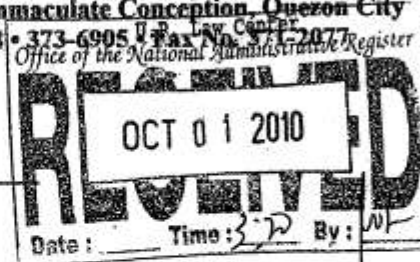




Republic of the Philippines
OFFICE OF THE PRESIDENT
 Department of Finance

COOPERATIVE DEVELOPMENT AUTHORITY

827 Aurora Blvd. Service Road, Brgy. Immaculate Conception, Quezon City
 Telephone Nos. 725-2107 • 725-3764 • 373-6905 • Fax No. 725-2077



MEMORANDUM CIRCULAR NO. 2010-07
 Series of 2010

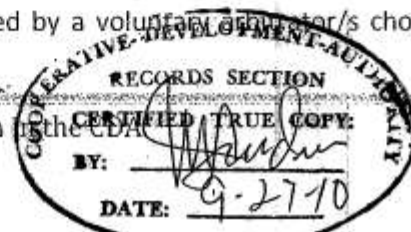
SUBJECT: GUIDELINES ON THE PROCEDURE FOR VOLUNTARY ARBITRATION IN THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA)

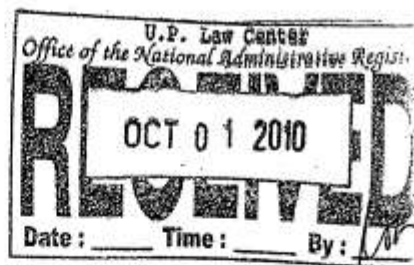
Pursuant to Art. 137 of Republic Act No. 9520, this Authority hereby adopts and promulgates the guidelines on the procedure for voluntary arbitration in the CDA as the primary and exclusive mode for dispute resolution in accordance with the Alternative Dispute Resolution Act of 2004.

Section 1. Title. This shall be known as the Guidelines on Procedure for Voluntary Arbitration in the Cooperative Development Authority (CDA).

Section 2. Definition of Terms. The following terms are defined as follows:

- (1) **Alternative Dispute Resolution** - shall refer to any process or procedure used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a Court or an officer of a government agency, in which a neutral third party participates to assist in the resolution of issues, which includes arbitration, mediation, conciliation, early neutral evaluation, mini trial, or any combination thereof.
- (2) **Award/Decision** - shall refer to any partial or final decision by an Arbitrator in resolving the issue in a controversy.
- (3) **Dispute** - shall refer to intra/inter cooperative controversy or grievance arising from any violation or disagreement over any provisions, including any violations of the rights and conditions of membership provided in the cooperative by-laws and/or in the Cooperative Code, which may be the subject of a formal or informal request for conciliation/mediation or arbitration sought by either one or both parties.
- (4) **Settlement** - shall refer to any compromise or arrangement between disputants to settle the matters in dispute and thus dispose of the controversy. The term may be used in the sense of "payment" or "adjustment" depending upon the circumstances under which, and the connection in which, use of the term is made.
- (5) **Voluntary Arbitration** - shall refer to a dispute resolution process wherein any intra/inter cooperative disputes is settled by a voluntary arbitrator/s chosen by





the disputing parties from a list of qualified and accredited arbitrators, who shall decide on the merits of the case by rendering an award.

- (6) **Voluntary Arbitrator/s** - shall refer to any authorized employee of the Authority or an accredited private individual chosen by the parties to hear, decide, and render an award in a dispute.

Section 3. Applicability of these Guidelines. These Guidelines shall primarily govern the voluntary arbitration proceedings however, the parties may agree on other proceedings provided it is not contrary to law, these guidelines, the ADR Law and other administrative issuances. The Revised Rules of Court shall apply by analogy or in a supplementary character and effect.

Section 4. Exclusive and Original Jurisdiction of the Voluntary Arbitrator/s. The Voluntary Arbitrator/s mutually chosen by the parties shall have exclusive and original jurisdiction over the dispute, and his/her decision shall be appealable to the Office of the President of the Republic of the Philippines.

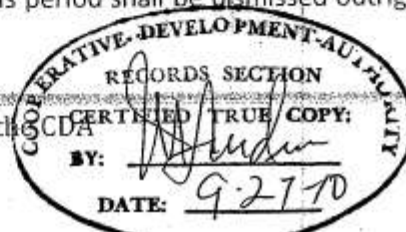
Section 5. Powers and Authority of the Voluntary Arbitrator/s. The Voluntary Arbitrator/s shall have the following powers and authority:

1. To hold hearings and to receive evidence necessary to resolve the issue/s subject of the dispute.
2. To require any person to attend hearing/s as witness or to cause production of documents when the relevancy and the materiality thereof are vital to the resolution of the case.
3. To administer oath.
4. To cite in contempt any person disturbing the proceeding and/or who willfully defy lawful orders of the Voluntary Arbitrator/s.
5. To issue a Writ of Execution, if necessary.
6. To exercise such other powers and functions as may be necessary to resolve the dispute.

Section 6. Nature of Proceedings. Voluntary Arbitration is an administrative proceeding. The technical rules applicable to court or judicial proceedings may not strictly apply. However, the requirements of due process must be observed at all times. The hearing may proceed even in the absence of any party, provided the parties were duly notified and their failure to appear in such scheduled meeting is unjustified as determined by the voluntary arbitrator/s handling the proceedings.

Section 7. Who May File the Complaint. Any party to intra/inter cooperative disputes not resolved amicably in accordance with the Conciliation-Mediation Mechanisms embodied in the By-laws of a cooperative may file a complaint.

Section 8. When the Complaint May be Filed. The verified complaint shall be filed within forty-five (45) days from the issuance of the Certificate of Non-Settlement in accordance with the provision of Section 13 of these Guidelines. Complaints filed beyond this period shall be dismissed outrightly for being filed out of time.



Section 9. Where to File the Complaint. All complaint relative to the voluntary arbitration case shall be filed directly with CDA-Extension Office having administrative jurisdiction over the cooperatives. No complaint shall be filed directly with the CDA-Central office save complaints involving cooperatives under its primary and exclusive jurisdiction.

Section 10. Contents of the Complaint. The complaint shall contain the following:

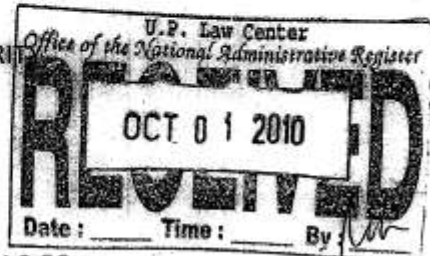
1. The names and addresses of the complainant/s and respondent/s;
2. A brief description of the complaint and the documentary evidences, if any;
3. The relief prayed for.

Section 11. Parties to the Complaint. In all cases submitted to voluntary arbitration the aggrieved party shall be called "Complainant" and the opposing party the "Respondent".

The full names of the parties, as far as they are known, shall be stated in the original caption of the original pleading, award or decision and in all summons, notices and processes to be served upon them.

Section 12. Caption and Title. The complaint shall, as far as practicable, be filed in accordance with the following caption:

REPUBLIC OF THE PHILIPPINES
COOPERATIVE DEVELOPMENT AUTHORITY
Central Office/Extension Office



IN RE: VOLUNTARY ARBITRATION CASE BETWEEN

Complainant/s

Case No. : VAC-EO-_____

For:

-versus-

Respondent/s

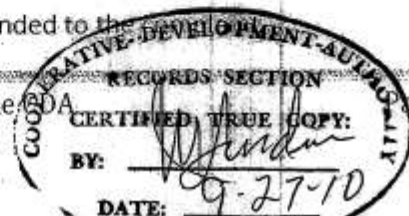
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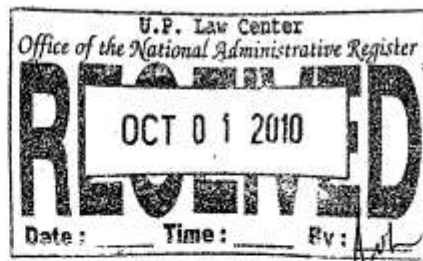
Section 13. Commencement of Action. Any party of a dispute not resolved through conciliation-mediation proceedings in the primary and union/federation level can commence action for voluntary arbitration by filing a verified complaint with the Authority in three (3) original copies and upon payment of filing fee in accordance with the Schedule of Fees of the Authority.

The complaint shall be accompanied by Certificate of Non-Settlement issued by the Federation/Union if the primary cooperative has an affiliation or if none, by a Certificate of Non-Settlement issued by the Conciliation-Mediation Committee of the cooperative itself together with a Certification of No Affiliation signed by the Chairperson of the Board of Directors of the same cooperative.

A Certification against Forum Shopping shall be appended to the

Guidelines on the Procedure of Voluntary Arbitration in the CDA



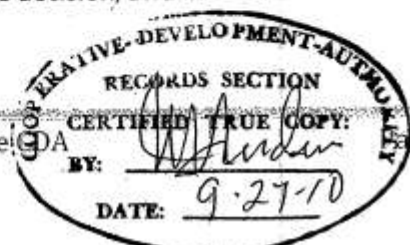


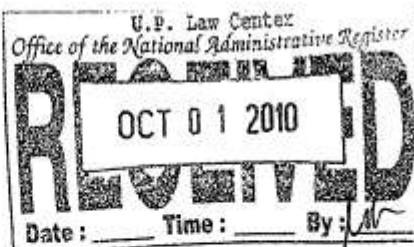
Section 14. Procedures before the Authority. Upon receipt of the verified complaint, the following steps shall be undertaken by the Legal Division/Section:

1. **Issuance of Notice/Summons to the Respondents.** The Authority shall issue a Notice/Summons to the Respondent/s to file Answer/Comments.
2. **Filing of Answer/Comment.** The Answer/Comment of the Respondent must be filed within fifteen (15) days from receipt of the Notice/Summons.
3. **Preliminary Conference.** A Notice shall be sent to all parties concerned indicating the time and date of the conference. The Notice shall be served on counsel or on the party who has no counsel. It shall be the duty of the parties or their counsel to appear at the preliminary conference. The non-appearance of a party may be excused only if a valid cause is shown therefore or if a representative shall appear in his/her behalf fully authorized in writing. The unjustified failure of the complainant to appear in the preliminary conference shall be cause for dismissal of the complaint. A similar failure on the part of the Respondent at the first instance, a second notice/summons shall be issued. Non-compliance with the second notice/summons by the Respondent/s shall be cause for the dismissal of the complaint. However, a Certificate of Non-Resolution may be issued upon the request of the Complainant.

Whenever the Respondent/s whereabouts are unknown or cannot be ascertained by diligent inquiry, the Notice may be effected by publication in a newspaper of general circulation at the expense of the complainant, otherwise the complaint shall be dismissed. However, a Certificate of Non-Resolution may be issued to the complainant.

4. **Conference Proper.** During the conference the parties shall be encouraged to explore all possible means of effecting a voluntary settlement of the dispute between them. Should the parties arrive at any agreement, the same shall be reduced in writing and signed by the parties before the CDA Legal Division/Section assisting the same. In the absence of any voluntary settlement, the following steps shall be followed:
 - a. **Signing of the Submission Agreement.** Should the parties appear in the preliminary conference, the parties shall be required to sign a Submission Agreement (ANNEX A).
 - b. **The Agreement shall contain, among other things, the following matters:**
 1. The agreement to submit to Voluntary Arbitration;
 2. The specific issue/s or dispute/s to be submitted for resolution;
 3. The name of the voluntary arbitrator/s chosen by the parties;
 4. The manner of paying the cost of arbitration proceedings including the arbitrator's fee;
 5. The name of the public official whom the parties may designate to execute the final decision or award, if necessary; and
 6. The agreement to perform or abide by the decision/award.





c. *Selection of the Voluntary Arbitrator/s.* The Authority may assist the disputants in selecting a mutually acceptable voluntary arbitrator/s from the list of qualified voluntary arbitrator/s. The parties are free to determine the number of arbitrators, which may be a sole arbitrator or may be composed of three, one chosen by the complainant, the other chosen by the respondent and the third chosen by both parties.

Any person appointed as voluntary arbitrator/s shall possess the following qualifications:

- a. He must not be related by consanguinity or affinity within the sixth civil degree to either party to the controversy.
- b. He must not have any financial, fiduciary or other interest in the controversy or cause to be decided or has any personal bias, which might prejudice the right of any party to a fair and impartial decision/award.
- c. He shall not act as champion of or advocate of cause to either party.

5. *Acceptance/Rejection of the Voluntary Arbitrator/s.* The Voluntary Arbitrator/s selected by the disputants shall be notified in writing by the CDA Legal Division/Unit as soon as practicable.

Upon acceptance, the Authority, through the Regional Director/Executive Director, as the case maybe, shall issue an appointment to the selected Voluntary Arbitrator/s and turn over all the records of the case.

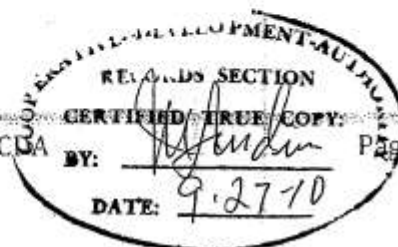
If not accepted, the Disputants shall be advised immediately in writing of the rejection and of the need to select another arbitrator/s.

At any time after appointment but before the issuance of a Decision/Award, any party including the Voluntary Arbitrator/s who discovers any circumstance which likely to create presumption of bias, which they believe might affect the impartiality of the Voluntary Arbitrator, shall immediately disclose such information. Thereafter, the parties may agree in writing:

- a. To waive the presumptive disqualifying circumstance; or
- b. To replace them with another arbitrator as agreed upon.

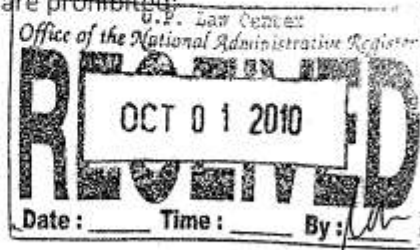
Section 15. Termination of the Services of the Voluntary Arbitrator. In cases where any or both parties request in writing the termination of the services of the Voluntary Arbitrator on any grounds above stated under Section 14 par. 4 (c) or the Voluntary Arbitrator voluntarily terminates his services or his/her appointment has been revoked by the Authority on similar grounds, a substitute Arbitrator shall be appointed. The appointment of a substitute Arbitrator shall be made pursuant to the procedure of appointing of an Arbitrator as provided for under Section 14 par. 4 (c) and 5 .

Section 16. List of Qualified Voluntary Arbitrator/s. The list shall be composed of trained and qualified Voluntary Arbitrators duly accredited by the Authority.



Section 17. Prohibited Pleadings. The following pleadings are prohibited:

1. Motion to Dismiss;
2. Motion for Bill of Particulars;
3. Motion for New Trial or for reopening of trial;
4. Petition for Relief of Judgment;
5. Motion for Extension ;
6. Rejoinder to Reply;
7. Motion to declare a party in default; and
8. Any other pleadings which will impair the speedy disposition of the case.



Section 18. Place of Arbitration. The parties are free to agree on the place where the arbitration proceedings shall be conducted provided it is within the area where the cooperative concerned is located.

Section 19. The Parties' Right to be represented by Counsel. A party may or may not be represented by Counsel of his/her choice.

Section 20. Summary Proceeding. Before the start of the voluntary arbitration trial/hearing, the parties may opt to resolve the dispute summarily, in which case the Voluntary Arbitrator shall issue an Order directing the parties to submit their respective position papers/briefs within fifteen (15) calendar days from receipt.

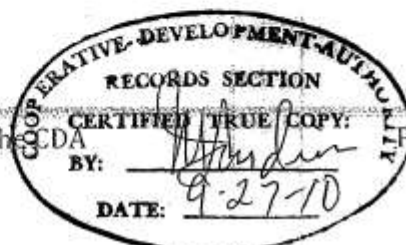
The position paper/brief shall contain a concise statement of their positions setting forth the law and the facts upon which it is based including the affidavits of the witnesses and other evidences on the factual issues defined therein.

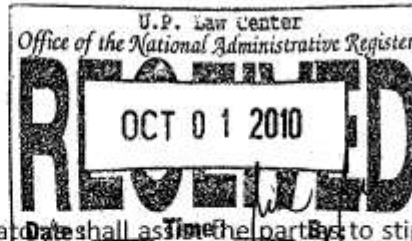
The Voluntary Arbitrator/s shall render Judgment, not later than thirty (30) calendar days from the date the parties submitted their respective briefs/position papers.

Section 21. Procedures in the Conduct of Hearing. In the conduct of the hearing, the Voluntary Arbitrator/s shall control the proceedings and see to it that proper decorum is observed. Confidentiality must be observed unless it is waived by the parties. Parties shall be provided with adequate opportunities to be heard.

In the absence of an agreement, the normal order of the voluntary arbitration hearing as shown below may be observed:

1. **Opening Statements by the Parties.** The Voluntary Arbitrator/s may request both parties for a brief statement of the issues in controversy. The statement shall be presented first by the Complainant after which the Respondent shall be given the same opportunity. After all the issues have been presented, the Voluntary Arbitrator, with the consent of both parties, may determine whether or not the hearing shall continue. Should further hearing be no longer necessary, summary proceedings as provided in Section 20 shall apply, otherwise the succeeding steps shall be followed.





2. **Stipulation of Facts.** The Voluntary Arbitrator shall as time the parties stipulate facts which are no longer disputable, leaving the presentation and examination of evidences only to such facts that are still in dispute.
3. **Presentation of Evidences.** Testimonies of the parties may be reduced in affidavit forms. All evidences, oral and documentary, must be subjected to examination by the opposing party to determine their authenticity.

The examination of evidences shall follow the order similar to court litigations such as direct, cross, re-direct, or re-cross examinations.

The Voluntary Arbitrator/s may propound questions to the witnesses directly after the parties are through with their examination, if he/she believes that material facts have not been elicited.

The relevance and materiality of the evidences presented may be solely determined by the Voluntary Arbitrator/s and he/she may allow or accept evidences by his/her own appreciation unless valid objections are raised.

4. **Formal Offer of Evidence.** The formal offer of evidence may be dispensed with unless otherwise agreed by the parties.
5. **Closing of Hearing and Submission of Briefs or Memoranda.** The closing statements of the parties shall terminate the hearing and the case shall be deemed submitted for resolution. In addition, the parties may be required to submit briefs or closing memoranda within a period fixed by the Voluntary Arbitrator/s at the close of the hearing.

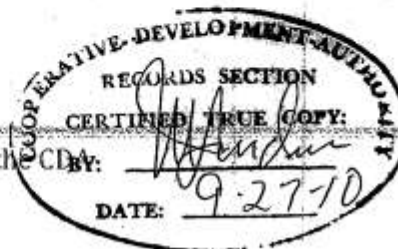
Section 22. Issuance of the Decision/Award. The final disposition of the issue/s submitted to Voluntary Arbitration is the Decision/Award.

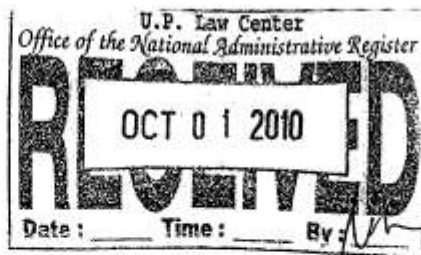
The Decision or Award must be stated in clear, concise and definite terms. It shall include the facts and the law and/or contract upon which the Decision/Award is based.

Such Decision/Award shall be signed by the Voluntary Arbitrator who conducted said proceedings. In case the proceeding was conducted by a panel of arbitrators, the same shall be signed by all of its members.

A copy of the Decision/Award shall be served on the parties either personally or by registered mail. A copy shall be furnished the Authority.

Unless the parties agree otherwise, it is mandatory for the Voluntary Arbitrator/s to render a Decision or Award within thirty (30) calendar days from the date the parties agreed to submit the case for resolution.





Section 23. Settlement. If during the arbitration trial/hearing, the parties settle the case, the Voluntary Arbitrator/s shall terminate the proceedings and if requested by the parties shall record the settlement in the form of arbitration Decision/Award.

Section 24. Extent of Decision/Award. The Voluntary Arbitrator/s shall have the power to decide only on matters which have been submitted for arbitration.

Section 25. Enforcement/Execution of Decision/Award. The parties shall comply voluntarily and faithfully to the Decision/Award. In instances of non-compliance, a Motion to Enforce or Execute may be filed with the Voluntary Arbitrator/s, who may issue a Writ of Execution requiring either the Sheriff of the Authority, if any, or the regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision or award. The Motion to Enforce or Execute may be filed any time from the day the award becomes final and executory,

Section 26. Return of Writ of Execution. The Writ of Execution shall be returned by the Sheriff or the officer designated to serve the same to the Voluntary Arbitrator/s not less than ten (10) calendar days but not more than thirty (30) calendar days after the service of the Writ of Execution has been made. It shall contain at the back the activities undertaken in the service thereof.

Section 27. Appeal to the Office of the President of the Republic of the Philippines. The Decision / Award rendered shall be appealable to the Office of the President of the Republic of the Philippines. The Appeal is taken by filing a Notice of Appeal within fifteen (15) days after receipt of the copy of the Decision / Award appealed from. If no appeal is filed within the time as provided herein, such Decision/Award shall become final and executory.

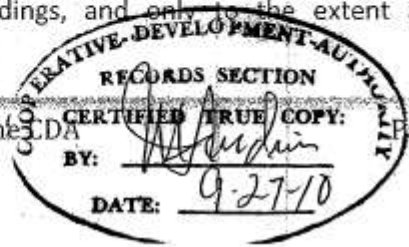
Section 28. Stenographic Notes/Transcript. The Voluntary Arbitrator/s shall arrange the taking of stenographic notes/transcript of the testimony when one or more parties request such a record, and such party or parties thereof assume payment of the cost.

Section 29. Cost of Arbitration and Arbitrator's Fee. Unless agreed otherwise, the parties shall equally share the cost of the proceedings including the Voluntary Arbitrator's Fees.

The fees of the Voluntary Arbitrator/s shall be agreed in writing prior to the arbitration. It must be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the Arbitrator/s and any other relevant circumstances of the case.

Other than the arbitrator's fees, the term "costs" include:

- (1) The travel and other expenses incurred by the Arbitrator/s;
- (2) The travel and other expenses of witnesses to the extent that such expenses are approved by the Arbitrator/s; and
- (3) The costs for legal representation and assistance of the successful party if such costs were incurred during the arbitration proceedings, and only to the extent as determine by the Arbitrator/s to be reasonable.



Section 30. Monitoring and Reporting Requirements. A Monthly Status Report of voluntary arbitration cases shall be submitted by the accredited Voluntary Arbitrators to the Authority.

Section 31. Separability Clause. If for any reason or reasons, any portion or provision of these Guidelines shall be held unconstitutional or invalid, all other parts or provisions not affected thereof shall thereby continue to remain in full force and effect.

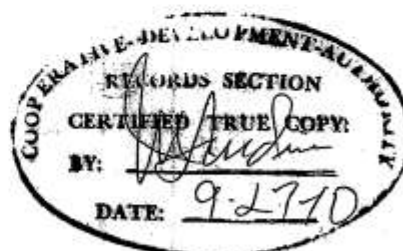
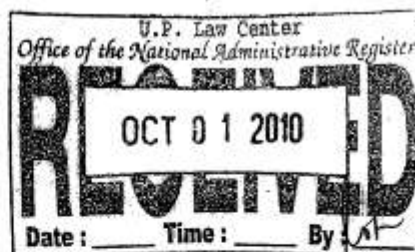
Section 32. Effectivity. This shall take effect fifteen (15) days after its publication in the Official Gazette or national newspaper of general circulation.

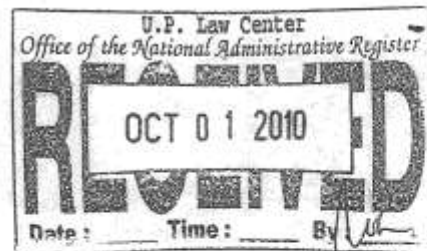
Quezon City, Philippines.

APPROVED BY: Per CDA Board Resolution No. 166, S-2010 dated August 24, 2010.

**FOR THE BOARD OF ADMINISTRATORS
COOPERATIVE DEVELOPMENT AUTHORITY**


LECIRA V. JOAREZ
Chairperson





After the lapse of Thirty (30) days counted from receipt of the above stated formal notice, the Authority shall issue the Order of Cancellation (Annex A).

Section 5. Obligation to Undertake Liquidation Process. Within thirty (30) days from receipt of the Order of Cancellation, the cancelled cooperative is under obligation to liquidate its assets and liabilities following/adopting the liquidation procedures, unless otherwise agreed upon by the members, prescribed hereunder:

1. Constitution of Panel of Liquidators from among the previous officers and members of the cancelled cooperative.
2. Inventory of Assets and Liabilities of the cancelled cooperative.
3. Payment of Creditors in accordance with the Provision of the New Civil Code on the Preference and Concurrence of Credits.
4. Transfer of the Statutory Funds to the intended beneficiaries.
5. Distribution of the remaining assets.
6. Submission of final report by the Panel of Liquidators to the Authority

Section 6. Panel of Liquidators. The Panel of Liquidators shall come from the former officers and/or members of the cooperative which shall not be less than (3) three but not more than (5) five members.

The Panel of Liquidators shall be allowed to receive a reasonable honorarium to be paid out of the funds of the cooperative.

Section 7. Functions of the Panel of Liquidators. The Panel of Liquidators shall:

1. Notify the Authority formally of its assumption to office and commencement of the liquidation proceedings;
2. Make an inventory of all assets and determine all liabilities including share capital holdings;
3. Preserve the existing assets of the cancelled cooperative;
4. Convert all assets of the cancelled cooperative into cash;
5. Pay the outstanding obligations including any and all valid claims against the cancelled cooperative;
6. Distribute remaining assets pursuant to the provisions of these Guidelines; and

Guidelines on the Cancellation of Cooperatives Pursuant to Art. 144 of RA9520

