BILATERAL

TREATY BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE RUSSIAN FEDERATION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

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The Republic of the Philippines and the Russian Federation, hereinafter referred to as the Contracting States;

RECOGNIZING the existing friendly relations and cooperation between the Contracting States;

DESIRING to strengthen the legal foundation of providing mutual legal assistance in criminal matters;

DESIRING to improve the effectiveness of activity of both Contracting States in combating crimes, including crimes relating to terrorism, through cooperation and mutual legal assistance in criminal matters;

ACTING in accordance with their laws and also respecting generally recognized principles of international law, in particular principles of sovereign equality, territorial integrity and non-interference in internal affairs;

HAVE AGREED AS FOLLOWS:

Article 1
OBLIGATION TO GRANT LEGAL ASSISTANCE
1. The Contracting States shall, in accordance with this Treaty, grant each other comprehensive mutual legal assistance in criminal matters (hereinafter referred to as "legal assistance").

2. Legal assistance shall be provided in accordance with this Treaty if the offense, in connection with which the request was made, is criminally punishable according to the laws of both Contracting States. The Requested State may, upon its own consideration, grant legal assistance also in case the offense, in connection with which the request was made, is not criminally punishable under its laws. Where a request is made for search and seizure of evidence, restraint or confiscation of the proceeds of crime, the Requested State may render the assistance in accordance with its domestic laws.

3. The purpose of this Treaty is for exclusively granting legal assistance by one Contracting State to the other Contracting State. The provisions of this Treaty shall not lead to the creation of rights for any natural persons or legal entities to obtain or exclude evidence or prevent execution of the request for legal assistance.

4. Legal assistance shall also be granted in connection with investigations, or proceedings relating to criminal offenses concerning taxation, customs and similar duties, international transfer of financial assets, including the ones which to the Requesting State appears to be furthering organized criminal activity and crimes concerning public security.

5. Nothing in this Treaty entitles a Contracting State to undertake in the territory of the other Contracting State the exercise of jurisdiction and performance of functions that are exclusively for the authorities of that Contracting State by its domestic laws.

6. This Treaty shall apply to requests for legal assistance, presented after the entry into force of this Treaty, even

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if the corresponding act or omission took place before this date.

Article 2
SCOPE OF LEGAL ASSISTANCE
Legal assistance shall include:

(a) service of documents;

(b) obtaining evidence, including testimony and statements of persons;

(c) locating and identification of persons;

(d) locating and identification of objects, as well as proceeds and instrumentalities of crimes, including the ones for the purposes of terrorism;

(e) notification to witnesses, victims and experts of a request for their voluntary appearance before the competent authorities of the Requesting State;

(f) temporary transfer of persons in custody or serving a sentence in the form of imprisonment to testify or to assist in investigations or other proceedings under this Treaty;

(g) executing measures related to assets, proceeds and instrumentalities of crimes;

(h) transfer of documents, objects and other evidence;

(i) search and seizure; and

(j) any other types of legal assistance consistent with the purposes of this Treaty, provided it is not in contravention to the law of the Requested State.

Article 3
CENTRAL AUTHORITIES

1. Each Contracting State shall establish a Central Authority.

2. The Central Authority for the Republic of the Philippines shall be the Department of Justice. For the Russian Federation, the Central Authority for purposes of requests connected to proceedings in its courts, including matters under Article 18 of this Treaty shall be the Ministry of Justice of the Russian Federation, while the General Prosecutor's Office of the Russian Federation shall be the Central Authority for all other requests. Either Contracting State may change its Central Authority, in which case, it shall notify the other Contracting State of such change through diplomatic channels.

3. The Central Authorities shall communicate directly with one another.

4. The Central Authority will execute requests for legal assistance directly, or, where necessary, direct it for execution to a competent authority. Where the Central Authority directs the request for execution to a competent authority, it will facilitate prompt and appropriate execution of the request by such competent authority.

Article 4
REFUSAL OR POSTPONEMENT OF REQUESTS

1. Legal assistance may be refused if:

(a) the execution of the request would impair the sovereignty, security, public order or other essential interests of the Requested State;

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(b) the execution of the request is contrary to the law of the Requested State or does not comply with the provisions of this Treaty;

(c) the request relates to the offense for which the person accused of criminal in offense in the Requesting State was convicted or acquitted in the Requested State connection with the same offense;

(d) the request relates to a crime under military law that is not a crime under general criminal law;

(e) the Requested State has substantial reasons to believe that the request was submitted in order to investigate, prosecute or punish a person on account of that person's race, gender, faith, citizenship, ethnic origin, political activity or conviction, affiliation with a certain social group or the position of that person may be prejudiced because of any of these reasons.

2. Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions or that the offense is also considered to involve fiscal matters.

3. Legal assistance may be postponed or refused by the Requested State if the execution of the request would interfere with an ongoing investigation or proceedings in connection with a criminal matter in the Requested State.

4. Before making a decision to postpone or refuse the execution of the request, the Requested State shall consider whether legal assistance may be granted, subject to such conditions as it deems necessary. If the Requesting State accepts the conditions imposed under this paragraph for the execution of the request for legal assistance, it shall comply with such conditions.

5. If the Requested State refuses or postpones assistance, in whole or in part, it shall promptly inform the Requesting State of the grounds for refusal or postponement.

Article 5
FORM AND CONTENTS OF THE REQUEST

1. A request for legal assistance shall be made in writing. In urgent cases, the Requested State shall immediately receive the request for the execution upon its delivering by telex, facsimile, electronic mail or other such type of communication and the original of the official request shall be submitted promptly thereafter by the Requesting State. The Requested State shall inform the Requesting State of the results of the execution of the request only with the condition that it receives the original of the request. In urgent cases, which require the original copy of the request for the execution, such copy shall be submitted prior to the execution of the request.

2. The request for legal assistance shall contain:

(a) the name of the authority conducting the investigation, prosecution or criminal proceedings to which the request relates;

(b) the purpose of the request and description of the requested legal assistance;

(c) a description of the offense in connection with which the investigation or the proceedings are conducted, legal qualification of the offense, applicable statutory provisions, the text of the relevant law in terms of which the offense is criminally punishable, and also, if necessary, the nature and extent of the loss or damage caused as a result of this offense;

(d) the reasons for the use and description of any particular procedures that the Requesting State wishes to be followed in the execution of the request;

(e) if available, data identifying persons who are the subjects of the investigation or the proceedings;

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(f) any time limit within which compliance with the request is desired by the Requesting State;

(g) full names (first name, middle name, family name) and addresses and, if possible, telephone numbers of the persons who are to be notified and their connection to the investigation or proceedings in progress;

(h) indication of the location and description of the place where inspection and search is requested, and of the objects to be seized;

(i) the questions to be asked in order to gather evidence from witnesses and other persons;

(j) in case of an indication that the presence of representatives of the central or competent authorities of the Requesting State is desired, their full names and official designations as well as reasons for their presence;

(k) the need, if any, for confidentiality of the receipt of the request, its contents and/or any action undertaken in connection with the request;

(l) any other information that might be useful to the Requested State in order to execute the request.

3. Request for legal assistance may include:

(a) in the case of a request for the taking of evidence, search and seizure, or the location, restraint or forfeiture of proceeds of crimes, a statement indicating the basis for belief that the evidence or proceeds may be found in the Requested State;

(b) in the case of a request to take the testimony or statement of persons, the information whether the testimony or statement shall be sworn, affirmed or taken otherwise as stipulated for by the law of the Requesting State, as well as description of the case with regard to which the evidence or statement shall be taken;

(c) in the case of a request for lending of exhibits, information of the current location of the exhibits in the Requested State and an indication of persons who may have custody of the exhibits in the Requesting State, the place to which the exhibits may be transmitted, any examination that may be conducted on the exhibits and the date by which the exhibits may be returned;

(d) in the case of a request for taking restrictive measures such as freezing of assets, forfeiture of proceeds or instrumentalities of crimes:

(i)

detailed description of the assets, proceeds or instrumentalities of crimes, including their location;

(ii)

information giving grounds to believe that the assets are proceeds or instrumentalities of crimes;

(iii)

description of evidence which shall be the subject of examination in judicial proceedings in the Requesting State;

(iv)

details, if any, of third party interests in the assets, proceeds or instrumentalities of crimes; and

(v)

a certified true copy of the restraint or confiscation order made by the court and statement of the grounds on the basis of which the order was made, if they are not indicated in the order itself.

4. If the Requested State considers that the information contained in the request is insufficient for its execution, that Contracting State may request additional information.

Article 6
LANGUAGES
A request for legal assistance, its supporting documents and additional information forwarded in accordance with this Treaty shall be in English or in the language of either of the Contracting States accompanied by an English translation. The same procedure shall be applied to the documents and information forwarded in response to such request.

Article 7
FORMALITY REQUIREMENTS
1. Documents, including those accompanying objects and other materials, transmitted pursuant to this Treaty and attested to by the seal of the competent or Central Authority of the transmitting State, shall be exempted from any legalization or formality requirements, including authentication or certification by diplomatic or consular officers. Such documents shall be admissible in evidence without further authentication.

2. For the purpose of this Treaty, the documents which are certified as official documents in the territory of one Contracting State shall, subject to the provisions of this Article, be recognized as such in the territory of the other Contracting State.

Article 8
CONFIDENTIALITY AND THE LIMITATIONS OF USE OF INFORMATION
1. The Requested State shall, upon request of the Central Authority of the Requesting State, keep confidential the receipt of the request for legal assistance, the contents of the request and any supporting documents or any action taken on the request.

If the request cannot be executed without breaching confidentiality, the Requested State shall so inform the Requesting State. The decision of the Requesting State to proceed with the execution of the request shall be conveyed in writing to the Requested State.

2. The Requesting State shall not use the information or evidence obtained under this Treaty without the permission of the Requested State for a purpose other than that indicated in the request for legal assistance.

3. Where the Requesting State needs to disclose and/or use the information or evidence obtained under this Treaty for a purpose other than that stated in the request, it shall seek the consent of the Requested State. The Requested State may either give or refuse to give, fully or partially, such consent, as the case may be.

Article 9
EXECUTION OF REQUESTS
1. Requests for legal assistance shall be executed in accordance with the laws of the Requested State and the provisions of this Treaty. The Requested State shall grant legal assistance in the form and in accordance with the procedure indicated in the request insofar as it is not inconsistent with its laws.

2. If the Requesting State seeks the presence of the persons identified by its Central or competent authority during the execution of the request, the Requested State shall promptly inform the Requesting State about its decision. If granted, the Requesting State will be informed about the time and the place of the execution of the request.

3. The Requested State shall promptly inform the Requesting State of any circumstances which are likely to cause a significant delay in the execution of the request.

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4. After the request has been executed, the competent authority of the Requested State shall forward to its Central Authority the information and evidence gathered.

5. The information and evidence gathered pursuant to this Treaty shall be transmitted by the Central Authority of the Requested State to the Central Authority of the Requesting State within a reasonable time.

Article 10
SERVICE OF DOCUMENTS

1. In accordance with the request for legal assistance, the Central Authority of the Requested State shall, insofar as possible, immediately effect the service of any document or arrange, through its competent authority, the service of such document.

2. The Requesting State shall transmit a request for the service of a document requiring a response, or appearance of a person before an authority of the Requesting State, within a reasonable time before the scheduled response or appearance which, if possible, should be received by the Central Authority of the Requested State at least sixty (60) days prior to the date indicated for such response or appearance.

3. The Central Authority of the Requested State shall forward a proof of service in accordance with its laws and procedure. Such proof of service shall indicate the date, the signature of the addressee or person authorized to receive the document in accordance with the laws of the Requested State and/or the statement of the Central or a competent authority of the Requested State, as the case may be, in which the fact of service, the date and the manner of service are confirmed.

4. Any person who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint.

Article 11
TAKING OF EVIDENCE IN THE REQUESTED STATE

1. Where a request is made that evidence be taken for the purpose of investigation or proceeding in relation to a criminal matter in the Requesting State, the Requested State shall arrange to have such evidence taken.

2. For the purposes of this Treaty, giving or taking of evidence shall include testimony of the witnesses, victims and other persons concerned, findings and conclusions of experts, the production of documents, articles or records.

3. If the Requested State has, under Article 9 of this Treaty, permitted the presence of representatives of the Requesting State during the execution of the request, then, subject to the domestic laws of that State, such representatives shall be permitted to formulate such questions that may be asked of the person giving testimony or producing evidence through the Central or competent authority of the Requested State.

4. The Requesting State shall comply with any condition imposed by the Requested State in relation to any documents and objects which may be delivered to it, including conditions for the protection of third party interests relating to such documents and objects.

5. Any person who is required to give evidence in the Requested State may decline to do so, where:

> (a) the law of the Requested State allows that person to decline to give evidence in similar circumstances in criminal proceedings in the Requested State;
>
> (b) the law of the Requesting State allows that person to decline to give evidence in such criminal proceedings in the Requesting State.

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6. If any person claims that there is a right to decline to give evidence under the laws of the Requesting State, the Requested State may, with respect thereto, rely on a document of the Central Authority of the Requesting State as prima facie evidence of the legal position of such a claim.

Article 12
PROVISION OF INFORMATION, DOCUMENTS, AND RECORDS
1. The Requested State shall, upon request, provide the Requesting State with copies of publicly available information, documents or records in the possession of Government Departments or Agencies.

2. The Requested State may, upon request, provide the Requesting State with information, documents or records in the possession of Government Departments and Agencies but not publicly available, except those containing data which are state secrets, to the same extent and under the same conditions as they would be available to its own law enforcement and judicial authorities.

Article 13
SEARCH AND SEIZURE
1. The Requested State shall, insofar as its laws permit, carry out requests for search, seizure and delivery of any material to the Requesting State, which, based on reasonable grounds, is relevant to an investigation or other proceedings relating to a criminal matter in the Requesting State. Such request shall be based on reasonable grounds.

2. The Requested State shall provide such information as may be required by the Requesting State concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the material seized.

3. The Requesting State shall observe any conditions imposed by the Requested State in relation to any seized property which is delivered to the Requesting State.

Article 14
LOCATION AND IDENTIFICATION OF PERSONS AND OBJECTS
The Requested State shall, if requested to seek the location or identity of persons or objects, use its best efforts as provided by its laws, to ascertain the location and identity of persons or objects specified in the request.

Article 15
ATTENDANCE OF WITNESSES, VICTIMS AND EXPERTS IN THE REQUESTING STATE

1. If the Requesting State submits a request for appearance of a person to assist in the investigation or to appear in proceedings relating to a criminal matter in the Requesting State, the Requested State shall inform the person concerned about the request of the Requesting State to appear before its competent authorities.

2. The request for the person to appear shall contain information about the conditions and requirements to cover the costs and expenses associated with the appearance of the summoned person, and also the list of guarantees which this person is entitled to under Article 16 of this Treaty.

3. The person requested to appear in the Requesting State shall not be subject to any coercive measure or penalty by the Requesting State in case of his or her refusal or failure to appear in that State.

4. Both Contracting States recognise and accept that appearance of a person in the Requesting State is voluntary. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the person's response to the request.

Article 16

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SAFE CONDUCT

1. Subject to paragraph 2 of this Article, where a person is present in the Requesting State pursuant to a request made under Article 15 or Article 17 of this Treaty, that person:

(a) shall not be detained, prosecuted, punished or subject to any other restriction of personal liberty in the Requesting State in respect omission or conviction in the Requesting State that is alleged to have been committed, or that was committed, before the person's departure from the Requested State;

(b) shall not, without his or her consent, be required to give evidence in any criminal matter in the Requesting State other than the criminal matter to which the request relates.

2. The Central Authority of the Requested State may, on a case by case basis, request the Requesting State to provide other guarantees to the person requested to appear in the Requesting State under Article 15 or Article 17 of this Treaty.

3. If the guarantees stipulated in this Article cannot be provided for any reason, the Central Authority of the Requesting State shall indicate this in the request, in order to inform the requested person and to allow that person to decide whether to appear taking these circumstances into account.

4. Paragraph 1 of this Article shall cease to apply if that person, not being a prisoner detained under Article 17 of this Treaty, being free and able to leave, has not left the Requesting State within a period of fifteen (15) days after being notified in writing that his or her presence is no longer required, or having left, has voluntarily returned.

5. A person who attends before a competent authority or court in the Requesting State pursuant to a request made under Article 15 or Article 17 of this Treaty shall not be subject to prosecution based on such testimony except that the person shall be subject to the laws of the Requesting State in relation to contempt of court and perjury.

6. When necessary, the Requesting State shall provide for the protection of the person appearing upon request or transferred to its territory in accordance with Article 15 and Article 17 of this Treaty.

Article 17
TEMPORARY TRANSFER OF PERSONS IN CUSTODY
(INCLUDING THOSE SERVING A SENTENCE IN THE FORM OF IMPRISONMENT)

1. A person in custody, including a person serving a sentence in the form of imprisonment, notwithstanding his or her citizenship may, with the consent of the Central Authority of the Requested State, be temporarily transferred to the Requesting State to appear as a witness or a victim in the investigation or other proceedings indicated in the request provided that the person is returned to the Requested State within the time limit imposed by it. The Central Authorities of the Contracting States shall coordinate on the conditions of temporary transfer under this Article and the return of such person to the Requested State.

2. The temporary transfer of a person under this Article shall be for an initial period of ninety (90) days. Such period may be extended upon the request of the Central Authority of the Requesting State, based on substantial grounds.

3. The temporary transfer of the person may be refused or postponed, as the case may be:

(a) if the person in custody, including the person serving a sentence in the form of imprisonment, does not give his or her written consent to this;

(b) if the presence of the person is necessary in the investigation or criminal proceedings in the Requested State.

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4. The Requesting State shall hold in custody the person temporarily transferred under this Article for as long as the decision of the competent authority of the Requested State to hold that person in custody is still in force.

5. Where the Requested State advises the Requesting State that the person transferred is no longer required to be held in custody, that person shall be released from custody and be treated as a person to whom Article 15 of this Treaty applies.

6. The period during which a person in custody is transferred to the Requesting State shall be deemed to be served in the Requested State of an equivalent period of sentence or custody in that State.

7. If the person in custody, including the person serving the sentence in the form of imprisonment, does not consent to appear before the Requesting State, that person, by reason thereof, shall not be liable to any measure of compulsion or penalty.

Article 18
EXCHANGE OF INFORMATION ABOUT CONVICTIONS AND OF JUDICIAL RECORDS
1. Either Contracting State shall, upon request, provide information of decisions of courts convicting citizens of the other Contracting State and transmit available fingerprints of such convicted persons.

2. Either Contracting State shall, upon request, submit to the other Contracting State information about previous convictions of persons if these persons arc held criminally accountable in the territory of the Requesting State.

Article 19
PROCEEDS AND INSTRUMENTALITIES OF CRIMES
1. The Contracting States shall, in accordance with their respective laws, assist each other in proceedings involving the identification, tracing, restraint, freezing, seizure and confiscation of assets, proceeds and instrumentalities of crimes, for the purpose of forfeiture, return or restitution to victims of crime.

2. If the Central Authority of one Contracting State becomes aware that assets, proceeds and instrumentalities of crimes that may be subject to forfeiture are located in the other Contracting State, it may so inform the Central Authority of the State so that appropriate measures may be taken under this Article. The Central Authority receiving the information shall notify the Central Authority providing the information of the action taken.

3. The Central Authorities of both Contracting States shall mutually determine, on a case by case basis, the arrangements for the return to the Requesting State of all or part of such assets, proceeds and instrumentalities of crimes, including the proceeds of their sale, for the purpose of forfeiture and restitution in accordance with the laws of the Requested State.

Article 20
RETURN OF ILLEGALLY ACQUIRED PUBLIC FUNDS OR PROPERTIES
When the Requested State seizes or confiscates assets that constitute public funds or properties, whether or not these have been laundered, and which have been illegally acquired from the Requesting State, the Requested State shall return the seized or confiscated assets in their entirety, less all costs of realization, to the Requesting State.

Article 21
EXPENSES
1. The Requested State shall meet the regular costs of executing the requests for legal assistance, except that the Requesting State shall bear:

> (a) the expenses associated with the conveying of persons to and from its territory in accordance with Articles 15 and 17 of this Treaty and their presence in that territory, and other payments due to those persons. A person

who agrees to appear in the Requesting State may request that State to advance money to cover these expenses. The money requested in advance may be provided through the Embassy or a Consulate of the Requesting State;

(b) the expenses and fees of experts;

(c) the expenses for the translation or transcription of documents;

(d) the expenses associated with the travel and presence of the representatives of the Requesting State at the execution of the request in accordance with Paragraph 2 of Article 9 of this Treaty;

(e) the expenses associated with the delivery of objects from the territory of the Requested State to the territory of the Requesting State and the return of such objects to the Requested State;

(f) the expenses associated with the taking of evidence from the Requested State to the Requesting State via video, satellite or other technological means.

2. If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Contracting States shall consult to determine the term conditions under which the requested assistance can be provided.

Article 22
CONSULTATIONS AND RESOLUTIONS OF DISPUTES
1. The Central Authorities shall, at the request of either of them, consult, whenever necessary, concerning the interpretation or application of this Treaty, either generally or in relation to a particular request.

2. Any dispute arising out of the interpretation or application of this Treaty shall be resolved through diplomatic channels if the Central Authorities of the Contracting States are unable to reach an agreement.

Article 23
ENTRY INTO FORCE, AMENDMENTS AND TERMINATION
1. This Treaty shall be subject to ratification and shall enter into force thirty (30) days after the date of receipt of later written notification by the Contracting States, through diplomatic channels, indicating that their respective requirements for the entry into force of this Treaty have been complied with.

2. Any amendment of this Treaty shall be made by mutual consent of the Contracting States. Any amendment shall enter into force in accordance with paragraph 1 of this Article.

3. Either Contracting State may terminate this Treaty at any time by giving notice to the other Contracting State, through diplomatic channels, of its desire to terminate this Treaty. In that case, the Treaty shall cease to have effect one hundred eighty (180) days after the date of the receipt of the notice. However, the procedures already initiated for a request by either Contracting State shall continue to be governed by this Treaty until their conclusion.

Done in Manila this 13th day of November 2017, in duplicate, each in English and Russian languages, both texts being equally authentic.

FOR THE REPUBLIC OF THE
PHILIPPINES

FOR THE RUSSIAN
FEDERATION

(Sgd.)

(Sgd.)

Entry into Force: March 12, 2020

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