ADMINISTRATIVE DISCIPLINARY JURISDICTION

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This Memorandum of Agreement, executed this 4th day of March 2004 in Quezon City, Philippines by and between the:

> OFFICE OF THE OMBUDSMAN, a government agency created under the Constitution, with principal office at the Ombudsman Building, Agham Road, Diliman, Quezon City, hereinafter referred to as the "OMBUDSMAN" and represented by the Honorable SIMEON V. MARCELO,
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> -- and --
> CIVIL SERVICE COMMISSION, a government agency created under the Constitution, with principal office at the Constitution Hills, Diliman, Quezon City, hereinafter referred to as the "COMMISSION" and represented by its Chairman, the Honorable KARINA CONSTANTINO-DAVID,
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> WITNESSETH: That

WHEREAS, both the OMBUDSMAN and the COMMISSION recognize their Constitutional mandates to eradicate graft and corruption, promote morale and accountability and ensure the observance of high standards of ethics and efficiency in government;

WHEREAS, in the exercise of their administrative disciplinary jurisdiction, the OMBUDSMAN and the COMMISSION have concurrent jurisdiction over certain public officials and employees;

WHEREAS, under Section 15 of Republic Act No. 6770, the OMBUDSMAN is mandated to give priority to complaints filed against high-ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties, in the discharge of which it may request assistance from any government agency;

WHEREAS, the OMBUDSMAN and the COMMISSION deem it wise to closely coordinate their common fight against graft and corruption in the bureaucracy; and

WHEREAS, in order to avoid duplication of functions which may cause conflicting decisions and wastage of government resources, cooperation between the OMBUDSMAN and the COMMISSION is deemed imperative.

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereby agree as follows:

> - The COMMISSION shall take cognizance of administrative cases involving employees belonging to the first level, as defined under Section 2(a), Rule II, of the Omnibus Rules Implementing Book V of EO 292. In cases, however, of mixed first level and higher level party-respondents, preference of jurisdiction shall be enjoyed by the office that exercises authority over the highest-ranked respondent in accordance with pars. 2 and 3 hereof.
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> - The OMBUDSMAN shall take cognizance of complaints involving public officials and employees belonging to the second and third level, as defined under Section 2 (b) and (c), Rule II, of the Omnibus Rules Implementing Book V of EO 292, for the following acts or omissions:
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> - Direct, indirect and qualified bribery;
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> - Frauds and illegal exactions which may include the following:

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b.1 Demanding payment of sums different or larger than those authorized by law;
b.2 Failing voluntarily to issue a receipt, as provided by law, for any sum of money collected officially;
b.3 Using any deceitful schemes in entering into an agreement/contract with any interested party, to defraud the government;

- Malversation or illegal use of public funds or property where the amount involved is more than ONE HUNDRED THOUSAND PESOS (PhP100,000.00);

- Conflict of interest and divestment;

- Homicide and murder.

- Corrupt practices which may include the following:

f.1 Accepting gift, present, share, percentage or other pecuniary or material benefit for himself or for any other person;
f.2 Causing any undue injury to any private party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;
f.3 Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same.

- Unexplained wealth;

- Violation of procurement rules and regulations;

- Violation of Anti-Money Laundering Act of 2001 under RA 9160 as amended; and

- Violation of RA 7080 or the law penalizing the crime of Plunder.

In cases of multiple charges, which may include any of the offenses enumerated under the foregoing paragraph, the Ombudsman shall have jurisdiction thereof.

- The COMMISSION shall take cognizance of administrative cases involving public officials and employees belonging to the second and third level positions (non-presidential appointees) as defined under Section 2 (b) and (c), Rule II, of the Omnibus Rules Implementing Book V of EO 292, for acts or omissions enumerated under Section 46 (b), Chapter 7 of Book V of EO 292, Rule X of the Implementing Rules and Regulations of RA No. 6713, and RA No. 7877; excluding those acts or omissions enumerated in paragraph 2 hereof.

In cases not covered by paragraphs 2 and 3 hereof, the office which first acquired jurisdiction over the same shall conduct the investigation to the exclusion of the other.

- The body to whom the administrative case was referred shall have supervision and control over the investigation, adjudication and monitoring of the case and the implementation of the decision. The parties involved in the referred cases shall accordingly be notified of such Referral pursuant to Section 5(a) of RA 6713.

- To ensure exclusive jurisdiction over a case and to avoid duplication of actions, a Certificate of Non-Forum Shopping shall be required for all administrative complaints filed either with the OMBUDSMAN or the COMMISSION.

- The OMBUDSMAN and the COMMISSION shall act on administrative complaints filed against their officials and employees, irrespective of the salary grade, in the exercise of their primary disciplinary authority.

- Where the COMMISSION makes a finding of guilt in administrative cases adjudicated by it, it may, at its

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discretion, refer the same to the OMBUDSMAN for the criminal aspect. In this instance, the COMMISSION shall transmit to the OMBUDSMAN certified true copies of the records of the said case.

Thereafter, the OMBUDSMAN through its Fact-Finding Intelligence and Research Office (FIRO), shall act on said cases. The FIRO shall review the records of said cases, prepare the necessary Affidavit-Complaint and act as the nominal complainant if the evidence so warrant. If the FIRO finds it necessary, it may conduct fact-finding investigation.

In cases, however, where the Administrative case was dismissed either by reason that the complaint was filed after the retirement, resignation, or expiration of term of the respondent, or due to technical grounds as in instances of forum shopping, res judicata or the exercise of concurrent jurisdiction by the agency concerned, the COMMISSION shall refer to the OMBUDSMAN said case, if based on its judgment and discretion, there is a need for the OMBUDSMAN to act on its criminal aspect.

- In appealed cases, resulting in the affirmation of the penalty imposed by the COMMISSION or the exoneration of the respondent, the COMMISSION shall promptly inform the OMBUDSMAN of said development for its information and guidance.

- The OMBUDSMAN shall take cognizance of cases referred to it by the COMMISSION relative to the refusal or non-implementation of its (CSC) resolutions by Local Government Units (LGUs).

- In inquest criminal proceedings conducted by the OMBUDSMAN which cases may entail possible administrative liability, the OMBUDSMAN shall conduct the appropriate administrative adjudication without referring the same to the COMMISSION. However, the appropriate report shall be made by the OMBUDSMAN to the COMMISSION.

- For a more effective coordination and monitoring of administrative cases, a monthly list of administrative cases received shall be submitted by the OMBUDSMAN and the COMMISSION to each other.

- An annual review of this Agreement shall be made by the parties to ensure that the objectives are met.

- Upon a thirty (30) day written notice, either of the parties may cause the termination of this Agreement.

- This Agreement shall take effect after fifteen (15) days from its publication in the Official Gazette and upon filing of three (3) certified copies with the UP Law Center. It shall apply only to cases filed after effectivity hereof.

Adopted: 04 March 2004

(SGD.) SIMEON V. MARCELO

(SGD.) KARINA CONSTANTINO-DAVID

Ombudsman

Chairperson

Office of the Ombudsman

Civil Service Commission

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