

# FOREIGN TRADE ZONE 281 GUIDEBOOK

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August 2012

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FOREIGN TRADE ZONE  
281 PORT MIAMI



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## Section 1: BACKGROUND

### Key Aspects of a Foreign Trade Zone (FTZ)

- FTZs are within the geographic limits of the U.S., but outside Customs and Border Protection (CBP) territory
- FTZs allow users to *defer, reduce, or eliminate* CBP duties:
  - **Defer:** import a product to the site, hold it for a designated amount of time, and then transport it within the US, paying duties only when the good exits the FTZ site
  - **Reduce:** import different products to the site, combine these products to make one finished product and then transport that product within the US/export it, paying lower duties on the finished product than the sum of the individual duties
  - **Eliminate:** import a product to the site and then export, paying no duties

## Section 2: ALTERNATIVE SITE FRAMEWORK

Alternative Site Framework (ASF) is designed to serve zone projects that want the flexibility to both attract users/operators to certain fixed sites and to serve companies at other locations where the demand for FTZ services is expected to arise in the future. The ASF:

- Improves the Grantee's ability to bring competitive benefits of their FTZ to a broad range of companies
- Front-loads 90% of the leg work for designation of a site, reducing paperwork when a site needs to be designated as an FTZ and shortening the boundary modification process to roughly 30 days
- Allows the zone/site to become flexible for operation and administration

## Section 3: FOREIGN TRADE ZONES VS. BONDED WAREHOUSE

### I. Bonded Warehouse

- A Bonded Warehouse is a site in which foreign goods may be stored and manipulated without paying duties until those goods are released from storage. Bonded Warehouses may be managed by the state or by a private organization (which is required to post a customs bond with the government).

### II. Differences between FTZs and Bonded Warehouses

- Only foreign merchandise is permitted in a Bonded Warehouse, while FTZs allow both foreign and domestic merchandise
- Customs entry must be filed to enter goods into a Bonded Warehouse, while customs entry is only required at the removal of merchandise from an FTZ
- Duties must be paid before release of merchandise from a Bonded Warehouse, but are only due from an FTZ upon entry into US territory

- FTZs have unlimited storage duration, while Bonded Warehouses offer a maximum of 5 years
- Manufacturing is never allowed in Bonded Warehouses
  - Manufacturing and kitting are allowed in FTZs. Approval by the FTZB is needed for any activity that changes the 6-digit HTSUS classification
    - Kitting (examples - imported glassware and a bottle of liquor placed in a box and entered as a gift set or an imported battery combined with a cell phone into a retail package)
- Merchandise of any description (except those outlined in Operator Responsibilities) may be stored or processed in an FTZ without being subject to CBP laws

## Section 4: ORGANIZATIONAL STRUCTURE

### Foreign Trade Zone Board (FTZB)

**Who:** The FTZB is comprised of the Secretaries of the Departments of Treasury and Commerce. The Secretary of the Department of Commerce acts as the Chairman of the Board.

**Responsibilities:** The Board has authority to prescribe rules and regulations concerning FTZs, issue grants, and review reports, in addition to other actions. Secretary of Treasury has authority to prescribe rules and regulations for FTZs concerning protection of the revenue.

### FTZB Administration

**Who:** The FTZB is administered by the Executive Secretary whom is appointed by the Chairman of the Board, and associated staff.

**Responsibilities:** The Executive Secretary acts as a representative of the Board, maintains records and reports, and advises the Board on matters concerning FTZs, among other duties.

### Customs and Border Protection (CBP)

**Who:** A division of the U.S. Department of Homeland Security. They authorize any activity in the zone and any zone-to-zone transfer/export.

**Responsibilities:** CBP is responsible for the control of merchandise moving in-bond to the zone; for seeing that all revenue is collected properly; and for seeing that all zone procedures are in compliance with the FTZ Act and federal regulations.

**Reference:** See Section 10 for further responsibilities.

### Grantee

**Who:** The Grantee is a public government entity, or a private not-for-profit entity organized for the purpose of establishing a zone project and chartered under State law and must be authorized by enabling legislation.

**Responsibilities:** The Grantee establishes its zone project under "public utility" principles to provide interested firms the significant financial savings afforded by zone status. It serves as the sponsor of the zone project, and may operate the zone or contract the responsible Operator.

**Reference:** See Section 7 for further responsibilities.

### FTZ Site Operator

**Who:** The Operator may be the Grantee, a user firm, or a third-party private corporation in the warehousing/consulting business.

**Responsibilities:** Oversees zone activities, maintains records, and provides technical expertise.

**Reference:** See Section 8 for further responsibilities.

### FTZ Site User

**Who:** Persons or firms using a zone/subzone for storage, handling, or manufacturing and taking advantage of financial benefits

**Responsibilities:** Users are responsible for understanding and following local, state, and Federal regulations regarding their intended activities, entering into a signed agreement with the Operator, and maintaining proper documentation and inventory

**Reference:** See Section 9 for further responsibilities.

### Customs Broker

**Who:** Contract Company used to clear goods through Customs.

**Responsibilities:** Handles Customs Forms for User or Operator if needed. Operator may take responsibility of executing forms without a Customs Broker

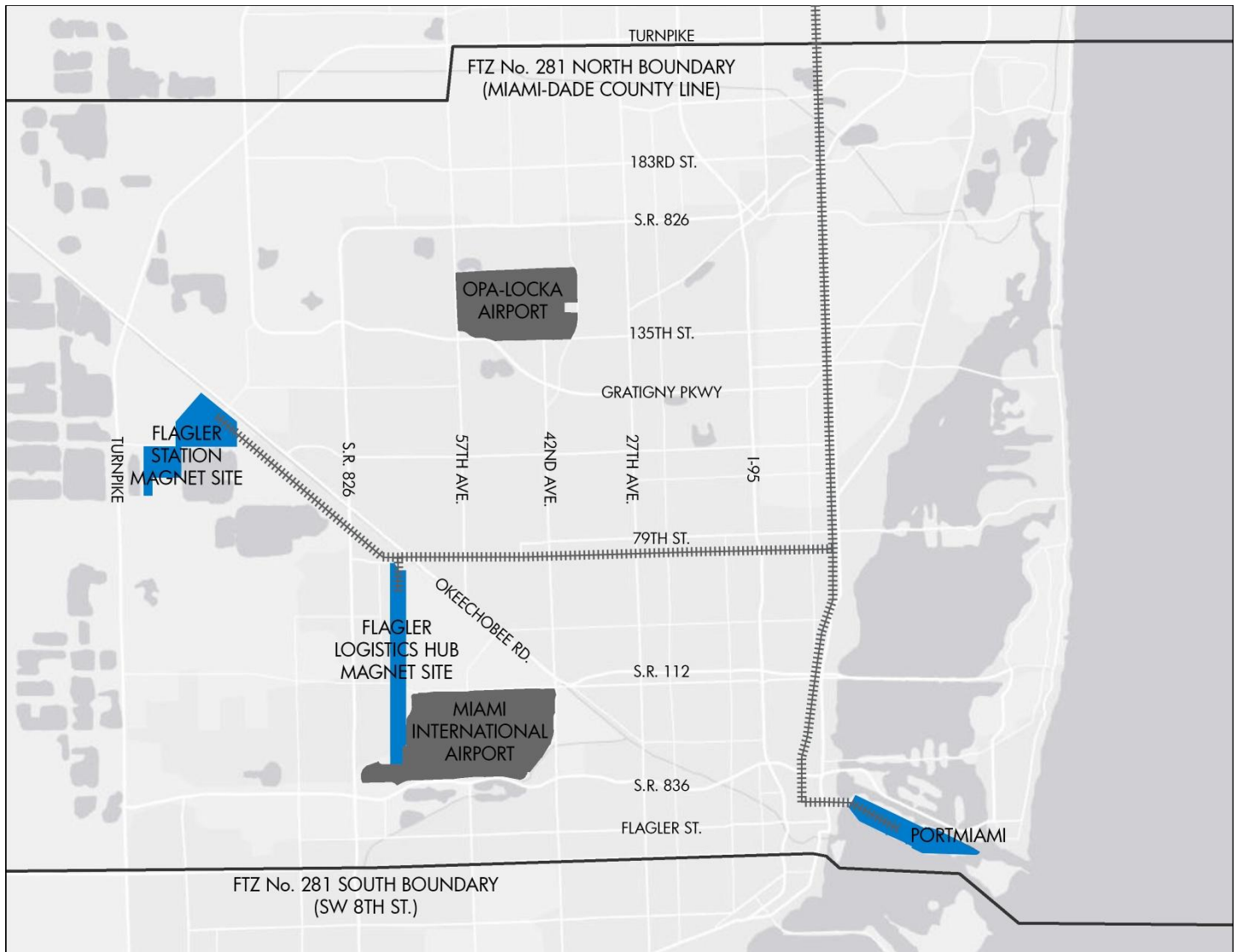
### FTZ Site Property Owner

**Who:** Site Owners may be the Grantee of the site, or may act as the Operator/User of the site.

**Responsibilities:** If not one or either of those agents, the Site Owner must sign concurrence letters with the Grantee and the Operator clarifying the responsibilities and expectations of each party.

## Section 5: TYPES OF SITES

PORTMIAMI is a General Purpose Zone operating under the ASF with a defined Service Area.



*The above diagram depicts PortMiami's General Purpose Foreign Trade Zone 281.*

### Legend

**Bold Black Lines:** show the Service Area which bounded by the Miami-Dade County Line on the north, SW 8<sup>th</sup> Street on the south. The services area is also limited to west of the Atlantic Ocean and east of the Urban Development Boundary.

**Blue:** depicts the location of FTZ 281's Magnet Sites.

**Dark Grey:** Miami-Dade County's Transportation Hubs

**Medium Grey:** Water

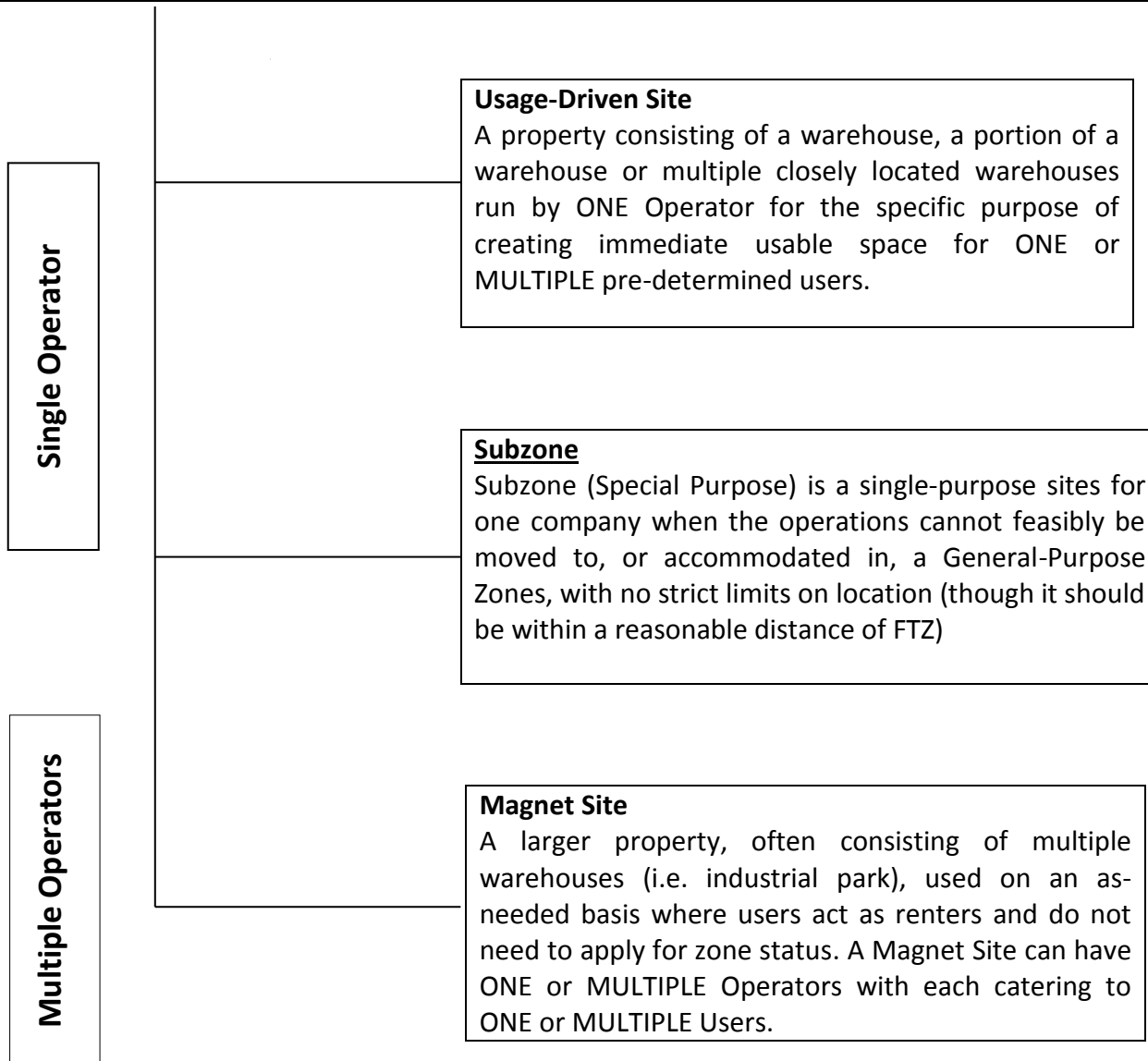
**Light Grey:** Property depicted in light grey that are located WITHIN the Service Area can become Usage-Driven Sites. Property depicted in light grey that are located OUTSIDE the Service Area can become Sub-Zones.

**Hatched Lines:** Rail Road

**White Lines:** Streets

## Types of Sites under PORTMIAMI FTZ

- **Service Area** An area authorized by the FTZB and designated through the ASF process to expedite the activation of Zone Sites with a simplified Minor Boundary Modification form
- A single warehouse, industrial park, or an air or sea port complex whose facilities are available for use by the general public
- Must be available to more than one company
- Generally used for warehousing, but manufacturing authority may be obtained by a single company via a separate application to the FTZ Board
- Must be located within 60 statute miles or 90 minutes driving from the outer limits of the nearest Port of Entry boundary



## Section 6: HOW TO APPLY

There are three phases to the application process for becoming an FTZ Operator:

- Phase 1: Application with PortMiami
- Phase 2: Approval from the FTZB and FTZ Site Operator Agreement
- Phase 3: Activation from CBP and Grantee Approval

The FTZB must authorize Usage-Driven Sites, Subzones, and new Magnet Site. An Operator at an existing Magnet Site does not need approval from the FTZB, but must still apply with the Port and Activate with CBP and the Grantee.

To apply to be an Operator at an existing Magnet Site, complete Phases I and III.

To apply for a Usage-Driven Site or Subzone, Operators must complete Phases I, II and III.

For complete details regarding each step of the Application Process, see Appendix A.

- **Phase 1: Application with PortMiami**
  1. Review and understand all aspects of pertinent documents
  2. Download and complete the Minor Boundary Modification application
  3. Submit application and application fee
  4. Background check by PortMiami
  5. Site visit by PortMiami
  6. CBP concurrence letter
  7. Submission of application to FTZB by PortMiami
- **Phase 2: Approval from the FTZB and FTZ Site Operator Agreement**
  1. Application review by FTZB
  2. Signing of Operator Agreement
- **Phase 3: Activation from CBP and Grantee Approval**
  1. Grantee provides copy of the FTZB approval
  2. CBP begins activation process
  3. ICE background check
  4. an Activity Code for Bond
  5. Provide Security Standards
  6. CBP site visit
  7. CBP issues firm code
  8. CBP will contact Grantee
  9. The Port contacts the Operator
  10. Payment of annual fee
  11. Operator agreement becomes binding

Types of application requests relevant to FTZ 281 for which Operator's can apply:

- Usage-Driven and Subzone Sites
  - Minor Boundary Modification (for Usage-Driven and Subzones)
- Magnet Site



- Reorganizations of FTZs under the Alternative Site Framework (ASF) (Part 2)
- Manufacturing
  - Production Notifications and Applications (Part A and C)

## Section 7: GRANTEE RESPONSIBILITIES

### I. Administrative Duties

- Prior to activation of any new site, the Grantee will meet with the Operator and with CBP to discuss rules and regulations, responsibilities, agreements, and prospective operations
- The Grantee will visit the proposed site and complete a background check before approving the Operator's application and signing the agreement
- Annual site visits, and any additional visits when necessary, to inspect facilities and operations
- Submission of the Operator's application to CBP
- Marketing of the zone
- Maintaining agreements, applications, records, and other vital documents for at least five years
- For further details regarding the Grantee's Responsibilities, see Appendix B

### II. Zone/Fee Schedule

- It is the responsibility of the Grantee to establish before activation a standard set of fees and an accompanying schedule, which will remain consistent for all Operators (see Attachment A).
- The chart below outlines PortMiami's Fee Schedule. The fee schedule is published in the Port tariff, which should be reviewed for updated costs.

#### SEAPORT TERMINAL TARIFF 010 – GRANTEE'S FOREIGN TRADE ZONE FEE SCHEDULE

Section 10-A page 42-A

Foreign Trade Zone Site Operators shall pay all applicable fees as outlined in the Grantee Fee Schedule. Fees are subject to change without notice. The below fees do not include any additional fees charged by the Foreign Trade Zone Board or Customs.

PORTMIAMI FOREIGN TRADE ZONE FEE SCHEDULE<sup>1</sup>

Application Fee Usage Driven / Subzone	\$2,500
Application Fee New Magnet Site	\$10,000
Application Fee for	\$2,500

<b>Manufacturing</b>					
<b>Annual Operator Fee</b>	<b>Based on square feet of Zone Site</b>				
	<b>Less than 100,000 s.f.</b>	<b>100,000 - 200,000 s.f.</b>	<b>200,000 - 400,00 s.f.</b>	<b>400,000 – 750,000 s.f.</b>	<b>Over 750,000 s.f.</b>
Active Site	\$5,000	\$10,000	\$15,000	\$20,000	\$20,000 plus \$0.025 per additional s.f.
Non-Active Site	\$2,500				
<b>Additional Fees</b>					
Alteration	\$2,500				
Penalty Fee for Late Annual Reporting	\$1,000.00 per month until in compliance				
Other Fees and Charges <sup>2</sup>	\$65.00 per hour or part thereof				

<sup>1</sup> Refer to PortMiami FTZ 281 Grantee Zone Schedule, available on website, for detailed description of process and fees.

<sup>2</sup> Other fees and charges include any other fees, charges, or expenses incurred by Grantee for the purpose of obtaining Foreign Trade Zone Board approval and/or U.S. Customs & Border Protection approval on behalf of client, and not specifically listed herein, at the discretion of the Grantee, will be assessed to client at cost.

### III. Operating Agreements (Attachment B)

Necessary to ensure the goals of the Grantee, the property owner or operator, and the community will be met

Types of Agreements:

1. Operator Agreement: agreement between Grantee and Operator that defines responsibilities of each, and includes:
    - Operator authority to activate
    - Requirements of operator (recordkeeping responsibilities, compliance, insurance, indemnification, etc.)
    - Fee Schedule
    - Term of agreement
    - Site plan of zone operation/Legal description of zone property
    - Termination provisions
  2. Property Owner Letter of Understanding: included in the Operator Agreement, the Property Owner attests to their responsibility, and includes:
    - Grantee agreement to include property in FTZ
    - Responsibilities
    - Terms of lease/termination with Operator
    - Provision on sale of property
- Grantees must enter into an agreement with the Operator to carry out the goals of the zone program, identify roles and responsibilities, and provide indemnification to the grantee
  - All Operators/Property Owners must sign a Property Owner Letter of Understanding that properly subscribes liability to each party

- Each Operator should have a clear understanding of U.S. Trade Policies, CBP Procedures, reporting and data collection, production, distribution, and transportation methods
- Operator is the party responsible under the CBP FTZ operators bond
- Grantee will conduct pre-application meetings/conferences with owner, consultants, and/or developers regarding Zone sites; and companies and/or consultants regarding Subzone sites

#### IV. Annual Report / Maintain Zone Document Files

- The annual report is a compilation of data, collected by each Grantee, required by the FTZ Board from each of the country's general-purpose FTZs covering the government fiscal year (October 1 – September 30)
- Used to monitor the effectiveness of the FTZ program in terms of economic growth and development in the US economy (all individual reports are consolidated into one master report for review by US Congress)
- Annual reports will be submitted by Grantees by the last business day in January, and failure to do so may result in the revocation of a zone grant
- Grantees that have no activity in their zones will file a letter explaining this and their future plans in place of an annual report
- Zones not yet activated but approved prior to October 1 will submit a project status report
- Suggested steps to prepare, submit, and distribute an annual report:
  - **Operators should submit their annual report information by December 31**
  - All general-purpose zone Operator data will be combined into an aggregate report, while subzone information should be attached unaltered to the report
  - Grantees should secure internal management approvals before submission
  - **If any Operator fails to provide their annual report information, the Grantee should set a meeting to discuss this inability. The Grantee will request an extension from the FTZ Board and secure the remaining information as soon as possible**
  - An original and one copy with a transmittal letter signed by an authorized official of the Grantee will be submitted to the FTZ Board Executive Secretary
  - The Grantee should then provide copies of the annual report (without separate subzone reports) to their CBP Port Director, FTZ Operators, and internal members of the Grantee
- Additional document files to be maintained:
  - Accounts and Records: Grantee will maintain in accordance with generally accepted principles of accounting, and in compliance with any federal, state, or local government requirements
  - Operator Responsibilities to Grantee: Operator will maintain records and file reports to the extent provided for in the Operating Agreement

## Section 8: OPERATOR RESPONSIBILITIES

### I. Responsibilities of Operator According to FTZ Regulations

- Supervision of all admissions, transfers, removals, recordkeeping, manipulations, manufacturing, destruction, exhibition, security, and conditions of storage in the zone as required by law and regulations. This supervision will meet the expectations of a prudent manager of a storage, manipulation or manufacturing facility.
- CBP and Grantee access to the zone will be permitted by operators.

- Safekeeping and security of merchandise and records is ultimately the responsibility of the Operator, though they may, at their own liability, delegate these responsibilities to a user.
- Records maintenance is comprised of four key responsibilities:
  - Maintain inventory control and recordkeeping system
  - Retain all merchandise records for 5 years after the merchandise is removed from the zone
  - Protect proprietary information from unauthorized disclosure
  - Make all records readily available for review by CBP officials
- Storage and handling within the zone will be done in a safe and sanitary manner to minimize damage to merchandise, avoid hazard to persons, and meet local, state and Federal requirements. All trash and waste will be removed from the zone. No physical impediments will disrupt access to CBP officials.
- Guard service is authorized to be contracted by the operator to safeguard the merchandise and workers. The port director maintains authority to assign CBP guards to protect the revenue.
- Miscellaneous responsibilities:
  - Complying with requirements for admission, manipulation, manufacture, exhibition, or destruction, shortage, or overage.
  - Transfer to Customs territory.
  - Transfer of merchandise from within district boundaries to the zone, and receipt for merchandise.
- FTZ activity is limited to those regulations established by CBP. Various merchandise and activities are prohibited or restricted and are subject to change by Federal and FTZB regulations. Operators/Users should review and understand these regulations.

## Section 9: USER RESPONSIBILITIES

### I. Responsibilities of User According to FTZ Regulations

- A User may function as a zone Operator, or may be an outside firm utilizing zone facilities. Upon entering into an agreement with the Operator, the User and Operator will need to reach a clear agreement on the following areas:
  - Duration of zone/facility occupation
  - Fees and fee schedule
  - Expected operations within the zone
  - All rules and regulations of the FTZ Board and CBP
  - Any additional restrictions of the Operator or Grantee
  - User and Operator liability
- The Operator may authorize a zone user to maintain its individual inventory control and recordkeeping system and procedures manual. The Operator shall furnish a copy of the zone user's procedures manual, including any subsequent changes, to the port director. However, the Operator will remain responsible to CBP and liable under its bond for supervision, defects in, or failures of a system.

## Section 10: CUSTOMS AND BORDER PROTECTION RESPONSIBILITIES

### I. Responsibilities of CBP According to FTZ Regulations



- A site granted zone status may not be used for zone activity until the site, or a section of it, has been separately approved for FTZ activation by local CBP officials
  - Zone activity remains under supervision of CBP, US Department of Homeland Security
  - FTZ sites/facilities remain within jurisdiction of local, state, and federal agencies
- Customs officers will be assigned to a zone as necessary to maintain appropriate supervision of merchandise and records pertaining to the zone, and to protect the revenue
  - CBP officials will be permitted by the Operator to any area within the zone
  - CBP officials will be allowed to retain merchandise for examination as designated by the port director.
  - At the request of the port director, or at their own discretion, CBP officials will supervise any activity or transaction within the zone. This may include a quantity count of goods in a zone, spot check of specific procedures, and inspection of storage facilities.
  - The port director will be able to request CBP inquiries into the qualifications, character, and experience of an operator, as well as the security and suitability of their facilities to receive merchandise.
  - All records will be available for CBP review, and CBP officials will periodically review records and recordkeeping procedures.

## Section 11: RESOURCES AND CONTACT INFORMATION

### I. Legal Authority and Requirements

- FTZ Act of 1934 (19 U.S.C. 81a-81u) est. FTZ Board (Commerce, Treasury) to license and regulate FTZ's.
- FTZ Board Regulations (15 CFR Part 400).
- CBP Regulations (19 CFR Part 146).
- NAFTA Duty Deferral (19 CFR Part 181, Subpart E).
- FTZB Grant of Authority for FTZ 281 (Board Order No. 1844)

### II. Resources

- To research if an FTZ is right for your company, we suggest you read the following material before contacting us:
  - FTZ 281 Guidebook with Grantee Zone Schedule
  - CBP Standards for Cargo Security and Foreign-Trade Zones Manual
  - Operator Agreement
  - Minor Boundary Modification Application Form

### III. Contacts

- Contact PortMiami to discuss if an FTZ is right for you and to apply:
  - Contact Person: Kevin Lynskey, Assistant Port Director
  - Telephone: 305-329-4035
  - Email: FTZ281@miamidade.gov
  - Address: 1015 N. America Way, 2<sup>nd</sup> Floor, Miami, Fl. 33132

### IV. Links

- You may also learn more about the Foreign Trade Zone program and related economic development programs by visiting the following websites:
  - PortMiami FTZ 281: <http://www.miamidade.gov/portofmiami/ftz.asp>
  - Foreign Trade Zones Board: <http://ia.ita.doc.gov/ftzpage/>
  - CBP: [http://www.cbp.gov/xp/cgov/trade/cargo\\_security/cargo\\_control/ftz/about\\_ftz.xml](http://www.cbp.gov/xp/cgov/trade/cargo_security/cargo_control/ftz/about_ftz.xml)
  - National Association of Foreign Trade Zones (NAFTZ): <http://www.naftz.org/>
  - World Trade Center Miami: <http://www.worldtrade.org/>
  - The Beacon Council: [www.beaconcouncil.com](http://www.beaconcouncil.com)

## Section 12: APPENDICES

- A. DETAILED APPLICATION PROCESS
- B. COMPLETE GRANTEE RESPONSIBILITIES
- C. ZONE SCHEDULE
- D. FOREIGN TRADE ZONE SITE OPERATOR AGREEMENT
- E. APPLICATION FORMS
  - 1. Minor Boundary Modification
  - 2. Reorganizations of FTZs under the Alternative Site Framework (ASF) (Part 1 and 2)
  - 3. Production Notifications and Applications (Part A and C)
- F. SAVINGS CALCULATOR

## APPENDIX A

### Detailed Application Process

## APPENDIX A: DETAILED APPLICATION PROCESS

- **Phase 1: Application with PortMiami**

1. Review and understand all aspects of the following documents (available on FTZ 281 website):
  - i. This PortMiami FTZ 281 Guidebook
  - ii. CBP warehouse standards
  - iii. The Foreign-Trade Zone Manual published by CBP
  - iv. PortMiami FTZ 281 Grantee Zone Schedule
  - v. Foreign Trade Zone Site Operator Agreement
1. After reading the above documents companies should be able to decide if they want to be a User or an Operator. Companies who believe they would like to be a User should contact the Port for a list of current Operator's that can provide them with FTZ services. If a Company would like to be an Operator, but does not meet the requirements outlined in these documents (i.e. experience), the company can contract nationally available consulting services.

If a company is capable of meeting all of the standards of a site Operator continue with the Phase I application process:

2. Download and complete the appropriate application form found on the FTZB website (i.e. Minor Boundary Modification)
3. Submit the application along with the non-refundable application fee. Checks should be made out to "PortMiami". Include with the application a signed a sealed site plan of the area requesting FTZ status, the square footage will be used to calculate the annual fee. The original application should be mailed to: PortMiami, Attn. FTZ Administrator, 1015 N. America Way, 2<sup>nd</sup> Floor, Miami, FL 33132. An electronic copy should also be sent to: FTZ281@miamidade.gov
4. Allow one week for PortMiami to complete a brief and basic background check similar to the one used to approve Port IDs.
5. PortMiami will contact you to arrange a site visit to inspect and approve the facilities in accordance with the CBP warehouse standards. The Grantee will discuss the intended Operator's ability to provide the following, among other requirements:
  - i. Knowledge in administering an FTZ and available staff to operate FTZ (be it full-time employees or consultant)
  - ii. Site and facility meet CBP warehouse standards
  - iii. Accessibility to FTZ Operating Software (i.e. Warehouse Management System)
  - iv. Availability of Standard Operating Procedures (SOP)
6. PortMiami will request a concurrence letter from CBP
7. Upon receipt of CBP's Concurrence Letter, the Port will submit your application to the FTZB

- **Phase 2: Approval from the FTZB and FTZ Site Operator Agreement**

1. The FTZB will review the application and within 30 days shall issue a grant if approved
2. Upon the Grantee's receipt of approval, the intended Operator must sign a conditional Foreign Trade Zone Site Operator Agreement with the Port. The agreement will become binding following activation by CBP and payment of the Annual Fee

- **Phase 3: Activation from CBP and Grantee Approval**



1. Grantee will provide intended Operator with a copy of the approved application and authority from FTZB so Operator may apply for activation with CBP
2. Contact CBP to begin their activation process
3. Complete CBPS's paperwork which they will forward to Immigrations and Customs Enforcement (ICE). ICE will conduct a complete and thorough background check of the company and employees
4. Provide a Activity Code for Bond
5. Provide Security Standards (same as document ii. In step 1, Phase 1).
6. CBP will complete a site visit to inspect the facilities
7. If ICE approves, the site visit passes inspection and bond is issued, then CBP will issue a firm code
8. CBP will advise the Grantee of the approved activation
9. The Port will contact the Operator to advise of CBP activation
10. Operator must pay the Annual fee outlined in the Grantee's Fee Schedule
11. Upon payment, the Operator agreement becomes binding

## APPENDIX B

### Complete Grantee Responsibilities

## APPENDIX B: COMPLETE GRANTEE RESPONSIBILITIES

### I. Administrative Duties

- Actions that encourage the activation of a Grantee's General Purpose Zone site:
  - Grantee will understand activation requirements of CBP and the Grantee's role in the activation process
  - Grantee will discuss the company's interest in activating with CBP, and CBP will not initiate activation process until the Grantee provides a letter of concurrence
  - Grantee will be familiar with the type of operation the company is involved in and the needs of the prospective Operator, and be willing to provide resources to the company that will help it determine feasibility
- Responsibilities of the Grantee prior to activation:
  - After submitting written concurrence, Grantees will visit/tour proposed Operator's facilities to understand business operations and why the company has decided to activate
  - Receive assurance from the company that they will have someone properly trained in the day-to-day administration/operations of the zone
  - Will enter into a contractual agreement with the company that clarifies applicable activation/annual fees
- Responsibilities of the Grantee after activation:
  - Will receive activation approval letter from CBP
  - May request a copy of the annual reconciliation certification letter to CBP, which is a reconciliation report of inventory filed by the Operator
  - Periodically review zone facilities and activities (the Grantee is ultimately responsible for maintenance of zone facilities)
  - Documentation of any activation, deactivation, or alteration of any site
  - Issuance of permits authorizing retail sales or commercial activity within the zone
  - Grantee considered ultimately liable by CBP for any outstanding Customs fines, penalties, or liquidated damages of Operators and Users
  - Marketing of the zone
  - Encourage participation in applicable and periodic FTZ roundtable meetings
  - Require timely submission of annual report data so they can prepare/submit their annual report to the FTZ board by the end of January each year

## APPENDIX C

### Zone Schedule



Grantee

Miami-Dade County

Schedule Identification

PortMiami Foreign Trade Zone No. 281 Grantee Zone Schedule

Site Description

Bounded by SW 8<sup>th</sup> Street on the South, the Broward County Line on the North, the Urban Development Boundary on the West and the Atlantic Ocean on the East.

Original Schedule Established

August 2012

Preparer

Kevin Lynskey

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## Administrative Information

### GRANT OF AUTHORITY

On August 9, 2012 Miami-Dade County was granted the authority to establish Foreign Trade Zone No. 281 (FTZ 281) within Miami-Dade County, by the Foreign Trade Zones Board of the U.S. Department of Commerce through Board order No. 1844 under the Alternative Site Framework.

### ADMINISTRATION

The Miami-Dade Board of County Commissioners approved through resolution R-929-11 the administration of Miami-Dade County's Foreign Trade Zone by the Mayor or his designee. The Mayor has authorized PortMiami to administer FTZ 281.

PortMiami has created several documents to help all Foreign Trade Zone stakeholders understand the operations and use of the FTZ 281. This information can be found on the Port's website: <http://www.miamidade.gov/portofmiami/ftz.asp>

### CONTACT INFORMATION

Kevin Lynskey, Assistant Port Director, Business Initiatives

Address: 1015 N. America Way, 2<sup>nd</sup> Floor, Miami, FL 33132

Telephone: 305-329-4035

Email: [FTZ281@miamidade.gov](mailto:FTZ281@miamidade.gov)

Website: <http://www.miamidade.gov/portofmiami/ftz.asp>

## Zone Operating Policies, Rules and Regulations

### ZONE OPERATION POLICIES

#### RULES AND REGULATIONS

#### UNIFORM PROCEDURES REGARDING THE CONSTRUCTION OF BUILDINGS AND FACILITIES

#### COMPLIANCE WITH LAWS

Operator and all users shall comply with all applicable federal, state and local laws and regulations.

#### ZONE SITE DAMAGE AND LOSS

The County shall not be liable for any claim, damage, injury or other loss occurring at or within the Zone Site.

#### LIABILITY OF OTHERS

If the Operator and any other entities are permitted to perform services at the Zone Site, the Operator and those entities shall be solely responsible for all loss, damage, or theft by themselves or persons in their employ and solely liable for any injury or death of persons in their employ. The Operator is not an agent, employee or representative of the County.

#### PUBLIC INTEREST, HEALTH, OR SAFETY

No operation, process, treatment or other activity will be permitted at the Zone Site that, in the sole judgment of the Port Director or the Director's Designee, is detrimental to the public interest, health, or safety.

#### ZONE REGULATIONS

General rules and regulations in this section governing procedure within Foreign Trade Zone No. 281 are issued in conformity with, and supplemental to, the Board's regulations and all applicable federal and State laws and regulations relating to ports of entry and Foreign Trade Zone operations.

#### OPERATIONAL MANAGEMENT PROCEDURES/"FOREIGN-TRADE ZONES MANUAL"

Operator shall establish and agrees to comply with standards of operation and management which conform to the requirements of the Board and Customs, and all applicable laws, ordinances and regulations of the State of Florida and Miami-Dade County. Operator shall require all persons, firms, and corporations admitted by it to



the Zone Site to conform to such standards. Operator shall prepare and file with Customs in accordance to the “Foreign-Trade Zones Manual”.

#### SCOPE OF AUTHORITY

Foreign Trade Zone No. 281 is authorized by Foreign Trade Zone Board Order No. 1844 to undertake warehousing and distribution activities only. All production and manufacturing (including kitting) activity that results in a substantial transformation of the product and a change in the imported material's classification under the Harmonized Tariff Schedule of the United States must be authorized by the Board. Operator shall promptly notify the Port Director or the Director's designee of any activity requiring Board notice and authorization.

#### SUNSET PERIODS

Any entity operating within a Magnet Site should be aware that the Magnet Site authorization will expire if no portion of that site has been activated within five years. A Usage-Driven site authorization will expire if there is no actual zone admission and activity within three years of approval.

#### DEACTIVATION

Deactivation is the voluntary discontinuation of the activation of an entire zone or subzone site by the Grantee or Operator. A written application to deactivate must be made to Customs and shall include a concurrence letter from the Grantee along with Customs required documentation. A Zone Site that has been deactivated shall pay the “Non-Active Site” annual fee, outlined in the Grantee's fee schedule, with the calendar year commencing on the date the deactivation is granted.

#### REACTIVATION

Reactivation is the resumption of the activated status of an entire area that was previously deactivated without any changes in the Operator or the area boundaries. If the boundaries are different or the operator is different, the action is an alteration, not a reactivation. A written application to reactivate must be made to Customs and shall include a concurrence letter from the Grantee along with Customs required documentation. A Zone Site that has been reactivated shall pay the “Active Site” annual fee, outlined in the Grantee's fee schedule, with the calendar year commencing on the date the reactivation is granted.

## ALTERATION

Alteration is a change in the boundaries of an activated zone or subzone, activation of a separate site of an already activated zone or subzone with the same operator, or the relocation of an already activated site with the same Operator, the discontinuance of active status of part of a zone site and the resumption of activated status of a previously deactivated area, but with different boundaries. A written application to alter a Zone Site must be made to Customs and shall include all Customs required documentation. A Zone Site applying for alteration shall pay the “Alteration” fee, outlined in the Grantee’s fee schedule. The Alteration fee as outlined in the Grantee Fee Schedule includes changes to the manufacturing approval and/or status for a Zone Site.

## SALE OR TRANSFER OF PROPERTY OWNERSHIP FOR USAGE-DRIVEN SITES

Should title to land or facilities be transferred after a grant of authority is issued, the zone grantee must retain, by agreement with the new owner, a level of control which allows the grantee to carry out its responsibilities as grantee. Foreign Trade Zone Site designation is not tied to the property and the sale or transfer of land or facilities will result in the deactivation of active status and the termination of this agreement. The new owner must execute a new Foreign Trade Zone Operator Agreement.

## HANDLING MERCHANDISE

Operator will be responsible for the receipt and verification of all merchandise admitted to the Zone Site on the proper forms prescribed by Customs and for handling of all merchandise within the Zone Site. Operator will perform all these functions according to all Customs Regulations. Operator further agrees not to allow removal of any merchandise located within the Zone Site without prior approval from Customs under the applicable laws, rules and regulations of Customs and the United States.

## RIGHT OF ENTRY

Representatives of the Port, the Board, Customs and other authorized United States Government officers, shall have the right to enter the Zone Site during normal business hours for the authorized and lawful purpose of examining the Zone Site; conferring with Operator, its agents, invitees, and employees; inspecting and checking operations, supplies, equipment and merchandise; and determining whether the business is being conducted in accordance with the procedures established for the operation and management of the Zone Site and as required by this Agreement and Customs Regulations.

## FURTHER INSTRUMENTS AND ACTIONS

Subject to any necessary approval of the Board of County Commissioners, the County and Operator shall deliver such further instruments and take such further action as may be reasonably requested by the other in order to carry out the provisions and purposes of Operator's operations within the Zone. Without limiting the County's rights as provided herein, the County is not obligated to, and does not intend to, monitor the day-to-day activity of the Zone Site. The appearance of the County and Port's name on any forms associated with Zone Site operations are not intended to represent that the County has any knowledge, actual or constructive, of the quantity, character, status designation, identification, or time of admission, transfer or release of goods into or from the Zone Site, and that any information contained on any forms associated with Zone Site operations are the representations solely of Operator and not of the County.

## COMMUNICATION

In order to maintain knowledge of operations, Operator shall first inform the Port Director or the Director's designee of any substantive written or oral communication with Customs or the Board with respect to Zone Site activity. All written submissions to the Board with respect to Operator's activity must be made by the County.

## ANNUAL REPORTS

Operator shall submit a report to the Port Director no later than December 1<sup>st</sup> after the end of each fiscal year (October 1 – September 30) containing data required by the Board. All such statements shall be signed by appropriate Operator officials, certifying the accuracy of the reports. Operator shall prepare a narrative and submit photographs as required for the Annual Report to the Board.

## AUDITS, INSPECTIONS AND REQUESTS FOR INFORMATION

Operator shall promptly notify the Port Director or the Director's designee of any oral or written request for information, inspection, spot check, or audit of any kind from Customs or the Board or other reports requested by any government agency and of any audit or investigation commenced by any government agency which directly concerns zone operations, and shall accompany such notification with copies of all related letters, requests, reports and investigative documentation.

## RECORD DEFICIENCIES

In the event that any audit, inspection, or examination by Customs, the Board, or the County discloses that books, records or operational procedures of Operator are not in conformance with the requirements of Customs Regulations or other federal, state or local laws or regulations, Operator will undertake immediate corrective actions once it becomes aware of the non-conformity. In the event that Operator anticipates that such correction will take more than five (5) working days, Operator shall submit a plan of performance to the Port Director or the Director's designee for the correction of such deficiency which shall be approved by the County and, if necessary, by the Board and Customs, and shall proceed with all due diligence to correct the deficiency as described in the approved plan.

#### RECORD DETENTION

All financial and accounting records of Operator concerning Zone Site operations shall be retained for five (5) years after the merchandise covered by such records is removed from the Zone Site, and all such records shall be available for inspection and audit by the Board, Customs, the County or any other appropriate government agency during normal business hours.

#### ADVERTISING

The County may advertise that Operator's operations are within Foreign Trade Zone No. 281. Such advertising shall always seek to preserve a favorable image of Operator.

#### FEES FOR OPERATORS, USAGE DRIVEN SITES AND MAGNET SITES

Operator will reimburse the County for the value of actual services rendered by the County. In addition Operator shall pay the fees outlined in the attached Seaport Terminal Tariff 010 "Foreign Trade Zone Grantee's Fee Schedule" to the County; until Operator notifies the Port it has ceased Foreign Trade Zone activity at the Site. The County, in its sole discretion, may amend this fee in the future through Seaport Terminal Tariff 010.

#### CUSTOMS BOND EXPENSE

Operator shall secure in its name and pay the full cost of any bond required by Customs for operation of the Zone Site. A copy of the Foreign Trade Zone Operator's bond shall be provided to the Port Director or the Director's designee.

## DEFAULT AND TERMINATION

Operator expressly agrees to abide by all the rules, regulations, charges and rates set forth in this Agreement and Seaport Terminal Tariff 010, and that any violation of the terms of this Agreement or Seaport Terminal Tariff 010 shall be deemed a default under Operator's Agreement with the County. If Operator defaults in the performance of any of its obligations or breaches any terms of this Agreement with the County or the terms of Terminal Tariff 010, and such default is not remedied to the sole satisfaction of the Port Director or the Director's designee within thirty (30) days after notice of such default, then the Port may terminate this Agreement upon written notice to Operator.

## INDEMNIFICATION

Operator shall hold harmless, indemnify and defend the County, its respective officers, agents and employees (the "Indemnified Parties") from any and all losses, damages, costs, expenses, liabilities, obligations, fines, penalties, actions, judgments, suits, and causes of action, claims, demands and proceedings of any kind or description ("Claims") and all costs and expenses of any kind or nature, including, without limitation, all reasonable attorneys' fees, disbursements, court costs and any other costs of litigation related thereto arising out of, resulting from or directly or indirectly connected to Operator's operation of the Zone Site or the performance by Operator of this Agreement, including, but not limited to Claims arising out of, resulting from or directly or indirectly connected to negligence, intentional misconduct, breach of contract, violation of Customs Regulations or other applicable federal, state, or local laws or regulations or other violation of or by Operator, its employees or its agents. The County will provide Operator with notice in writing of any facts or situations arising out of Zone Site use that give rise to a claim by the Port for indemnification. In case any action shall be brought against the Indemnified Parties, or any of them, arising out of Zone Site usage, the Indemnified Party or Parties shall promptly notify Operator in writing, and Operator shall assume the defense, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement with the consent of the Indemnified Party or Parties, which consent shall not be unreasonably withheld or delayed. An Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party unless the employment of such counsel has been specifically authorized by Operator, or unless the representation of both Operator and the Indemnified Party would represent a conflict of interest. Operator shall not be liable for any settlement effectuated without its consent, but if any such action is settled with the consent of Operator, or if there be a final judgment for the plaintiff in any such action, Operator

agrees to indemnify and does hereby hold harmless the Indemnified Parties from and against any and all loss or liability by reason of such settlement or judgment. The provisions of this section shall survive the termination or cancellation of the Operator's agreement with the Port

#### INSURANCE

Operator further agrees at its expense to place with an insurance company and keep in effect during the life of any agreement with the Port to operate a Zone Site insurance covering comprehensive general liability for the Zone Site in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage per occurrence. Operator shall provide to MDC a Certificate of Insurance or other proof of such insurance satisfactory to MDC or a letter indicating a program of self insurance and its limits and availability of funds sufficient to meet the claims.

#### NO ASSIGNMENT

Operator shall not transfer in any way its status as a Zone Site Operator without the Port Director's prior written approval.

#### TERMINATION BY OPERATOR

Operator shall have the right, at any time, to terminate without cause its Zone Site Operator Agreement with the County and all rights and obligations upon sixty (60) days prior written notice. Operator shall immediately provide all records and reports for MDC, the Board, and Customs required to complete any report required under Board or Customs rules and regulations.

#### TERMINATION BY THE COUNTY

Upon sixty (60) days written notice from the Port Director, the County may terminate this Agreement with or without cause. The County also may terminate its participation in Foreign Trade Zone or subzone activities for any reason. Operator shall have no claim against the County by reason of such termination.

#### WITHDRAWAL OF GRANT

If the Foreign Trade Zone grant to the County is revoked or canceled with or without the fault of the County, Operator's Agreement with the County shall terminate and Operator shall have no claim against MDC by



reason of such revocation or cancellation, and Operator shall have no further interest in the subject matter of this Agreement.

#### TERMINATION BY THE COUNTY

If, at any time after three (3) years for Usage-Driven sites and five (5) years for Magnet site, from the effective date of this Agreement the zone site has not been activated and no plan to commence such activity is submitted to the Port Director within thirty (30) days after receipt of written notice from the Port Director of the County's intent to terminate this Agreement, this agreement may be terminated by either party giving written notice of such termination to the other party. Upon such termination, the rights and obligations hereunder of Operator shall terminate, except Operator's reporting, record retention indemnification obligations and the obligations of Operator to take action or abstain from taking action after the termination.

#### SURVIVAL OF OBLIGATIONS

Operator, upon termination or expiration of this Agreement for any reason whatsoever, shall not be released or relieved from fulfilling any and all of its obligations or duties which arose or accrued during the term of this Agreement, and Operator will, upon termination or expiration of this Agreement for any reason whatsoever, completely perform and fulfill any and all of its obligations or duties which arose or accrued during the term of this Agreement, including the immediate preparation and filing of all necessary reports with the Board and Customs. Operator's indemnity obligations, bond obligations, and record and record retention obligations shall survive termination or expiration of this Agreement.

#### ZONE SITE ACTIVATION/DEACTIVATION/VOLUNTARY SUSPENSION

In the event Operator chooses not to activate the Zone Site or to deactivate the Zone Site, this Agreement will remain in effect, but Operator will not have to pay the annual fee to the County during the period the Zone Site is not activated. In the event Operator chooses to deactivate the Zone Site, Operator shall provide sixty (60) days prior written notice to the Port Director. Deactivation will be deemed to occur on the effective date so fixed by Customs. In the event the Operator chooses to voluntarily suspend activity within the Zone Site when no foreign non-duty paid merchandise passes through the facility, Operator shall notify MDC, and this Agreement will remain in effect. During a period of voluntary suspension, the Zone Site will remain activated. Operator may reduce its Zone Site Operator's Bond to the minimum amount permitted by Customs. Operator may re-commence activity at its own discretion by notifying the Port Director. At such time as the Operator

chooses, it may reactivate or no longer voluntarily suspend the Zone Site and resume payment of the applicable fees, including a pro rata share of the annual fee for the remaining portion of the first year of the restoration of activity. Operator shall furnish the Port Director with a copy of any deactivation, reactivation, suspension, or restoration of activity letters provided to Customs.

#### APPLICABLE LAW/VENUE

Any agreement between Operator and MDC shall be governed by and construed in accordance with the Foreign Trade Zones Act, regulations adopted by the Board and Customs and all amendments thereto, and the applicable laws of the State of Florida, without regard to principles of conflicts of laws. Any legal action or proceeding brought or instituted with respect to any dispute or disagreement arising hereunder or with respect to any breach of the terms and provisions of this Agreement shall be brought in a Court of competent jurisdiction in Miami-Dade County unless federal law requires that the dispute be determined by another Court or body.

#### CONFIDENTIALITY

Grantee hereby acknowledge and agree that they and their respective directors, officers, agents, representatives, and employees are subject to the Trade Secret Act as it relates to confidentiality of information concerning Property Owner and Operator's operations at the site.

## Rates and Charges

### Tariff Item: PortMiami Foreign Trade Zone No. 281

Section 10-A page 42-A

PortMiami Foreign Trade Zone No. 281

Foreign Trade Zone Site Operators shall pay all applicable fees as outlined in the Grantee Fee Schedule. Fees are subject to change without notice. The below fees do not include any additional fees charged by the Foreign Trade Zone Board or Customs.

PORTMIAMI FOREIGN TRADE ZONE FEE SCHEDULE<sup>1</sup>

<b>Application Fee Usage Driven / Subzone</b>	\$2,500				
<b>Application Fee New Magnet Site</b>	\$10,000				
<b>Application Fee for Manufacturing</b>	\$2,500				
<b>Annual Operator Fee</b>	<b>Based on square feet of Zone Site</b>				
	<b>Less than 100,000 s.f.</b>	<b>100,000 - 200,000 s.f.</b>	<b>200,000 - 400,000 s.f.</b>	<b>400,000 - 750,000 s.f.</b>	<b>Over 750,000 s.f.</b>
Active Site	\$5,000	\$10,000	\$15,000	\$20,000	\$20,000 plus \$0.025 per additional s.f.
Non-Active Site	\$2,500				
<b>Additional Fees</b>					
Alteration	\$2,500				
Penalty Fee for Late Annual Reporting	\$1,000.00 per month until in compliance				
Other Fees and Charges <sup>2</sup>	\$65.00 per hour or part thereof				

<sup>1</sup> Refer to PortMiami FTZ 281 Grantee Zone Schedule, available on website, for detailed description of process and fees.

<sup>2</sup> Other fees and charges include any other fees, charges, or expenses incurred by Grantee for the purpose of obtaining Foreign Trade Zone Board approval and/or U.S. Customs & Border Protection approval on behalf of client, and not specifically listed herein, at the discretion of the Grantee, will be assessed to client at cost.

## APPENDIX D

### Foreign Trade Zone Site Operator Agreement

## APPENDIX E

### Application Forms

## 1. Minor Boundary Modification

### Alternative Site Framework

#### REQUEST FOR MINOR BOUNDARY MODIFICATION

**NOTE:** This format is only for a Minor Boundary Modification (MBM) to propose a “Usage-Driven” site under the FTZ Board’s optional Alternative Site Framework (ASF). There is a separate format for MBMs under the traditional site framework.

#### INSTRUCTIONS

**General:** This format consists of a small number of questions to answer and, for ease of use, is provided as a MS Word document. The actual submitted request may take the form of a letter from the grantee requesting approval and answering each question listed below. Alternatively, the request may include a separate document answering the questions below as long as it includes a cover letter from the grantee identifying the specific MBM for which it is requesting approval. Leave each question in place (including its number) and provide your response directly below each question.

**Submitted Request Must Be Complete:** Submitted MBM requests must be complete – with the sole allowable exception of the concurrence letter from the CBP Port Director, if necessary. Incomplete submitted requests or documents submitted separately will be returned to the sender. The FTZ Staff cannot assemble complete requests from individual elements submitted separately.

**Sites versus Parcels:** A "site" is comprised of one or more parcels of land that share an identity (for example, parcels within a single industrial park or port/airport complex). If parcels do not share an identity, then they should be treated as separate sites.

**Zoning:** Sites with inappropriate zoning – such as agricultural, retail, or residential – are not eligible for FTZ status and should not be proposed in any MBM request.

**Number of Copies:** Please submit one original and one electronic copy of the complete request (Adobe PDF format preferred). If you cannot submit a PDF-format copy, you may submit a MS Word-format copy. **The electronic copy must have all pages in black and white (including scans of the signed versions of all letters) except for maps, which must be in color.** If you have any questions, please contact Elizabeth Whiteman at Elizabeth.whiteman@trade.gov or (202) 482-0473.

#### QUESTIONS

1. List the site's address, including the jurisdiction in which the site falls (town, city, county), and explain how the site is within the grantee’s Service Area.

2. State the site's proposed acreage \_\_\_\_\_ (which will also be the site’s activation limit).



3. Indicate the company for which the site will be designated and the company's planned activities.
4. Indicate the type of site (for example, warehouse building within an industrial district), the site's current zoning, and existing and planned buildings (including their construction status, as applicable).
5. Who owns the site? (If site is not owned by the grantee or the company planning to use the site – as named in response to Question 3 above – then provide a "Site Ownership" attachment with documentation demonstrating the right to use the site. Such evidence could be a signed letter from the proposed operator on its letterhead attesting to its right to use the property or a letter of concurrence from the owner of the new site.)
6. Confirm that FTZ designation or the use of FTZ procedures is not a requirement or a precondition for future activity or construction at the site.

## ATTACHMENTS

Attach the documents listed below (items 7 through 9, plus 10 if applicable) directly behind the text of your request.

7. A clear copy of the appropriate legal description for the proposed site's land. Also, state if the legal description covers a larger area than the proposed site.
8. A clear and detailed site plan (survey/schematic) showing existing and planned structures. The site boundaries must be outlined clearly **in red**. Note that if streets or similar landmarks are not legible on the site plan, you will also need to provide a detailed street map with the proposed site's boundaries **in red**. Any map should be no larger than letter-sized (8 1/2" x 11") and clearly labeled, with legends provided for any markings.
9. A concurrence letter from the Port Director of Customs and Border Protection (CBP). Grantees should directly request concurrence from CBP under this administrative procedure so that the CBP letter can be attached to the request.
10. If your state (such as TX, KY, AZ) has one or more taxes for which collections will be affected by the proposed FTZ designation of the new site:
  - attach an explanation of the specific local taxes that will be affected

AND

- attach correspondence from the affected parties (such as a local school board) indicating their concurrence (or non-objection) regarding the proposed FTZ designation.

## **2. Reorganizations of FTZs under the Alternative Site Framework (ASF)**

Below are the instructions for completing the application. Parts 1, 2 and 3 of the application will need to be completed. They can be found on the FTZB website: <http://ia.ita.doc.gov/ftzpage/ASFreorg.html>

### **INSTRUCTIONS AND DEFINITIONS FOR GENERAL-PURPOSE ZONE REORGANIZATION/EXPANSION APPLICATIONS**

**After having read these instructions, if you have questions on any aspect of the application process, do not hesitate to contact the FTZ Staff at (202) 482-2862.**

**General:** The application formats consists of a series of questions to answer. (For ease of use, each part of the formats is provided as a MS Word document.) Leave each question in place in the document (including its identifying number) and provide your response directly below each question.

**Submission of Draft Application:** We advise all applicants to send us a complete draft of their application. Complete drafts must include all required answers and documents. The only documents that may be omitted from the draft application – if they are not yet ready – are the final versions of the grantee's resolution and application (transmittal) letter. However, the draft application should include draft copies of the resolution and application (transmittal) letter so that they can be checked for adequacy. We are happy to receive drafts via e-mail ([ftz@trade.gov](mailto:ftz@trade.gov)) to expedite the feedback process.

**Confirm Your Existing Sites:** All applicants should contact the FTZ Staff at an early stage in the process of drafting an application to confirm that the grantee's records regarding existing FTZ sites match the FTZ Board's records (including the descriptions of the individual sites).

**Sites versus Parcels:** A "site" is comprised of one or more parcels of land that share an identity (for example, parcels that are within a single industrial park or port/airport complex). If parcels do not share an identity, then they must be treated as separate sites.

**Zoning:** Sites with inappropriate zoning – such as agricultural, retail, or residential – are not eligible for FTZ status and should not be proposed in any application.

**Site Ownership:** If the grantee or proposed operator does not own the proposed site, provide either evidence of the proposed operator's right to use the property (such as a signed letter from the proposed operator on its letterhead attesting to its right to use the property) or a letter from the owner of the property concurring on the proposed FTZ designation.

**Adjacency Requirement:** The FTZ Act and Regulations require each zone site to be within or adjacent to a U.S. Customs and Border Protection (CBP) port of entry (as listed and defined in part 101 of the CBP Regulations - 19 CFR 101.3). That requirement can be satisfied if the zone site is: 1)

within the limits of a CBP port of entry or 2) within 60 statute miles or within 90 minutes' driving time from the outer limits of the boundaries of a CBP port of entry, as verified by the CBP port director.

**Site Numbering:** Use new numbers for wholly new sites. For example, if your FTZ no longer has a Site 2, do not use number 2 for a new site - use the next number in the sequence of unused numbers. However, modification of an existing site can use the number the site has already been assigned.

**Certified copy of state legislation:** The application formats require a “certified copy of the state enabling legislation regarding FTZs” – this is to satisfy the requirement in Section 400.24(d)(1)(i) of the FTZ Board’s regulations. There are two options to satisfy this requirement. You may submit either 1) a copy certified by an appropriate state official or 2) a copy printed from the web site that is the state’s official source for such information. For option # 2, the grantee must clearly indicate -- in the application (transmittal) letter for example -- that the copy provided is of the relevant legislation in effect at the time of the application’s submission to the FTZ Board.

**Pertinent Sections of Grantee’s Charter:** The application formats require a copy of the “sections of the grantee’s charter (or organization papers) that are pertinent to FTZs” – this is to satisfy the requirement in Section 400.24(d)(1)(ii) of the FTZ Board’s regulations. While some grantee organizations’ charters have sections specific to FTZs, other grantee organizations’ charters only have general or broader authority (that is, nothing specific to FTZs). In that case, the applicant should provide a copy of the section(s) of the grantee’s charter that establish the general authority under which the organization applied for its grant of authority to establish a FTZ.

**Certified copy of grantee resolution:** The application formats require “a certified copy of a resolution authorizing the grantee official to sign the application letter” – this is to satisfy the requirement in Section 400.24(d)(1)(iii) of the FTZ Board’s regulations. The resolution must be certified by an official of the grantee organization who is in an appropriate position of responsibility to make such a certification.

**Evidence of current legal standing (only applicable to non-public grantees):** If the application involves one of the small number of grantees that are non-public corporations, it also will need to include evidence of the corporation’s current legal standing.

**Format of Final Version of Application:** Hard copies of the final version of your application can be stapled or - if the application is too thick to be stapled - submitted in a three-ring binder (not spiral-bound). Use of a three-ring binder greatly facilitates replacement of pages, when necessary.

**Number of Copies:** Please submit one original, one copy and an electronic copy (Adobe PDF format preferred). If you cannot submit a PDF-format copy, you may submit a MS Word-format copy. **The electronic copy must have all pages in black and white (including scans of the signed versions of all letters) except for maps, which must be in color.** If you have any questions, please contact Elizabeth Whiteman at [Elizabeth.Whiteman@trade.gov](mailto:Elizabeth.Whiteman@trade.gov) or (202) 482-0473.

**Filing Fees:** The FTZ Regulations require a \$1,600 filing fee for an “Expansion application. However, the \$1,600 fee is not applicable to an ASF reorganization application that simply proposes to establish the grantee’s “Service Area” while maintaining or reducing existing sites (in other words, does not propose at this time to bring FTZ designation to any specific previously undesignated land/building). If the application does request FTZ designation for any specific previously

undesigned land/building, then the \$1,600 fee applies. The check should be made payable to "U.S. Department of Commerce ITA." The Federal Tax ID number is 91-2014781.

## INSTRUCTIONS SPECIFIC TO THE ALTERNATIVE SITE FRAMEWORK

### Introduction:

The standard format for an application to reorganize an existing FTZ under the Alternative Site Framework (ASF) includes several relatively straightforward steps. It has been designed to minimize the burden on a grantee (particularly for new documentation). Because justification for existing FTZ sites was provided in a prior application(s), you generally will not be asked to rejustify existing sites.

The ASF application format is comprised of three parts:

- Part One is all you will need to complete if the proposed reorganization of your FTZ only involves existing sites -- with no proposed changes to boundaries -- for which you will now be requesting Magnet designation (see definitions below).
- Part Two is needed only if you propose Magnet designation for sites that are new or that involve modifications to the boundaries of existing sites.
- Part Three is used only if you propose Usage-Driven designation for one or more sites.

If you have questions on any aspect of the application process, do not hesitate to contact the FTZ Staff at (202) 482-2862.

### Definition of Key ASF-related Terms:

“Service Area” is the geographic area (such as specific counties) where you intend to be able to propose future FTZ sites. If approved under the ASF, your zone could serve sites throughout the Service Area based on companies’ needs for FTZ designation.

“Magnet” sites are sites intended to attract multiple potential FTZ operators/users.

“Usage-Driven” sites are designated to meet a specific operator/user’s present need for FTZ designation (rather than to attract potential future operators/users). A Usage-Driven site is tied to the specific operator/user for which it was designated and could not be used by any other entity. However, a site vacated by one operator/user could easily be designated as a Usage-Driven site for another operator/user through an additional simple minor boundary modification (MBM) action.

“Activation Limit” is a cap on the amount of space that can be in CBP “activated” status simultaneously. The FTZ Board’s practice involves a 2,000-acre activation limit for any FTZ grantee.

A “Sunset Limit” for a site means FTZ designation self-removes if there is no FTZ activity at the site before the sunset date. For Magnet sites, the default sunset period is 5 years (with variation possible based on circumstances, including possible permanent designation for one Magnet site). Usage-Driven sites have a three-year sunset period. FTZ activity at a site during the sunset period resets the sunset date for an additional 5 years (Magnet) or additional 3 years (Usage-Driven).

“Transitional Phase” is an initial period allowed for any grantee with more than six existing sites (the general goal for maximum number of Magnet sites under the ASF). The Transitional Phase enables a grantee to bring any number of existing FTZ sites into the ASF as Magnet sites without having to justify exceeding the ASF’s general goals. “Sunset” limits (with a five-year default period) would result in the automatic removal of sites which had not been used during the Transitional Phase.

#### Major Steps in Drafting Your ASF Application:

##### **Step # 1: Define the geographic “Service Area” your zone will serve.**

The most straightforward approach to a Service Area for many grantees would be to name the counties in which they intend to be able to propose FTZ sites. Once approved under the ASF, your zone could then serve sites throughout the Service Area based on operator/user needs for FTZ designation. Any proposed Service Area must be consistent with the state enabling legislation and the grantee organization’s charter and comply with the “adjacency” requirement of the FTZ Board’s regulations – within 60 miles/90 minutes driving time from CBP Port of Entry boundaries. (Note that if there are other FTZs in your CBP Port of Entry, the FTZ Board’s evaluation of your proposal may involve questions of the “convenience of commerce” -- 19 U.S.C. 81b(b).)

##### **Step # 2: Indicate specific FTZ sites to be served initially by your FTZ.**

**Magnet sites:** At the time that you reorganize your FTZ under the ASF, you will detail any specific Magnet sites proposed for your zone. Although there is a general long-term goal for each zone of no more than six Magnet sites, a grantee can propose Magnet designation for more than six existing sites during an initial Transitional Phase. At the end of the Transitional Phase, a standard “sunset” test would remove sites which had not been used for FTZ activity.

**Usage-Driven sites (optional at time of reorganization):** If you have one or more specific companies ready to pursue the use of FTZ procedures, you can also request Usage-Driven designation(s) at the time of your reorganization. Otherwise, you will be able to use a simple minor boundary modification (MBM) mechanism to designate Usage-Driven sites at any point after approval of your ASF reorganization application.

### **3. Production Notifications and Applications (Part A and C)**

Part A: Standard Information

Part C: Additional Information Needed For Primary Scope For Permanent Authority.

#### Part A

#### **Application for FTZ Manufacturing Authority**

#### **Part A – Standard Information**

This application format puts the requirements of the FTZ Regulations into a relatively simple structure. A sample completed application on our web site gives an idea of the type of information needed for each item. If you have questions, contact the FTZ Board staff at (202) 482-2862.

In filling out your application, leave the question/item number and the language of the question in place. Simply type your response directly after the question. The FTZ Regulations place the burden of proof on the applicant, so please respond to each item completely based on the information available to you. Note that for industry/market information, you may rely on your expert knowledge of the industry in addition to traditional, published resources.

#### **APPLICATION LETTER (incorporating Executive Summary)**

A1. Your application must have a cover letter identifying your company and summarizing the zone site(s) to be used, proposed FTZ manufacturing activity, and why approval of that activity would be beneficial for the United States overall. The letter must be currently dated and signed by an authorized officer of the grantee or operator.

#### **COMPANY, SOURCING, MARKET AND INDUSTRY INFORMATION**

A2. Explain in detail why approval of your proposed FTZ manufacturing authority would be beneficial overall to the United States.

*Type your answer to Question A2 here.*

A3. Describe problems, challenges or strengths facing your company and the U.S. industry. (For example, have production, employment, and operating profits been falling or rising? Have there been changes in the cost of raw materials? Also address any other relevant factors.)



*Type your answer to Question A3 here.*

A4. List total employment company-wide.

*Type your answer to Question A4 here.*

A5. List total employment at your proposed FTZ manufacturing plant.

*Type your answer to Question A5 here.*

A6. How has your company's and plant's employment changed in the last 5 years?

*Type your answer to Question A6 here.*

A7. Will FTZ-related savings likely lead to increased, stable, or decreased employment at your plant? Explain.

*Type your answer to Question A7 here.*

A8. Briefly describe the specific manufacturing activity which you are seeking to conduct under FTZ procedures. (As explained at the end of these guidelines, you will provide more detailed information relating to your requested FTZ manufacturing authority in a "Products and Components" attachment.)

*Type your answer to Question A8 here.*

A9. Does your company have other plants (in the U.S. or overseas) that conduct the same activity or similar activity? If yes to either, please list the other plants' locations and explain.

*Type your answer to Question A9 here.*

A10. For the products you want to produce under FTZ procedures, list the percentages (or percent ranges) by value of:

U.S. materials = \_\_\_\_\_%; foreign materials = \_\_\_\_\_%; and value added at your facility (labor, profit, overhead, etc.) = \_\_\_\_\_%.

(U.S. materials + foreign materials + value added = 100%)

*You can type your answers to Question A10 directly into the blank spaces above.*

A11. Are the components that you purchase from abroad also available from U.S. suppliers (if yes, why are you unable to obtain those components domestically)? Explain.

*Type your answer to Question A11 here.*

A12. Will FTZ -related savings affect your company's purchasing patterns? Explain.

*Type your answer to Question A12 here.*

A13. What is the current annual production capacity at your plant? Are there any planned capacity changes? (Indicate the units of measure used.)

*Type your answer to Question A13 here.*

A14. What is your company's current share of the U.S. market for the type of products you want to make under FTZ procedures?

*Type your answer to Question A14 here.*

A15. List your major competitors in the U.S. market and their approximate U.S. market shares.

*Type your answer to Question A15 here.*

A16. Are your competitors producing in the U.S. or abroad? Explain and give specific examples.

*Type your answer to Question A16 here.*

A17. What is imports' share of the U.S. market for the type of products you want to make under FTZ procedures?

*Type your answer to Question A17 here.*

A18. Has imports' share of the U.S. market changed in the past 5-10 years? How? Why?

*Type your answer to Question A18 here.*

A19. How would approval of your proposed FTZ manufacturing affect your domestic competitors?

*Type your answer to Question A19 here.*

A20. Are the purchasing patterns of competing domestic manufacturers similar to your company's?

*Type your answer to Question A20 here.*

A21. If you are granted authority to manufacture under FTZ procedures, would the other U.S. manufacturers be likely to seek access to zone procedures? Explain.

*Type your answer to Question A21 here.*

A22. What are the competitive factors in your industry? Any other factors unique to your industry?

*Type your answer to Question A22 here.*

A23. What percent of your production of the products you want to make under FTZ procedures is sold to export markets?

*Type your answer to Question A23 here.*

A24. Do you know your approximate share of the world-wide market for the products you want to make under FTZ procedures? If yes, list it.

*Type your answer to Question A24 here.*

A25. List your major competitors in the world market and their approximate world market shares.

*Type your answer to Question A25 here.*

A26. Briefly describe your company's background and current situation (including annual sales value or other indicator(s) of company's size and scope of operations).

*Type your answer to Question A26 here.*

A27. Please list the main internet address(es) for information about your company and product(s).

*Type your answer to Question A27 here.*

A28. Are you aware of any studies or reports that have been done recently regarding your industry or industry sector? If yes, please list the titles and authors/publishers below. **However, do not include with your application copies of any studies/reports.** If needed, the FTZ Staff may later ask for your assistance in obtaining a copy of these publications as part of the Staff's case-related research.

*Type your answer to Question A28 here.*

## **FTZ-RELATED SAVINGS**

A29. What are the total estimated annual FTZ-related savings associated with the proposed activity you are describing in this application?

*Type your answer to Question A29 here.*

A30. Provide the percentage breakdown for your total estimated FTZ savings into the following categories: Logistical/Paperwork; Inverted Tariff; Exports; Duty Deferral; and Scrap/Waste.

*Type your answer to Question A30 here.*

A31. Provide any additional explanation or special features of the above savings that may be relevant to the review or implementation of zone procedures (e.g., formulas, Customs rulings, scrap as percentage of imported product).

*Type your answer to Question A31 here.*

A32. Provide an estimated cost figure for operating your proposed FTZ manufacturing facility each year. (Components of your annual operating cost could include record keeping/inventory control, fees to the zone grantee, etc.)

*Type your answer to Question A32 here.*

A33. Do you commit to work with Customs & Border Protection, as appropriate, to meet current and future CBP requirements for its automated systems (e.g., ACS, ACE)?

*Type your answer to Question A33 here.*

## **SITE INFORMATION/COMPANY NAME**

A34. Indicate the Zone/Subzone number and the identifying numbers and addresses for the individual sites where you intend to conduct the requested activity.

*Type your answer to Question A34 here.*

A35. Company (Manufacturer) Name

*Type your answer to Question A35 here.*

## PRODUCTS AND COMPONENTS

A36. Describe in detail the specific manufacturing activity – including the main products and components – which you are seeking to conduct under FTZ procedures.

*Type your answer to Question A36 here.*

## COMPLETION OF DETAILED PRODUCTS AND COMPONENTS SECTION(S)

You will also need to fill out one or more sections (Parts B, C, and/or D) that pertain to defining the “scope” of finished products and imported components/inputs that you propose for manufacturing under FTZ procedures:

- If you are applying for Temporary/Interim Manufacturing (T/IM) authority you will need to fill out Part B. Part B will provide the information to define your T/IM scope of products and inputs. If you are requesting permanent authority in addition to T/IM authority, Part C has a simple box to check if you propose for your T/IM scope to also be your permanent scope.
- If you are requesting permanent authority without requesting T/IM authority, you will need to fill out Part C to detail your proposed “primary” scope of finished products and inputs.
- If you are requesting permanent authority, you also have the option of completing Part D to requesting a “secondary” scope of finished products and inputs for which the company has no current manufacturing plans but which it may ultimately need to use in manufacturing under FTZ procedures. (See additional explanation below.)

### Primary Scope:

Your primary scope should include:

- 1) the range of finished products and foreign-status components which your company plans to use in manufacturing under FTZ procedures; and,
- 2) finished products and foreign-sourced components that you believe that there is a significant likelihood that your company will need to use for FTZ manufacturing.

For each primary finished product or input, provide an item description, 6-digit HTSUS number, and current U.S. duty rate. For a T/IM request, you will also need to indicate whether each product/input is identical or similar to a product/input in the T/IM database – in the case of similar products/inputs, you will further need to explain the degree of similarity.

### Secondary Scope:

As noted above, an application for permanent authority may also include information (Part D) requesting to establish a secondary scope of authority for products and foreign-status components for which the company in question has no current manufacturing plans but which it may ultimately need

to use in manufacturing under FTZ procedures. The intent of allowing a secondary scope is to give companies short-term flexibility to react quickly to new marketplace opportunities. As such, the company would be able to use products and components from its approved secondary scope, but the company should notify the FTZ Board once this activity becomes significant. Depending on the circumstances, an application for "expansion of authority" could be needed. In the absence of an expansion application, products and components listed in the secondary scope should not account for a significant amount of the company's FTZ-related savings.

A commitment to self monitor your company's use of the secondary scope by including the following language will facilitate processing of your application as well as reduce the potential need for FTZ Board and CBP monitoring of any approved activity:

"The applicant understands that the finished products and components listed in its secondary scope: 1) are not items for which the company currently has definite plans for manufacturing under FTZ procedures and 2) may not constitute a significant amount of the company's overall FTZ savings (unless the company has submitted an application to the FTZ Board to expand its primary scope to include the products and components at issue)."

For a secondary scope, the applicant should provide the following information for any finished products and components: item description, 4-digit HTSUS number, and current U.S. duty rate.

Part C

Application for FTZ Manufacturing Authority

Part C – Additional Information Needed  
for Primary Scope for Permanent Authority

Note: There are instructions relevant to filling out this part in the section entitled “Completion of Detailed Products and Components Section(s)” at the end of Part A of the application format.

SIMULTANEOUS TEMPORARY/INTERIM AND PERMANENT APPLICATIONS

- C1. a. Are you simultaneously submitting a request for temporary/interim authority (with a scope listed in Part B)? Yes \_\_\_\_ No \_\_\_\_
- b. If you checked "Yes," do you wish to include the products and inputs for which you are requesting temporary/interim authority in your application for permanent authority? Yes \_\_\_\_ No \_\_\_\_

(If you checked yes, you do not need to list those products and inputs again in this section. You only need to list below the additional products and inputs for which you are seeking permanent authority.)

You can type an “X” directly into the appropriate spaces in Questions C1a and C1b.

TRADE-RELATED ISSUES

C2. Are any of your inputs listed below (in response to Question C4) subject to antidumping ("AD") or countervailing duty ("CVD") duties? Are any of the inputs subject to quantitative restrictions (quotas)? Are you aware of any other trade-related issues affecting any of the inputs? If yes to any of these questions, explain.

Type your answer to Question C2 here.

FINISHED PRODUCTS

C3. List the finished products (as defined by 6-digit HTSUS numbers) which you are proposing as your primary scope for permanent manufacturing authority. (You can add rows to the table – included appropriate additional identify numbers – as needed.)

Product physical description ( <b>not</b> HTSUS description)	6-digit HTSUS	Current duty rate



[illegible]

## INPUTS

C4. List the inputs (as defined by 6-digit HTSUS numbers) which you are proposing as your primary scope for permanent manufacturing authority. (You can add rows to the table as needed.)

[illegible]

## APPENDIX F

### SAVINGS CALCULATOR

The Savings calculator is an excel sheet that can be downloaded from the FTZB website:

<http://ia.ita.doc.gov/ftzpage/info/toolbox.html>