues derived from the sale of stamps issued by The Government of the Federated States of Micronesia for postal services or for philatelic purposes shall be retained by The Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia agrees to provide, pursuant to their constitutional processes, adequate funding for the operation of their postal services in a manner which will allow the United States Postal Service to perform its responsibilities under this Agreement in an efficient and economical manner, with any disputes arising under this paragraph to be resolved pursuant to Article II of Title Four of the Compact.

11. Liability for the loss of registered and insured items (as may be further agreed to pursuant to paragraph 4) shall rest with the Government which, having received it without comment, cannot prove either delivery to the addressee or correct transfer to another administration. Pursuant to paragraph 14 of this Article, the Government of the United States shall, upon request, assist The Government of the Federated States of Micronesia in developing local practices and procedures to fulfill the requirements of this paragraph.

12. The Government of the Federated States of Micronesia shall not impose any terminal dues or other charges on the United States Postal Service or the postal administrations of any other governments for mail conveyed to the Federated States of Micronesia by the United States Postal Service pursuant to this Agreement.

13. One year from the effective date of the Agreement, the Federated States of Micronesia shall discontinue the sale of Postal Money Orders on USPS forms in accordance with USPS regulations. One year from the effective date of this Agreement, the Federated States of Micronesia shall return to the United States Postal Service all devices used for the imprinting of Postal Money Orders and shall remit to the United States Postal Service all amounts collected in conjunction with the issuance of Postal Orders issued on USPS forms, including the Postal Money Order fees. Within one year following the effective date of this Agreement, the United States Postal Service shall enter into discussions with the Federated States of Micronesia for the exchange of Postal Money Orders under separate Money Order Agreements.

14. Pursuant to this Agreement, the United States Postal Service may provide such technical assistance (including technical assistance to provide any employee training) as the United States Postal Service and appropriate officials authorized to act on behalf of The Government of the Federated States of Micronesia mutually agree to be necessary and appropriate. This technical assistance would not require compensation from the Federated States of Micronesia, provided that the United States Postal Service is reimbursed the costs of such technical assistance from funds appropriated by the United States Congress. In addition, appropriate officials of the Federated States of Micronesia shall consult with the United States Postal Service with regard to fiscal planning and postal administration for the purpose of promoting economical and efficient postal services and programs.

15. United States Postal Service Inspectors, in concert with the Federated States of Micronesia law enforcement agencies, shall be authorized to investigate any incident, issue or claim regarding mail originating from the United States destined for the Federated States of Micronesia, and to seek reimbursement (as pursuant to paragraph 14) for any cost associated with such investigations.

16. The obligations of the Governments signatory to this Agreement under this Article shall terminate 20 years after the effective date of this Agreement. Prior to the termination of this Agreement, the United States Postal Service and The Government of the Federated States of Micronesia shall enter into bilateral arrangements to establish mutually acceptable terms and conditions for the exchange of the mail between the United States and the Federated States of Micronesia.

17. As mutually agreed, the United States shall assist The Government of the Federated States of Micronesia in acquiring membership in relevant international or regional postal organizations.

Article VII

Weather Services and Related Programs

Article VII

Weather Services and Related Programs

1. The United States Department of Commerce's National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (hereafter referred to as the National Weather Service) shall, subject to the availability of funds appropriated for that purpose, provide weather services and related programs in the Federated States of Micronesia as described in this Article at the levels equivalent to those available during the year prior to the effective date of the amended Compact.

2. These services and related programs shall be provided pursuant to:

   (a) the provisions of 15 U.S.C. 313 et seq.; the International Aviation Facilities Act 49 U.S.C. 1151 et seq.; and section 803 of the Federal Aviation Act of 1958, 49 U.S.C. 44720;

   (b) other provisions of the laws of the United States to the extent they expressly apply to the National Weather Service;

   (c) weather treaties and other international weather agreements to which the United States is a party;

   (d) applicable Executive Orders of the President of the United States; and

   (e) implementing National Weather Service regulations.

3. The Government of the Federated States of Micronesia may issue weather forecasts under such terms as may be mutually agreed with the National Weather Service. The Government of the United States shall, however, continue to provide public, marine and aviation weather forecasts and severe weather warnings.

4. The Government of the Federated States of Micronesia is encouraged to take such transitional actions as may be necessary to prepare for the establishment and support of its own weather service. Such transitional actions may be initiated at any time prior to termination of the amended Compact pursuant to Article IV of Title Four of the amended Compact or prior to termination of this Article pursuant to Article XIII of this Agreement. At the request of the Government of the Federated States of Micronesia, prior to the establishment of the Government's own weather service, the National Weather Service shall provide advice in the development of the Federated States of Micronesia weather service.

5. The National Weather Service shall provide weather services and related

programs pursuant to this Article, in part, through the Weather Service Offices (WSO) established in the Federated States of Micronesia.

(a) The National Weather Service and the Government of the Federated States of Micronesia shall, in an Exchange of Letters, set forth the duties and qualifications of employees and provide procedures to reimburse the Government of the Federated States of Micronesia for materials and for salaries and other expenses incurred in the performance of these duties; and

(b) The Government of the United States shall reimburse the Government of the Federated States of Micronesia for costs incurred under this paragraph.

6. As required to implement the services and related programs provided pursuant to this Article or to meet technological change, the National Weather Service shall train employees of the Government of the Federated States of Micronesia assigned to WSOs and Supplemental Aviation Weather Reporting Station (SAWRS) observing sites. The Government of the United States shall reimburse the Government of the Federated States of Micronesia for costs incurred for training approved by the National Weather Service.

7. The National Weather Service shall inspect all WSOs and SAWRS observing sites on a regular basis to assure the quality of meteorological operations.

8. The National Weather Service shall provide and maintain WSOs pursuant to Article V of this Agreement, including meteorological observatories and other buildings, and shall maintain and replace meteorological and other equipment of the National Weather Service.

9. The National Weather Service shall provide the supplies and expendables required for the operation of its programs and related services.

10. Pursuant to Article III, Title One of the amended Compact, the radio operating frequencies in the bands 401-406 MHz and 1660-1700 MHz shall be protected by the Government of the Federated States of Micronesia in order to ensure their interference-free use for rawinsonde observations, in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention. Other radio operating frequencies may be substituted for those set forth in this paragraph by agreement of the Governments.

11. The Government of the Federated States of Micronesia, in order to assure that it receives the most current meteorological information and that such information will be available on a global basis, shall as a public service provide, at a reduction from normal commercial rates, continuing access to its telecommunications

services, for meteorological traffic to and from Guam and such other points as may be designated by the Government of the United States.

12. The National Weather Service shall provide weather services and related programs in Kosrae, Federated States of Micronesia, and Pohnpei International Airport, Pohnpei, Federated States of Micronesia to the extent that the National Weather Service determines that such services and related programs are necessary to meet requirements for safe and efficient operation of United States air carriers engaged in international and domestic air service in Kosrae and at the Pohnpei International Airport. The National Weather Service shall train employees of the Government of the Federated States of Micronesia assigned to Kosrae and at the Pohnpei International Airport to enable such employees to provide required weather-reporting services pursuant to this paragraph. The National Weather Service shall not be responsible for providing reimbursement to the Federated States of Micronesia for personnel costs, including salaries and expenses, incident to the provision of weather services in Kosrae and at the Pohnpei International Airport pursuant to this paragraph.

13. As the availability of logistic support and finances permit, the National Weather Service will install and operate a network of satellite reporting automatic weather stations within the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands and the Republic of the Marshall Islands in support of the forecasting operations of the Joint Typhoon Warning Center and the Regional Specialized Meteorological Center Tokyo - Typhoon Center.

14. The Government of the Federated States of Micronesia will provide logistic support for the installation and maintenance of the elements of this network within the Federated States of Micronesia, resources permitting, and the National Weather Service will reimburse the Government for the cost of this support.

15. Annexed to this agreement are further details of weather services and related programs to be provided by the National Weather Service to the Federated States of Micronesia.

Article VIII

Civil Aviation Safety Services and Related Programs

Article VIII

Civil Aviation Safety Services and Related Programs

1. The Government of the United States and the Government of the Federated States of Micronesia agree that the Federal Aviation Administration (FAA) shall provide aviation safety services in the Federated States of Micronesia in accordance with this Article, subject to availability of appropriated funds, with the common desire to:

   (a) promote the common interests of the Government of the United States and the Government of the Federated States of Micronesia in fostering safe and efficient air service; and

   (b) facilitate the orderly establishment of aviation safety statutory and regulatory regimes and aviation safety authorities by the Government of the Federated States of Micronesia.

2. The Administrator of the Federal Aviation Administration may determine, after consultation with the Government of the Federated States of Micronesia, the appropriate level of services and related programs that the Federal Aviation Administration shall provide under the Compact, as amended, and this Agreement, provided the levels of services and related programs are consistent with the principles and objectives of the Compact, as amended, and this Agreement, including paragraphs 1 above and paragraphs 3 and 5 below.

3. On behalf of the Government of the Federated States of Micronesia, the Government of the United States shall provide aviation safety services in the Federated States of Micronesia as follows:

   (a) en route air traffic services within that air space including the Federated States of Micronesia for which the Government of the United States has responsibility under the appropriate regional air navigation plan approved by the International Civil Aviation Organization (ICAO);

   (b) flight inspection and ground certification of nondirectional beacons and distance-measuring equipment, and periodic review and evaluation of the need for, and the maintenance, modification, improvement or replacement of, nondirectional beacons, distance-measuring equipment and related support systems in the Federates States of Micronesia (The nondirectional beacons and distance-measuring equipment shall be removed from service when the need for them no longer exists.); and

(c) development and updating of instrument approach procedures, standard instrument departure procedures and standard terminal arrival routes for airports in the Federated States of Micronesia, and issuance of appropriate Notices to Airmen.

4. The Government of the Federated States of Micronesia, pursuant to Section 471 of the Compact, as amended shall take all necessary steps to ensure the conformity of laws, regulations and administrative procedures with the provisions of this Article. The aviation safety services specified under paragraph 3 of this Article shall be provided exclusively pursuant to treaties and other international agreements relating to aviation safety to which the United States is a party and the laws and regulations of the United States. The Government of the Federated States of Micronesia shall:

(a) consistent with Resolutions A23-11, Appendix N, Part II, Air Navigation, of ICAO Assembly Resolutions in force as of October 7, 1980, U.N. Doc. 9349, assign and delegate to the Government of the United States sole authority and responsibility for providing aviation safety services as specified in paragraph 3(a) of this Article until such time as those responsibilities are transferred at the request of the Government of the Federated States of Micronesia, and with the approval of the ICAO, from the Government of the United States to the Government of the Federated States of Micronesia; and

(b) grant unobstructed access by FAA personnel and FAA equipment to the property on which the navigational and landing aids set forth in paragraph 3(b) of this Article are located.

5. The FAA shall provide technical assistance to the Government of the Federated States of Micronesia to develop civil aviation safety authorities and to assist the FSM Government in the administration of safety certification and related aviation safety programs. Such technical assistance shall be provided pursuant to implementing agreements to be negotiated from time to time between the Government of the United States and the FSM Government. The FAA shall provide such technical assistance in accordance with the provisions of Part A of subtitle VII of Title 49, United States Code, and Chapter 473 of such subtitle. The technical assistance to be provided by the FAA includes, but is not limited to:

(a) continuing development of aviation safety statutes, regulations and aviation safety authorities;

(b) training, in the United States, of personnel designated by the Government of the Federated States of Micronesia;

(c) stationing of FAA personnel in the Federated States of Micronesia to provide continuing advice and guidance to aviation safety authorities at the request of the FSM Government. Such advice and guidance may include assistance to aviation required for certification by the Government of the Federated States of Micronesia of airmen, aircraft, airports and air agencies, as the term "air agencies" is used in 49 U.S.C. 44702 and 44707; and

(d) provision of equipment, tools, and facilities determined to be necessary to ensure aviation safety, or recommendations that such equipment, tools or facilities be provided by the Government of the Federated States of Micronesia.

6. Pursuant to Article III, Title One, of the compact, the Government of the Federated States of Micronesia shall protect radio frequency bands allocated in accordance with Article 5 of the Radio Regulations of the International Telecommunications Union to the aeronautical mobile, mobile, aeronautical fixed, fixed, aeronautical radionavigation, and radionavigation services in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention, in order to ensure their use free of interference for these allocated purposes in support of civil aviation.

7. The Government of the Federated States of Micronesia, in order to ensure that they transmit and receive the most current meteorological information for civil aviation purposes and that such information provided by them shall be available on a global basis, shall provide continuing access to their telecommunications services for meteorological traffic to and from Guam or other points as may be designated by the Government of the United States in consultation with the Government of the Federated States of Micronesia.

8. The Government of the Federated States of Micronesia, in order to ensure that they transmit and receive the most current flight movement and airmen information data for civil aviation purposes, and that such information received or provided by them will be available on a global basis, shall provide continuing access to their telecommunications services for flight movement and airmen information traffic to and from Guam or other entry points into the Aeronautical Fixed Service of the International Civil Aviation Organization as may be designated in accordance with the Convention on International Civil Aviation, Annex 10, Volume 1 and 2, by the Government of the United States in consultation with the Government of the Federated States of Micronesia.

9. The Government of the United States and the Government of the Federated States of Micronesia shall from time to time enter into such agreements as may be necessary to implement subparagraphs (b) and (c) of paragraph 3 of this Article.

Article IX

Civil Aviation Economic Services and Related Programs

Article IX

Civil Aviation
Economic Services and Related Programs

1. The Government of the United States and the Government of the Federated States of Micronesia agree that the following provisions shall apply to the economic regulation of air services of the Federated States of Micronesia.

2. The Government of the Federated States of Micronesia shall exercise independent economic regulatory jurisdiction over air services to, from, and within the Federated States of Micronesia, which for the purposes of this Agreement are points outside the United States, as the term "United States" is defined in 49 U.S.C. § 40102.

3. In accordance with Section 124 of the Compact, the Government of the United States, if requested by the Government of the Federated States of Micronesia and as mutually agreed, shall negotiate or assist in negotiations for air rights with third countries on behalf of the Government of the Federated States of Micronesia.

4. The U.S. Department of Transportation, upon request of the Government of the Federated States of Micronesia, shall provide the following assistance to the Government of the Federated States of Micronesia:

   (a) preparation of statutory and regulatory proposals for the economic regulation of civil aviation;

   (b) processing, in Washington, D.C., on behalf of and on the basis of procedures mutually agreed with the Government of the Federated States of Micronesia, of applications from any person seeking authority from the Government of the Federated States of Micronesia to engage in air services to, from or within the Federated States of Micronesia; the power of ultimate disposition of such applications rests with the Government of the Federated States of Micronesia;

   (c) training in the processing of air service applications, in Washington, D.C., of not more than two persons annually, and a total of not more than six persons during the life of this Agreement, designated by the Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall be responsible for travel, subsistence and similar expenses of its designated persons while in such training; and

(d) such other assistance as may from time to time be specifically agreed to by the U.S. Department of Transportation.

5. Subject to the approval of the Congress of the United States, the Government of the United States shall maintain:

(a) A distinct classification of foreign air carrier, as the term "foreign air carrier" is defined in 49 U.S.C. § 40102, to be known as "Freely Associated States Air Carrier." This classification shall apply exclusively to a carrier which:

(1) is organized under the laws of the Federated States of Micronesia or the United States; and

(2) has consent to such classification from the Government of the Federated States of Micronesia, and consent to such classification from the Government of the United States pursuant to standards adopted by the Government of the United States for such classification.

(b) Authority for the U.S. Department of Transportation to authorize Freely Associated State Air Carriers to carry local traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, and within the Commonwealth of the Northern Mariana Islands.

(c) Notwithstanding the provisions of 49 U.S.C. § 40102(a)(15), Air Micronesia, Inc. and Continental Micronesia, Inc. each shall qualify as a U.S. citizen air carrier, within the meaning of 49 U.S.C. § 40102(a)(2), for so long as they continue to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States.

(d) The U.S. Department of Transportation shall maintain rules to implement the provisions of this paragraph as the Department, in its discretion, deems appropriate. The Government of the Federated States of Micronesia shall be given notice of any proposed change in these rules and an opportunity to present its views, which shall be considered in any such revision.

6.

(a) Notwithstanding paragraph 2, the Government of the Federated States of Micronesia shall authorize, without restrictions or impairment, United States air carriers to operate air services to, through, beyond, within and

between the Federated States of Micronesia and to establish prices applicable to such air services.

(b) The Government of the United States shall promptly and sympathetically consider applications by air carriers of the Federated States of Micronesia to serve the United States, subject to all requirements normally applied.

(c) The Governments of the Federated States of Micronesia and the United States shall, on the basis of reciprocity, exempt air carriers that are authorized by each other to provide air services, from customs duties and taxes imposed by their national authorities, and shall not impose user charges that exceed an equitable proportion of the reasonable costs of providing the facilities, or which are discriminatory.

7.

(a) The Government of the United States shall promptly notify the Government of the Federated States of Micronesia of the filing with the U.S. Department of Transportation of any application by a United States air carrier for authority under the laws of the United States to operate air services pursuant to paragraph 6. The Government of the Federated States of Micronesia shall designate competent authorities pursuant to Article II, paragraph 10 of this Agreement for the purpose of receiving such notice. The Government of the Federated States of Micronesia shall be accorded an opportunity to present its views, which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the United States in connection with any such application, the Government of the Federated States of Micronesia shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

(b) The Government of the Federated States of Micronesia shall promptly notify the Government of the United States of the filing with the Department of Transportation, Infrastructure and Communications of any application by an air carrier of the Federated States of Micronesia for authority under the laws of the Federated States of Micronesia to operate air services between the Federated States of Micronesia and the United States. The Government of the United States shall designate competent authorities pursuant to Article II, paragraph 10 of this Agreement for the purpose of receiving such notice. The Government of the United States shall be accorded an opportunity to present its views, which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the Federated States of Micronesia in connection with any such application, the Government of

the United States shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules,

8. The Government of the United States and the Government of the Federated States of Micronesia shall sympathetically consider a request by the other Government for the negotiation of a bilateral air transport agreement.

9. The Government of the Federated States of Micronesia may terminate the operation of paragraphs 3, 4, 5 or 7 of this Article. Such partial termination may be effected in the same manner as this Article may be terminated in accordance with Article XIII of this Agreement. If the Government of the Federated States of Micronesia terminates the operation of paragraphs 3, 4, 5 and 7 of this Article, the Government of the Federated States of Micronesia may, in accordance with Article XIII of this Agreement, also terminate the operation of paragraph 6 of this Article.

10. If the Government of the Federated States of Micronesia elects to terminate the operation of paragraphs 3, 4, 5 and 7 of this Article, and the operation of paragraph 6 of this Article, the remaining provisions of this Article shall cease to be in effect two years after such termination, unless otherwise agreed by the Government of the Federated States of Micronesia and the Government of the United States. Notwithstanding the entry into force of an air transport agreement between the Government of the Federated States of Micronesia and the Government of the United States, this Article IX shall remain in full force and effect except as may be provided in paragraphs 9 and 10 of this Article.

Article X

United States Disaster Preparedness and Response Services and Related Programs

Article X

United States Disaster Preparedness and Response Services and Related Programs

1. Department of Homeland Security Disaster Preparedness Services and Related Programs

   (a) The Government of the Federated States of Micronesia (FSM) may request an annual grant from the Department of Homeland Security (DHS), for disaster preparedness, which shall not exceed fifty (50) percent of the cost of improving, maintaining and updating disaster assistance plans, including evaluation of natural hazards and development of the programs and actions to mitigate such hazards, provided that no such grant shall exceed fifty thousand dollars ($50,000) per annum and, provided further, that the FSM shall be eligible to receive such grants only if funding for these purposes is available to States of the United States.

   (b) The Government of the FSM assumes all rights, obligations and liabilities arising out of assistance, services and programs provided by DHS under this Agreement, including but not limited to the obligation to fund not less than fifty (50) percent of the cost of improving, maintaining and updating the disaster assistance plans referenced in paragraph 1, above.

2. United States Agency for International Development (USAID) Office of U.S. Foreign Disaster Assistance Services and Related Programs

   (a) As is the case with any disaster-affected country, the Federated States of Micronesia (FSM) may request U.S. Government (USG) foreign disaster assistance through the Chief of Mission of the U.S. Embassy. Based on assessment information provided by the FSM Government, its own assessment, or assessments of other partners, the U.S. Embassy can request specific assistance from the United States Agency for International Development's Office of U.S. Foreign Disaster Assistance within the Bureau of Democracy, Conflict, and Humanitarian Assistance (USAID/DCHA/OFDA). The following criteria would have to be met: 1) the disaster is deemed to be beyond the ability of the FSM to respond to; 2) the FSM has specifically requested or indicated it will accept USG assistance; and 3) a disaster response is in the interest of the USG.

   (b) The initial assistance provided through OFDA may be in the form of funding, commodities, or services (or a combination thereof) and is to be

used for the immediate relief of people affected by the disaster to save lives and reduce human suffering. The dollar value of this initial assistance (whether in cash, kind, or a combination of the two) will usually be limited to US Dollars 50,000. Additional assistance may be provided if justified, based on additional assessment information and reporting. Under no circumstances will requests for assistance by the FSM be considered by OFDA that are not received directly from the U.S. Embassy.

(c) OFDA has several other options for response beyond the initial provision of relief assistance. In major disasters and with the approval of the FSM Government, the U.S. Embassy may request that OFDA deploy a regional advisor, an assessment team, or a Disaster Assistance Response Team (DART) to provide direct coordination with OFDA and other organizations in the management of USG assistance. Based on further assessments of need, OFDA may provide additional relief commodities, fund proposals by indigenous private voluntary organizations (PVOs), the United Nations (UN), non-governmental organizations (NGOs) and international organizations (IOs). Any combination of these options may be utilized, based on the magnitude of the disaster, the response by other donors, and the FSM's own response capabilities. In all disaster events, there should be consultation between the FSM Government and the U.S. Embassy and between OFDA and the U.S. Embassy to assure that the needs of disaster victims are met within the context of the total assistance provided by the international disaster assistance community.

(d) In addition to disaster relief, OFDA may also provide preparedness, mitigation, and technical assistance. These non-relief programs may be provided without the need for a disaster declaration, as coordinated between the FSM Government, the U.S. Embassy, OFDA and other partners.

Article XI

Federal Deposit Insurance Corporation Services and Related Programs

Article XI

Federal Deposit Insurance Corporation Services and Related Programs

The Government of the United States of America and the Government of the Federated States of Micronesia (the "parties") have agreed as follows:

1. This agreement provides the criteria under which the Federal Deposit Insurance Corporation ("FDIC") will continue to insure the Bank of the Federated States of Micronesia ("Bank").

2. As an ongoing FDIC-insured and FDIC-supervised bank, the Bank and its management are and shall continue to be subject to existing and future United States banking and banking-related laws, rules and regulations relating to supervision, regulatory, and resolution and receivership matters to the extent that those laws, rules and regulations do not conflict with the Federated States of Micronesia's constitutional prohibition on ownership of land by aliens. The mention below of specific laws, rules and regulations is not intended to limit the scope of this governing principle.

3. Within the FDIC's discretion, the sale of a controlling interest in the Bank to a person or entity other than a citizen of the Federated States of Micronesia ("FSM") shall trigger a loss of the Bank's insured status and result in termination of deposit insurance, provided, however, that the Bank is allowed to have up to 33 1/3 percent foreign ownership. The change-of-control provisions in section 7 of the *Federal Deposit Insurance Act* ("FDIC Act")(12 U.S.C.1817(j)) shall apply to any changes in the Bank's ownership.

4. The FDIC has the authority to suspend or terminate the Bank's deposit insurance if the Commissioner of Banking of the FSM ("Commissioner") does not promptly and fully enforce an FDIC directive or order against or involving the Bank or any "institution-affiliated party" ("IAP"), as that term is defined in 12 U.S.C.1813 (u).

5. Any proceeding involving administrative enforcement actions against the Bank or any IAP of the Bank shall be in accordance with the Federal Deposit Insurance Act ("FDI ACT") and FDIC regulations. Any proceeding against the Bank or an IAP shall be held in the State of Pohnpei, unless the parties agree to hold a hearing in another location, or unless an Administrative Law Judge finds good cause to hold a hearing in a different location.

6. The Bank or an affected IAP may appeal temporary administrative orders and interim appealable administrative orders to the United States District Court for the District of Guam or, if warranted by the circumstances, to another appropriate

United States District Court, after exhausting any administrative remedies. The Bank or an affected IAP may appeal a final order or directive to the United States Court of Appeals for the Ninth Circuit or to the United States Court of Appeals for the District of Columbia Circuit.

7. The FDIC may sue in the United States District Court for the District of Guam or, if warranted by the circumstances, in another appropriate United States District Court, to enforce any final or temporary order or directive against or involving the Bank or an IAP.

8. The government and courts of the FSM shall give full faith and credit and full effect to final and temporary orders and directives of the FDIC, any United States banking or regulatory agency, and any United States court. All such final and temporary orders and directives shall be enforced by the FSM in summary proceedings. The FSM, including the Department of Justice, courts and agencies of the FSM, commit to full cooperation in the enforcement of all such final temporary orders and directives.

9. The FSM shall bar the participation in the conduct of the affairs of the Bank by any IAP, person, or party who: (a) is subject to a final or temporary order of suspension, removal, or prohibition issued by the FDIC, other United States banking or regulatory agency, or United States court, and/or (b) has been convicted of, or has agreed to enter a pre-trial diversion of similar program, in connection with the prosecution for an offense of the type covered by section 19 of the FDIC Act (12 U.S.C. 1829), including any conviction and/or diversion that takes place in the FSM or in any other nation or jurisdiction.

10. If the Bank becomes "critically undercapitalized," as that term is used in the provisions of the FDI Act (12 U.S.C. 1821(c)(5), (9)-(13)), the Government of the Federated States of Micronesia shall act to close the Bank.

    (a) The FDIC has the authority to appoint itself receiver of the Bank under the circumstances provided in 12 U.S.C. 1821(c)(10) and to exercise all powers conferred by the FDIC Act.

    (b) If the Bank is closed for any reason, the FDIC shall become the receiver of the Bank on the date of the closing unless the FDIC notifies the Commissioner in writing that it will not serve as receiver.

    (c) As under the provisions of the FDI Act (12 U.S.C.1821 (d)(11)), the receiver's administrative expenses shall be paid prior to the payment of any other claims of unsecured creditors. In addition, the subrogated claim of the FDIC as insurer of deposits shall have priority over the payment of

any claims of general unsecured creditors of the Bank, other than the receiver's administrative expenses.

(d) No person shall be permitted to bring an action in a court of law or other body (including any action that existed against the Bank prior to its failure) until such person has permitted the receiver a reasonable period to review such claim.

(e) No claim against a receiver arising prior to the failure of the Bank shall be valid unless it appears in the Bank's records.

(f) No claim against the receiver for its actions in liquidating the Bank shall prevail unless the plaintiff proves by clear and convincing evidence that the receiver acted in willful disregard of the law.

(g) It is further understood by the parties that: (1) no court or administrative agency shall enjoin the operations of the receivership; (2) officers, directors, and other professionals shall be liable to the receiver for any damages caused to the failed Bank; and (3) the receiver shall not be required to perform any executory contract which had been entered into by the Bank prior to its failure.

(h) The FDIC shall commence litigation between the receiver and creditors or debtors of the Bank only after a complete administrative review of the claim by the receiver. All suits of a civil nature to which the FDIC as receiver is a party must be brought in the United States District Court for the District of Guam or in another United States District Court agreed upon by the receiver and the litigant(s). When litigation is necessary, the FDIC shall attempt in good faith to reduce litigants' travel obligations and costs by soliciting the use of a special master designated by the United States District Court for the District of Guam. The special master would travel to the FSM to conduct hearings and gather evidence to assist the United States District Court for the District of Guam.

11. In addition to continuing to insure the Bank, the FDIC is prepared to provide technical assistance to the FSM, in the form of regulatory, supervisory and receivership/liquidation training and other support.

Article XII

Telecommunications Services and Related Programs

Article XII

Telecommunications Services and Related Programs

1. This Article sets forth the respective authority and responsibility of the United States of America and the Federated States of Micronesia for communications assistance including frequency spectrum management as authorized by Section 131 of the Compact of Free Association, as amended, and with regard to the operation of telecommunication services of the Government of the United States in the Federated States of Micronesia as authorized by Section 132 of the Compact, as amended.

2. The Government of the United States and the Government of the Federated States of Micronesia, recognizing the progressive development of telecommunications infrastructure for their mutual benefit and the importance of incorporating advances in technology in this development, shall enter into negotiations for the purpose of concluding such subsidiary arrangements as may be necessary to make available, so far as is possible, to the people of the Federated States of Micronesia and to the Government of the United States, a rapid, efficient, reliable and cost-effective wire and radiocommunication service, including broad band services such as fiber optic cable. Further, with a view to acquiring such enhanced telecommunications infrastructure while limiting costs, such communications infrastructure upgrades shall be free from all license requirements, taxes, duties, fees and charges. All arrangements concluded under this paragraph shall remain in force between the Government of the United States and the Government of the Federated States of Micronesia for the period of effectiveness of the provisions of Article XIII of this Agreement.

Definitions

3. The definition of terms set forth in the following documents are incorporated into this Agreement:

   (a) Article VI of Title Four of the Compact, as amended;

   (b) Paragraph 2 of Article I of the Status of Forces Agreement concluded pursuant to Section 323 of the Compact; and

   (c) Paragraph 2 of Article I of this Agreement.

United States Telecommunications Support

4. The United States will continue work on the notification of radio frequency assignments to the Radiocommunication Bureau (BR) of the International

Telecommunication Union (ITU) until all assignments that require notification pursuant to the ITU Radio Regulations are successfully notified.

5. The United States will provide frequency management support to the frequency management staff of the Federated States of Micronesia by:

   (a) Assisting in the notification and coordination of new radio frequency assignments to the Radiocommunication Bureau when the frequency management staff is faced with new or complex aspects of complying with ITU procedures;

   (b) Providing advice and assistance in accommodating new communications requirements for complex systems or for ones which the staff have not handled before; and,

   (c) Maintaining a computer database of U.S. Government frequency assignments in the Federated States of Micronesia and providing periodic lists of the assignments to the Federated States of Micronesia for the duration of the Compact, as amended.

6. At Joint Telecommunication Board meetings and between meetings, as necessary, the United States will provide information on, for example, issues and correspondence involving activities of the ITU.

Responsibilities of the Federated States of Micronesia

7. For the duration of the Compact, as amended, the Federated States of Micronesia:

   (a) Will operate its telecommunications services consistent with the provisions of the ITU Constitution and Convention and the ITU Radio Regulations and will fulfill all of its ITU obligations; and

   (b) Will consult with the United States of America (using Joint Telecommunication Board meetings when time permits) on ITU issues, including all ITU conferences and meetings, which could affect its bilateral relationship with the United States of America.

8. In accordance with the applicable provisions of the ITU Convention or as may be provided for in a subsequent ITU instrument binding on the Government of the United States of America and the Government of the Federated States of Micronesia, the Federated States of Micronesia will give the United States of America its proxy to vote and sign on its behalf at any ITU conference or meeting that it does not attend, provided the two governments have consulted on the issues to be decided.

Operation of Telecommunications Services of the United States in the FSM

9. General Provisions:

   (a) The Government of the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under the Compact, as amended.

   (b) In the Federated States of Micronesia, permits or licenses issued to United States personnel by the Government of the United States shall be solely for the operation of telecommunication facilities of the Government of the United States.

   (c) The Government of the United States may use local telecommunications systems in the Federated States of Micronesia and is encouraged to do so to the extent feasible taking into account the cost, security, effectiveness and reliability of such systems.

10. Subject to prior consultations with the Federated States of Micronesia, the Government of the United States may take within the Federated States of Micronesia measures for the installation, operation and maintenance of its telecommunication services, including:

    (a) the operation and maintenance of all telecommunication facilities, and use of the associated radio frequencies authorized for use, or authorized in use, by it upon the entry into force of this Agreement;

    (b) the installation, operation and maintenance of new or additional telecommunication facilities in the Federated States of Micronesia. Such actions will be coordinated with the Government of the Federated States of Micronesia.

    (c) the regulation and control of all telecommunications of the Government of the United States, including the licensing of operations personnel; and

    (d) the use of codes, ciphers and other means of cryptographic security.

11. The Government of the Federated States of Micronesia:

    (a) Permits the operation of United States telecommunication facilities in the Federated States of Micronesia, subject to coordination with the Government of the United States in accordance with the terms of this

Agreement; and will ensure that the provision of frequencies to the Government of the United States shall be free from all license requirements, taxes, duties, fees and charges;

(b) Shall make prompt and reasonable efforts to satisfy requests by the Government of the United States for changes in existing frequencies and for requests for additional frequencies; and

(c) Shall accept as its own, without a test or fee, the permits or licenses issued to United States personnel by the Government of the United States.

12.

(a) For the purpose of carrying out the provisions of this Article, Competent Authorities shall be designated by each of the Parties. The Competent Authority of the Government of the United States and the Competent Authority of the Government of the Federated States of Micronesia may communicate directly with each other. The designation by a government of the Competent Authority will be communicated in writing to the other signatory government and such designation may, from time to time, be amended.

(b) Recognizing the establishment of the Joint Telecommunication Board in the Compact provisions for the purpose of harmonizing the telecommunication operations of the Government of the United States with those of the Government of the Federated States of Micronesia, the Competent Authorities shall meet at least annually or more often as may be required. The Board will review plans for changes to the respective telecommunication systems of the parties to ensure maximum possible compatibility and interoperability and discuss and decide any issues relating to the use of local telecommunication systems by the Government of the United States. The secretariat and host for meetings of the Board will be as mutually agreed by the parties.

13. The Government of the United States, through its Competent Authority, shall coordinate proposed major changes to United States telecommunications and extraordinary activities or exercises that would have the potential of causing either electromagnetic or physical interference with other systems used or licensed by the Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia, through its Competent Authority, shall coordinate similar changes with the United States Competent Authority. The Government of the United States and the Government of the Federated States of Micronesia shall use their best efforts to avoid both electromagnetic and physical interference to each other's telecommunication operations. In the event the Competent Authorities cannot reach a mutually

satisfactory agreement through consultations, the matter will be referred to their respective governments for resolution in accordance with the provisions of Article V of Title Three or Article II of Title Four of the Compact, as amended, as appropriate.

14. Transmitter and receiver antennas installed by the Government of the United States shall be located and constructed so as not to constitute hazards including, inter alia, hazards to air navigation.

Defense Telecommunication Provisions

15. The Armed Forces of the United States and their United States contractors may take, in the Federated States of Micronesia, measures for the installation, operation and maintenance of telecommunication services pursuant to Title Three of the Compact, as amended, and its subsidiary agreements. These measures include the right, as provided for in this Agreement, to install, operate and maintain:

    (a) Radio communication, radar and telemetry systems including:

        (1) Major radio communication facilities as links with the worldwide military network of the United States;

        (2) Such other lesser radio-telephonic and telegraphic communication facilities including the Military Affiliate Radio System as may be required for the support of military and administrative services of the Armed Forces of the United States;

        (3) Television systems;

        (4) Radio facilities for communication with aircraft and surface vessels;

        (5) Satellite communications;

        (6) Such other broadcast stations contributing to the morale, welfare and training of the Armed Forces of the United States and its contractors, which includes the Armed Forces Radio and Television Service and short-range broadcast stations; and

        (7) Such other telecommunication facilities as may be required from time to time.

(b) Aids to air navigation and airfield approach control systems including electronic navigation and landing aids, such as airport surveillance radars, ground control approach (GCA), TACAN and instrument landing systems (ILS), and other such aids as may be developed and adapted for such use.

(c) Telecommunication equipment in connection with the operation of weather facilities.

(d) The activities contained in paragraph 15 (a) through (c) of this Article, are a non-exclusive, illustrative listing of the telecommunications activities which the United States may take in the Federated States of Micronesia.

(e) The term "television systems" as used in paragraph 15 (a) (3) refers only to such systems used for surveillance monitoring, security systems, command and control, and other such uses, but does not include television broadcast stations as addressed in paragraph 15 (a) (6) of this agreement without the prior agreement between the Government of the United States and the Government of the Federated States of Micronesia.

(f) The Government of the United State shall not undertake any actions to install or operate broadcast stations pursuant to paragraph 15 (a) (6) of this Article without prior agreement between the Government of the United States and the Government of the Federated States of Micronesia.

United States Federal Programs and Services Telecommunication Provisions

16. United States Federal Agencies and their United States contractors may take in the Federated States of Micronesia measures for the installation, operation and maintenance of telecommunication services in support of United States Federal Programs and Services as set forth in this Agreement.

Effective Date, Amendment and Duration

17. This Article shall enter into force simultaneously with the Compact, as amended. Upon entry into force of this Agreement, both the Section 131 Agreement effected by exchange of notes at Kolonia and Palikir May 28 and June 7, 1993, and as between the United States and the Federated States of Micronesia, the 1982 "Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association," shall terminate.

18. This Article may be amended by the Parties at any time by mutual agreement.

19. This Article shall remain in force in accordance with the following terms:

(a) Paragraphs 2, 3, 9-15 and 17-19 of this Article shall remain in force between the Government of the United States and the Government of the Federated States of Micronesia for the period of effectiveness of the Military Use and Operating Rights Agreement concluded pursuant to Sections 321 and 323 of the Compact; and

(b) Paragraphs 2, 3, 9-14 and 16-19 of this Article shall remain in force between the Government of the United States and the Government of the Federated States of Micronesia for the period of effectiveness of the provisions of Article XIII of this Agreement.

Article XIII

Transition and Termination of Services and Related Programs

Article XIII

Transition and Termination of Services and Related Programs

1. Whenever the Government of the Federated States of Micronesia desires to terminate a category of the services and related programs set forth in Articles VI through XII of this Agreement, that Government shall give written notice to the United States diplomatic representative and to the Federal agency concerned. The Government of the United States shall assist in the orderly transfer of authority and responsibility for such category of services and related programs. Unless otherwise agreed, the authority and responsibility of the Government of the United States under this Agreement shall terminate one year after receipt of such notice by the United States diplomatic representative.

2. Upon termination of a category of services and related programs pursuant to paragraph 1 of this Article, the applicability of all laws of the United States, its regulations, practices, policies, treaties, conventions, or arrangements, which are applicable to that category solely by virtue of this Agreement, shall cease to be applicable in the Federated States of Micronesia, and any authority and responsibility of the Government of the United States for the conduct of foreign affairs in respect to such services and related programs shall also cease.

Article XIV

Effective Date, Amendment and Duration

Article XIV

Effective Date, Amendment and Duration

1. This Agreement, as amended, shall enter into force simultaneously with the amendments to the Compact; any related Exchanges of Notes shall enter into force in accordance with their own terms.

2. The provisions of this Agreement or any related Exchanges of Notes may be amended as to the Government of the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement.

3. This Agreement shall remain in force for a period of twenty years, subject to Article IV, Title Four of the Compact.

4. This Agreement may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Federated States of Micronesia. Upon acceptance of this Agreement, each Government shall possess an original English language version.

DONE at Palikir, in duplicate, this 14th day of May, 2003, each text being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA:

ANNEX A
WEATHER SERVICES AND RELATED PROGRAMS PROVIDED BY DOC NOAA NATIONAL WEATHER SERVICE TO THE FEDERATED STATES OF MICRONESIA

To comply with the provisions of the Compact of Free Association the United States Department of Commerce's (DOC) National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (hereafter referred to as the National Weather Service) shall, subject to the availability of funds appropriated for this purpose:

1. Enter into a Contract with the Government of the Federated States of Micronesia (FSM) to provide, on a reimbursable basis, personnel, facilities, supplies, and related support services, including telecommunication infrastructure, to operate and maintain Weather Service Offices at Pohnpei, Chuuk, and Yap, second order weather stations, and climatological networks within the area of responsibility of these three primary weather stations.

    (a) The Weather Service Office at Pohnpei includes the observatory, upper air inflation building and associated weather equipment. It is staffed by a Meteorologist-in-Charge or Official-in-Charge, eight Weather Service Specialists, an Electronic Program Specialist and a Tradesman. This office takes and disseminates surface and upper air observations, gathers tide data and makes and disseminates locally adapted forecasts. It also provides expertise to the government on short and long term climatological trends with technical assistance from the National Weather Service. The Pohnpei office supervises the Pohnpei International Airport and Kosrae SAWRS. Second order stations providing limited surface synoptic observations are located at Pingelap, Nukuro, Kapingamorangi, and Kosrae. The Pohnpei office oversees the second order stations and also the cooperative weather sites within Pohnpei State. The person in charge of the Pohnpei office has, as a collateral duty, the function of the Federated States of Micronesia Weather Service Coordinator until such time as the Federated States of Micronesia Government can assume this function on a full time basis.

(b) The Weather Service Office at Yap includes the observatory, upper air inflation building and associated weather equipment. It is staffed by a Meteorologist-in-Charge, eight Weather Service Specialists, an Electronic Program Specialist and a Tradesman. This office takes and disseminates surface and upper air observations, gathers tide data, and prepares and disseminates locally adapted forecasts. It also provides expertise to the government on short and long term climatological trends with technical assistance from the National Weather Service. The Pohnpei Office oversees second order stations providing surface synoptic observations are located at Woleai and Ulitihi. The Yap office oversees the cooperative weather sites within Yap State.

(c) The Weather Service Office at Chuuk includes the observatory, upper air inflation building and associated weather equipment. It is staffed by a Meteorologist-in-Charge or Official-in-Charge, eight Weather Service Specialists, an Electronic Program Specialist and a Tradesman. This office takes and disseminates surface and upper air observations, gathers tide data, and makes and disseminates locally adapted forecasts. It also provides expertise to the government on short and long term climatological trends with technical assistance from the National Weather Service. The Pohnpei Office oversees second order stations providing surface synoptic observations are located at Puluwat and Lukunor. The Chuuk office oversees the cooperative weather sites within Chuuk State.

2. As funds are available and as efficiencies and new technologies are implemented, modify the staff at the three FSM Weather Service Offices by a reduction in the number of Weather Service Specialists and the addition of a second Meteorologist and a Systems Manager (computer specialist).

3. Provide the supplies (including balloons, radiosondes, hydrogen and tanks, etc.), manuals and instructions, and instruments and equipment required for the operation of the weather offices' programs and related services but which are not provided for under Paragraph 1 above.

4. Provide and maintain weather office facilities, including renovation and periodic replacement, and the replacement of meteorological instruments/equipment, and other equipment required for the weather offices' programs and related services.

5. Regularly inspect the weather offices and SAWRS observing sites to ensure the quality of meteorological operations and services.

6. Train FSM employees as required to implement the provisions of the Compact and to meet technological change.

7. Continue FSM access to telecommunications for meteorological traffic to ensure the receipt and dissemination of current meteorological information.

8. Provide for the maintenance, repair, or installation of instruments and equipment required for the weather offices' programs and related services.

9. Provide advice and technical assistance, upon request, for the development of a Federated States of Micronesia national weather service.

10. Continue the following level of weather services and related programs for FSM until they may be assumed by the development of an FSM national weather service:

    (a) General

    The National Weather Service provides for the meteorological data acquisition facilities and services and for the dissemination of forecasts and warnings prepared by the National Weather Service Forecast Offices (WFOs) in Guam and Honolulu to the civil interests, including those involved in marine and aviation activities.

    (b) Public Weather Services

    (1) WFO Guam prepares tropical storm, typhoon, marine, and other warnings and twice daily marine-oriented forecasts and transmits these products by satellite communications such as the Emergency Manager's Weather Information Network or equivalent means via HF radio (radiofax) for high seas information and by dedicated telecommunications networks to the Weather Service Offices. The WSOs adapt the marine-oriented forecasts for local use and then distribute locally by phone, phone recording, facsimile, Internet web site, and also disseminate by radio and TV (where available) in both English and native languages.

    (2) Each of the three FSM offices (Pohnpei, Chuuk and Yap) maintains short-term historical weather records for the use of local, national and international agricultural, construction, and scientific interests. Long-term climatological records are maintained by the US National Climatic Data Center, Asheville, N.C.

    (c) Aviation Weather Services

    (1) Aviation aerodrome forecasts are to be issued for Yap, Chuuk, and Pohnpei four times daily, and for Kosrae (based upon the

availability of SAWRS observations) by either the WFO Guam or the WFO Honolulu.

(2) Aviation warnings are issued, as required, under international agreement.

(d) Sea-Level Monitoring (Tide) stations in Pohnpei, Chuuk and Yap are part of the International Tsunami Warning System. These three stations are located in a critical quadrant of the western Pacific and provide early warnings of Tsunamis generated in the Philippine Islands - New Guinea - Vanuatu area. The tide information is transmitted to the Pacific Tsunami Warning Center in Honolulu for their computation of Tsunami transit time and for use in preparing warnings for the Pacific basin.