BILATERAL

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE INTERNATIONAL DEVELOPMENT: LAW INSTITUTE (EDLI) RELATING TO THE IDLI/ASIA REGIONAL TRAINING OFFICE

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AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE INTERNATIONAL DEVELOPMENT LAW INSTITUTE (IDLI) RELATING TO THE IDLI-ASIA REGIONAL TRAINING OFFICE

WHEREAS, the International Development Law Institute (IDLI) is an international organization established to: (a) encourage and facilitate the improvement and use of legal resources in the development process; (b) encourage adherence to the rule of law in international transactions; and (c) improve the negotiating capability of developing countries in the fields of development cooperation, foreign investment, international trade and other international business transactions;

WHEREAS, the Philippines is a State Party to the "Agreement for the Establishment of the International Development Law Institute", signed in Rome, Italy, on 05 February 1988, which established IDLI as an international organization with suitable governance, juridical personality and status;

WHEREAS, to accomplish its purposes, IDLI desires to establish an Asia Regional Training Office in the Philippines and the Government of the Republic of the Philippines wishes to host such training office as well as facilitate the effective discharge of its functions;

NOW, THEREFORE, the Government of the Republic of the Philippines and the International Development Law Institute HAVE AGREED as follows:

Article I
DEFINITIONS

Section 1

In this Agreement

(a) "Government" means the government of the Republic of the Philippines;

(b) "Laws of the Philippines" include the Philippine Constitution, legislative acts, decrees, executive orders, rules and regulations issued by or under authority of the Government or appropriate Philippine authorities;

(c) "Appropriate Philippine authorities" means such national or other authorities of the Philippines as may be appropriate in the context of and in accordance with the laws and customs applicable in the Philippines;

(d) "IDLI" means the International Development Law Institute established by the "Agreement for the Establishment of the International Development Law Institute" signed in Rome, Italy on 05 February 1988;

(e) "IDLI/Asia Regional Training Office" means the IDLI Regional Training Office including its secretariat; it may also be referred to herein as the IDLI/ARTO;

(f) "Board of Directors" means the Board of Directors of the International Development Law Institute;

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(g) "Representative" means the IDLI Representative in the Philippines and Head of the IDLI/Asia Regional Training Office;

(h) "Officials of the IDLI/Asia Regional Training Office" means all the staff members of IDLI who are at any time working with the IDLI/Asia Regional Training Office, other than locally recruited staff members; it includes the consultants contracted by IDLI to work for and under the coordination of the IDLI/ARTO as well as persons seconded or detailed thereto by governments and international organizations;

(i) "Dependent members of the family" means the legal spouse and the unmarried minor children of an official of the IDLI/Asia Regional Training Office, including: stepchildren and legally adopted children under the age of 18; children, stepchildren and legally adopted children of any age who are mentally or physically incapacitated, are living with and are totally dependent on the official for support; and children, stepchildren and legally adopted children up to the age of 25 who are pursuing full-time university education in the Philippines, are not working and are living with and totally dependent on the official for support;

(j) "Premises" means the area occupied by the IDLI/Asia Regional Training Office including any buildings which are constructed or which may be constructed therein;

(k) "Archives of the IDLI/Asia Regional Training Office" means the records and correspondence, documents, manuscripts, still and moving pictures, films, video and sound recordings, and computerised data belonging to or held by the IDLI/Asia Regional Training Office;

(l) "Property" means all property including funds and assets, belonging to IDLI or held or administered by IDLI in furtherance of its constitutional functions or in relation to the IDLI/Asia Regional Training Office; it also includes all income of IDLI whether from operations outside the Philippines or from operations of the IDLI/ARTO;

(m) "Establishment Agreement" means the Agreement for the Establishment of the International Development Law Institute signed in Rome, Italy, on 05 February 1988.

Article II
LEGAL STATUS

Section 2

The International Development Law Institute acting through the IDLI/Asia Regional Training Office shall have the capacity to engage in activities for which it has been established, to contract, to acquire and dispose of immovable and movable property, and to institute legal proceedings.

Article III
THE PREMISES

Section 3

The Government shall use its best efforts to ensure that the IDLI/Asia Regional Training Office is in a position to establish suitable premises and to obtain the use of such premises on favorable conditions.

Section 4

To enable the IDLI/Asia Regional Training Office to carry out its functions smoothly, the Government shall take such measures as may be practicable to ensure that the necessary public services are provided at the premises. In particular, if there is an interruption in such services, the IDLI/Asia Regional Training Office shall be accorded the same treatment as essential agencies of the Government.

Section 5

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The Government shall not dispose of all or any part of the premises without the consent of IDLI, which shall not unreasonably withhold its consent thereto. The disposition of all or any part of the premises shall be subject to the laws of the Philippines, specifically on eminent domain and expropriation.

Section 6

The IDLI/Asia Regional Training Office shall, in respect of the premises, be responsible for their operation, maintenance and support unless such is provided for by government authorities.

Section 7

The laws of the Philippines shall apply within the premises and the courts of the Philippines shall have jurisdiction over acts done in the premises, except as otherwise provided in this or subsequent agreements between the Government and IDLI.

Article IV
IMMUNITIES AND PRIVILEGES

A. Purpose of Immunities and Privileges

Section 8

The immunities and privileges provided for by this Agreement are not intended for the personal benefit of the officials of the IDLI/Asia Regional Training Office. They are accorded to ensure in all circumstances the free operations of the IDLI/ARTO.

Section 9

The Representative shall have the right and duty to waive the immunity of the IDLI/Asia Regional Training Office or of an official thereof whenever, in his or her opinion, the immunity would impede the normal course of justice and can be waived without prejudice to the purpose for which the immunities have been granted.

Section 10

IDLI and all persons enjoying the immunities and privileges under this Agreement shall cooperate at all times with the appropriate Philippine authorities to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuses in connection with the privileges and immunities conferred by this Agreement. Such persons enjoying the immunities and privileges herein provided also have the duty to respect the laws of the Philippines and not to interfere in its internal affairs

B. Protection and Inviolability of the Premises

Section 11

The appropriate Philippine authorities shall take such action as may be practicable to ensure the security and tranquillity of the premises.

Section 12

The premises shall be inviolable. No officer or official of the Government, or other person exercising any public authority within the Government shall enter the premises to perform any duties therein except with the consent of the Representative. However, the Representative's consent shall be presumed in the event of natural calamity, fire or other emergency requiring immediate action in the interest of public safety, or if it be necessary to take action with respect to criminal acts that have been committed and that are not connected with the performance of the

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official activities of the IDLI/Asia Regional Training Office.

Section 13

The Representative shall prevent the premises from being used as refuge by persons seeking to avoid arrest under any law of the Republic of the Philippines, who are being sought for extradition to another country, or who are endeavoring to avoid service of legal process.

C. Immunity from Legal Process

Section 14

The IDLI/Asia Regional Training Office shall enjoy immunity from any penal, civil, administrative or any other proceedings, except insofar as that immunity has been expressly waived by the Representative. Waiver of such immunity shall not be held to imply waiver of immunity in respect of execution of a judgment, for which a separate waiver shall be necessary.

Section 15

The property of the IDLI/Asia Regional Training Office as well as its archives, wherever located and by whomever held, shall be immune from search, attachment, requisition, confiscation, expropriation and any other form of interference whatever its nature or origin.

Section 16

The Board of Directors, the Representative, the officials of the IDLI/Asia Regional Training Office and other persons performing missions for IDLI shall enjoy immunity from legal process, including arrest and detention, in respect of words spoken or written and acts performed in their official capacity, except where such immunity is waived by IDLI or the Representative. This provision, however, will not relieve any person from liability for any damage arising from any criminal act, gross negligence or fraudulent act.

Section 17

In view of the immunities provided for in Sections 13, 14 and 15, IDLI shall make provision for the appropriate modes of settlement of, and shall take measures to adequately meet claims from: disputes with the IDLI/ARTG staff; disputes of a private law character arising out of contracts or other transactions to which the IDLI/ARTO is a party; and disputes of a non-contractual nature.

D. Freedom from Taxation

Section 18

For carrying out its constitutional aims, IDLI in respect of the IDLI/Asia Regional Training Office in the Philippines, its property and operations including loans, grants and contributions, shall be exempt from all forms of direct taxation.

Section 19

IDLI shall be exempt from indirect taxes when it is making important purchases for the official use of the IDLI/ARTO of property on which such duties and taxes are normally chargeable. As a general rule, however, the IDLI/Asia Regional Training Office will not claim exemption from excise or value added taxes and from taxes on the sale of movable and immovable property which form part of the price to be paid and cannot be identified separately from the sales price.

Section 20

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In relation to the operations of the IDLI/Asia Regional Training Office, IDLI shall be exempt from customs duties and related levies of any kind on goods imported by the IDLI/ARTO intended for its official use, to include the importation of up to two motor vehicles and spare parts thereof. This exemption does not cover charges for storage, transport and services rendered. The government shall, upon request of the IDLI/ARTO, issue to each vehicle a suitable license plate identifying it as an official vehicle of an international organization. IDLI shall also be exempt from prohibitions and restrictions on the import and export of its publications and of goods for its official use.

Section 21

All gifts, donations and contributions which may be received by the IDLI/ARTO from any source whatsoever, or which may be granted by the IDLI/ARTO to any individual or non-profit organization for educational purposes, shall be exempt from the payment of taxes. All gifts, contributions and donations to the IDLI/ARTO shall be deemed allowable deductions for purposes of determining the income tax of the donor.

Section 22

Officials of the IDLI/ARTO who are not Filipino citizens shall be exempt from the payment of income tax on salaries and stipends, whether in local or in foreign currency, received solely and by reason of services rendered to the IDLI/ARTO. They shall also have the right to import, free of duty and other levies, prohibitions and restrictions on import, their furniture and other personal effects including one motor vehicle when moving to the Philippines to take up their duties, within six months after first taking up their post in the Philippines; the same regulations shall apply in the case of importation, transfer and replacement of automobiles as are in force for officials of comparable international organizations operating in the Philippines.

E. Communications

Section 23

The IDLI/Asia Regional Training Office shall enjoy, for its official communications, treatment not less favorable than that accorded to other comparable international organizations having operations in the Philippines.

Section 24

The correspondence and other official communications of the IDLI/ARTO shall be immune from censorship. This immunity extends, without limitation by reason of this enumeration, to publications, still and moving pictures, films, video and sound recordings and computerised data which are used for official and/or training purposes by the IDLI/ARTO.

Section 25

The IDLI/Asia Regional Training Office shall have the right to use codes and dispatch and receive official correspondence either by courier or in sealed bags which shall have the same immunities and privileges as those enjoyed by comparable international organizations having operations in the Philippines. The correspondence referred to herein shall include, without
limitation by reason of this enumeration, publications, documents, still and moving pictures, films, video and sound recordings as well as computerized data.

F. Freedom of Action

Section 26
The Board of Directors, the Representative, the officials of the IDLI/ARTO and other persons performing

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missions for the IDLI shall enjoy full freedom of meeting, discussion and decision.

Section 27

The appropriate Philippine authorities shall take necessary measures to facilitate the entry into, sojourn in and departure from the Philippines of IDLI's Board of Directors, the Representative, the officials of the IDLI/ARTO, the dependent members of the families of these officials, other persons performing missions for IDLI, and participants in training and related activities conducted by or under the auspices of the IDLI/ARTO.

Section 28

Visas which may be required from the persons referred to in Section 26 and 27 shall be exempt from the formalities prescribed by the laws of the Philippines with respect to the registration of aliens, residence permits and working permits, provided they are not gainfully employed in the Philippines.

Section 29

The Representative shall, to the extent practicable, communicate in advance to the appropriate Philippine authorities the names of the persons referred to in Section 28. At the beginning of each year, the Representative shall also communicate to the appropriate Philippine authorities the complete list of officials of the IDLI/ARTO entitled to the immunities and privileges herein provided. Any change, deletion, substitution or addition to this list shall be reported by the IDLI/ARTO to the appropriate Philippine authorities, within thirty (30) days from the occurrence of the event, such as departure, arrival or change of status of the official or officials concerned. The government shall provide these officials with an appropriate identity card certifying to the fact that they are officials of the IDLI/Asia Regional Training Office enjoying the privileges and immunities specified in this agreement.

Section 30

To ensure full freedom of action, the officials referred to in the immediately preceding sections shall also enjoy, together with the dependent members of their families, immunity from personal arrest or detention as well as from seizure of their personal and official baggage. The same privileges, in terms of repatriation during international crises and of exchange facilities, as those accorded to officials of comparable international organizations having operations in the Philippines, shall likewise be accorded to them. They shall not however be exempted from inspection of personal baggage for security reasons nor from the reasonable application of quarantine and health regulations.

G. Financial Facilities

Section 31

To achieve its constitutional objectives, the IDLI/Asia Regional Training Office shall not be subject to financial controls, regulations or moratoria of any kind and may hold funds or currency of any kind as well as operate foreign currency accounts in any currency. The IDLI/ARTO shall also be free to transfer its funds, securities or currency from one country to another or within the Philippines and to convert any currency held by it into any other currency.

Section 32

In exercising its privileges under Section 31, the IDLI/ARTO shall pay due regard to any representations made by the Government and shall comply with the same insofar as effect can be given to such representations without detriment to the purpose for which this agreement was entered into.

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Article V
INTERPRETATION AND APPLICATION

Section 33

This Agreement shall be interpreted in the light of its fundamental purpose to enable the IDLI/Asia Regional Training Office fully and effectively to perform its responsibilities and fulfill its purposes.

Article VI
FINAL PROVISION

Section 34

Either the Government or IDLI may request for revision of this Agreement. Upon such request, the two parties shall consult each other on the modifications to be made. Any amendment, modification or revision shall come into force by mutual consent.

Section 35

The Government and IDLI may enter into such supplementary agreements as may be necessary within the scope of this Agreement.

Section 36

The provisions of the Establishment Agreement and of this Agreement shall be treated as complementary, wherever possible and where they relate to the same subject matter, so that the provisions of both shall be applicable and neither shall narrow the effect of the other; but (in the case of absolute conflict, the provisions of this Agreement shall prevail.

Section 37

This Agreement shall be signed and shall enter into force on the date of ratification by the Government. It shall remain in effect for an indefinite period but it may be terminated by either party through written notice given one year in advance.

IN WITNESS WHEREOF, the representatives of the Government and of IDLI duly authorized therefor, have signed this Agreement in duplicate in the English Language this 3rd day of May 1996, in the City of Pasay, Metro Manila, Philippines.

For the Government of the For the International

Republic of the Philippines: Development Law Institute:

(Sgd.) DOMINGO SIAZON JR. (Sgd.) GILLES BLANCHI

Secretary of Foreign Affairs Deputy Director

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