

**AGREEMENT TO ADMINISTER  
ADVERTISING CONCESSION  
SERVICES**

At the Saipan International Airport

By and between

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**DFS SAIPAN LIMITED**

And

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**DEL BENSON  
D.B.A. PHOTO BY DEL BENSON**

SAIPAN INTERNATIONAL AIRPORT  
COMMONWEALTH OF THE NORTHERN ISLANDS

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**AGREEMENT TO ADMINISTER  
THE  
ADVERTISING CONCESSION SERVICES  
AT THE  
SAIPAN INTERNATIONAL AIRPORT**

Agreement made this 1st day of October, 1999, by and between **DFS SAIPAN LIMITED**, a CNMI corporation formerly known as Duty Free Shoppers Limited ("DFS"), and **DEL BENSON**, a resident of Saipan doing business as **PHOTO BY DEL BENSON** ("Benson").

**RECITALS**

1. DFS has a Master Concession Agreement with the Commonwealth Ports Authority ("CPA"), dated November 13, 1985 under which DFS was granted the exclusive right to operate various concessions at the Ports of Entry within the CNMI, including the Saipan International Airport ("Airport"). (Unless otherwise indicated, all capitalized terms herein shall have the meanings as defined in the Master Concession Agreement). The Master Concession Agreement, is hereinafter referred to as the "MCA," and is incorporated herein by this reference.
2. Pursuant to Section 3 (h) of the MCA, DFS is granted the exclusive right to contract for, install, and maintain "commercial advertising," at the Airport as that term is defined in Section 3 (h) of the MCA.
3. DFS desires to engage Benson, on the terms and conditions hereinafter set forth, to provide certain services in connection with the operation of the commercial advertising concession at the Airport, and Benson is willing to provide such service.

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, DFS and Benson agree as follows:

### SECTION 1: ENGAGEMENT

DFS hereby engages Benson, an independent contractor, to provide certain services in connection with the administration of the commercial advertising concession at the Airport. Benson hereby accepts the engagement on the terms and conditions set forth in this Agreement. DFS and Benson acknowledge and agree that this Agreement establishes and constitutes an agreement to independently provide commercial advertising services, that the parties are not joint ventures or partners, and that Benson is not and shall not be deemed an employee or agent of DFS or CPA. Benson shall at all times during the term of this Agreement remain an independent contractor.

### SECTION 2: TERM

*Wills* The initial term of this Agreement shall be one year, commencing the 1<sup>st</sup> day of ~~September~~ <sup>October</sup> 1999, and terminating the ~~31<sup>st</sup>~~ <sup>30<sup>th</sup></sup> day of ~~August~~ <sup>September</sup> 2000. *AB* The Agreement shall thereafter automatically renew each year for another one-year term; provided that prior to any renewal term, Benson is not in default hereunder and the MCA, or any successive concession agreement, is still in effect. If either party does not wish this Agreement to automatically renew for another term, such party shall give notice to that effect to the other, not less than ninety (90) days prior to the expiration of the then current term.

### SECTION 3: SCOPE OF SERVICE

Subject to the terms of the MCA and this Agreement, Benson shall be responsible for the solicitation, contracting, installation and general maintenance, i.e. bulb changes of all commercial advertising at the Airport.

#### SECTION 4: PAYMENTS

(a.) In consideration of the commercial advertising services to be provided by Benson, Benson shall retain fifteen percent (15%) of all monthly payments made by firms and businesses that have entered into commercial advertising contracts at the Airport prior to ~~September~~ <sup>October</sup> 1, 1999, and the remaining eighty five percent (85%) shall be paid by Benson to CPA. For all new commercial advertising secured by Benson on or after ~~September~~ <sup>October</sup> 1, 1999, Benson shall retain fifty percent (50%) of the monthly payments made by each new advertiser, and the other fifty percent (50%) shall be paid by Benson to CPA. Further where any of the pre-~~September~~ <sup>October</sup> 1, 1999 advertising contracts expire and are not renewed, Benson may enter into agreements with other advertisers and Benson shall pay CPA fifty percent of the monthly rentals received for each new advertising box that replaced a pre-~~September~~ <sup>October</sup> 1, 1999 advertising box. Benson agrees to use his best effort to rent out as many advertising spaces as are permissible; and he further agrees to lease out each advertising box at not less than \$500 per box per month.

(b.) All payments to CPA including the required minimum guaranteed monthly fee should be made by Benson no later than the 10<sup>th</sup> day of each and every month, without notice or demand from CPA.

(c.) Before placing any advertising box at the Airport, Benson shall advise CPA, which shall determine the location where the advertisement may be placed; unless the location has already been pre-determined by CPA.

#### SECTION 5: PAMPHLET RACK FEE

CPA will charge Benson One Hundred dollars (\$100.00) per pamphlet rack for the purpose of selling additional services to advertisers and augment

displays effectiveness. Pamphlet rack is an additional charge paid directly to Benson. Benson has exclusive rights for commercial pamphlet distribution. DFS maintains right for distribution of their own pamphlet within their floor space or contract with Benson for use of racks.

#### **SECTION 6: BOOKS AND ACCOUNTS**

Benson shall maintain, in accordance with accepted accounting practice, and make available during regular business hours to DFS and/or CPA for inspection and review, on demand, the records and books of account of all payments due from and paid by commercial advertisers at the Airport.

#### **SECTION 7: PRICING**

Benson shall establish the pricing schedule for commercial advertising, subject to prior approval by DFS and CPA.

#### **SECTION 8: STANDARDS OF ADVERTISING**

All commercial advertising at the Airport shall conform to reasonable standards that may be established from time to time by DFS and CPA with respect to type, size, design, material, color, quality and location. All commercial advertising shall be in good taste and in compliance with all applicable federal, commonwealth and local law and regulations. Prior to the installation of any advertising, Benson shall submit the same to DFS and CPA for their review and approval to ensure compliance with this section; unless a standardized advertising format has been earlier approved.

#### **SECTION 9: RESERVED RIGHTS OF DFS**

This Agreement notwithstanding, DFS reserves the right to continue using certain existing commercial advertising locations at the Airport. The locations are set forth on Exhibit "A" attached hereto and incorporated herein by this

reference. DFS shall be responsible for maintaining such advertising locations and for making payments thereon directly to CPA.

#### **SECTION 10: EXISTING AGREEMENTS**

This Agreement is subject to the rights of advertisers who have previously contracted with DFS for commercial advertising at the Airport. A list of such advertisers and brief description of their agreements is attached hereto as Exhibit "B" and incorporated herein by this reference. All advertiser payments due for the period following the effective date of this Agreement shall be paid directly to Benson, who shall thereafter transmit to CPA its share, pursuant to Section 4. DFS shall be entitled to receive all payments for the period prior to the effective date of this Agreement and shall be responsible for paying to CPA the portion of such payments to which the CPA is entitled to under DFS' existing arrangements with the CPA. CPA agrees to pay Benson fifteen (15%) percent of initial contracts which proceeds are 100% CPA for collecting payments, bookkeeping, displays posted or removed.

#### **SECTION 11: COMPLIANCE WITH LAWS**

Benson shall not use or permit the use of the Airport for any purpose other than as set forth in this Agreement. Benson shall at all times faithfully obey and comply with all applicable laws, rules, and regulations adopted by any governmental body, agency, department or any officer of any of the foregoing having jurisdiction over the Airport.

#### **SECTION 12: INDEMNITY**

Benson shall indemnify and hold harmless DFS and CPA for any expenses, cost liability or damage, including, without limitation, reasonable attorney's fees, incurred by DFS or CPA arising out of or in any way connected

with this Agreement or Benson's failure to comply with any of its terms and conditions.

### **SECTION 13: ASSIGNMENTS**

Neither this Agreement, nor any of the rights, privileges, and obligations hereunder, may be assigned by Benson, in whole or in part to any person or firm without the prior written consent of DFS, which consent DFS shall have the absolute right to grant or deny.

### **SECTION 14: DEFAULT**

If Benson defaults in the performance of any of Benson's obligation under this Agreement and fails to cure such default within ten (10) days after written notice from DFS, DFS shall have the right to immediately terminate this Agreement.

### **SECTION 15: GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the CNMI.

### **SECTION 16: ATTORNEY'S FEES**

If any action or proceeding shall be commenced to enforce this Agreement or any right arising in connection with this Agreement, the prevailing party in such action or proceeding shall be entitled to recover from the other party reasonable attorney's fees, court cost and other expenses incurred by prevailing party in connection with such action or proceeding.

### **SECTION 17: ENTIRE AGREEMENT**

This Agreement is a final expression of the understanding between the parties hereto with respect to the subject matter hereof and the rights and



obligations of DFS and Benson, and supersedes all prior agreements or understanding between the parties, whether oral or written, or whether express or implied.


**SECTION 18: SUBJECT TO CPA APPROVAL**

The effectiveness of this Agreement is subject to the consent and approval of CPA.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above-written, at Saipan, Northern Mariana Islands.

**DFS SAIPAN LIMITED**  
A CNMI Corporation

**DEL BENSON D.B.A.**  
Photo by Del Benson  
A Sole Proprietorship

By:   
Name: Marian Aldan-Pierce  
It's President

By:   
DEL BENSON

**APPROVED FOR THE  
COMMONWEALTH PORTS AUTHORITY:**

By:   
**ROMAN S. PALACIOS**  
CHAIRMAN, BOARD OF DIRECTORS

ATTACHMENTS: EXHIBITS "A" & "B"

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