

REGIONAL ISSUES

Compact of Free Association

Federal Program and Services Agreement

**Agreement Between the
UNITED STATES OF AMERICA and
MICRONESIA**

With Annexes

Signed at Washington September 28, 2023

Entered into force March 18, 2024



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.”

2023 FEDERAL PROGRAMS AND SERVICES AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA**

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2023 FEDERAL PROGRAMS AND SERVICES AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

This Agreement is concluded by the Government of the United States of America and the Government of the Federated States of Micronesia (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), and Section 231 of the *Compact of Free Association, as Amended Between the Government of the United States of America and the Government of the Federated States of Micronesia*, done at Palikir on May 14, 2003, as amended by the *Agreement between the Government of the United States of America and the Government of the Federated States of Micronesia to Amend the Compact of Free Association, as Amended*, done at Palikir on May 23, 2023, (the "2023 Amended Compact"), or, where not otherwise provided within the 2023 Amended Compact, any other provision of United States law. Unless otherwise provided within the 2023 Amended Compact 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 2023 Amended Compact, or any other provision of United States law.

The Signatory Governments recall the *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*, with Annex, done at Palikir on February 27, 2004, as amended (the "2004 Federal Programs and Services Agreement"), which pursuant to its Article XIV(3), ceases to be in force on October 1, 2023.

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the 2023 Amended Compact 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 of America which provides services and related programs in accordance with Title Two of the 2023 Amended Compact or, unless otherwise provided, under any other provision of the 2023 Amended Compact or its subsidiary agreements, or any other provision of United States law, including any successor agency or agencies, but does not include:
 - i. 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 of Free Association, as amended*, done at Palikir on May 14, 2003 ("Status of Forces Agreement"); or
 - ii. The Diplomatic Mission of the United States of America to the Government of the Federated States of Micronesia (the "U.S. Diplomatic Mission").
 - (b) "Local Contractors" means the legal entities, including corporations and natural persons, which are organized under the laws of the Federated States of Micronesia, or which are present in the Federated States of Micronesia primarily for purposes other than those set forth in subparagraph (e) below.
 - (c) "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.
 - (d) "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.
 - (e) "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, grants, awards, or cooperative agreements (or subcontracts, sub-grants, or sub-awardees of such instruments) with the Government of the United States of America or a Federal Agency in support of the Federal Agencies acting pursuant to Article III of Title One, Article II of Title Two, or Section 231 of the 2023 Amended Compact, or any other provision of United States law, and who are designated as such by the Government of the United States of America. For the purposes of Article XII of this Agreement, "United States Contractors" includes legal entities present in the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States of America (or subcontracts of such contracts), or cooperative agreements, in support of the Armed Forces of the United States. Notwithstanding the above, "United States Contractors" does not include Local Contractors or any personnel of the Government of the Federated States of Micronesia at any level.

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

- i. "United States 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;
- ii. "United States 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
- iii. "United States Dependents" – the spouses and dependents of persons included in subsection (i) above who are listed on official United States Government travel orders (as well as children of such persons who are born after such persons' arrival in the Federated States of Micronesia) and the spouses and dependents of persons included in subsection (ii) above.

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 America 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 of America, pursuant to this Agreement, shall be contingent upon compliance by the Government of the Federated States of Micronesia with all applicable provisions of United States law, as well as the provisions of the 2023 Amended Compact (including Sections 173 and 223), as they relate to such program or related service.
2. Nothing in this Agreement shall be construed to derogate from privileges and immunities granted to members of the U.S. Diplomatic Mission and their members of family forming part of their households under the Vienna Convention on Diplomatic Relations ("VCDR"). Members of the U.S. Diplomatic Mission and their members of family forming part of their households shall enjoy privileges and immunities as provided under the VCDR and not those provided under this Article.
3. Consistent with paragraph 2 of this Article, the following shall apply except to members of the U.S. Diplomatic Mission and their members of family forming part of their households under the VCDR:
 - (a) Subject to subparagraphs (b) and (c) below, and Article X(16) of this Agreement, the Government of the United States of America, 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), imposed by the Government of the Federated States of Micronesia and shall be exempt from all customs duties and similar charges imposed by the Government of the Federated States of Micronesia 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, grants, awards, or cooperative agreements in support of Federal 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, unless such personnel are exempt from such tax under Article X of this Agreement.
 - (c) Income derived from and received by United States Personnel or Third Country Contractor Personnel for services rendered within the Federated States of Micronesia other than those specified under subparagraph (b) above shall be subject to the personal income tax and social security taxes that the Federated States of Micronesia would impose on its own citizens who provide such services.
 - (d) 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.

- (e) 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.
- (f) 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 Federated States of Micronesia. This subparagraph 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 of America 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.
- (g) Without prejudice to any additional privileges and immunities provided under the 2023 Amended Compact, United States Civilian Employees shall enjoy immunity from civil and criminal process, jurisdiction, 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 of America. 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 not be liable to detention pending trial 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. In the event of such an arrest or detention, pending trial, of a United States Civilian Employee, or of criminal proceedings being instituted against a United States Civilian Employee, the Government of the Federated States of Micronesia shall promptly notify the U.S. Diplomatic Mission.
- (h) 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 of America, 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.
- (i) 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 of America, the Governments of the States of the United States of America, its territories or 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 of America may use local individual markings or license plates in the Federated States of Micronesia.
 - i. Official vehicles shall not be subject to the registration or safety inspection laws of the Federated States of Micronesia.
 - ii. 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 Federated States of Micronesia.

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

4. 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.

5.

(a) 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 entry into force of this Agreement in the Federated States of Micronesia of the Federal Agencies themselves, or of their United States Civilian Employees and Local Hire Personnel, if such act or omission occurred within the scope and in the performance of official duty of the United States Civilian Employee 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 of America, including any applicable statute of limitations. 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 2023 Amended Compact. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the United States of America, or any other privileges, immunities, and defenses of the United States of America, its agencies, and its officers.

(b) Contractual claims against the Federal Agencies shall be settled in accordance with the dispute resolution clause of the contract, if any, and the laws of the United States of America 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 2023 Amended Compact, if no settlement is reached, the appropriate court of the United States of America shall have jurisdiction over such claims.

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

6. Except as otherwise expressly provided in this or any other subsidiary agreement to the 2023 Amended Compact, any dispute arising under this Agreement shall be disposed of exclusively pursuant to the provisions of Article II of Title Four of the 2023 Amended Compact.

(a) The Government of the United States of America, to include Federal Agencies and their officials, 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 2023 Amended Compact for any claim under paragraph 3(g) 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 2023 Amended Compact 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 of America.

7. For the purposes of carrying out the provisions of this Agreement, the Signatory Governments shall each designate Competent Authorities. The Competent Authorities of the Government of the United States of America and the Competent Authorities of the Government of the Federated States of Micronesia may communicate directly with each other. The Signatory Governments shall communicate their respective designations to each other in writing and such designation may be changed via written notification. In the case of the Government of the United States of America, the Competent Authority shall be the head of or designee of the Federal Agency concerned.

8. Any reference in this Agreement to a provision of the law of the United States of America 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 of America, or any successor provision.

9. The Government of the United States of America 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 of America 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 of America 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

1. In providing services and related programs in the Federated States of Micronesia pursuant to Article II of Title Two of the 2023 Amended Compact, any other provision of the 2023 Amended Compact, or pursuant to any other provision of United States law, Federal Agencies:
 - (a) shall give employment preference, without discrimination, to citizens, nationals, and persons ordinarily residing in the Federated States of Micronesia, and to citizens, nationals, and lawful permanent residents of the United States of America, provided that such persons possess requisite skills and qualifications. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Federal Agencies 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 of America, qualified Local Contractors and contractors which are legal entities of the United States of America. The Federal Agencies shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement processes of the Government of the United States of America.
2. The Federal Agencies shall ensure that United States Contractors and Local Contractors act consistently with paragraph 1 of this Article.
3. Prior to the employment of third country personnel or the use of third country contractors, the Government of the United States of America 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.
4. 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; undergo any examination; or require any registration, or pay any related fees, in connection with the performance of their duties on behalf of Federal Agencies, including without limitation requirements for business and professional licenses and registrations, work permits, and registration of non-governmental organizations.
5. In the employment of Local Hire Personnel by Federal Agencies and United States Contractors, the Government of the United States of America 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 of America.

Article IV

Entry and Departure

1. The Government of the United States of America 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. Consistent with Article II(2) of this Agreement, the following shall apply except to members of the U.S. Diplomatic Mission and their members of family forming part of their households under the Vienna Convention on Diplomatic Relations:

- (a) 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. The Government of the United States of America shall require all such personnel to comply with the medical immunization requirements of the Federated States of Micronesia.
 - i. 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.
 - ii. 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 Civilian Employees shall have in their possession a personal identification card authorized by the Government of the United States of America 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 U.S. Diplomatic Mission. Upon receipt of such request, the Government of the United States of America shall consult with the Government of the Federated States of Micronesia on the appropriate action to be taken regarding removal. If the Signatory Governments 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 of America.

Article V

Implementation of Section 223 of the 2023 Amended Compact and Title to Property

1. Specific arrangements for the establishment and use by the Government of the United States of America of facilities or areas for Federal Agencies in the Federated States of Micronesia that were in effect on September 30, 2023, shall continue in effect for the duration of this Agreement or the duration of the specific arrangement, whichever is longer, unless otherwise mutually agreed in writing, including but not limited to those facilities listed in Annex A to this Agreement. Any specific arrangements for the establishment and use by the Government of the United States of America of other facilities or areas for Federal Agencies in the Federated States of Micronesia shall be set forth in writing and mutually agreed.
2. If, in the exercise of its authority and responsibility under Article III of Title One and Article II of Title Two of the 2023 Amended Compact, and unless otherwise provided by any other United States law, the Government of the United States of America 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 of America.
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 to the Government of the United States of America pursuant to this Agreement, the Government of the Federated States of Micronesia shall request the Government of the United States of America to accept equivalent facilities or areas. The Government of the United States of America shall sympathetically consider any such request and provide a prompt response.
4. Title to any property which remains vested in the Government of the United States of America pursuant to Section 234 of the *Compact of Free Association between the Government of the United States of America and the Government of the Federated States of Micronesia*, done at Honolulu on October 1, 1982, on the day prior to the entry into force of this Agreement shall continue after the entry into force of this Agreement.
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 of America in connection with the programs and related services set forth in this Agreement is vested in the Government of the United States of America, 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 discontinuation of a specific service and its related programs or at an earlier date, the Government of the United States of America 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 Signatory Governments 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 of America 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 of America are to be left behind after relinquishing facilities or areas designated for Federal Agency use, or a portion thereof, the Signatory

Governments 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 decide in writing upon an appropriate method of compensating the Government of the United States of America for such residual value.

8. Except as may be otherwise expressly agreed, the Government of the United States of America, 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

1. The Government of the Federated States of Micronesia shall maintain responsibility pursuant to its laws and regulations for all postal services offered in the Federated States of Micronesia, except as otherwise provided in this Article. For purposes of carrying out applicable obligations under this Article, the Federated States of Micronesia Postal Service ("FSMPS") is the designated operator of the Government of the Federated States of Micronesia, and the United States Postal Service ("USPS") is the designated operator of the Government of the United States of America. The Signatory Governments may notify one another in writing of any change in their designated operator.
2. The Government of the Federated States of Micronesia shall be responsible for all its own postal staff, facilities, and equipment. The Government of the Federated States of Micronesia shall use certain equipment as specified by the USPS for purposes of integrating with the USPS network.
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.
4. Subject to paragraph 5 of this Article, the Government of the United States of America shall provide the following services for the Federated States of Micronesia:
 - (a) A reasonable and cost-effective level of service for conveyance of mail conveyed through at least one select single-piece USPS letter-shaped product, at least one select single-piece USPS flat-shaped product, and at least one select single-piece USPS parcel-shaped product to and from the United States of America and between the exchange offices of the Federated States of Micronesia, as designated in paragraph 8 of this Article, but in no event through any flat-rated product to the United States of America and between the exchange offices of the Federated States of Micronesia, as designated in paragraph 8 of this Article;
 - (b) Dispatch, documentation, statistical, accounting, and settlement operations in connection with the international exchange of mail with other countries served by the USPS;
 - (c) Express service without guarantee, registered mail, certified mail, and insured service, subject to the terms and conditions that the USPS applies to such services in the United States of America, if both (i) the Government of the United States of America has not established rates pursuant to paragraph 11 of this Article, and (ii) United States domestic service is retained with respect to such services; and
 - (d) Express service without guarantee, registered mail, and insured service, subject to the terms and conditions that the USPS applies to such international services in the United States of America if both (i) the Government of the United States of America has established rates pursuant to paragraph 11 of this Article, and (ii) United States international service is retained with respect to such services.
5.
 - (a) The Signatory Governments may mutually decide in writing to provide additional services or modify the services described in paragraph 4 of this Article.
 - (b) The USPS shall determine which specific products to provide as the reasonable and cost-effective level of service described in paragraph 4(a) of this Article.
 - (c) With regard to the products offered in paragraph 4(a) of this Article, the USPS shall offer flat-rated boxes and envelopes for service from the United States of America

to the Federated States of Micronesia, if (and at such rates that) such flat-rated items are offered to postal customers in the United States of America sending such flat rated-items to other destinations (as applicable in the domestic or international postal service, in the latter instance if the Government of the United States of America establishes rates pursuant to paragraph 11 of this Article). If the USPS determines that the services provided under this Article are not financially sustainable, then the Government of the United States of America may temporarily suspend, permanently discontinue, or design unique or otherwise modify the rates for such flat-rated items. Prior to taking such actions regarding such flat-rated items, the Signatory Governments shall consult regarding potential bilateral arrangements to establish mutually acceptable terms and conditions regarding the continued provision of such flat-rated items. Nothing in this subparagraph is intended to preclude the USPS from suspending, discontinuing, or modifying flat rates that are generally offered to postal customers in the United States of America, whether sending flat-rated boxes and envelopes to the Freely Associated States or to other destinations.

6. Prior to the entry into force of this Agreement, the Government of the United States of America shall seek appropriated funds to discharge its responsibilities set forth in this Article. Should requested funds for these purposes not be appropriated and available, the Government of the United States of America shall not have an international legal obligation to discharge those responsibilities for which funds are not appropriated and available. In the event that such requested funds are not appropriated and available, the Government of the United States of America may inform the Government of the Federated States of Micronesia that it is considering reducing or suspending services to conform to available funding. Prior to any such reduction or suspension of services, the Signatory Governments shall consult regarding potential bilateral arrangements to establish mutually acceptable terms and conditions for the provision of any services that the Government of the United States of America is considering reducing or suspending.

7. The Government of the Federated States of Micronesia shall ensure that all mail turned over to the USPS for conveyance to the United States of America or other countries complies with the applicable Acts of the Universal Postal Union ("UPU") and any other postal conventions to which the Government of the United States of America adheres and with applicable laws and regulations of the United States of America regarding mail shipments to be sent from the Federated States of Micronesia to the United States of America or any other destination. The Government of the Federated States of Micronesia shall ensure that all mail turned over to the USPS uses, and is accompanied by, all applicable UPU and USPS documentation. Customs declaration information and advance electronic data conforming to UPU and USPS requirements shall be required for international mail shipments, as applicable. Pursuant to paragraph 15 of this Article, the Government of the United States of America 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, including assisting the Government of the Federated States of Micronesia in acting consistently with UPU requirements.

8. 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 of America 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 of America 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.

9. The Government of the Federated States of Micronesia may determine the floor for postage rates, subject to USPS concurrence for mail that the USPS conveys, for internal mail that is both originating from and destined to local addresses within the Federated States of Micronesia.

10. The Government of the Federated States of Micronesia shall determine the postage rates for mail being sent from addresses in the Federated States of Micronesia to addresses in the United States of America and to other countries, in accordance with the provisions below.

- (a) Except as provided in paragraph 11 of this Article, the floor established for postage rates of mail from the Federated States of Micronesia to the United States of America shall be the published USPS domestic postage rates at the time, and in no case may be the flat rate for the applicable product.
- (b) The zone used for postage rates of mail from the Federated States of Micronesia to the United States of America shall be the applicable zone for the Freely Associated States, which for certain services may be the specific zone established for the Freely Associated States by the USPS. The floor established for postage rates of mail from the Federated States of Micronesia to the Republic of the Marshall Islands or to the Republic of Palau shall be the published USPS domestic zone rates used from the contiguous United States to the Freely Associated States, or if international postage rates are used in lieu of such domestic rates, shall be the published USPS international rates to the Freely Associated States.
- (c) The floor established for postage rates of mail from the Federated States of Micronesia destined to other countries, other than mail destined to the United States of America, to the Republic of the Marshall Islands, or to the Republic of Palau, shall be the published USPS standard international postage rates at the time.

11. The Government of the United States of America may establish special cost-related international rates or may opt to establish standard international rates and classifications for mail from the United States of America to the Federated States of Micronesia by providing written notification 90 days in advance of such an action to the Government of the Federated States of Micronesia, provided that, in order to minimize the effects of the changes on citizens of the Federated States of Micronesia, the Government of the United States of America shall consult with the Government of the Federated States of Micronesia during the 90 day period. The Signatory Governments may decide, in writing, on a longer notice period. In the event of the establishment of such international rates for mail from the United States of America to the Federated States of Micronesia, the floor established for postage rates for mail from the Federated States of Micronesia to the United States of America shall be the published USPS international postage rates at the time.

12. 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 its constitutional processes, adequate funding for the operation of its postal services in a manner that will allow the Government of the United States of America to perform its responsibilities under this Article in an efficient and economical manner, and that any dispute arising under this paragraph is to be resolved pursuant to Article II of Title Four of the 2023 Amended Compact.

13. Liability for the loss of a registered or insured item shall rest with the designated operator which, having received it without comment, cannot prove either delivery to the addressee or correct transfer to another operator. Pursuant to paragraph 15 of this Article, the Government of the United States of America 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.

14. The Signatory Governments and their designated operators shall not impose any terminal dues, inward land rates, or other rates, fees, or charges on one another for mail conveyed to, from, or within the Federated States of Micronesia under this Article. The Signatory Governments recognize that if the USPS and FSMPS conclude an instrument under commercial law consistent with paragraph 17 of this Article, the USPS and FSMPS

may decide that terminal dues, inward land rates, or other rates, fees, or charges may be imposed with respect to mail conveyed under the terms of those instruments, to the extent consistent with other terms of this Article.

15. The USPS may provide such technical assistance (including, but not necessarily limited to, equipment, supplies, travel expenses, and employee training) as the USPS and the Government of the Federated States of Micronesia mutually decide to be necessary and appropriate. This technical assistance may also include services that may be provided by up to two USPS employee staff positions (or contractors), as determined by the USPS. In addition, the Government of the Federated States of Micronesia shall consult with the USPS with regard to fiscal planning and postal administration for the purpose of promoting economical and efficient postal services and programs.

16.

- (a) The Government of the Federated States of Micronesia shall protect the postal services provided by the USPS from exploitation for the monetary gain of private or government organizations, of individuals, or of commercial enterprises, including with respect to the posting of bulk mail, books, catalogues, goods, or materials, as well as the posting in the Federated States of Micronesia of foreign origin mail intended for delivery in the United States of America or other destination countries.
- (b) The Government of the Federated States of Micronesia shall continue its policies with respect to the suppression of commercial mail from the Federated States of Micronesia to the United States of America. Consistent with paragraph 17 of this Article, the USPS and FSMPS may negotiate instruments under commercial law to provide for commercial mail that originates in the Federated States of Micronesia and that is to be conveyed by the USPS. In the event of a request by USPS or FSMPS or either Signatory Government for such an instrument, the party receiving the request shall give it due consideration.
- (c) USPS Inspectors shall be authorized to investigate, in the Federated States of Micronesia and in concert with the Federated States of Micronesia law enforcement agencies, any incident, issue, or claim regarding mail conveyed, or to be conveyed, by the USPS to, from, or within the Federated States of Micronesia.
- (d) In the event of remail or other abuse under this paragraph, the USPS and the FSMPS shall collaborate to seek to resolve any claim of remail or other abuse under this paragraph, and shall escalate to senior management of each respective operator any such dispute as necessary to seek to resolve it. If such a dispute is not resolved between the USPS and FSMPS, the Signatory Governments shall undertake to resolve the dispute.

17. Prior to the expiration or termination of this Article, the Signatory Governments shall enter into negotiations for bilateral or multilateral arrangements to establish mutually acceptable provisions for the exchange of mail between the United States of America and the Federated States of Micronesia. At any time during the effectiveness of this Article, the USPS and FSMPS may enter into bilateral or multilateral arrangements under commercial law to establish mutually acceptable provisions for the exchange of the mail between the United States of America and the Federated States of Micronesia.

18. The Signatory Governments shall consult as needed on the possibility of the Federated States of Micronesia joining relevant international or regional postal organizations, including with the intent of exploring the potential benefits and drawbacks of UPU membership.

Article VII

Weather Services and Related Programs

1. The Signatory Governments agree that the United States Department of Commerce's National Oceanic and Atmospheric Administration's National Weather Service (hereafter referred to as the "National Weather Service") shall, subject to the availability of appropriated funds, 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 September 30, 2023.
2. These services and related programs may be provided pursuant to:
 - (a) The provisions of the National Weather Service organic authority, 15 U.S.C. § 312 et seq. (with emphasis on § 313); the International Aviation Facilities Act, 49 U.S.C. §§ 47301 - 47306; and the Federal Aviation Act of 1958 requirement for meteorological services for air commerce, 49 U.S.C. § 44720;
 - (b) Other provisions of the laws of the United States of America to the extent they expressly apply to the National Weather Service;
 - (c) Applicable treaties and other international agreements to which the United States of America is a party;
 - (d) Applicable Executive Orders of the President of the United States of America; and
 - (e) Applicable National Weather Service regulations and directives.
3. The Government of the Federated States of Micronesia may issue weather forecasts under such terms as may be mutually agreed with the Government of the United States of America. The Government of the United States of America 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 2023 Amended Compact, pursuant to Article IV of Title Four of the 2023 Amended Compact, or prior to discontinuation of the services and related programs provided under 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 its 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 ("WSOs") established in the Federated States of Micronesia.
 - (a) The Signatory Governments shall set forth, in writing, a statement of work establishing the duties, responsibilities, 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 of America 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 changes, 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 of America 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 provided under this Article.
10. Pursuant to Article III of Title One of the 2023 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 relevant provisions of the Radio Regulations of the International Telecommunication Union. Other radio operating frequencies may be substituted for those set forth in this paragraph by written decision of the Signatory Governments. The Government of the United States of America may waive, in writing and at any time, the requirement that the Government of the Federated States of Micronesia protect the bandwidths specified above.
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 shall 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 of America. When deemed necessary by the National Weather Service, the National Weather Service may install satellite or other communications capabilities within the WSOs to provide redundant communications paths.
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 Government of 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. Further details of weather services and related programs to be provided by the National Weather Service to the Government of the Federated States of Micronesia are described in Annex A to this Agreement.

Article VIII

Civil Aviation Safety Services and Related Programs

1. The Signatory Governments 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 Signatory Governments 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 FAA may determine, after consultation with the Government of the Federated States of Micronesia, the appropriate level of services and related programs that the FAA shall provide under the 2023 Amended Compact and this Agreement, provided the levels of services and related programs are consistent with the principles and objectives of the 2023 Amended Compact and this Agreement, including paragraphs 1, 3, and 5 of this Article.

3. On behalf of the Government of the Federated States of Micronesia, the Government of the United States of America 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 of America 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, distance-measuring equipment, other required navigation 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 Federated States of Micronesia (the nondirectional beacons and distance-measuring equipment shall be removed from service when the need for them no longer exists.);
- (c) Development and updating of satellite-based navigation procedures in support of performance-based navigation, 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 Air Missions as the Signatory Governments share a common goal of maintaining safe and efficient air traffic procedures that improve access to airports in the Federated States of Micronesia; and
- (d) Distribution of updated flight information publications, to include terminal instrument procedures, high altitude airspace traffic routing structure in the Pacific, and aviation planning and en route supplemental publications specific to the Federated States of Micronesia.

4. The Government of the Federated States of Micronesia, pursuant to Section 471 of the 2023 Amended Compact, 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 of America is a party and the laws and regulations of the United States of America. The Government of the Federated States of Micronesia shall:

- (a) consistent with Resolution A23-1 1, 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 of America 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 of America 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 Government of the Federated States of Micronesia 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 Signatory Governments. 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 America, including technical and administrative training, 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 Government of the Federated States of Micronesia. 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 of Title One of the 2023 Amended Compact, the Government of the Federated States of Micronesia shall, in support of civil aviation, protect from harmful interference aeronautical radio communications operating within mobile, fixed, radionavigation, and radionavigation satellite frequency bands allocated in accordance with Article 5 of the Radio Regulations of the International Telecommunication Union.

7. The Government of the Federated States of Micronesia, in order to ensure that it transmits and receives the most current meteorological information for civil aviation purposes and that such information provided by it shall be available on a global basis, shall provide continuing access to its telecommunications services for meteorological traffic to and from Guam or other points as may be designated by the Government of the United States of America 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 it transmits and receives the most current flight movement and airmen information data for civil aviation purposes, and that such information received or provided by it shall be available on a global basis, shall provide continuing access to its telecommunications

services for flight movement and airmen information traffic to and from Guam or other entry points into the Aeronautical Fixed Service of the ICAO as may be designated in accordance with the Convention on International Civil Aviation, Annex 10, Volumes 1 and 2, by the Government of the United States of America in consultation with the Government of the Federated States of Micronesia.

9. The Signatory Governments may from time to time enter into such agreements as may be necessary to implement paragraphs 3(b) and 3(c) of this Article.

Article IX

Civil Aviation Economic Services and Related Programs

1. The Signatory Governments agree that this Article 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 Article are points outside the United States of America, which itself is defined by the term "United States" as defined in 49 U.S.C. § 40102.
3. In accordance with Section 124 of the 2023 Amended Compact, the Government of the United States of America, if requested by the Government of the Federated States of Micronesia and as mutually decided, 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 United States Department of Transportation ("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 the Federated States of Micronesia and on the basis of procedures mutually decided by the Signatory Governments, 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 in one year, and a total of not more than six persons over the duration of this Article, 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;
 - (d) Communicating to United States air carriers the interest of the Government of the Federated States of Micronesia in developing air connectivity to all four of the states of the Federated States of Micronesia, recognizing that air carrier service to the Federated States of Micronesia provides a vital service to its people and promotes its economic advancement; and
 - (e) Such other assistance as may from time to time be specifically approved in writing by the Government of the United States of America.
5. Subject to the approval of the Congress of the United States of America, the Government of the United States of America 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 State Air Carrier." This classification shall apply exclusively to a carrier which:
 - i. Is organized under the laws of the Federated States of Micronesia or the United States of America; and

- ii. Has consented to such classification from the Government of the Federated States of Micronesia, and consented to such classification from the Government of the United States of America pursuant to standards adopted by the Government of the United States of America 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; and
 - (c) 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 by the U.S. Department of Transportation before making any such revision.
- 6.
- (a) Notwithstanding paragraph 2 of this Article, 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 of America shall promptly and sympathetically consider applications by air carriers of the Federated States of Micronesia to serve the United States of America, subject to all requirements normally applied.
 - (c) The Signatory Governments 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 of America 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 of America to operate air services pursuant to paragraph 6 of this Article, and of the filing with the U.S. Department of Transportation of any application by an air carrier of another nation to operate air services between the United States of America and the Federated States of Micronesia. The Government of the Federated States of Micronesia shall designate Competent Authorities pursuant to Article II(7) of this Agreement, including 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 of America 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. The Signatory Governments recognize that United States air carrier service to the Federated States of Micronesia provides a vital service to its people and promotes its economic advancement.
 - (b) The Government of the Federated States of Micronesia shall promptly notify the Government of the United States of America 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 of America, and of the filing with the Department of Transportation, Infrastructure and Communications of any application by an air carrier of another nation to operate air services between the Federated States of Micronesia and the United States of America. The Government of the United States of America shall designate Competent Authorities pursuant to Article II(7) of this Agreement, including for the purpose of receiving such notice. The Government of the United States of America 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 of America shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

8. A Signatory Government shall sympathetically consider a request by the other Signatory 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 in writing by the Signatory Governments. Notwithstanding the entry into force of an air transport agreement between the Signatory Governments, this Article shall remain in force through September 30, 2043.

Article X

United States Disaster Preparedness, Relief, and Recovery Services and Related Programs

1. In order to save lives and to protect property and public health and safety, and to supplement available resources in alleviating damage, loss, hardship, or suffering, the Government of the United States of America shall provide disaster preparedness, relief, and recovery assistance to the Federated States of Micronesia in accordance with this Article. Nothing in this Article shall affect the disaster assistance available from United States Government agencies other than the United States Agency for International Development ("USAID"), the Federal Emergency Management Agency ("FEMA") of the Department of Homeland Security (DHS), and the Department of the Interior.
2. Beginning in fiscal year 2024 and ending in fiscal year 2043, the Government of the United States of America and the Government of the Federated States of Micronesia shall each make an annual contribution of five hundred thousand dollars (\$500,000) into the Disaster Assistance Emergency Fund ("DAEF") established by the Government of the Federated States of Micronesia in accordance with Section 211(d) of the 2023 Amended Compact as soon as practicable after October 1 each year. The Government of the United States of America shall provide its contribution only upon certification by the Government of the Federated States of Micronesia that its contribution has been deposited. The terms and conditions for use of the DAEF are set forth in Annex B to this Agreement.
3. Other than the assistance described in paragraph 2 of this Article, USAID is responsible for providing disaster preparedness, relief, and recovery assistance to, and coordinating the United States Government response to declared disasters in, the Federated States of Micronesia. In the Federated States of Micronesia, these programs and services may be provided under the authorities of the Foreign Assistance Act of 1961, as amended, as applicable, and other applicable statutes.

Initial Disaster Relief and Recovery

4. The Government of the United States of America may provide initial disaster relief and recovery assistance to the Government of the Federated States of Micronesia under this Article upon a determination ("Declaration of Humanitarian Need") by the Chief of Mission of the United States Embassy ("U.S. Chief of Mission") that:
 - (a) the President of the Federated States of Micronesia has officially declared a national state of emergency or disaster in accordance with the laws of the Federated States of Micronesia;
 - (b) the Government of the Federated States of Micronesia has requested assistance through the United Nations designated representative for the provision of or coordination of humanitarian assistance;
 - (c) there is evidence of significant unmet humanitarian need, taking into account the available resources of the DAEF, resources from other donors, and the need to protect the sustainability of the DAEF;
 - (d) initial disaster relief and recovery assistance from the Government of the United States of America will assist in saving lives, reducing human suffering, and mitigating the impact of humanitarian emergencies upon the most vulnerable;
 - (e) the Government of the Federated States of Micronesia has requested or will accept disaster relief and recovery assistance from the Government of the United States of America; and
 - (f) providing initial disaster relief and recovery assistance aligns with the interests and humanitarian objectives of the Government of the United States of America.

5. If the U.S. Chief of Mission determines that the criteria set forth in paragraph 4 of this Article have not been met, the Government of the United States of America may not provide disaster relief and recovery assistance to the Government of the Federated States of Micronesia under this Article.

6. Initial disaster relief and recovery assistance provided by the Government of the United States of America under paragraph 4 of this Article shall be used for immediate relief to save lives, to reduce human suffering, and to mitigate the impact of the event, and may be in the form of funding to relief organizations, for commodities or services, or a combination thereof. The dollar value of this initial immediate assistance (whether in cash, kind, or commodities) is expected to be no more than one hundred thousand dollars (\$100,000) but may exceed this amount in appropriate circumstances when approved by the Government of the United States of America.

Compact Disaster Declaration

7. If the President of the Federated States of Micronesia determines that the impact of the event requires a greater response from the Government of the United States of America, the President of the Federated States of Micronesia may submit a request to the U.S. Chief of Mission for FEMA to issue a "Compact Disaster Declaration" pursuant to this Article. FEMA, with USAID concurrence, shall issue a Compact Disaster Declaration when the following conditions have been met:

- (a) The President of the Federated States of Micronesia confirms that the situation is of such severity and magnitude that the resources made available or pledged to the Government of the Federated States of Micronesia by the international community to date, combined with the available resources of the DAEF and up to \$100,000 of assistance provided by the Government of the United States of America under paragraph 4 of this Article, are insufficient to address the needs caused by the emergency or disaster;
- (b) The President of the Federated States of Micronesia provides information describing the amount and severity of damages, losses, and other humanitarian impacts based on preliminary needs assessments of the emergency or disaster, including impacts on the public and private sector;
- (c) The Signatory Governments complete joint damage assessments;
- (d) The President of the Federated States of Micronesia makes the request for a Compact Disaster Declaration within 60 days of the President's national declaration of a state of emergency or disaster for the event triggering the need for assistance; and
- (e) FEMA, with USAID concurrence, determines, based on the joint damage assessments and a recommendation by the U.S. Chief of Mission, and taking into account available resources, that assistance is needed to supplement the efforts of the Government of the Federated States of Micronesia and the international community as well as the initial assistance from the Government of the United States of America under paragraph 4 of this Article, to save lives; protect property, public health, and safety; and alleviate the damage, loss, hardship, and suffering caused by the event.

8. Following the occurrence of an event that may trigger a Compact Disaster Declaration, to the extent necessary to permit the Government of the United States of America to assess the need for or to provide assistance under this Article, the Government of the Federated States of Micronesia shall:

- (a) Make available to the Government of the United States of America, at no cost, Government of the Federated States of Micronesia personnel, equipment, or

facilities that are not already committed to relief and recovery operations, including personnel and infrastructure necessary for communications and facilities for storage and shipping;

- (b) Permit the Government of the United States of America to operate telecommunications services in its territory, and endeavor to make radio frequencies available for the exclusive use by the Government of the United States of America; and
- (c) Prioritize national and state personnel and air and sea assets to representatives or implementing partners of the Government of the United States of America in inter-island and intra-island movement for the purpose of accomplishing pre-declaration needs assessments, post-declaration damage surveys, and the provision of disaster assistance including the movement of supplies and equipment by the Government of the United States of America and its implementing partners.

9. Following a Compact Disaster Declaration pursuant to this Article, the Government of the United States of America, in consultation with the President of the Federated States of Micronesia, shall prepare a relief and recovery assistance plan ("Relief and Recovery Assistance Plan") including the identification of the types and amounts of and the anticipated timelines for assistance to be provided for further relief and long-term recovery. The Relief and Recovery Assistance Plan shall be based on the magnitude of the disaster needs assessed, the response by the international community, and the Government of the Federated States of Micronesia's own response capabilities. The Relief and Recovery Assistance Plan may include assistance over \$100,000 provided under paragraph 4 of this Article. During the implementation of the Relief and Recovery Assistance Plan, the Signatory Governments shall be in regular and ongoing contact, including to address questions that may arise, to ensure effective coordination of relief efforts by the Signatory Governments.

10. The Government of the United States of America may provide additional disaster relief and recovery assistance under this Article upon the issuance of a Compact Disaster Declaration. The Government of the United States of America shall provide such assistance in accordance with the Relief and Recovery Assistance Plan. The types of assistance eligible to be included in the Relief and Recovery Assistance Plan may include the following, as well as other programs to support relief and recovery:

- (a) Repair and replacement of damaged public facilities and private non-profit facilities that provide services which are governmental in nature, including equipment and supplies necessary to function, that were operated and properly maintained before the disaster;
- (b) Housing, including temporary housing and separate structures, and repair and replacement of damaged dwellings and cooking or sanitation facilities;
- (c) Provision of temporary public facilities for schools and other essential community services, and supplies to continue operation of those services; and
- (d) Emergency health care, emergency shelter, and the provision of food, water, sanitation and hygiene supplies, medicine, and other essential needs and emergency services, including logistics for the movement of supplies and people.

11. For purposes of the Government of the United States of America's Disaster Relief Fund appropriations, the funding of the activities to be carried out under paragraphs 7, 9, and 10 of this Article, as well as FEMA general administrative and oversight costs in furtherance of this Article, shall be deemed to be necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., and activities in paragraphs 9 and 10 of this Article, including administrative and oversight costs related to those paragraphs, are deemed disaster relief

for a major disaster pursuant to that Act. FEMA shall transfer funding to USAID to carry out the Relief and Recovery Assistance Plan, including to cover USAID administrative and oversight costs.

Disaster Preparedness

12. The Government of the United States of America may also make available mitigation and disaster risk management programs to the Government of the Federated States of Micronesia to prepare for and lessen the effects of future disasters. This disaster preparedness assistance may be provided without the need for a Declaration of Humanitarian Need or a Compact Disaster Declaration.

General Provisions

13. The Government of the United States of America may support programs directly and through United States Government agencies, contractors, non-governmental organizations, and international organizations. Disaster preparedness, relief, and recovery assistance may be implemented using sustainable infrastructure and climate resilient approaches, to the extent feasible and cost effective.

14. The source, origin, and nationality of goods and services provided under this Article shall be as defined by USAID policy, without application of any local content or labor requirements of the Government of the Federated States of Micronesia.

15. Notwithstanding Article III(1) of this Agreement, United States Civilian Employees employed by USAID or USAID's United States Contractors may be nationals of countries as defined by USAID policy, without preferences or limitations among them, including without preferences for citizens of the Federated States of Micronesia.

16. Any goods, supplies, materials, equipment, property, services, or funds introduced into, acquired, used, or disposed of in, or exported from the Federated States of Micronesia by the Government of the United States of America, or by any person or entity (including but not limited to United States Contractors) financed by the Government of the United States of America as part of, or in conjunction with, the assistance provided under this Article, are exempt from: any and all taxes, including value-added taxes or other similar charges, while such goods, supplies, materials, equipment, property, services, or funds are used in the Federated States of Micronesia in connection with the assistance provided under this Article; any and all tariffs, customs duties, investment, or deposit requirements or other similar charges, and from currency controls; and any and all taxes, including value-added taxes or other similar charges, tariffs, and customs duties, upon export, re-export, sale, or transfer to another person or entity in the Federated States of Micronesia that is exempt from taxation. No tax (whether in the nature of an income, profits, business, rent, value-added, gross receipts, sales, or other tax, duty, or fee of any nature, except fees which are commensurate with specific services rendered) shall be imposed in connection with work performed under this Article upon any person or entity (including but not limited to United States Contractors) financed by the Government of the United States of America with the assistance provided under this Article, except for income or profit taxes imposed on citizens of or persons ordinarily residing in the Federated States of Micronesia or Local Contractors.

17. Within 60 days after entry into force of this Agreement, the Government of the Federated States of Micronesia shall provide to the Government of the United States of America a Certificate of Tax Exempt Status or similar document establishing the tax-exempt status from all taxes imposed by the Government of the Federated States of Micronesia of all assistance provided under this Article, to the extent provided under Article II of this Agreement and paragraph 16 of this Article. Any taxes and duties referred to in Article II of this Agreement or paragraph 16 of this Article that may be imposed by the Government of the Federated States of Micronesia on assistance provided under this Article shall be fully reimbursed to USAID or its agents.

18. The Government of the Federated States of Micronesia assumes all rights, obligations, and liabilities arising out of the programs and services provided under this

Article, including matching fund obligations that may be required by law or by agreement between the Government of the United States of America and the Government of the Federated States of Micronesia.

19. The Government of the Federated States of Micronesia shall, upon request, provide to representatives of the Government of the United States of America, including the Comptroller General of the United States, access to any books, papers, and records, that pertain to United States Federal funds, equipment, and supplies received under this Article, for the purpose of audit and examination.

20. The Government of the Federated States of Micronesia shall set forth in a governmental emergency plan the procedures and assignment of responsibility which are required for the Government of the Federated States of Micronesia to prepare for and respond to disasters and to facilitate the delivery of disaster assistance.

21. The Government of the Federated States of Micronesia shall:

- (a) take appropriate steps to ensure effective use of the assistance provided under this Article;
- (b) cooperate with the Government of the United States of America to ensure that procurement is conducted transparently at reasonable prices and on reasonable terms;
- (c) permit, without restriction, continuous observation and review of programs and operations covered by this Article by representatives of the Government of the United States of America;
- (d) seek full coordination and integration of assistance provided under this Article with other host government and assistance programs;
- (e) cooperate with other nations participating in such programs in the mutual exchange of information;
- (f) assist, where appropriate, in expediting the movement of imported goods through port and transportation facilities and their clearance through customs;
- (g) provide the Government of the United States of America full and complete information concerning such programs and operations and other relevant information it may need to determine the nature and scope of operations and to evaluate the effectiveness of the assistance furnished or contemplated;
- (h) provide to the people of the Federated States of Micronesia full information concerning assistance provided under this Article; and
- (i) establish a procedure whereby funds provided or derived from assistance under this Article shall not be subject to any form of legal process, including, but not limited to, attachment or seizure by any person or juridical entity in the Federated States of Micronesia.

22. Articles I through IV of this Agreement and paragraphs 13 through 21 of this Article shall apply to USAID-financed assistance occurring in or transiting through the Federated States of Micronesia that is intended to assist other USAID activities in the region, including but not limited to disaster preparedness, relief, and recovery assistance provided to the Republic of the Marshall Islands, as well as non-disaster assistance provided by USAID to the Government of the Federated States of Micronesia or to any regional program.

Article XI

Federal Deposit Insurance Corporation Services and Related Programs

1. This Article provides the terms under which the services and programs of the Federal Deposit Insurance Corporation ("FDIC") shall be made available in the Federated States of Micronesia.
2. Notwithstanding any other provisions of law, depository institutions that are chartered by the Federated States of Micronesia may become FDIC-insured depository institutions upon application to, and examination by, the FDIC and approval by the FDIC's Board of Directors pursuant to the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. § 1811 *et seq.* Any depository institution chartered by the Federated States of Micronesia that, as of the September 30, 2023, is already insured by the FDIC shall not be required to reapply or otherwise requalify for such insurance as a result of the entry into force of this Agreement. Deposit insurance for these institutions applies only to branches operating in the Federated States of Micronesia and shall apply only to the types of deposits that are insured by the FDIC in the United States of America.
3. FDIC-insured depository institutions in the Federated States of Micronesia and their management shall be supervised by the FDIC, which shall be the "appropriate federal banking agency" for purposes of the FDI Act of such insured depository institutions, as that term is used section 3(q) of the FDI Act, 12 U.S.C. § 1813(q). FDIC-insured depository institutions in the Federal States of Micronesia shall be subject to existing and future United States banking and banking-related laws, rules, and regulations, including but not limited to the FDIC's regulations in Chapter III of Title 12 of the Code of Federal Regulations, relating to supervision, regulatory, enforcement, 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.
4. Without prior notice and nonobjection from the FDIC, no person or group of persons acting in concert shall acquire, directly or indirectly, control of 10 percent or more of any class of voting securities of an FDIC-insured depository institution in the Federated States of Micronesia. Without such prior notice to and nonobjection by the FDIC, the depository institution's FDIC-insured status may be terminated. Notwithstanding the foregoing, the Bank of the Federated States of Micronesia may continue to maintain its ownership structure as of September 30, 2023, including up to 33 1/3 percent direct or indirect foreign ownership. The change-of-control provisions in section 7(j) of the FDI Act, 12 U.S.C. § 1817(j), shall apply to any changes in an FDIC-insured depository institution's ownership.
5. The FDIC has the authority to suspend or terminate the FDIC-insured status of an FDIC-insured depository institution in the Federated States of Micronesia if the Commissioner of Banking of the Federated States of Micronesia ("Commissioner") does not promptly and fully enforce an FDIC directive or order against or involving the institution or any "institution-affiliated party" ("IAP"), as that term is defined in 12 U.S.C. § 1813(u), of the institution.
6. Any proceeding involving administrative enforcement actions against an FDIC-insured depository institution in the Federated States of Micronesia or any IAP of such institution shall be in accordance with the FDI Act and the FDIC's regulations. Such proceeding shall be held in the State of Pohnpei, unless the Signatory Governments agree to hold a hearing in another location, or unless a United States Administrative Law Judge for the FDIC finds good cause to hold a hearing in a different location.
7. An FDIC-insured depository institution in the Federated States of Micronesia 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 FDIC-insured depository institution or 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.

8. 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 an FDIC-insured depository institution in the Federated States of Micronesia or an IAP.

9. The Government and courts of the Federated States of Micronesia 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 to matters arising under this Article. All such final and temporary orders and directives shall be enforced by the Government of the Federated States of Micronesia in summary proceedings. The Government of the Federated States of Micronesia, including the Department of Justice, courts and agencies of the Federated States of Micronesia, commits to full cooperation in the enforcement of all such final temporary orders and directives.

10. The Government of the Federated States of Micronesia shall bar the participation in the conduct of the affairs of an FDIC-insured depository institution in the Federated States of Micronesia 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 or similar program, in connection with the prosecution for an offense of the type covered by section 19 of the FDI Act, 12 U.S.C. § 1829, including any conviction and/or diversion that takes place in the Federated States of Micronesia or in any other nation or jurisdiction.

11. A conservatorship or receivership of an FDIC-insured depository institution in the Federated States of Micronesia shall be initiated and conducted in accordance with the provisions of the FDI Act as if the Federated States of Micronesia were a "State" for purposes of the FDI Act. Consistent with this principle, but not by way of limitation, the following shall apply:

- (a) If an FDIC-insured depository institution in the Federated States of Micronesia becomes "critically undercapitalized," for purposes of the FDI Act, the Government of the Federated States of Micronesia shall act to close such institution and appoint the FDIC as conservator or receiver within 90 days and consistent with the provisions and timeframes set forth in section 38(h) of the FDI Act, 12 U.S.C. § 1831o(h).
- (b) The FDIC has the authority to appoint itself conservator or receiver of an FDIC-insured depository institution in the Federated States of Micronesia under the circumstances provided in section 11(c)(4) or (10) of the FDI Act, 12 U.S.C. §§ 1821(c)(4) or (10), and to exercise all powers conferred by the FDI Act.
- (c) If the FDIC is appointed as conservator or receiver of an FDIC-insured depository institution in the Federated States of Micronesia, the FDIC shall become the conservator or receiver of that institution on the date of the appointment unless the FDIC notifies the Commissioner in writing that it will not accept such appointment.
- (d) Consistent with section 11(d)(11) 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 FDIC-insured depository institution, other than the receiver's administrative expenses.

- (e) No person shall be permitted to bring an action in a court of law or other body (including any action that existed against an FDIC-insured depository institution in the Federated States of Micronesia prior to its failure) until such person has permitted the receiver to complete its administrative review of such claim.
- (f) No agreement which tends to diminish or defeat the interests of the FDIC in any asset acquired by it, including through its role as conservator or receiver for an FDIC-insured depository institution in the Federated States of Micronesia, shall be valid unless it meets the requirements of 12 U.S.C. § 1823(e).
- (g) No claim against the FDIC for its actions as conservator or receiver of an FDIC-insured depository institution in the Federated States of Micronesia shall prevail unless the plaintiff proves by clear and convincing evidence that the FDIC acted in willful disregard of the law.
- (h) It is further understood by the Signatory Governments that: (1) no court or administrative agency shall enjoin the operations of the conservatorship or receivership; (2) officers, directors, and other professionals providing services to the FDIC-insured depository institution shall be liable to the conservator or receiver for any damages caused to the failed FDIC-insured depository institution, consistent with U.S. banking laws, including 12 U.S.C. § 1821(k) and (l); and (3) the conservator or receiver shall not be required to perform any executory contract which had been entered into by the FDIC-insured depository institution prior to its failure.
- (i) The creditors or debtors of the FDIC-insured depository institution shall commence litigation on a claim against the receivership only after a complete administrative review of the claim by the receiver. All suits of a civil nature to which the FDIC as conservator or 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 Federated States of Micronesia to conduct hearings and gather evidence to assist the United States District Court for the District of Guam.

12. Without limiting the application of United States banking laws under paragraph 3 of this Article, civil or criminal claims based upon bank secrecy, privacy (including data privacy), confidentiality, blocking statutes, or any other grounds that may limit the FDIC's access to customer account or other information in the Federated States of Micronesia shall not be enforceable against the FDIC or persons or entities providing such information to the FDIC. Any information so obtained by the FDIC shall be treated in accordance with the same confidentiality policies, procedures, and practices with which the FDIC treats similar information that it obtains from United States insured depository institutions in the course of its examination and supervision of such institutions, or in its capacity as receiver or conservator of United States insured depository institutions, as the case may be.

13. In addition to insuring the depository institutions in the Federated States of Micronesia, the FDIC is prepared to provide technical assistance to the Government of the Federated States of Micronesia, in the form of regulatory, supervisory, and receivership/liquidation training, and other support.

Article XII

Telecommunications Services and Related Programs

1. This Article sets forth the respective authority and responsibility of the Signatory Governments for communications assistance, including frequency spectrum management, as authorized by Section 131 of the 2023 Amended Compact, and with regard to the operation of telecommunication services of the Government of the United States of America in the Federated States of Micronesia as authorized by Section 132 of the 2023 Amended Compact.
2. The Signatory Governments, recognizing the progressive development of telecommunications infrastructure for their mutual benefit and the importance of incorporating advances in technology in this development, may 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 of America, rapid, efficient, reliable, and cost-effective advances in telecommunications technology. The Signatory Governments may also continue to consult through the "Joint Telecommunication Board" established pursuant to Article II(4)(b) of the *Agreement Regarding the Operation of Telecommunications 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*, done at Honolulu on October 1, 1982, and in coordination with other development partners on methods to encourage rapid, efficient, reliable, secure, and cost-effective communication methods in the Federated States of Micronesia. Further, when telecommunications infrastructure upgrades in the Federated States of Micronesia are undertaken by the Government of the United States of America, the Government of the Federated States of Micronesia shall not impose any license requirements, taxes, fees, or charges upon the Government of the United States of America.
3. The definitions of terms set forth in Article I(2) of the Status of Forces Agreement are incorporated into this Article.
4. The Government of the United States of America shall provide frequency management support to the frequency management staff of the Government 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 International Telecommunication Union ("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 or otherwise need assistance; and
 - (c) Maintaining a computer database of United States 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 2023 Amended Compact.
5. At Joint Telecommunication Board meetings and between meetings, as necessary, the Government of the United States of America shall provide information on, for example, issues and correspondence involving activities of the ITU.
6. For the duration of the 2023 Amended Compact, the Government of the Federated States of Micronesia:
 - (a) Shall operate its telecommunications services consistent with the provisions of the ITU Constitution and Convention and the ITU Radio Regulations and shall fulfill all of its ITU obligations; and

- (b) Shall consult with the Government of 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 Government of the United States of America.

7. In accordance with the applicable provisions of the ITU Convention or as may be provided for in a subsequent ITU instrument binding on the Signatory Governments, the Government of the Federated States of Micronesia shall offer first to the Government of the United States of America its proxy to vote and sign on its behalf at any ITU conference, assembly, or meeting that it does not attend, provided the Signatory Governments have consulted on the issues to be decided. When offering its proxy, the Government of the Federated States of Micronesia may provide written instructions on how to vote, and whether to abstain, on particular issues. If such offer is accepted, the Government of the United States of America shall exercise the proxy from the Government of the Federated States of Micronesia consistent with any such written instructions and inform, or share results with, the Competent Authority of the Government of the Federated States of Micronesia regarding decisions made at such conferences, assemblies, or meetings at which it serves as the Government of the Federated States of Micronesia's proxy. If such offer is declined, the Government of the Federated States of Micronesia shall consult with the Government of the United States of America regarding provision of its proxy to another ITU member state.

8. General Provisions:

- (a) The Government of the Federated States of Micronesia shall permit the Government of the United States of America 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 of America under the 2023 Amended Compact.
- (b) In the Federated States of Micronesia, permits or licenses issued to United States Personnel by the Government of the United States of America shall be solely for the operation of telecommunications facilities of the Government of the United States of America.
- (c) The Government of the United States of America 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.

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

- (a) The operation and maintenance of all telecommunications 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 telecommunications facilities in the Federated States of Micronesia. Such actions shall 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 of America, including the licensing of operations personnel; and
- (d) The use of codes, ciphers, and other means of cryptographic security.

10. The Government of the Federated States of Micronesia:

- (a) Shall permit the operation of United States telecommunications facilities in the Federated States of Micronesia, subject to coordination with the Government of the United States of America, in accordance with the terms of this Agreement; and shall ensure that the provision of frequencies to the Government of the United States of America 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 of America 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 of America.

11. Recognizing the establishment of the Joint Telecommunication Board for the purpose of harmonizing the telecommunications operations of the Government of the United States of America 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 Joint Telecommunication Board shall review plans for changes to the respective telecommunications systems of the parties to ensure maximum possible compatibility and interoperability, and discuss and decide any issues relating to the use of local telecommunications systems by the Government of the United States of America. The secretariat and host for meetings of the Board shall be as mutually decided by the Signatory Governments.

12. The Government of the United States of America, 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 Signatory Governments shall use their best efforts to avoid both electromagnetic and physical interference to each other's telecommunications operations. In the event the Competent Authorities cannot reach a mutually satisfactory arrangement through consultations, the matter shall 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 2023 Amended Compact, as appropriate.

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

14. 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 telecommunications services pursuant to Title Three of the 2023 Amended Compact, 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:

- i. Major radio communication facilities as links with the worldwide military network of the United States of America;
- ii. 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;
- iii. Television systems;

- iv. Radio facilities for communication with aircraft and surface vessels;
- v. Satellite communications;
- vi. Such other broadcast stations contributing to the morale, welfare, and training of the Armed Forces of the United States and its contractors, which include the Armed Forces Radio and Television Service and short-range broadcast stations; and
- vii. Such other telecommunications 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), tactical air navigation system (TACAN), and instrument landing systems (ILS), and other such aids as may be developed and adapted for such use.
- (c) Telecommunications equipment in connection with the operation of weather facilities.
- (d) The activities contained in subparagraphs (a) through (c) above are a non-exclusive, illustrative listing of the telecommunications activities which the Armed Forces of the United States may take in the Federated States of Micronesia.
- (e) The term "television systems" as used in subparagraph (a)(iii) above 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 subparagraph (a)(vi) above without the prior agreement of the Signatory Governments in writing.
- (f) The Government of the United States of America shall not undertake any actions to install or operate broadcast stations pursuant to subparagraph (a)(vi) above without prior agreement of the Signatory Governments in writing.

15. Taking into account Article II(9) of this Agreement and paragraph 8(c) of this Article, encouraging the use of local telecommunications services, Federal Agencies and their United States Contractors may in the Federated States of Micronesia take measures for the installation, operation, and maintenance of telecommunications products and services in support of United States federal programs and services, as set forth in this Agreement.

16. Notwithstanding the expiration of this Article or termination of this Agreement, paragraphs 2, 3, 8-14, and 16 of this Article shall remain in force between the Signatory Governments for the period of effectiveness of the *Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 211(b), 321 and 323 of The Compact of Free Association, as amended*, done at Palikir on May 14, 2003, and paragraphs 4(c), 6, and 8(a) of this Article shall remain in force for period of effectiveness of the 2023 Amended Compact.

Article XIII
Transition and Discontinuation of Services and Related Programs

1. Whenever the Government of the Federated States of Micronesia desires to discontinue a category of the services and related programs set forth in Articles VI through XII of this Agreement and accordingly to terminate the operation of the relevant Article prior to the expiration or termination of that Article or termination of this Agreement, the Government of the Federated States of Micronesia shall give written notice to the Government of the United States of America through diplomatic channels. The Government of the United States of America shall assist in the orderly transfer of authority and responsibility for such discontinued category of services and related programs. Unless otherwise agreed, the authority and responsibility of the Government of the United States of America under this Agreement for a discontinued category of services and related programs shall end one year after the date of such notice to the Government of the United States of America.

2. Upon termination of an Article and discontinuation of a category of services and related programs pursuant to paragraph 1 of this Article, the applicability of all laws of the United States of America, and 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 of America for the conduct of foreign affairs in respect to such services and related programs shall also cease.

Article XIV
Entry Into Force, Amendment, and Duration

1. This Agreement shall enter into force on the date of the later note in an exchange of notes between the Signatory Governments indicating that each Signatory Government has completed its internal procedures for entry into force.
2. This Agreement supersedes the 2004 Federal Programs and Services Agreement.
3. Upon entry into force of this Agreement, the Implementing Agreement between the United States of America, acting through the United States Agency for International Development (USAID), and the Federated States of Micronesia signed in 2009 shall be terminated.
4. This Agreement may be amended at any time in writing by mutual agreement of the Signatory Governments.
5. This Agreement shall remain in force indefinitely, except that Articles VI through XII, Annex A, and Annex B shall remain in force only through September 30, 2043, except as otherwise provided in Article XII. This Agreement may be terminated in part as set forth in Article XIII of this Agreement or in its entirety by mutual agreement of the Signatory Governments.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

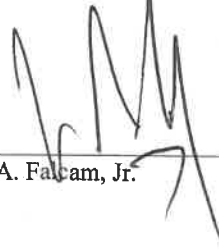
DONE at Washington, DC, on September 28, 2023, in duplicate, in the English language.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE
FEDERATED STATES OF MICRONESIA:



Joseph Yun



Leo A. Falcam, Jr.

ANNEX A

WEATHER SERVICES AND RELATED PROGRAMS PROVIDED BY THE NATIONAL WEATHER SERVICE TO THE FEDERATED STATES OF MICRONESIA

To comply with the provisions of the 2023 Amended Compact, the United States Department of Commerce's National Oceanic and Atmospheric Administration's National Weather Service (hereafter referred to as the "National Weather Service") shall, subject to the availability of appropriated funds:

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

(a) WSO 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 of the Federated States of Micronesia on short- and long-term climatological trends with technical assistance from the National Weather Service. WSO Pohnpei supervises the Pohnpei International Airport and Kosrae Supplemental Aviation Weather Reporting Stations ("SAWRS"). Second order stations providing limited surface synoptic observations are located at Pingelap, Nukuro, Kapingamorangi, and Kosrae. WSO Pohnpei oversees the second order stations and also the cooperative weather sites within Pohnpei State. The person in charge of WSO Pohnpei has, as a collateral duty, the function of the Federated States of Micronesia Weather Service Coordinator until such time as the Government of the Federated States of Micronesia can assume this function on a full-time basis.

(b) WSO 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 of the Federated States of Micronesia on short- and long-term climatological trends with technical assistance from the National Weather Service. Pohnpei WSO oversees second order stations providing surface synoptic observations are located at Woleai and Ulitihi. WSO Yap oversees the cooperative weather sites within Yap State.

(c) WSO 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 of the Federated States of Micronesia on short- and long-term climatological trends with technical assistance from the National Weather Service. WSO Pohnpei oversees second order stations providing surface synoptic observations are located at Puluwat and Lukunor. WSO Chuuk 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 Federated States of Micronesia WSOs 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 WSOs' programs and related services but which are not provided for under paragraph 1 of this Annex.
4. Provide and maintain WSO 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 WSO and SAWRS observing sites to ensure the quality of meteorological operations and services.
6. Train Federated States of Micronesia employees as required to implement the provisions of this Article and to meet technological change.
7. Continue Federated States of Micronesia 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 WSOs' 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 Federated States of Micronesia until they may be assumed by the development of a Federated States of Micronesia national weather service:

(a) General

- i. 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

- i. 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 WSOs. 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.
- ii. Each of the three Federated States of Micronesia WSOs (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, North Carolina.

(c) Aviation Weather Services

- i. 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.
 - ii. 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.

ANNEX B

USE OF THE DISASTER ASSISTANCE EMERGENCY FUND

1. The DAEF account shall be with a bank or commercial financial institution organized in accordance with the laws of the United States of America or a State of the United States of America; or, subject to the approval of the Government of the United States of America, a bank or commercial financial institution organized in accordance with the laws of the Federated States of Micronesia.
2. The Government of the Federated States of Micronesia may invest part or all of the DAEF in low-risk instruments such as insured certificates of deposit, money market funds, and Treasury bills and notes, provided asset liquidity is not compromised. Any earnings from such investments shall be reinvested into the DAEF.
3. The Government of the Federated States of Micronesia may withdraw funds from the DAEF only after the President of the Federated States of Micronesia officially declares an emergency or disaster in accordance with the laws of the Government of the Federated States of Micronesia and subject to the following requirements:
 - (a) The President of the Federated States of Micronesia must approve all withdrawals from the DAEF.
 - (b) For any one emergency or disaster declared in accordance with the laws of the Federated States of Micronesia:
 - i. Withdrawals from the DAEF up to and including \$250,000 shall be reported to the U.S. Chief of Mission as to the use and amount of the withdrawal.
 - ii. Withdrawals from the DAEF over \$250,000 shall require the approval of the U.S. Chief of Mission as to the use and amount of the withdrawal.
 - iii. Use of more than fifty percent of the funds in the DAEF shall require the approval of the U.S. Chief of Mission and the Government of the Federated States of Micronesia.
 - (c) No more than \$500,000 may be withdrawn from the DAEF in any one calendar year without the U.S. Chief of Mission's approval.
 - (d) Withdrawals from the DAEF made under this paragraph shall be used to meet the immediate threats to the life, health, and safety of the residents of the Federated States of Micronesia and for the rehabilitation and reconstruction of public property damaged in an emergency or disaster declared in accordance with the laws of the Federated States of Micronesia.
4. Notwithstanding paragraph 3 of this Annex, the Government of the Federated States of Micronesia may also withdraw up to and including \$50,000 of DAEF funds per calendar year for the purposes of implementing preparedness activities including, but not limited to, maintaining and updating disaster assistance plans, evaluation of natural hazards, and development of programs and actions to mitigate such hazards. Such withdrawals shall require the approval of the President of the Federated States of Micronesia and shall be reported to the U.S. Chief of Mission as to the use and amount of the withdrawal.
5. Beginning in fiscal year 2025, the Government of the Federated States of Micronesia shall provide the U.S. Chief of Mission and the Joint Economic Management Committee described in Sections 213 and 263 of the 2023 Amended Compact an annual financial report from the previous year showing:

- (a) The uses of withdrawals from the DAEF;
- (b) Deposits by the Government of the Federated States of Micronesia into the DAEF of contributions from both the Government of the United States of America and the Government of the Federated States of Micronesia;
- (c) The amount of interest income generated during the fiscal year; and
- (d) The fund balance.

6. In accordance with Section 261(d) of the 2023 Amended Compact, the *Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the 2023 Amended Compact Between the Government of the United States of America and the Government of the Federated States of Micronesia*, done at Palikir on May 23, 2023, shall govern the administration of the DAEF.

7. Upon termination or expiration of Article 10 of this Agreement, full ownership of the DAEF shall pass to the Government of the Federated States of Micronesia.