COMPACT OF FREE ASSOCIATION

Status of Forces

Agreement between
the UNITED STATES OF AMERICA
and MICRONESIA

Signed at Palikir May 14, 2003

with

Agreed Minutes

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: Status of Forces

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

STATUS OF FORCES AGREEMENT
Concluded Pursuant to Section 323 of
The Compact of Free Association, as amended

Agreement in Implementation
of Section 323 of
The Compact of Free Association, as amended

Status of Forces Agreement

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STATUS OF FORCES AGREEMENT
Concluded Pursuant to Section 323 of
The Compact of Free Association, as amended

This Agreement is concluded by the Signatory Governments and sets forth the legal status of the Armed Forces of the United States, their members, and associated civilians, while present in the Federated States of Micronesia pursuant to Section 323 of the Compact of Free Association (the Compact), as amended.

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) "Armed Forces of the United States" means the land, sea and air armed forces of the United States of America, including the Coast Guard.

(b) "United States Contractors" means the legal entities, including corporations and natural persons, 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, in support of the Armed Forces of the United States and 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 organized under the laws of, and who are in, the Federated States of Micronesia.

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

(1) "members of the force" -- all military personnel, notwithstanding their citizenship or nationality, on duty with the Armed Forces of the United States who are in the Federated States of Micronesia;

(2) "members of the civilian component" -- all civilian persons, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Federated States of Micronesia, and who are in the employ of, serving with, or accompanying the Armed Forces of the United States;

(3) "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

(4) "dependents" -- the spouses and dependents of persons included in paragraphs 2(d)(1)and2(d)(2) who are listed on official United States Government travel orders (including children of persons included in paragraphs 2(d)(1) and 2(d)(2), whether or not they are listed on official United States Government orders, who are born after such persons' arrival in the Federated States of Micronesia), and the spouses and dependents of persons included in paragraph 2(d)(3) of this Article and, while members of the household of such persons, other relatives or wards of such persons or their spouses.

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

(f) "Local Hire Personnel" means citizens of the Federated States of Micronesia who are employed in the Federated States of Micronesia by the Armed Forces of the United States or United States contractors.

(g) "Defense Sites" Means "Military Areas and Facilities" as defined in Section 461 (i) of the Compact, as amended.

(h) "Judge" means any judicial officer of a Signatory Government who has the authority to issue a warrant of arrest or its equivalent and for purposes of this Agreement, except for paragraph 6(c) of Article XII, shall also include judicial officers certified as such by the Government concerned.

Article II

Movement

Article II

Movement

1. Consistent with the Compact, as amended, this Agreement and any other agreements concluded between the Government of the United States and the Government of the Federated States of Micronesia in accordance with Sections 321 and 323 of the Compact, as amended:

(a) All aircraft, vessels and vehicles operated by, for, or under the control of the Armed Forces of the United States or United States contractors shall enjoy freedom of movement in the Federated States of Micronesia;

(b) Such aircraft, vessels and vehicles shall be operated in a manner which minimizes danger to persons and property and interference with trade, commerce, exploration and exploitation of living and non-living resources of the sea; and

(c) Movement of such aircraft, vessels and vehicles in the Federated States of Micronesia, including access to and use by them of defense sites, ports, harbors and airfields, shall not be subject to any taxes, fees or other charges, except those fees or other charges set forth in paragraph 2 of this Article.

2. The Armed Forces of the United States and United States contractors shall pay, at generally prevailing rates unless otherwise agreed, for specific services rendered at their request, including materials received at their request in connection with the use of ports, harbors and airfields in the Federated States of Micronesia. Such services and materials may include fuel, towing, mechanical servicing and utilities.

Article III

Entry and Departure

Article III

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 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 IV of this Agreement.

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

(a) No United States personnel or third country contractor personnel shall acquire any right to permanent residence or domicile 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, United States personnel ten years of age or older 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. Should the Government of the Federated States of Micronesia request the removal from the Federated States of Micronesia, of any United States personnel or any third country contractor personnel, the request shall be referred to the Joint Committee established pursuant to Section 351 of the Compact, as amended for resolution in

accordance with that Section, unless the Government of the United States receives the person concerned within its own territory or otherwise effects the departure of such person outside the territory of the requesting Government. Section 351 of the Compact, as amended, is incorporated by reference into, and becomes a part of, this Agreement. If the Joint Committee so determines, the person concerned 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 IV

Utilization of Contractors and Employment of Labor

Article IV

Utilization of Contractors and Employment of Labor

1. In the establishment, maintenance, and use and operation of defense sites and in the execution of obligations undertaken by the Government of the United States in the Compact, as amended, and its related Agreements, the Armed Forces of the United States, United States contractors and local contractors:

(a) May employ persons possessing requisite skills and qualifications. Employment preference shall be given, without discrimination, to citizens of the Federated States of Micronesia and to citizens, nationals and permanent resident aliens of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Armed Forces of the United States and United States contractors shall exercise their best efforts to employ persons present in the Federated States of Micronesia; and

(b) Shall utilize without discrimination, consistent with the laws and regulations of the United States, qualified local contractors to the maximum extent feasible, and qualified contractors which are legal entities of the United States. The Armed Forces of the United States 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.

(c) Shall, in consultation with the Government of the Federated States of Micronesia, establish procedures for local sourcing of products, works, and services where there are qualified local contractors.

2. Prior to the employment of third country personnel or the utilization of third country contractors, the Government of the United States shall notify the Government of the Federated States of Micronesia of that intent, in writing, and shall consult, if requested within thirty days of such notification, with the Government of the Federated States of Micronesia as to the availability of qualified local hire personnel or qualified local contractors. If a response is not received by the United States within thirty days after notification, the United States or its contractor may proceed with the hiring action.

3. The Government of the United States may hire third country contractor personnel without notification under paragraph 2, for periods of temporary duty of ninety days or less within a twelve-month period if qualified local hire personnel are not available.

4. The laws and regulations of the Federated States of Micronesia shall not apply to the terms and conditions of employment of the United States personnel or third country contractor personnel by the Armed Forces of the United States of 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 the Armed Forces of the United States. For purposes of this paragraph only, United States Personnel shall not include relatives (other than spouses and children) or wards of members of the force, members of the civilian component, or contractor personnel, or spouses of such relatives or wards.

5. In the employment of local hire personnel by the Armed Forces of the United States 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 the laws, regulations and operational requirements of the United States.

Article V

Taxes and Customs

Article V

Taxes and Customs

1. The following are exempt from any tax, fee or similar charge imposed by the Government of the Federated States of Micronesia:

(a) The services, activities, facilities, equipment, material, income or any other property or transactions of the Armed Forces of the United States or United States contractors; and

(b) The ownership, possession, use, or transfer inter se by United States personnel, by death or otherwise, of real or personal property, tangible or intangible, wherever located.

2. Third country contractor personnel shall be subject to income tax generally applicable in the Federated States of Micronesia.

3. All materials, equipment and other property imported or exported by or on behalf of the Armed Forces of the United States, or United States contractors for the use or benefit of the Armed Forces of the United States, United States contractors, United States personnel, or third country contractor personnel shall be permitted entry into and exit from the Federated States of Micronesia free from customs duties, license requirements, and other import and export taxes, fees or charges.

4. United States personnel may import into and export from the Federated States of Micronesia furniture, household goods and personal effects for their personal or family 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.

5. The following are exempt from customs examination by the Government of the Federated States of Micronesia:

(a) Members of the force, members of the civilian component and the dependents of both when entering or leaving the Federated States of Micronesia under official orders except when under leave orders;

(b) Documents under official seal, and mail in the United States military postal channels; and

(c) Cargo consigned to or shipped by the Armed Forces of the United States or United States contractors.

6. The Armed Forces of the United States, in cooperation with the Government of the Federated States of Micronesia, shall take appropriate measures, including inspection, to prevent the importation of contraband and to prevent abuse of privileges granted under this Article.

7. 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.

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

Article VI

Service Facilities

Article VI

Service Facilities

The Armed Forces of the United States may authorize the establishment, use, operation and maintenance within defense sites in the Federated States of Micronesia of service, educational and recreational facilities. Such facilities and their related activities, including the importation, purchase, sale or dispensing of merchandise and services by them shall be exempt from all taxes, customs duties, fees, charges and license requirements of the Government of the Federated States of Micronesia.

Article VII

Military Post Offices

Article VII

Military Post Offices

The Armed Forces of the United States may establish, operate and maintain military post offices within defense sites for their use and the use of United States contractors and United States personnel. A mail facility operated by a United States contractor on behalf of the Armed Forces of the United States shall be considered a military post office within the meaning of this Article.

Article VIII

Bearing of Arms

Article VIII

Bearing of Arms

1. Members of the force may possess and use arms when necessary to perform their official duties and, in specially designated areas in defense sites, to maintain skills to perform their official duties, in accordance with the laws and regulations governing the Armed Forces of the United States.

2. Contractor personnel may possess or use arms when acting in support of the military mission of the Government of the United States in an official capacity as law enforcement personnel or security officers designated as such by the Government of the United States in accordance with its laws and regulations.

3. Any other possession or use of arms shall be only as agreed between the Government of the United States and the Government of the Federated States of Micronesia.

Article IX

Operation and Licensing of Vehicles

Article IX

Operation and Licensing of Vehicles

1. 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.

2. Official vehicles of the Armed Forces of the United States, vehicles owned or operated by the 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.

(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.

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

Article X

Relinquishment of Defense Sites

Article X

Relinquishment of Defense Sites

1. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishment of a defense site or portion thereof, whether at the termination of any agreement provided for in Section 321 or 323 of the Compact, as amended, or at any other date, 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 .

2. The Government of the United States shall take all measures practicable to ensure that every condition substantially or materially hazardous to human life, health and safety resulting from use of defense sites is removed or otherwise made safe. The Governments concerned shall consult as to what constitutes a hazard and how hazards shall be removed or otherwise made safe.

3. The Government of the United States shall have no obligation, upon relinquishment, to restore defense sites to their former condition; however, upon notification of intent to relinquish a defense site or portion thereof, or sooner if mutually agreed, the Government of the United States and the Government of the Federated States of Micronesia shall enter into negotiations with a view to reaching an equitable arrangement for return of lands that takes due account of United States investment, the prospective use to which such lands will be used and the unique importance of land under local custom and law.

4. The Government of the Federated States of Micronesia and the Government of the United States shall commence consultations no later than seven years prior to the termination of the Military Use and Operating Rights Agreement to plan, schedule, and implement the provisions of this Article. The Government of the United States shall either transfer installations, facilities, or improvements to the Government of the Federated States of Micronesia as soon as they are no longer required by the United States, or it will maintain such installations, facilities or improvements in operating condition throughout the period of consultations.

Article XI

Equipment

Article XI

Equipment

The Government of the United States shall retain title to equipment, materials and other moveable property brought into or acquired in the Federated States of Micronesia and may remove such property at any time. In the event the Government of the United States wishes to dispose of such equipment, materials or other moveable property, the Government of the Federated States of Micronesia shall have a right of first refusal to purchase such items, at an agreed upon price, after the Government of the United States has fulfilled its statutory and regulatory responsibilities including first offering such equipment to other agencies of the Government of the United States. Upon notification of intent to relinquish a defense site, or portion thereof, the Government of the United States will enter into negotiations with the Government of the Federated States of Micronesia regarding the disposition of all fixed and movable real property located on the defense site or sites.

Article XII

Criminal Jurisdiction

Article XII

Criminal Jurisdiction

1. Subject to the provisions of this Article:

(a) United States personnel are subject to the criminal jurisdiction of the Government of the Federated States of Micronesia for offenses committed by such personnel in the Federated States of Micronesia.

(b) The Government of the United States has the right to exercise within the Federated States of Micronesia criminal and disciplinary jurisdiction over United States personnel for offenses punishable under the laws of the United States. In lieu of criminal or disciplinary proceedings in the Federated States of Micronesia, the Government of the United States may elect to remove United States personnel for such proceedings elsewhere.

(c) For purposes of asserting jurisdiction under this Article, the determination of a Signatory Government as to whether an offense is punishable under its laws shall be conclusive.

2. The Government of the Federated States of Micronesia has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Federated States of Micronesia which are punishable under local law, but not under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States.

3. The Government of the United States has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Federated States of Micronesia which are punishable under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, but not under local law.

4. The Government of the Federated States of Micronesia and the Government of the United States have concurrent jurisdiction over United States personnel with respect to offenses committed in the Federated States of Micronesia which are punishable under both local laws and the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States. Whenever it is determined by the Government of the Federated States of Micronesia that an act or omission is a punishable offense under the laws of the Federated States of Micronesia, and it is determined by the Government of the United States that the same act or omission is a punishable offense under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, the following rules shall apply:

(a) The Government of the Federated States of Micronesia has the primary right to exercise jurisdiction over United States personnel in all other cases of concurrent jurisdiction, except as provided in paragraph 4(b) of this article.

(b) The Government of the United States has the primary right to exercise jurisdiction over United States personnel in the Federated States of Micronesia for:

(1) Offenses committed within defense sites, including non-exclusive-use areas during periods of use by the Government of the United States under applicable military use and operating rights agreements concluded under Sections 321 and 323 of the Compact, as amended;

(2) Offenses against the property or security of the United States, or offenses against the person or property of United States personnel;

(3) Offenses arising out of the performance of official duty;

(4) Offenses committed by United States personnel who are attached to or embarked in aircraft or vessels transiting the Federated States of Micronesia and which are operated by, for, or under the control of the Armed Forces of the United States or United States contractors; and

(5) Any other offense punishable by deprivation of liberty or by a more severe penalty. However, the Government of the Federated States of Micronesia has the primary right of jurisdiction to try any offense that is not a felony under local law and for which the sole penalty which shall be adjudged or imposed, if any, is a fine. The Government of the Federated States of Micronesia shall have the primary right to exercise jurisdiction over any such offense which is not a felony under local law and is subject to a maximum punishment no greater than deprivation of liberty for less than six months.

(c) The Government of the Federated States of Micronesia having the primary right to exercise jurisdiction waives that right, unless it notifies the Government of the United States of its intention to exercise such right as soon as practicably, but within 30 calendar days after notification of the offense by either government.

(d) The Government having the primary right to exercise jurisdiction shall give sympathetic consideration to a request from the other Government concerned for a waiver of such primary right in cases the requesting Government considers to be of particular importance.

(e) The provisions of this article shall be reviewed by the Signatory Governments concerned at anytime on request by one of them in order to determine whether any modification of its provisions may be appropriate in light of circumstances then prevailing.

5. Except for laws officially transmitted in English to the Government of the United States by the Government of the Federated States of Micronesia, ignorance of the laws of the Federated States of Micronesia shall constitute a defense.

6. The Government of the United States and the Government of the Federated States of Micronesia shall assist each other in the arrest or detention of United States personnel in the Federated States of Micronesia.

(a) The Government of the Federated States of Micronesia shall promptly notify the Government of the United States of the arrest or detention of any United States personnel.

(b) Members of the force accused or suspected of the commission of any offense in the Federated States of Micronesia shall remain in or be transferred to the custody of the Government of the United States unless the Government of the United States declines such custody. The Government of the United States shall make available for purposes of investigation or trial members of the force in its custody over whom the Government of the Federated States of Micronesia has the right to exercise jurisdiction pursuant to this Agreement. Upon completion of all judicial proceedings, including appellate proceedings, such personnel shall be transferred to the Government of the Federated States of Micronesia if a sentence providing for deprivation of liberty has been finally adjudged.

(c) The provisions of Title Four of the Agreement on Mutual Assistance in Law Enforcement Matters shall be applicable to United States personnel who are citizens or nationals of the United States.

(d) The Government of the United States may request custody of a prisoner who is a member of the force, deprived of liberty by order of a Court of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall transfer such prisoner to the custody of the Government of the United States which shall provide for the carrying out of the terms of such deprivation of liberty.

7. The Government of the United States and the Government of the Federated States of Micronesia shall assist each other in the carrying out of all necessary investigations into offenses within the scope of this Article, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The transfer of such objects may be made subject to their return within the time specified by the Government delivering them.

8. Where a person has been tried in accordance with the provisions of this Article, either by the Government of the United States or the Government of the Federated States of Micronesia, and has been acquitted or convicted, or has been pardoned, he may not be tried again within the same territory for the same offense by either Government. This paragraph is without prejudice to the authority of the Armed Forces of the United States to try a member of the force for any violation of rules of discipline.

9. United States personnel prosecuted under the jurisdiction of the Government of the Federated States of Micronesia shall be entitled to all guarantees and rights provided by the constitution and laws of the prosecuting Government for its own citizens and to the following guarantees and rights to the extent that they are not provided by that constitution and those laws:

(a) To a prompt and speedy trial;

(b) To be tried only in a court presided over by a qualified judge trained in the law;

(c) To be informed, in advance of trial, of the specific charge or charges made against such person;

(d) To be confronted with and permitted to cross-examine the witnesses against such person;

(e) To have compulsory process for obtaining witnesses in favor, of such person, if the witnesses are within the jurisdiction of the court;

(f) To have legal representation of such person's own choice for such person's defense throughout all investigative and judicial phases of the entire proceedings or, at such person's election, to have legal representation appointed by the court at no cost to such person under the same terms and conditions applicable to citizens of the Federated States of Micronesia;

(g) To have the services of a competent interpreter, if such person considers it necessary;

(h) To communicate with a representative of the Government of the United States and to have such a representative present at trial and at all stages of the proceedings, including pretrial hearings and examinations and appeals;

(i) Not to be charged with a criminal offense on account of any act or omission which did not constitute a criminal offense under the statutory law of the prosecuting Government at the time it was committed or be subjected to punishment more severe or a procedure less favorable than the one applicable at the time the offense was committed;

(j) To be present at trial which shall be public;

(k) To have the burden of proof placed upon the prosecution;

(l) To be protected from the use of a confession or other evidence obtained by unlawful or improper means;

(m) Not to be compelled to testify against or otherwise incriminate himself or herself;

(n) Not to be required to stand trial while physically or mentally unfit to stand trial and participate in his or her defense;

(o) Not to be tried or punished more than once for the same offense, nor to be subject to greater punishment after appeal than was adjudged initially by the court of first instance;

(p) To have the right to appeal a conviction or sentence;

(q) Not to be subject to an appeal by the prosecution from an acquittal, or a finding of not guilty;

(r) To have credited to any sentence of confinement any related period of pretrial confinement in a confinement facility of the Government of the United States or the Government of the Federated States of Micronesia; and

(s) Not to be subject to the application of martial law or trial by military courts or special tribunals.

10. United States personnel who have been tried in courts of the Government of the Federated States of Micronesia, and who have been convicted and are serving sentences in confinement facilities of such Government or United States personnel in pretrial custody of such Government, shall be entitled to receive visits not less than monthly from members of their families and from representatives of the Government of the United

States. Health and comfort items including clothing, medicine and food may be delivered to and used by such United States personnel in confinement or pretrial custody.

11. Facilities of the Government of the Federated States of Micronesia used for confinement or detention of United States personnel shall meet standards agreed upon by the Government of the United States and the Government of the Federated States of Micronesia.

12. United States personnel convicted by courts of the Government of the Federated States of Micronesia shall not be subject to the death penalty, nor to any form of cruel or unusual punishment.

13. This Article is without prejudice to the authority of the Government of the United States to exercise administrative authority over United States personnel.

14. The Government of the United States and the Government of the Federated States of Micronesia confirm that United States personnel may not be surrendered to, or otherwise transferred to, the custody of an international tribunal or any other entity or state without the express written consent of the Government of the United States.

Article XIII

Additional Criminal Jurisdiction

Article XIII

Additional Criminal Jurisdiction

In addition to the rights set forth in Article XII, the Government of the United States shall have the primary right to exercise jurisdiction over all United States citizens or nationals of the United States who are not United States personnel for offenses punishable under the laws of the United States committed within defense sites while in use by the Government of the United States in the Federated States of Micronesia. The Government of the Federated States of Micronesia shall assist the Government of the United States in the arrest of any such person. The custody of any such person shall remain in or be transferred to the Government of the United States unless such custody is declined. The waiver provisions of Article XII, paragraph 4, shall apply.

Article XIV

Respect for Local Law

Article XIV

Respect for Local Law

The Government of the United States shall adopt and enforce measures consistent with the Compact, as amended and this Agreement as may be necessary to ensure that United States personnel, United States contractors and third country contractor personnel respect the laws of the Federated States of Micronesia, refrain from any activity inconsistent with this Agreement, and refrain from any political activity concerning the Federated States of Micronesia.

Article XV

Claims

Article XV

Claims

This Article provides the exclusive mechanism for resolution of any claim arising from the conduct of the Armed Forces of the United States in the Federated States of Micronesia within the scope of this Agreement. This Article includes claims by the Government of the Federated States of Micronesia or by third parties against the Armed Forces of the United States. For purposes of this Article, the term "Armed Forces of the United States" shall include members of the force, members of the civilian component, and, when acting in the performance of official duty, local-hire employees of the Armed Forces. Such claims shall be resolved as follows:

1. Claims sounding in contract against the Armed Forces of the United States shall be resolved 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.

2. Claims, other than claims sounding in contract to which paragraph 1 applies, shall be referred to the Government of the United States. For these claims, the Government of the United States, in accordance with U.S. law regarding foreign claims and public vessels, will pay just and reasonable compensation in settlement of meritorious claims for damage, loss, personal injury or death, caused by acts or omissions of the Armed Forces of the United States, or otherwise incident to non-combat activities of the Armed Forces of the United States. The Government of the Federated States of Micronesia, as appropriate, will provide the Government of the United States with a report on the alleged damages under its laws.

3. A claim against the Armed Forces of the United States not resolved to the satisfaction of the claimant under paragraph 2 above, and which is espoused on behalf of one of its citizens by the Government of the Federated States of Micronesia, shall be referred to the Joint Committee established pursuant to section 351 of the Compact, as amended.

4. Subject to the provisions of Article XII of this Agreement, and absent consent of the Government of the United States, the Armed Forces of the United States shall not be subject to any proceedings in the courts of the Federated States of Micronesia, nor shall the United States be subject to such proceedings arising from the conduct of the Armed Forces.

5. The Government of the United States shall facilitate appropriate arrangements between the government of any third country which has members or units of its armed forces in the Federated States of Micronesia pursuant to Section 315 of the Compact, as amended, and the Government of the Federated States of Micronesia with respect to appropriate settlement of claims arising from the activities of such members or units.

6. Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, pursuant to Section 174 of the Compact of Free Association, 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.

7. Pursuant to Section 174 of the Compact, as amended, all claims within the scope of this Article which otherwise would have been within the scope of Section 174 of the Compact, as amended shall be settled exclusively in accordance with the provisions of this Article.

Article XVI

Currency

Article XVI

Currency

The Armed Forces of the United States, United States contractors and United States personnel may import into, possess and use within, and export from the Federated States of Micronesia, United States currency. Such importation, possession, use and exportation of United States currency shall be exempt from any form of regulation, restriction, or control by the Government of the Federated States of Micronesia. Should the Government of the Federated States of Micronesia act pursuant to Section 251 of the Compact, as amended to institute a currency other than United States currency, the Government of the United States and the Government of the Federated States of Micronesia shall consult regarding the applicability of foreign exchange laws and regulations in the jurisdiction of the Government of the Federated States of Micronesia.

Article XVII

Medical Services

Article XVII

Medical Services

To the extent that appropriate services can be made available consistent with available resources and the laws and regulations of the United States, the Government of the United States shall provide, at the request of the Government of the Federated States of Micronesia, medical care to citizens of the Federated States of Micronesia in United States military medical facilities or by United States military medical personnel on a reimbursable basis under terms and conditions agreed upon between the Government of the United States and the Government of the Federated States of Micronesia.

Article XVIII

Telecommunications

Article XVIII

Telecommunications

The Government of the United States may use local telecommunication systems and shall do so to the extent feasible. The Government of the United States in determining its uses of such systems shall take into consideration the cost and security of such systems.

(a) To the extent that the Government of the Federated States of Micronesia establishes complete and fully effective commercial international telecommunications systems compatible with existing United States Government installations, and the Government of the United States determines such use is feasible based on the criteria above, the Government of the United States and the Government of the Federated States of Micronesia shall enter into negotiations for a use arrangement which includes normal billing procedures. Following entering into such a use agreement, the Government of the United States shall withdraw or modify any authorizations for use of Defense communications systems for non-official calls by United States personnel.

(b) The Government of the United States shall utilize, to the extent practicable, local telecommunication systems for non-official purposes.

Article XIX

Effective Date, Amendment and Duration

Article XIX

Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact, as amended.

2. This Agreement may be amended at any time by mutual consent of the Government of the Federated States of Micronesia and the Government of the United States.

3. The duration of this Agreement as between the Government of the United States and the Government of the Federated States of Micronesia is for the period of effectiveness of either Title Three of the Compact, as amended, or of the appropriate separate agreements entered into pursuant to Sections 321 and 323 of the Compact, as amended, whichever is the longer. Thereafter, this Agreement shall remain in force until terminated by a Signatory Government, in the following manner:

(a) Termination of this Agreement by any Signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Federated States of Micronesia, as appropriate.

(b) Termination shall take effect one year after the recipient Government has been notified.

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. Each Government accepting this Agreement 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:

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Article VI, Service Facilities: The terms "service, educational and recreational facilities" include schools, commissary stores, retail exchanges and related concessions, credit unions, banking facilities, radio and television stations, recreational facilities, and social and athletic clubs.

Article VII, Military Post Offices: Such military post offices shall be established, operated and maintained exclusively pursuant to the laws and regulations governing the Armed Forces of the United States.

Article VIII, Bearing of Arms: It is the intention of the Signatory Governments that local military commanders and designated representatives of the Government concerned shall enter into an exchange of letters governing the control of privately owned arms. Such an exchange of letters may address the following:

-- registration by military authorities of all privately owned arms, and the provision of registration lists, including certificates of transfer or removal of such arms, to the Government concerned;

-- designation of target practice areas within defense sites;

-- limitations on the carrying of privately owned arms outside defense sites; and

-- other provisions for the control by military authorities of privately owned arms.

Article XV, Claims: The Signatory Governments do not intend that paragraph 7 of Article XV preclude the operation of Section 174 of the Compact, as amended, provided that paragraph 6 of Article XV governs the operation of Section 174 (d) of the Compact, as amended. The import of paragraph 7 of Article XV, read with paragraph 1 of Article XV, is as follows:

-- All claims within the scope of paragraph 1 of Article XV which arise after the effective date of this Agreement shall be processed and settled exclusively pursuant to the Foreign Claims Act, 10 U.S.C. 2734, and any regulations promulgated in implementation thereof.

-- A claim within the scope of paragraph 1 of Article XV which arises during the two year period immediately prior to the effective date of this Agreement shall also be processed and settled pursuant to the Foreign Claims Act, 10 U.S.C. 2734, unless a court action based on such claim has been initiated prior to the effective date of this Agreement and the party bringing such court action continues the court action and proceeds in

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accordance with section 174(d) of the Compact, as amended. The party bringing such court action may, prior to entry of a final judgment by the court in the action, terminate the action before the court and bring the claim under paragraph 1 of Article XV, in which instance paragraph 6 of Article XV shall govern.

-- Claims arising more than two years prior to the effective date of this Agreement may be brought only in accordance with Section 174(d) of the Compact, as amended.

-- A claim processed, settled and paid under paragraph 1 of Article XV may not subsequently be brought under Section 174(d) of the Compact, as amended. Similarly, a claim which has proceeded to judgment in a court action and is subject to certification under Section 174(d) of the Compact, as amended, may not be processed and settled under paragraph 1 of Article XV.

Article XV is without prejudice to any claim addressed in Section 353 of the Compact, as amended, whether such claim arises prior to subsequent to the effective date of this Agreement.

Article XVI, Currency: Subject to Article VI, this Article is not intended to authorize the establishment or operation of a private financial institution in the Federated States of Micronesia except in accordance with local law.