

**AGREEMENT TO ENTER INTO
SUBCONCESSION AGREEMENTS**

This Agreement to Enter into Subconcession Agreements (the "Agreement"), is made and entered into ^{as of the} ~~this~~ ^{1st} ~~1st~~ day of May, 1996, by and between the COMMONWEALTH PORTS AUTHORITY, a public body corporate organized and existing under and pursuant to the laws of the Commonwealth of the Northern Mariana Islands (hereinafter referred to as "CPA"), and DFS SAIPAN LIMITED, a Commonwealth of the Northern Mariana Islands corporation formerly known as Duty Free Shoppers Limited (hereinafter referred to as "DFS").

RECITALS:

On November 13, 1985, CPA and DFS entered into a master concession agreement (the "Master Concession"), pursuant to the terms of which DFS was granted certain exclusive rights with respect to the sale and delivery of Duty-Free Merchandise and other items of Merchandize at all the Ports of Entry in the CNMI.

Pursuant to the Master Concession, DFS has an Operating Facility at the Saipan International Airport ("Saipan Airport").

DFS has the right, but not the obligation, to operate the Operating Facilities at the Rota International Airport and the West Tinian International Airport (hereinafter "Rota Airport" and "Tinian Airport") and the Seaports on Saipan, Rota and Tinian, and thus far has elected not

to establish an Operating Facility at any of those Ports of Entry.

CPA desires that concessions for Duty-Free Merchandise and non-Duty Free Merchandise should be established at the Rota and Tinian Airports and eventually at the Rota and Tinian Seaports, but DFS does not desire to operate at those Ports of Entry.

DFS does, however, desire to expand its Operating Facility at the Saipan Airport.

In consideration for CPA's agreement to permit DFS to expand its Operating Facility at the Saipan Airport, DFS is willing to enter into an agreement or agreements to subcontract certain of its exclusive rights and privileges to operate concessions at the Rota and Tinian Airports and the Rota and Tinian Seaports.

NOW THEREFORE, in consideration of the foregoing, it is agreed as follows:

AGREEMENT

1. AGREEMENT TO ENTER INTO SUBCONCESSION AGREEMENTS. In consideration of CPA's agreement to lease to DFS additional space to expand its Operating Facility at the Saipan Airport, as set forth in Section 2 below, DFS agrees to enter into a subconcession agreement or agreements with such person or persons who may be selected or designated by CPA to operate concessions at the Rota and Tinian Airports ("Subconcession

Agreements”) and the Rota and Tinian Seaports without further consideration from CPA or Subconcessionaire. The Subconcession Agreements may contain such terms and conditions as DFS, CPA and the proposed subconcessionaires shall agree, but shall contain the express terms set forth in Section 4 below. DFS’ exclusive rights under the Master Concession with respect to the Saipan Seaport shall not be affected by this Agreement.

2. EXPANSION OF SAIPAN AIRPORT OPERATING FACILITY. In consideration for DFS’s agreements hereunder, CPA agrees to lease to DFS and DFS agrees to lease from CPA, the additional space at the Saipan Airport depicted on Exhibit “A” attached hereto and incorporated herein by this reference. Such area shall be deemed part of DFS’ Operating Facility at the Saipan Airport under the terms of the Master Concession, and shall be subject to all of the terms, covenants and conditions of the Master Concession. Without limiting the generality of the foregoing, DFS shall have the right to make, install and/or erect structural or non-structural alterations and improvements at the Saipan Airport Operating Facility, subject to the provisions of Section 9 (c) (i) of the Master Concession. DFS desires to commence construction of its leasehold improvement in the expanded Operating Facility by no later than May 1, 1996, ^{will} To accommodate this schedule, and as a material consideration to DFS, CPA agrees to expedite its review and approval of the plans and specifications for such alterations and improvements. Subject only to any required approval of the Federal Aviation Administration, CPA agrees to act upon such plans and specifications within fifteen (15) days

after submittal by DFS. CPA's failure to disapprove the plans and specifications with such time frame shall be deemed approval thereof.

3. SELECTION OF SUBCONCESSIONAIRES. DFS grants to CPA the right to select the person or persons to operate the subconcessions at the Rota and Tinian Airports and Rota and Tinian Seaports. Such person or persons do not necessarily have to be Minority Business Enterprises, as that term is used under Section 3 (b) of the Master Concession. It is expressly understood and agreed that it is the intent of this Agreement that CPA be given the opportunity to maximize the revenues to be derived from the subconcessions, consistent with any applicable CNMI or federal laws or regulations.

4. TERMS AND CONDITIONS OF SUBCONCESSION; LIMITATIONS ON SCOPE. The terms, covenants and conditions of any Subconcession Agreement shall be as agreed between DFS, CPA and the subconcessionaire, as required in Section 18 (a) of the Master Concession. Any Subconcession Agreement shall, however, contain the following terms, covenants and conditions:

(a) SCOPE OF SUBCONCESSION. DFS agrees that it will grant the subconcessionaires selected by CPA the sole and exclusive right to operate facilities at the Rota and Tinian Airports and Seaports for the purpose of offering to sell Duty-Free Merchandise and any other items of Merchandise, and to use such Ports of Entry to deliver

Duty-Free Merchandise and any other items of Merchandise, sold in less than wholesale quantities, to or for the direct or indirect benefit of a departing individual; provided, however, that such right to deliver shall not be deemed to extend the right to deliver, directly or indirectly, Duty-Free Merchandise or any other items of Merchandise at the Saipan Airport or any other Port of Entry not covered by the Subconcession Agreement. The agreed intent of this provision is that no subconcessionaire shall have the right to utilize any of the facilities of the Saipan Airport or any other Port of Entry, except the Port of Entry covered by the subconcession, to facilitate the delivery or the completion of delivery of Duty-Free Merchandise or the items of Merchandise ordered or purchased anywhere in the CNMI or elsewhere.

(b) ASSUMPTION OF OBLIGATIONS. The subconcessionaire(s) under any Subconcession Agreement shall assume all of the applicable obligations of DFS under the Master Concession with regard to the subconcession, including, but not limited to, the obligation to pay any concession fees or taxes. All consideration payable under any Subconcession Agreement shall be payable directly to CPA in the same manner as under Section 3 (i) of the Master Concession, and DFS shall not be entitled to a credit of Concession Fees payable by DFS under the Master Concession. Sales made by any subconcessionaires shall not constitute Gross Sales under the Master Concession.

(c) **RELEASE AND INDEMNITY.** CPA and the subconcessionaire shall waive and release DFS from any and all claims, expenses, costs, liabilities, damages or demands arising out of or in connection with the Subconcession Agreement(s) or the operation of the subconcessions and shall indemnify and hold DFS harmless from any and all such claims, expenses, costs, liabilities, damages or demands arising out of or in connection with the Subconcession Agreement(s) or the operation of the subconcessions.


(d) **TERM OF SUBCONCESSION.** The term of any Subconcession Agreement shall be as determined by DFS, CPA and the subconcessionaire, but shall not terminate later than the expiration of the Master Concession. In the event CPA awards DFS a successive Master Concession in accordance with the provisions of 4 CMC § 2205(b), (the "Successive Concession"), which Successive Concession shall commence upon the expiration of the existing Master Concession and shall expire up to twenty (20) years thereafter, DFS, at the request of CPA, shall publish a request for proposals or solicit competitive bids and grant subconcessions on such terms and conditions as CPA determines to be in the best interests of the Commonwealth, provided that the term of any such subconcession shall terminate not later than the expiration of the Successive Concession.

5. **DEFINITIONS.** Unless defined herein, all capitalized terms herein shall have the same meanings as set forth in the Master Concession.

6. AMENDMENT OF MASTER CONCESSION. Except as it pertains to the description of the Operating Facility at the Saipan Airport, this Agreement shall not be deemed an amendment to the Master Concession. This Agreement is intended to and shall be construed only as an agreement by DFS to enter into subleases pursuant to Section 18 (a) of the Master Concession.

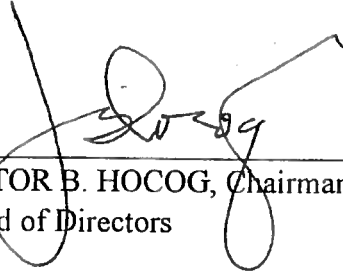
IN WITNESS WHEREOF, the parties herein have executed this Agreement on the day and year first above-written.

DFS SAIPAN LIMITED
a CNMI Corporation




MARIAN ALDAN-PIERCE
President

COMMONWEALTH PORTS AUTHORITY



VICTOR B. HOCOG, Chairman
Board of Directors

Approved as to Form and Legality:



STEPHEN J. NUTTING
Attorney for the Commonwealth
Ports Authority

