

“EXTENDING THE SECURED AREA ENJOYING THE TAX AND DUTY FREE PRIVILEGES TO THE SUBIC SPECIAL ECONOMIC AND FREE PORT ZONE AS DEFINED BY PROCLAMATION NO. 532 DATED FEBRUARY 1, 1995”

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CHAPTER I

PRELIMINARY PROVISIONS

Section 1. Scope and Coverage. – These rules and regulations are hereby promulgated to implement the provisions of Executive Order No. 675 dated 5 November 2007, and shall apply exclusively to the areas that shall be identified, fenced, secured or declared as Additional Areas or Additional Secured Areas by the SBMA, pursuant to EO 675, within the Subic Special Economic and Freeport Zone (SSEFPZ) as defined under Proclamation Number 532 dated February 1, 1995.

Section 2. Declaration of Policy. – Conformably with the policy of Government to develop the SSEFPZ into a self-sustaining industrial, commercial, financial and investment center to generate employment opportunities in and around the SSEFPZ and to attract and promote productive foreign investments, it is hereby declared the policy of SBMA to spur and spread the growth of investment and employment beyond the “Secured Area” under Executive Order No. 97-A dated 19 June 1993, but within the SSEFPZ as defined under Proclamation 532 dated 01 February 1995 in order to address the shortage of areas for lease to investors who intend to avail of the tax, fiscal and other investment incentives under Republic Act 7227, and in order to push development outside the “Secured Area” into the rest of the SSEFPZ, consistent with the development goals of the affected local government units, to fulfill the advancement of the Subic-Clark Economic Corridor as a world-class logistics center.

Section 3. Definition of Terms. – For purposes of these Rules, the terms used herein shall be construed to have the following meanings:

- 3.1. “EO 675” refers to Executive Order 675, otherwise known as An Executive Order Extending the Secured Area Enjoying the Tax and Duty Free Privileges to the Subic Special Economic and Freeport Zone.
- 3.2. “EO 97-A” refers to Executive Order 97-A, otherwise known as an Executive Order Further Clarifying the Tax and Duty-Free Privilege within the Subic Special Economic and Free Port Zone.
- 3.3. “RA 7227” refers to Republic Act 7227, otherwise known as the Bases Conversion and Development Act of 1992.
- 3.4. “Proclamation Number 532” refers to Proclamation No. 532 dated 01 February 1995, defining the Metes and Bounds of the Subic Special Economic and Freeport Zone.
- 3.5. “SSEFPZ” means Subic Special Economic and Freeport Zone as defined and stated in RA 7227 and PN 532.
- 3.6. “Additional Secured Area” refers to an Area within the SSEFPZ but outside the presently fenced in former

Subic Naval Base that is completely fenced and whose gates are under the joint control of SBMA and BOC, declared by the SBMA as entitled to enjoy the tax, duty-free, fiscal and other investment incentives provided for under RA 7227 for a specific and definite period of time. An Additional Secured Area declared by SBMA under E.O. 675 shall be deemed to be classified as available for utilization and development into an industrial, commercial, property development, recreational, tourism, gaming, utilities, investment or financial center or a mix of any of these developments.

3.7. "Additional Area" refers to an Area within the SSEPFZ but outside the presently fenced-in former Subic Naval Base, declared by the SBMA as entitled to certain tax, fiscal and for the investment incentives under RA 7227 for a specific and definite period of time. An Additional Area declared by SBMA under E.O. 675 shall be deemed to be classified as available for utilization and development into an industrial, commercial, property development, recreational, tourism, gaming, utilities, investment or financial center, or a mix of any of these developments.

3.8. "SBMA" refers to the Subic Bay Metropolitan Authority created under Section 12 of RA 7227 and its Implementing Rules and Regulations.

3.9. "BOC" refers to the Bureau of Customs.

3.10. "Tax and Duty Free Incentives and Privileges" are those defined, allowed and enumerated in RA 7227.

3.11. "RA 9400" – refers to Republic Act 9400, an Act Amending RA 7227, As Amended.

3.12. "RA 7652" refers to Republic Act 7652, otherwise known as the Investors Lease Act.

3.13. Customs' Administrative Order ("CAO") 4-93 otherwise known as the Rules and Regulations for Customs Operations in the Subic Special Economic and Freeport Zone.

3.14. Administrative Order No. 296, on the "Establishment of Customs Clearance Areas in Special Economic and Freeport Zone".

3.15. "PD 1529" refers to Presidential Decree No. 1529, otherwise known as the Property Registration Decree

3.16. "Act 496" refers to Act 496, otherwise known as the Land Registration Act.

Section 4. Boundaries of the SSEFPZ. – The boundaries of the SSEFPZ shall comprise the areas described and defined in Proclamation PN 532.

CHAPTER II

PROCEDURE FOR DECLARATION AND ADMINISTRATION OF ADDITIONAL SECURED AREAS AND ADDITIONAL AREAS

Section 5. Declaration of Additional Secured Areas and Additional Areas within the SSEFPZ. – The SBMA shall identify, fence, secure or declare such areas within the SSEPFZ entitled to the appropriate package of tax, duty-free and fiscal investment incentives and privileges under R.A. 7227, as maybe determined by the SBMA to be proper to promote the policies of RA 7227, as amended, and EO 675. The SBMA, in such declaration, shall be guided by, among others, the following criteria:

- (i) Controls can easily be established in the area to prevent or curtail smuggling activities.
- (ii) Availability of skilled, semi-skilled and non-skilled trainable workforce in and around the area.
- (iii) Existence and availability of tracts of land, public or private, for utilization and development into industrial, commercial, residential, recreational, tourism, investment and financial center purposes.
- (iv) Security for the area, its investors, residents and workforce and other dependents can easily be established.

Such Additional Secured Areas and Additional Areas declared by SBMA under E.O. 675 shall be deemed to be

classified as available for utilization and development into an industrial, commercial, property development, recreational, tourism, utilities, investment or financial center or a mix of any of these developments.

The SBMA Board of Directors may formulate further policy-based criteria and guidelines to implement the general criteria aforementioned and attain the objectives set forth in Section 2 hereof.

This notwithstanding, other areas maybe developed through local government or private sector initiative and become part of the SSEFPZ for purposes of availment of the appropriate tax, duty-free, and fiscal investment incentives and privileges, upon application with and determination by SBMA, that such areas accession to the SSEFPZ will serve the purposes of RA 7227 and EO 675.

Section 6. Concurrence By LGUs Concerned. – The declaration of Additional Secured Areas or Additional Areas within the SSEFPZ in the previous section may be made in consultation with the city/ies and/or municipality/ies where the area is located and shall become effective only after a concurrence by a resolution of the Sangguniang Panglungsod and/or Sangguniang Bayan concerned.

Section 7. Administration of Additional Secured Areas and Additional Areas. – Except for privately owned, managed or operated Additional Secured Areas or Additional Areas of the SSEFPZ, areas identified or declared as such by the SBMA shall be organized, administered, managed and operated directly by the SBMA through an Area Manager, who shall be appointed by the SBMA Administrator and Chief Executive Officer (CEO) with the rank, benefits and privileges of a SBMA Department Manager.

A privately owned Additional Secured Area or Additional Area of the SSEFPZ shall be managed by Property Management Board composed of the following members, whose sole function shall be to ensure that the management and operation of the Additional Secured Area or Additional Area shall be pursuant to SBMA policies, rules, guidelines, initiatives and directions:

- (i) The President of the Association of Investors thereat or the CEO of the investor thereat should such privately owned additional area have only one investor;
- (ii) The representative of the municipality/ies or city/ies where the area is located;
- (iii) Two independent private sector representatives jointly chosen by the SBMA and the Mayor of the municipality or city where it is located;
- (iv) A second or third level official of the SBMA to be designated by the SBMA Administrator and CEO;

The members of the Property Management Board ("PMB") shall elect their Chairman on an annual basis. The Members of the PMB shall have a term of one year. No member of the PMB can be elected Chairman for more than two consecutive terms.

The Property Management Board shall be under the direct supervision of the SBMA.

Section 8. Establishment of Secure Perimeters. - The SBMA shall establish or cause to be established secure fenced-in perimeters for the Additional Secured Areas of the SSEFPZ within which tax and duty free articles and merchandise shall be limited.

Sales of tax and duty free consumer items in the Additional Secured Areas of the SSEFPZ shall only be allowed and undertaken by duty free shops duly authorized by SBMA in coordination with BOC.

Duty free shops operators shall establish in coordination with SBMA and BOC, control systems at their own expense to ensure that only qualified persons purchase the tax and duty free articles and only for consumption within the Additional Secured Area and not for commercial purposes.

For this purpose, SBMA and BOC shall establish an identification system to ensure compliance by the duty free

shop operators and their obligation to sell only to qualified persons and for consumption purposes only within the Additional Secured Area.

Section 9. Applicability of SBMA Authority over Additional Secured Areas and Additional Areas. – In the event an area is declared as Additional Area or Additional Secured Area with the concurrence of the local government unit concerned, the SBMA shall assume the administration over the Additional Area or Additional Secured Area and exercise authority over all affairs therein. Consequently, any disbursement of funds pertaining to the share of the local government unit concerned as generated therein, shall also be within SBMA's exclusive prerogative and control.

SBMA shall, for undeveloped or underdeveloped areas, where basic local government services are unavailable, or where the local government unit concerned agrees to cede to SBMA local government functions, exercise authority over the following:

- a. Security. — The SBMA shall provide and establish security forces for the Additional Secured Areas and Additional Areas of the SSEFPZ which shall police and maintain law and order within its boundaries and which shall control ingress to and egress from such areas.

Investors and businesses shall provide and be responsible for the security of their respective facilities and place of businesses and extend support and cooperation to the SBMA security force for the latter's proper performance of duties. Investors and businesses may request assistance from SBMA security force to enforce security within their premises. The security force of the investors and business shall properly coordinate with and shall be under the supervision of SBMA security forces.

These security forces may be licensed to carry firearms only within the premises of the particular enterprise subject to approval by SBMA under such terms and conditions it may deem proper to impose.

All persons and vehicles entering in and exiting from the Additional Secured Areas or the Additional Areas of the SSEFPZ shall be subject to search and inspection and once inside shall be governed by the area's security rules. For this purpose, they shall be required to register and/or secure appropriate passes/clearance/permit. Other government agencies may exercise their respective inspection functions only upon prior coordination with SBMA. Service of lawful warrants, writs and processes shall first be coordinated with the SBMA Administration prior to actual service of warrant.

No foreign goods or articles shall enter or be admitted to the Additional Secured Area or Additional Area except through a port of entry and after having gone through the duly established Customs Clearance Area under A.O. No. 296.

- b. Permits and Licenses. — Except for the functions of the City or Municipal Assessors and Treasurers' offices and the Revenue District Office of the BIR of the respective city/ies or municipality/ies relating to the declaration, assessment and payment of real property taxes on privately-owned land which shall continue to be exercised by the aforementioned offices, the SBMA shall provide, establish, undertake and regulate the issuance of any and all permits in the Additional Secured Areas and the Additional Areas of the SSEFPZ for any infrastructure, construction, article, merchandise, substance, transaction, activity, occupation or operation, and shall specify terms and conditions for the issuance of permits and establish procedures for their issuance and revocation.

Public land converted to an Additional Secured Area or an Additional Area of the SSEFPZ shall not be subject to real estate taxation by the respective municipalities or cities concerned unless it is subsequently acquired by private ownership.

- c. Utilities, Infrastructure and Other Services. — In the absence of an existing and capable franchised operating utility in the Additional Secured Area or Additional Area, SBMA shall undertake or cause to be undertaken,

and regulate the establishment, operation and maintenance of utilities, other services and infrastructure in these areas of the SSEFPZ, including shipping, transportation and related businesses, stevedoring and port terminal services or concessions incidental thereto and airport operations in coordination with the Civil Aeronautics Board, and to fix just and reasonable rates, fares, charges and other prices therefore.

SBMA, where necessary, may enter into joint venture agreements; financial and or technical assistance agreements with the existing franchised utility operator in the Additional Secured Area or Additional Area for the purpose of improvement and/or upgrading of utility services under such terms and conditions mutually acceptable.

Section 10. Discretion in Grant of Tax and Duty Free Incentives and Privileges.— In the establishment of Additional Secured Areas or Additional Areas of the SSEFPZ or in the application for registration of investors to establish a business in said areas, the SBMA in coordination with BOC may impose such terms and conditions on such Additional Secured Areas or Additional Areas of the SSEFPZ or on the applicant for registration as it may deem proper and necessary, without prejudice to the provisions of Chapter III hereof, which may include the imposition of restrictions and limitations on the tax, fiscal, duty-free and investment incentives and privileges granted under R.A. 7227, including but not limited to the limitation of the period within which to enjoy such tax, fiscal, duty-free and investment incentives, as will promote the policies of RA 7227, as amended, and EO 675. Provided that only Additional Secured Areas are entitled to duty-free privileges. In such determination, the SBMA and/or the Executive Committee may be guided, among others, by the following considerations:

- (i) The business purpose of the applicant for registration in the Additional Secured Area or Additional Area, vis-à-vis the national government investment plan and/or SSEFPZ priorities plans;
- (ii) The extent of utilization of local labor and materials;
- (iii) The amount of investment;
- (iv) The application of new technology;
- (v) The area's level of gross domestic product; investments/employment/ unemployment/ underemployment; state of infrastructure and potential of the declaration to stimulate and spur growth.

The SBMA shall consult and coordinate with the BOC, in particular, the proper grant of duty-free importations incentives and other duty-free privileges and incentives to the Additional Secured Areas or Additional Areas or to particular investors, prior to grant and implementation.

Section 11. Tax Incentives Do Not Include Exemption from Real Estate Taxes.— The tax and duty free incentives and privileges under R.A. 7227 shall not include exemption of privately owned property from the applicable real estate taxes on land owned or acquired by the developers or investors in the additional areas.

Section 12. Governing Rules on Land Ownership, Acquisition and Registration of Additional Secured Areas and Additional Areas. — The Additional Secured Areas or Additional Areas to be declared within the SSEFPZ not being part of the former Subic Naval Base and its extensions as limited by EO 97-A, land ownership and acquisition thereat by investors shall be governed by the Constitution and existing laws prescribing nationality requirements for ownership and acquisition, including but not limited to RA 7652.

The system of land registration under PD 1529 and RA 496 as well as the fees under such system of land registration shall continue to govern and apply in the areas of the SSEFPZ outside the presently fenced-in former Subic Naval Base, insofar as ownership and acquisition are concerned.

The leasing of lands, improvements and facilities in the Additional Secured Areas and Additional Areas, however, shall be governed by and be subject to the rules and regulations of the SBMA.

Section 13. Application for Privately Owned Additional Secured Area or Additional Area. – Any person, firm,

association, partnership, corporation or other form of business organization, may apply with the SBMA for inclusion within the SSEFPZ as a privately owned Additional Secured Area or Additional Area.

The applicant or proponent shall submit its application together with the following documents, requirements and information:

1. Notarized application;
2. SEC and/or DTI Registration Certificate;
3. Articles of Incorporation and By-Laws;
4. Audited Financial Statements (for the last three (3) years of operation, where applicable);
5. Board Resolution/Special Power of Attorney designating the company's authorized representative;
6. Project description/Feasibility Study, which should provide, among others, information on the financial capability of the proponent, present and proposed land use, master development plan and schedule for the proposed Additional Secured Area or Additional Area;
7. Vicinity map reflecting the various land uses and important verifiable landmarks within one (1) kilometer radius of the project site;
8. Proof of land ownership or any perfected contract/document confirming the applicant's authority/clearance to use the land for development and related purposes;
9. Endorsement of the Sangguniang Bayan/Panlungsod for the development of the proposed area (i.e., all local government units of all municipalities and cities with areas included in the proposed area);
10. Verified survey returns and technical description of the land area for the proposed additional area;
11. Proposed or existing road networks and/or connections or access thereto;
12. Buildings;
13. Projected requirements for water and power and how these will be provided, which may include a commitment by the local power or water utility to provide the applicant's requirements and what will be necessary for such connection and how soon these can be effected;
14. Water sewerage and/or treatment and/or drainage, waste disposal;
15. Pollution control;
16. Communication facilities available; and
17. Other requirements as may be prescribed by the SBMA.

CHAPTER III

CLASSIFICATION OF ADDITIONAL SECURED AREAS OR ADDITIONAL AREAS; ENTERPRISES AND INCENTIVES APPLICABLE

Section 14. Classification of Additional Secured Areas or Additional Areas. – Additional Secured Areas or Additional Areas, whether SBMA or local government or private sector initiated maybe classified under any or combination of the following;

- a. Industrial Center – A parcel of land subdivided and developed pursuant to a comprehensive plan with provisions for basic infrastructure and utilities with or without prebuilt standard factory buildings and community facilities for the use of a community of industries.
- b. Tourism/Recreational Center – An area where tourist accommodation facilities, such as hotels, apartelles, condominiums, townhouses, condotels, tourist inns, pension houses, resorts, wellness centers, spas, sports and other recreational facilities are provided to render tourism services for both local and foreign tourists, travelers and investors.
- c. Manufacturing Center – A parcel of land subdivided and developed pursuant to a comprehensive plan for businesses engaged in manufacturing – transforming raw materials into finished goods in a large scale.
- d. Export Processing Center – A specialized industrial estate located physically and/ or administratively

outside the customs territory and predominantly oriented to export production.

e. Free Trade Center – A secured area adjacent to a port of entry where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or manipulated. However, movement of these goods from the free trade area to a non-free trade area shall be subject to a customs and internal revenue laws.

Section 15. Classification of Additional Secured Area or Additional Area Enterprises. – Any person, firm, association, partnership, corporation, or any other form of business organization except only as maybe limited by the Constitution and laws, may apply as a business enterprise under any of the following classifications:

A. Export Enterprise – Those registered to engage in the business of manufacturing, assembling or processing activity and resulting in the exportation of 100% of its production, unless a lower percentage of its production for exportation is permitted by SBMA subject to such terms and conditions as SBMA may determine. PROVIDED, that in any event, such export enterprise should not generate income from sources within the Customs Territory of more than 30% of its total income from all sources, PROVIDED FURTHER that should such Enterprise's income from sources within the Customs Territory exceed 30% of the total income from all sources, it shall be subject to income tax laws of the Customs Territory and PROVIDED FINALLY that customs duties and taxes prevailing in the Customs Territory must be paid on income from sales of articles in the Customs Territory.

B. Free Trade Enterprise – Those registered to engage in the importation of goods or merchandise tax and duty free within the additional secured and free trade area for immediate transshipment or for storage, repacking, sorting, mixing or manipulation and subsequent exportation, unless SBMA allows the sale thereof to the Customs Territory subject to payment of customs duties and taxes and such other terms and conditions SBMA may impose.

C. Utilities Enterprise – Those duly registered with SBMA and franchised or licensed by the proper authority, if required by law, to undertake the generation or operation or distribution of power or water, communication and transportation and other similar utilities.

D. Facilities Enterprise – Those duly registered with SBMA and/or franchised or licensed by the proper authority, if required by law, to construct, build, or operate building structure warehouses, site development, road network, and other facilities for the development, maintenance and operation of the additional area or other similar activities.

E. Developer/Operator – Those registered by SBMA, which may include SBMA itself or any local government unit, whether by themselves or in business combination with a private entity, to develop, maintain and operate an Additional Secured Area or Additional Area or any, combination or all of the component industrial center, free trade center, export processing center or tourist/recreational center and the required infrastructure facility and utility such as power and water, sewerage and drainage, pollution control, communication facility and road network within an Additional Secured Area or an Additional Area.

F. Tourist/Recreational Enterprise — Those duly registered by SBMA to engage in the establishment and operation of tourist-oriented accommodations, restaurants operated either independently or as an integral part of a tourism facility (e.g. hotels, resorts, recreational centers), sports and recreational facility.

G. Service Enterprises – Those duly registered by SBMA to engage in customs brokerage, trucking, forwarding services, parcel services, janitorial, security, insurance, counseling, restaurants not part of a tourism facility, and other services.

Section 16. Incentives to Additional Secured Area Enterprises and Additional Area Enterprises. — Duly registered enterprises in the Additional Secured Areas or Additional Areas may be entitled to any of, a combination of or one of the following incentives, in accordance with its business classification and area of location:

1. Export and Free Trade Enterprises

A. Exemption from National and Local Taxes and Licenses. – Except for real property taxes on land applicable to privately owned Additional Secured Areas or Additional Areas, a registered export or free trade enterprise may be exempt from payment of all or certain national and local taxes.

In lieu thereof, the export or free trade enterprise shall pay a five percent (5%) final tax on gross income.

B. Exemption from Duties and Taxes on Merchandise. - Merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description brought into the Additional Secured Area by a registered Export or Free Trade Enterprise shall not be subject to customs and internal revenue laws and regulations of the Philippines nor to local tax ordinances. Importations of certain goods or merchandise under this paragraph shall be subject to conditions imposed in Sections 8 and 10 hereof and to the following:

I. Importation of Capital Equipment –

a. Conditions for Duty and Tax Free Importation – A registered Export and Free Trade Enterprise in an Additional Secured Area may import machineries, equipment and spare parts exempt from the payment of any and all tariff duties and internal revenue taxes due thereon subject to the following conditions:

(i) The machinery and equipment are directly and actually needed and will be used exclusively by the registered Export and Free Trade Enterprise in its registered activity;

(ii) The importation of spare parts shall be restricted to component spare parts for the specific machinery and/or equipment authorized to be imported; and

(iii) Subject to reasonable allowances, the rated capacity of the capital equipment to be imported must be within the registered capacity of the Export or Free Trade Enterprise.

b. Sale or Disposition of Capital Equipment – Any sale, transfer, assignment, donation or other form of disposition of originally imported capital equipment/ machinery including spare parts, brought into the Additional Secured Area duty and tax-free, within one (1) year from the date of admission shall require prior approval of the SBMA upon payments of proper duties and taxes.

II. Importation of Construction Materials. – Export or Free Trade Enterprises in an Additional Secured Area entitled to tax and duty free importation of goods or merchandise under these Rules may import construction materials and other articles that shall form part of its factory, warehouse or office building, including fixtures thereof, enclosures, driveways and auxiliary structures, subject to the following conditions:

(i) The factory, warehouse or office building shall be constructed at the expense of the SBMA Export or Free Trade Enterprise;

(ii) The construction materials to be imported are not manufactured domestically in sufficient quantity, not of comparable quality and not sold locally at reasonable prices. Construction materials shall not be considered available in sufficient quantity if they cannot be made available to the Export or Free Trade Enterprise at the time of need or within a reasonable period. In determining whether the quality is comparable, the test, among others, will be whether or not it will conform to the plans and specifications of the Export or Free Trade Enterprise as approved by SBMA. In determining reasonableness of the prices quoted by the domestic manufacturers or suppliers, SBMA may be guided by the acquisition cost of similar construction materials imported into the Philippines, after all applicable duties and taxes were paid thereon, plus fifteen percent (15%) mark-up;

(iii) The construction materials to be imported are reasonably needed and will be used exclusively in the construction of the factory, warehouse or office building to be used by the SBMA Export or Free Trade Enterprise solely for its registered operations;

(iv) The approval of SBMA is obtained by the Export or Free Trade Enterprise before the purchase order is made or before the corresponding letter of credit are opened; and

(v) The construction materials shall be brought directly and physically inside the Additional Secured Area or such area as may be designated by SBMA for this purpose and in no instance shall these be sold, transferred, assigned, donated or be disposed of in any manner in the customs territory.

III. Importation of Specialized Office Equipment and Furniture– Specialized office equipment and furniture such as computers, antistatic chairs, tables and others of similar nature may be imported by Export or Free Trade Enterprise in Additional Secured Areas exempt from customs duties and taxes payable thereon, if the said equipment is not manufactured domestically in sufficient quantity, not of comparable quality and not sold at reasonable price. Otherwise, ordinary office equipment and furniture, whenever applicable shall be procured locally.

IV. Importation of Specialized Vehicles and Other Transportation Equipment – Specialized vehicles and other specialized transportation equipment, including necessary spare parts, directly related to the registered activity of the Export or Free Trade Enterprise in an Additional Secured Area, may be imported exempt from customs duties and taxes only upon prior approval of the SBMA and with proper clearance and condition from the appropriate government agency/ies. Otherwise, ordinary vehicles and other transportation equipment, including necessary spare parts, whenever applicable shall be procured locally.

V. Importation of Professional Instruments – The professional instruments and implements, tools of trade, occupation or employment, may be imported exempt from the payment of import duties and taxes: Provided, (a) That the foreign national is an executive or is employed in an Export or Free Trade Enterprise in an Additional Secured Area; and (b) That the above-mentioned articles shall not be in commercial quantities nor for hire (Section 105 (h) of the Tariff and Customs Code); and (c) That the approval of SBMA is obtained by the Export or Free Trade Enterprise before the purchase order is made or before the corresponding letters of credit are opened.

2. Developers/Operators

A. Exemption from National and Local Taxes and Licenses. – Except for real property taxes on land applicable to privately owned Additional Secured Areas or Additional Areas, Developers/Operators may be exempt from payment of all or certain national and local taxes.

In lieu thereof, the Developers/Operators shall pay a five percent (5%) final tax on gross income.

C. Exemption from Duties and Taxes on Importation of Capital Equipment. - The same incentives as provided for under Section 16 1 B I [a] and [b] of these Rules shall be applicable to developers/operators in an Additional Secured Area for their importation of capital equipment.

D. Exemption from Duties and Taxes on Importation of Construction Materials. - The same incentives as provided for under Section 16 1 B II of these Rules shall be applicable to developers/operators in an Additional Secured Area for the importation of construction materials.

3. Facilities, Utilities and Tourism Enterprises –

A. Except for real property taxes on land applicable to privately owned Additional Secured Areas or Additional Areas, SBMA Facilities, Utilities and Tourism Enterprises may be entitled to exemption from all or certain national and local taxes and in lieu thereof payment of a special tax rate of five (5%) percent on gross income.

B. Further Incentives to Facilities Enterprises in Additional Secured Areas. - The same incentives provided for

under Section 16 1 B I; II: IV and V for Export or Free Trade Enterprises of these Rules, with the exception from exemption from duties and taxes on merchandise, shall be applicable to Facilities Enterprises.

C. Further Incentives to Utilities Enterprises in Additional Secured Areas. - The same incentives provided for under Section 16 1 B. I; II; III; IV; and V for Export or Free Trade Enterprises, with the exception of exemption from duties and taxes on merchandise, shall be applicable to Utilities Enterprises.

D. Further Incentives to Tourism Enterprises in Additional Secured Areas. - The same incentives provided for under Section 16 1 B I; II; III; IV; for Export or Free Trade Enterprises, shall be applicable to Tourism Enterprises. Provided, that nothing in this Section shall, should circumstances warrant, prevent the SBMA from giving an Additional Secured Area Enterprise or an Additional Area Enterprise, additional incentives or less incentives as heretofore provided, regardless of its classification as an enterprise, provided further that if such additional incentives involve the grant of more duty free incentives, the same shall be done upon prior consultation with BOC.

Section 17. Who May Lease Lands and Buildings. – Lands and buildings in the Additional Secured Areas or Additional Areas, whether privately owned or not, may only be leased to SBMA registered enterprises, which lease shall be submitted for the approval and/or ratification of the SBMA Board of Directors.

Section 18. Cancellation of Lease. — Long term leases may be cancelled by the SBMA if the project for which the lease was taken is not initiated within the period committed, or three (3) years from the date of the lease agreement, whichever comes earlier, unless an extension is applied for valid and meritorious grounds and granted by SBMA, within the original period. This provision shall be incorporated and shall be part of the terms and conditions of all Lease Agreements.

Section 19. Applicability of System of Fines and Penalties. – All the systems of fines and penalties for violation of administrative rules and regulations as well as the rules of procedure thereof, governing the “Secured Area” shall be adopted and be made applicable in the Additional Secured Areas and Additional Areas.

Section 20. Exclusivity of Incentives Regime Availment and Exception Thereto. — Any business or enterprise registered as an SBF Enterprise shall be excluded from benefiting from any other preferential regime such as those provided for in Republic Act 7042, otherwise known as the Foreign Investment Act of 1991 and Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, or any other special laws. If the enterprise already enjoys benefits under these regimes, they shall be disqualified from benefiting under RA 7227 in relation to E.O. 675 and these IRR. However, upon meritorious and valid circumstances, to be determined by SBMA, exceptions may be made by SBMA in consultation with the Board of Investments, Department of Finance and other concerned government agencies.

CHAPTER IV

RELATIONSHIP BETWEEN SBMA AND PRIVATELY OWNED ADDITIONAL SECURED AREAS OR ADDITIONAL AREAS

Section 21. Relationship of SBMA to Privately Owned Additional Secured Areas or Additional Areas. – Privately owned Additional Secured Areas or Additional Areas shall be monitored by SBMA for purposes of implementing E.O. 675 and the concomitant incentives. However, for undeveloped or underdeveloped areas where basic local government services are unavailable, or where the local government unit concerned agrees to cede to SBMA local government functions, SBMA shall, exercise regulatory authority over the following specific governmental functions:

(i) Security – SBMA shall maintain a security force to ensure perimeter or fence security primarily to enforce customs and tax laws and to enforce law and order within the privately owned Additional Secured Area or

Additional Area conformably with R.A. 7227.

Security for Additional Secured Area shall be the sole responsibility of SBMA. Additional Areas or registered enterprises therein may hire security guards provided by security agencies duly accredited by SBMA to oversee the safety of their respective premises or facilities. The security guards and agencies shall be subject to supervision and security regulations inside the additional area.

a. Building Permits – No building, structure, facility, utility or electro-mechanical machine or equipment shall be constructed or installed within the Additional Secured Area or Additional Area without the prior written approval or permit issued by SBMA. Upon completion of a building, structure, facility, utility or installation of an electro-mechanical machine or equipment, the enterprise or owner shall secure an occupancy permit and/or a permit to operate from SBMA. The enterprise or owner shall pay all corresponding fees and dues applicable in the "Secured Area" for the issuance of the permit.

(ii) Inspection and/or Registration and Ingress To and Egress of Persons and Vehicles– All persons and vehicles seeking ingress to or egress from an Additional Secured Area shall be subject to search and inspection. They shall be required to register and/or secure appropriate passes/clearances/permits from SBMA. Movements within the Additional Secured Areas or Additional Areas are subject to security regulations and procedures of SBMA. All workers and employers shall be subject to registration and clearance procedure of SBMA. They shall wear the proper identification cards or passes at all times. SBMA reserves the right to deny any person access to an Additional Secured Area or Additional Area for security reasons, violations of these rules, or where the person sought be excluded will adversely affect the orderly, peaceful and lawful operations of the SBMA or any registered enterprise therein.

No foreign goods or articles shall enter or be admitted to the Additional Secured Area or Additional Area except through a port of entry and after having gone through the duly established Customs Clearance Area under A.O. No. 296.

(iii) Registration of Enterprises and Residents – SBMA shall undertake the registration, renewal thereof and cancellation of registration of enterprises and residents in Additional Secured Areas or Additional Areas in accordance with R.A. 7227.

(iv) Immigration–All Philippine laws concerning the entry, immigration, departure or emigration of persons including their arrival directly in or departure directly from the Additional Secured Area or Additional Area, as well as the issuance of, renewal and revocation of temporary work and residency visas; permanent residents visas for investors; and permanent residency visas for retirees pursuant to R.A. 7227 and existing Memorandum of Agreements dated April 8, 1994 and November 29, 1995 among SBMA, Bureau of Immigration and Department of Foreign Affairs and Department of Labor and Employment, shall be implemented by SBMA in coordination with the BI and DFA and DOLE.

(v) Environmental Regulations - The responsibility for the protection of the environment and natural resources and the implementation of all environmental and natural resources, laws, rules and regulations and conservation and protection programs; including air, water and waste management; as well as the issuance of permits to operate, environmental compliance certificates, authorities to construct water use permits shall be undertaken by the Ecology Center of the SBMA conformably with R.A. 7227.

(vi) Labor – The Labor Center of the SBMA, established to fulfill the objectives of RA 7227 to create jobs shall be responsible for the registration and issuance of clearances to person seeking employment; the maintenance of a labor skill inventory; the amicable settlement of disputes; interpretation of employment contracts including CBA's; implementation of works; hygiene and occupational safety and health standards conformably with R.A.

No. 7227.

(vii) Human, Animal and Plant Health/Quarantine – All Philippine and international laws and rules for the protection of humans, animals and plants diseases and pestilence, as well as human, animal and plant quarantine shall be implemented in the Additional Secured Area or Additional Area over SBMA supervision conformably with R.A. No. 7227.

Section 22. Reportorial Requirements of Privately Owned Additional Secured Areas or Additional Areas. – Property Management Boards of privately owned Additional Secured Areas or Additional Areas shall submit to the SBMA Administrator and CEO and SBMA Board of Directors within thirty calendar (30) days from the end of each quarter and within sixty calendar (60) days from the end of the calendar year the following reports:

(i) Total number of employment during the quarter or calendar year, together with the number of those who lost employment for any cause and those who were hired for same period, and broken down per registered enterprise;

(ii) Total gross revenue and gross income broken down per registered enterprise;

(iii) Total amount of importations and taxes/duties waived or foregone, broken down per registered enterprise;

(iv) Tourist arrivals;

(v) Total number of foreign nationals in the privately owned additional area, broken down per registered enterprise and status, i.e., investors visa holders; working visa holders; retirees visa holders; visitors visa holders;

(vi) Total amount of sales to domestic market as a percentage of gross revenue, broken down per registered enterprise;

(vii) 5% tax paid or amount of income tax revenue foregone as a result of the preferential rate, broken down per registered enterprise; and

(viii) such other reports as may be further required by the SBMA.

Section 23. Administrative Fees and Royalties. — Property Management Boards shall pay SBMA an administrative fee and a royalty fee based on the gross income from all operations of the privately owned Additional Secured Area or Additional Area or on other terms and conditions that SBMA may impose at the commencement of the declaration and registration of the Additional Secured Area or Additional Area.

CHAPTER V

MISCELLANEOUS PROVISIONS

Section 24. Budget. — No money shall be paid out of the funds of Additional Secured Areas or Additional Areas of the SSEFPZ except in pursuance of the budget as formulated and approved by SBMA.

Section 25. Applicability of Present and Future Rules, Regulations and Issuances in the Fenced in Secured Area to Additional Secured Area or Additional Area — All rules, regulations and issuances currently in effect as well as those rules, regulations and issuances which may hereafter be made effective, in the currently fenced in secured area, are hereby adopted for supplemental application insofar as applicable and not inconsistent herewith and incorporated herein by reference and made an integral part of this IRR.

Section 26. Power to Amend Rules. — The SBMA in consultation with BOC, may amend, alter, supplement, suspend, modify or revoke these Rules or any portion thereof as may be necessary; provided, however, that SSEFPZ Enterprise directly affected thereby shall have been properly notified and given the opportunity to present their views in a public hearing called for the purpose.

Section 27. Separability Clause. — In the event that any provision of these IRR is declared unconstitutional, the validity of the remainder shall not be affected thereby.

Section 28. Transitory Provisions. — The grant of duty free incentives shall be further subject to such orders or memoranda to be jointly issued with the Bureau of Customs.

Section 29. Effectivity Clause. — These Rules shall take effect immediately upon its publication in a newspaper of general circulation.

APPROVED this 30[th] day of March 2010 by the Chairman and Head of Agency and Administrator and Chief Executive Officer of Subic Bay Metropolitan Authority, and the Commissioner of the Bureau of Customs.

SUBIC BAY METROPOLITAN AUTHORITY

By: BUREAU OF CUSTOMS

By:

(SGD.) FELICIANO G. SALONGA

Chairman and Head of Agency (SGD.) NAPOLEON L. MORALES

Commissioner

(SGD.) ARMAND C. ARREZA

Administrator and Chief Executive Officer

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