

DRAFT

September 10, 1974

remedy for breach  $\frac{07}{5}$

TITLE VIII

Provisions Relating to Property

Section 801. (a) All right, title and interest in and to real and personal property in the Northern Mariana Islands owned or held by the Government of the Trust Territory of the Pacific Islands shall be transferred to the Government of the Northern Mariana Islands (or its designee in trust for the people of the Northern Mariana Islands) upon the effective date of this Section; provided, however, that the President <sup>or his delegate</sup> may exclude from this Section, for a period not to extend beyond termination of the Trusteeship Agreement, such right, title and interest in and to such real or personal property as is necessary for active use by the Government of the Trust Territory in the administration thereof. The Government of the Northern Mariana Islands or its designee shall take such right, title and interest subject to <sup>The</sup> ~~all~~ valid claims <sup>and rights of</sup> ~~and rights of~~ <sup>interests of others</sup> respecting such property; provided, however that the Government of the United States will cause all agreements between it and the Government of the Trust Territory <sup>which</sup> ~~would~~ <sup>to the Government of The United States</sup> grant use or other rights with respect to such property (other than property described in Section 802) ~~to the Government of the United States~~ to be terminated, <sup>upon transfer of such property.</sup>

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Section 802. The following property shall be made available to the United States by lease in accordance with this Section to enable it to carry out its defense ~~and civilian~~ responsibilities under this Agreement:

(a) On Tinian Island, approximately 17,475 acres and the water immediately adjacent thereto to establish a military base to be used by all services;

(b) On Saipan Island, approximately 482 acres adjacent to Isley Field, together with the continued joint use of Isley Field, and approximately 197 acres at Tanapag Harbor;

(c) <sup>On</sup> Farallon <sup>#</sup> Mendinilla Island, approximately 229 acres encompassing the entire island, and the water immediately adjacent thereto;

(d) ~~[Other: Coast Guard, post office]~~

Section 803. (a) The lease for the property described in Section 802 shall be entered into by the Government of the United States and by the Government of the Northern Mariana Islands or its designee which holds title to such property in trust for the people of the Northern Mariana Islands. The terms of the lease shall conform to the provisions of this Agreement [and shall <sup>not</sup> contain ~~any~~ limitations on the use of such lands <sup>and</sup> waters which conflicts, with the ~~defense and civilian responsibilities of the United~~

implement agreements in Joint Land Comm.

basic authorities and responsibilities of the United States under this Agreement.

~~States under this Agreement.~~

(b) The terms of the lease for the property described in Section 802 include the following:

(1) The property shall be made available to the United States for an initial term of 50 years and the United States shall have one option to renew the lease for an additional 50 year period.

~~(2) The lease shall supercede and replace all rights of the United States with respect to the property described in Section 802 under any prior agreements between the Government of the Trust Territory and the United States.~~

<sup>2)</sup> ~~(β) The United States shall take whatever costs of obtaining title to the land described in Section 802 and the actual costs of action is necessary to terminate all interests it has with removing any and all encumbrances w/respect to such land which would be respect to the land described in Section 802 which would be inconsistent with the lease, and shall bear the costs of such action.~~ <sup>reimburse The Gov't NMI for the actual.</sup>

(4) The lease shall become effective and the United States shall obtain the rights of use and occupancy granted therein upon payment by the United States of the sum stated in subsection (5) hereof, provided that if the United States does not make such payment within five years after the approval of this Agreement by the Congress <sup>The lease shall be null and void and of no further effect,</sup> ~~it shall lose its rights to obtain land pursuant to this section,~~ and provided further that for each <sup>year or portion thereof</sup> ~~month~~ after the expiration of

twelve months after the approval of this <sup>A</sup>Agreement by the United States and until the expiration of five years after such approval or the payment by the United States pursuant to Subsection (5) hereof, <sup>whichever first occurs,</sup> the United States shall pay to the <sup>Government of NMI equal to 10% of the sum stated in Subsection (5) hereof, received by</sup> titleholder of the land described in Section 802 ~~an amount~~ <sup>an amount which bears the same ratio to such sum as the A acres held by NMI bears to all acreage in 802,</sup> equal to ~~1%~~ of the sum stated in Subsection (5) in recognition of the inability of the people of the Northern Mariana Islands to use such land because it may have to be made available to the United States.

(5) The United States shall pay to the titleholder of the property described in Section 802 ~~\$10 million~~ (adjusted for each fiscal year by a percentage which is the same as the percentage change in the Guam consumer price index using 1975 as the base year) for the rights granted to the United States pursuant to the lease and this agreement; and, if the United States exercises its option to renew the lease for an additional 50-year period, it shall pay upon the beginning of such 50-year period an amount which represents <sup>just</sup> compensation for the interest in land which it will have obtained. <sup>but nothing prevent continued occupancy until just comp determined.</sup> [Alternative: mechanism for determining price now and in 50 years].

(6) Upon a failure by the United States during a period of five years to make substantial and frequent use of the property, or of any significant portion thereof, for

the purpose for which the property has been made available, the interest of the United States in such property granted pursuant to the lease and this agreement shall be terminated, provided however that the United States shall be permitted to remove such personal property as it is permitted to remove pursuant to applicable law.

(7) Consistent with the intended use by the United States, the people of the Northern Mariana Islands shall have maximum use of the land and other natural resources made available to the United States and of the facilities built upon that land, *on a non-discriminatory basis. Joint use of airfield, harbor, civilian authority event.* *(beaches, fishing)*

(8) In the course of building the infrastructure and facilities necessary for its operations, the United States shall, to the maximum extent practicable, work jointly with the people of the Northern Mariana Islands in promoting the developing of the local community through the joint use *+ develop* of power, water and similar facilities.

(9) The United States shall enter into leasebacks of the maximum amount of property which is consistent *to Gov NMI on nominal fee basis for agricultural & other purposes* with the responsibilities under this agreement, and specifically shall enter into an immediate leaseback *insofar as possible* ~~under such terms as may be agreed upon~~ for that portion of the land to be made available on Tinian, which lies south and east of the proposed runway for agricultural purposes.

(10) In utilizing the land to be made available to it, the United States shall act in a manner which accords full respect to the environment of the Northern Mariana Islands and to the safety of the people and property therein.

(11) The United States shall <sup>to max extent possible</sup> ~~make every effort~~ <sup>and cause its contractor employees to utilize</sup> to utilize the resources and services of the people of the Northern Mariana Islands <sup>w/ respect to the</sup> ~~when it enters into civilian~~ construction and supply ~~contracts relating to activities~~ engaged in and on the land made available to it in accordance with ~~the lease and~~ this agreement, <sup>and will provide assistance to people of M to assume their participation in economic activity</sup>

(12) There shall be established a joint <sup>relative to use of land.</sup> committee on civil-military affairs to which any person with a grievance relating to the presence of the United States military in the Northern Mariana Islands may submit such grievance, and which shall make a good faith effort to resolve such grievance.

(13) Upon an adjudication by a court of proper jurisdiction that the United States has reached any provision of the lease, <sup>or this agreement</sup> and upon a failure of the United States to correct the breach within a reasonable time, the titleholder may cause the lease to be terminated, but shall not terminate the lease under any other circumstance.

Section 804. The lease of the land to the United

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States pursuant to this agreement shall not be construed as ceding to the United States the legislative authority or political jurisdiction of the Government of the Northern Mariana Islands over such property or activities thereon.

Section 806 - 08. [Eminent domain].

Section 809. Nothing in this agreement or in the provisions of the United States Constitution or federal laws applicable within the Northern Mariana Islands shall prevent the Constitution or laws from regulating, in the interest of maintaining the culture or traditions of the people of the Northern Mariana Islands, the alienation of interests in real property so as to restrict the acquisition of such interests to persons of Mariana descent.

Eminent Domain and Related Provisions

Section 80[1]. (a) The United States recognizes and will respect the scarcity and special importance of land in the Northern Mariana Islands. At the time this Agreement was signed, the United States declared that it had no need or intention to acquire any interest in land in the Northern Mariana Islands [for national defense purposes] other than the interests in land which would be made available to it under this Agreement.

(b) The United States undertakes that, in the event it becomes necessary in the future for it to acquire any interest in land in the Northern Mariana Islands not made available to it under this Agreement, the United States shall:

(1) acquire, whether by voluntary means under Section 80[2] or by eminent domain under Section 80[3], the minimum amount of land necessary to accomplish the public purpose for which the land is sought; and

(2) acquire, whether by voluntary means under Section 80[2] or by eminent domain under Section 80[3], the minimum interest in land necessary to accomplish the public purpose for which the interest in land is sought, and shall

not acquire title if the public purpose for which the land is sought can be accomplished if a lesser interest is obtained; and

(3) acquire, by voluntary means under Section 80[2] or by eminent domain under Section 80[3], an interest in public land of the Northern Mariana Islands rather than in private land whenever the public purpose for which the land is sought can be accomplished by the use of such public land; and

(4) in all cases attempt to acquire interests in land by voluntary means under Section 80[2] and will exercise the power of eminent domain under Section 80[3] only as a last resort.

Section 80[2]. The United States, its departments and agencies may, in accordance with law and upon notice to the Government of the Commonwealth, acquire for public purposes any interests in land in the Commonwealth, whether owned or controlled by private parties or by the Government of the Commonwealth, by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties.

Section 80[3]. (a) The United States shall have and may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has

and can exercise the power of eminent domain in a State of the Union, provided however that in addition to all other requirements of law the United States shall not exercise the power of eminent domain to acquire any interest in land within the Commonwealth until the Congress of the United States has by law explicitly authorized and approved the exercise of the power of eminent domain to obtain a particular interest in a particular parcel of land in the Commonwealth.

(b) Notwithstanding the provisions of Subsection (a) of this Section, upon a determination by the President that an interest in land in the Commonwealth is needed for national defense purposes, the United States may take such an interest in land by eminent domain to the same extent and in the same manner as it can take an interest in land in eminent domain in a State of the Union, ~~provided however that~~ <sup>The preceding</sup> ~~no interest in land taken by eminent domain pursuant to this~~ <sup>sentence</sup> ~~Subsection~~ shall extend beyond six months, at the end of which period the interest in land shall revert to the original owner thereof, unless the United States shall have obtained a greater interest in such land by voluntary means under Section 80[2], or ~~by eminent domain~~ <sup>in accordance with</sup> Subsection (a) of this Section. The authority of the United States under <sup>The first sentence of</sup> this Subsection may not be exercised with respect to a particular parcel of land unless six months or more has elapsed since the most recent exercise of this authority with respect to such parcel.