

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE GOVERNMENT OF THE UNITED
STATES OF AMERICA RELATING TO INVESTMENTS SUPPORTED
BY THE OVERSEAS PRIVATE INVESTMENT CORPORATION**

DESIRING to enhance their accord regarding investments made by nationals of the United States in the Philippines in activities approved by the Philippine Government covered by investment guaranties provided by the U.S. Government as evidenced by their Exchange of Notes dated February 18 and 19, 1952 as amended by an Exchange of Notes which entered into force on August 15, 1966, and subsequently implemented by an Agreement dated July 29, 1988 on the Administrative Procedures for OPIC coverage;

REALIZING that the Overseas Private Investment Corporation (OPIC) is an agency of the United States of America that makes loans and provides investment guarantees to U.S. and foreign enterprises investing abroad which involve U.S. nationals and provides U.S. nationals investing abroad with insurance against such risks as currency transfer restrictions, expropriation without compensation and losses resulting from political violence;

RECOGNIZING that the procedures provided in the 1952 Agreement, as amended, have to be made current in view of the passage of new investment-related laws, including, though not exclusively, Republic Act No. 7042, otherwise known as the Philippine Foreign Investments Act of 1991, as amended; and

ACKNOWLEDGING that making loans and providing investment guarantees to enterprises doing business in the Republic of the Philippines which involve U.S. nationals, and receiving payment of interest, principal and fees on account of such loans and guarantees, and providing insurance against such risks as currency transfer restrictions, expropriation without compensation and losses resulting from political violence does not constitute "doing business" in the Philippines as defined in Rep. Act No. 7042, i.e., the Foreign Investors Act of 1991, as amended, the Corporation Code of the Philippines, or any other law, rule or regulation of the Philippines,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

As used in this Agreement, the following terms have the meanings herein provided. The term "Investment Support" refers to any debt or equity investment, any investment guaranty and any investment insurance or reinsurance which is supported or provided by the Issuer in connection with a project in the territory of the Philippines. The term "Issuer" refers to OPIC and any successor agency of the United States of America, and any agent of either. The term "Taxes" means all present and future taxes, levies, excises, imposts, stamps, duties and charges imposed in the territory of the Philippines and all liabilities with respect thereto, in relation to Article 2(b), Article 2(c) and Article 3.

ARTICLE 2

(a) For Investment Support and activities as defined in this Agreement made by the Issuer, the latter shall not be subject to regulation under the laws of the Philippines applicable to insurance or financial institutions.

(b) All operations and activities undertaken by the Issuer as defined in this Agreement in connection with any investment Support and all payments, whether of interest, principal, fees, dividends, premiums or the proceeds from the liquidation of assets or of any other nature, that are made, received or guaranteed by the Issuer in connection with any Investment Support shall be exempt from Taxes. The Issuer shall not be subject to any Taxes in connection with any transfer, succession, or other acquisition which occurs pursuant to paragraph (c) of this Article or Article 3 hereof. Any project in connection with which Investment Support has been provided shall be accorded treatment no less favorable than that accorded to projects benefiting from the investment guarantee program of any other national or multilateral development institution which operates in the Philippines.

(c) If the Issuer makes a payment to any person or entity, or exercises its rights as a creditor or subrogee, in connection with any Investment Support, the Government of the Philippines shall recognize the transfer to, or acquisition by, the Issuer of any cash, accounts, credits, instruments or other assets in connection with such payment or the exercise of such rights, as well as the succession of the Issuer to any right, title, claim, privilege or cause of action existing, or which may arise, in connection therewith.

(d) With respect to any interests transferred to the Issuer or any interests to which the Issuer succeeds under this Article, the Issuer shall assert no greater rights than those of the person or entity from whom such interests were received, provided that nothing in this Agreement shall limit the right of the Government of the United States of America to assert a claim under international law in its sovereign capacity, as distinct from any rights it may have as the Issuer pursuant to paragraph (c) of this Article.

(e) The Philippine Government shall not be liable for any obligations of the Issuer by virtue of this Agreement.

(f) The Issuer shall inform in writing the Philippine Government through its Board of Investments (BOI) of the Investment Support granted by it under this Agreement.

(g) Investment Support provided by the Issuer does not constitute "doing business" in the Philippines as defined in Rep. Act No. 7042, i.e., the Foreign Investors Act of 1991, as amended, the Corporation Code of the Philippines, or any other law, rule or regulation of the Philippines.

ARTICLE 3

(a) Amounts in the currency of the Philippines, including cash, accounts, credits, instruments or otherwise, acquired by the Issuer upon making a payment, or upon the exercise of its rights as a creditor, in connection with any Investment Support provided by the Issuer for a project in the Philippines, shall be accorded treatment in the territory of the Philippines no less favorable as to use and conversion than the treatment to which such funds would have been entitled in the hands of the person or entity from which the Issuer acquired such amounts.