



Republic of the Philippines
OFFICE OF THE PRESIDENT
COOPERATIVE DEVELOPMENT AUTHORITY

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MEMORANDUM CIRCULAR NO. 2012-03

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TO : ALL CONCERNED

SUBJECT : RULES OF PROCEDURE GOVERNING VOLUNTARY ARBITRATION
BEFORE THE COOPERATIVE DEVELOPMENT AUTHORITY

DATE : DECEMBER 9, 2011

Pursuant to Article 137 of R.A.9520, Section 1, Rule XIII of the Rules and Regulations Implementing Certain Provisions of The Philippine Cooperative Code of 2008, Sec. 3 (m) and (o) of R.A. 6939, the following Rules of Procedure Governing Voluntary Arbitration before the Cooperative Development Authority are hereby promulgated.

ARTICLE 1
POLICY AND OBJECTIVES

SECTION 1. Statement of Policy and Objectives. –

It is the policy and objective of these Rules to provide a fair and expeditious settlement of intra-cooperative and inter-cooperative disputes by way of an *institutional mode* of voluntary arbitration as an alternative to judicial proceedings with the end in view of ensuring and possibly restoring the disrupted harmonious and friendly relationships between or among the parties.

SECTION 2. Applicability of Rules. –

These Rules are applicable to proceedings in voluntary arbitration before the Cooperative Development Authority.

SECTION 3. Application of Judicial Technical Rules. –

Voluntary Arbitration is an administrative proceeding. The technical rules applicable to court or judicial proceedings need not be controlling and it is the spirit and intention of these rules to use every and all reasonable means to ascertain the facts in each case

speedily and objectively, and without regard to technicalities of law or procedure, all in the interest of substantive due process.

ARTICLE II JURISDICTION

SECTION 1. Jurisdiction. –

The Cooperative Development Authority and the Arbitral Tribunal as contemplated by these Rules shall have original, exclusive and primary jurisdiction over disputes among members, officers, directors, and committee members, and intra-cooperative, inter-cooperative, intra-federation or inter-federation disputes which were not resolved amicably in accordance with the Conciliation/Mediation Mechanisms. Likewise, they shall continue to exercise exclusive and original jurisdiction over the afore-mentioned disputes although the arbitration is commercial pursuant to Section 21 of R.A. 9285 or the Alternative Dispute Resolution Act of 2004.

Excluded from the coverage of these rules are disputes arising from employer-employee relationship which shall be covered by the Labor Code, those involving criminal liability, and other matters which by law cannot be compromised.

SECTION 2. Exercise of Jurisdiction. –

The Authority and the Arbitral Tribunal cannot acquire jurisdiction over the dispute, unless there exist

- (a) An Arbitration Agreement either in their Articles of Cooperation, By-laws, contracts or other form of written communication between and among the parties;
- (b) In the absence of an existing Arbitration Agreement, the parties subsequently agree to submit the same for voluntary arbitration, which submission may be in a form of
 - (i) An exchange of communication between the parties or some other form showing that the parties have agreed to submit whatever dispute to voluntary arbitration or adhere to the provisions of Article 137 of R.A. 9520;
 - (ii) Expressly or impliedly submitting to voluntary arbitration as can be gleaned from their respective written communications or pleadings

filed with the Cooperative Development Authority or before the Arbitral Tribunal in accordance with these rules; or

(iii) Signing a Submission Agreement during the preliminary conference.

SECTION 3. Jurisdictional Challenge. –

A Motion to Dismiss based on lack of jurisdiction shall be resolved by the appointed Arbitral Tribunal in accordance with the principle of Kompetenz-Kompetenz.

**ARTICLE III
REQUEST FOR ARBITRATION/COMPLAINT**

SECTION 1. Filing and Commencement of Action. –

Any party of a dispute not resolved through Conciliation/Mediation Proceeding in the primary and union/federation level can commence an action for Voluntary Arbitration by filing a *Verified Complaint*, with a Certificate of Non-Forum Shopping, in the prescribed form and number of copies with the Authority through the Legal Division of the Cooperative Development Authority which shall serve as the Secretariat. Whenever practicable, all complaints should be directly filed with the Voluntary Arbitration Secretariat.

However, the CDA-Extension Office having administrative jurisdiction over the cooperatives/parties involved in the dispute can receive the complaints which involved the latter, with the obligation to transmit the same to the Voluntary Arbitration Secretariat. The date of the commencement of the action shall be the date the complaint was received by the Secretariat.

SECTION 2. Condition Precedent. –

In the case of a primary cooperative affiliated with a federation/union, the complaint shall be accompanied by a Certificate of Non-Settlement issued by the said federation/union to which the primary cooperative is affiliated with.

In the case of a primary cooperative not affiliated with any federation or union, the complaint shall be accompanied by a Certificate of Non-Settlement issued by the Conciliation/Mediation Committee of such primary cooperative together with a Certificate of Non-Affiliation with any Federation/Union signed by the Chairperson of the Board of Directors of the same cooperative.

In case of non-compliance with the pre-condition, absent a showing of justifiable reason, exemption, the Arbitral Tribunal, or the Authority (if no member of the tribunal has yet been appointed), shall suspend voluntary arbitration proceedings pending compliance therewith within reasonable period directed by the Arbitral Tribunal or the Authority.

SECTION 3. Contents of the Complaint.

The complaint shall contain:

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;
and
3. The Relief Prayed For.

SECTION 4. Parties to the Dispute.

The Party who filed the complaint shall be called the "Complainant/s" and the Party complained of shall be called the "Respondent/s".

SECTION 5. Notice to Respondent and Request to Answer. –

The Voluntary Arbitration Secretariat shall, within ten (10) working days from receipt of the Complaint, issue notice/summons and transmit a copy of the Complaint (including the documents annexed thereto) to the Respondent for his/her Answer, copy furnished the Regional/Extension Office having jurisdiction over the cooperative concerned.

ARTICLE IV EFFECT OF THE AGREEMENT TO ARBITRATE

SECTION 1. Submission to CDA Institutional Voluntary Arbitration Jurisdiction. –

An arbitration clause/arbitration agreement or a submission to arbitration of a cooperative dispute shall be deemed an agreement to submit an existing or future controversy to the jurisdiction of the CDA Institutional Voluntary Arbitration proceedings, notwithstanding the reference to a different arbitration institution or arbitral body in any document, contract or submission.

An arbitration agreement or a submission to arbitration shall preferably be in writing, or in some other forms, as long as the intent is clear that the parties agree to submit a present or future controversy arising from disputes mentioned in Article 137 of R.A. 9520.

It may be in the form of exchange of letters sent by post, courier, electronic means or by telefax, telegrams or any other mode of communication.

SECTION 2. Failure or Refusal to Arbitrate. –

Where the jurisdiction of the CDA Institutional Voluntary Arbitration proceedings is properly invoked by the filing of a Complaint for Arbitration in accordance with these Rules, the failure or refusal of the respondent to arbitrate shall not affect the proceedings. In such case, the Cooperative Development Authority, through its Board of Administrators as the appointing authority, shall appoint the member or members of the Arbitral Tribunal in accordance with these rules from among the list of accredited arbitrators. In the absence of any agreement as to the number of voluntary arbitrators who shall compose the tribunal, the default number shall be three (3) voluntary arbitrators. The arbitration proceeding shall continue notwithstanding the absence or lack of participation of the respondent, and the award shall be made after receiving the evidence of the claimant. In the event that, before award, the respondent shall appear and offer to present his evidence, the arbitrator shall reopen the proceedings and allow the respondent to present his evidence, but evidence already received shall not be affected by the reopening of the proceedings.

SECTION 3. When Arbitration Cannot Proceed. –

Where there is no existing arbitration agreement, or there was no submission for arbitration by the parties in the manner provided by these rules, the arbitration cannot proceed and the claimants shall be informed of that fact.

**ARTICLE V
ANSWER/COUNTERCLAIMS**

SECTION 1. Time to Answer. –

The respondent shall, within fifteen (15) days from receipt of the summons and complaint, file his/her Answer thereto including such counterclaims as he/she may assert. The complainant shall be furnished a copy of the Answer. In exceptional circumstances, the Respondent may apply to the Secretariat for an extension of time for the filing of his defense and his documents, which extension in no case shall exceed ten (10) days. If respondent fails to file his Answer, Arbitration shall proceed in accordance with these rules.

SECTION 2. Reply to counterclaim. –

The Complainant shall file a reply to the counterclaim and shall furnish respondent a copy thereof within ten (10) days from date of receipt of the Answer with Counterclaim;

**ARTICLE VI
SUBMISSION AND COMMUNICATIONS/NOTICES**

SECTION 1. Number of Copies. –

All pleadings and written statements submitted by the parties, as well as all documents attached thereto, shall be filed in four (4) original/duplicate original copies, with proof of prior service to the adverse party.

SECTION 2. Mode of Service and Filing.-

All pleadings and written statements submitted by the parties may be filed and served upon the other party preferably through personal service. Service and submission through registered mail or courier may be allowed provided that there is sufficient explanation why resort to such mode of service and submission was made. If a party is represented by counsel, service of notice and other pleadings and communications to counsel is proper notice and service to the party concerned.

SECTION 3. Notices. –

Notifications or communications from the Secretariat and/or the Arbitrator(s) shall be validly made if they are delivered against receipt or forwarded by registered mail to the address or last known address on record of the party/ies for whom the same are intended.

**ARTICLE VII
CONFIDENTIALITY**

SECTION 1. Confidentiality of Proceedings.-

The Arbitration Proceedings shall be confidential and shall not be published, except: (i) with the consent of the parties, or (ii) when necessary in case resort to the court is made under the Rules of Court.

The term "arbitration proceedings" shall include communications to or from the institution and/or voluntary arbitrator, the pleadings, applications and other papers filed with the institution and/or voluntary arbitrator, sworn statements, documentary and testimonial evidence, reports and minutes taken of the proceedings, -and other orders, decision, award or resolution issued by the Arbitrator(s).

ARTICLE VIII QUALIFICATION OF VOLUNTARY ARBITRATORS

SECTION 1. Qualification of Arbitrators.-

All Arbitrators must possess all of the following:

- a. Filipino, of legal age;
- b. In full enjoyment of his/her civil rights;
- c. Knows how to read and write;
- d. Not related by blood or marriage within the sixth degree to either party in the controversy;
- e. Must not have any financial, fiduciary or other interest in the controversy;
- f. Has no personal bias which might prejudice the right of any party to a fair and impartial award;
- g. Possess the competence to resolve the cooperative issues involved; and
- h. Must be accredited by the Cooperative Development Authority.

The Cooperative Development Authority shall constitute a list of Accredited Voluntary Arbitrators.

The Voluntary Arbitrators shall render service only when called upon to arbitrate a cooperative dispute.

Any employee or officer of the Cooperative Development Authority may likewise be appointed as Voluntary Arbitrator if he/she possesses the necessary qualification.

SECTION 2. Exemptions from Liability for Official Acts.-

Voluntary Arbitrators shall not be liable for acts done in the performance of their official duties except in a clear case of bad faith, malice or gross negligence as provided in Section 38 (1), Chapter 9, Book 1, of the Revised Administrative Code of 1987.

SECTION 3. Exclusive and Original Jurisdiction of the Voluntary Arbitrator / Arbitrator.-

The Voluntary Arbitrator/Arbitrators mutually chosen by the parties, or appointed by the appointing authority in accordance with these rules, shall have exclusive and original jurisdiction over the dispute, and their decision 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 becomes final and executory.

SECTION 4. Powers/Authority of the Voluntary Arbitrator/s.

The Voluntary Arbitrator/s shall have the following powers/authority:

- a. To hold hearings and to receive evidence necessary to resolve the issue/s subject of the dispute;
- b. 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;
- c. To administer oath;
- d. To cite in contempt any person disturbing the proceeding and/or who willfully defy lawful orders of the Voluntary Arbitrator/Arbitrators;
- e. To render an Award;
- f. To order any party to take or observe interim measures of protection, subject to the provisions of R.A. 9285 and Its implementing Rules and Regulations;
- g. To issue a Writ of Execution, if necessary, and if allowed under the circumstances; and
- h. To exercise such other powers and functions as may be necessary to resolve the dispute.

**ARTICLE IX
APPOINTMENT/SELECTION OF ARBITRATORS**

SECTION 1. Number of Arbitrators. -

A sole Arbitrator or an Arbitral Tribunal of three Arbitrators may settle a dispute. The APPOINTING AUTHORITY (Cooperative Development Authority) shall appoint the arbitrators as agreed upon by the parties as specified in the arbitration agreement, in the agreement to arbitrate, or submission to arbitration.

In the absence of any stipulation or agreement by the parties, the APPOINTING AUTHORITY, taking into consideration the complexities and intricacies of the *dispute/s*, has the option to appoint a Sole Arbitrator or an Arbitral Tribunal. If the parties are unable to agree to the method of constituting the arbitral tribunal within Fifteen (15) days from receipt by the parties of the notice sent by the Secretariat, the institution through the Secretariat, as appointing authority, shall appoint the voluntary arbitrators in accordance with these rules.

SECTION 2. Sole Arbitrator. –

Where the parties have agreed that the dispute(s) shall be settled by a Sole Arbitrator, each party shall have the right to nominate three (3) qualified voluntary arbitrators from the list of CDA - accredited arbitrators in the order of their preference for appointment as voluntary arbitrators. The nomination may likewise be stated in the submission agreement. If any or both of the parties fail to submit the names of their nominees within the period prescribed by these rules, a sole arbitrator shall be appointed by the APPOINTING AUTHORITY.

If there is a common nominee, the APPOINTING AUTHORITY shall appoint him/her as Sole Arbitrator, provided he/she is not disqualified and has declared his/her availability. In the absence of a common nominee or in cases where the common nominee is disqualified or is not available, the institution, as the appointing authority, may appoint a Sole Arbitrator. If the Appointing Authority decides to appoint a Sole Arbitrator, it shall select the appointee who is not a nominee of one of the parties and who is not disqualified and is available for appointment.

SECTION 3. Arbitral Tribunal. –

Where the parties agree that the dispute shall be settled by an Arbitral Tribunal, each party shall have the right to nominate four (4) arbitrators from the list of CDA-accredited arbitrators in the order of their preference for appointment as voluntary arbitrators. The nomination may be stated in the submission agreement. If there is no common nominee, the appointing authority shall choose and appoint, as members of the Tribunal, one arbitrator from the complainant's nominees and another arbitrator from respondent's nominees. The Third Arbitrator shall be selected by the two Arbitrators first chosen within fifteen (15) days from acceptance of their appointment. The three arbitrators shall decide among themselves who will be the Chairperson. In case of failure to agree on the third member within such period, the appointing authority shall, within fifteen (15) days thereafter, appoint the third member from its list of accredited arbitrators.

If there is a common nominee, the appointing authority shall appoint the common nominee and one from each list submitted by the parties. The three arbitrators appointed shall

designate their Chairman. If there are two common nominees, the APPOINTING AUTHORITY shall appoint them and the third member who shall be selected by the first two appointees within the period prescribed above. If there are three common nominees, all of them shall be appointed. The appointees so constituted as Arbitral Tribunal shall designate the Chairperson from among themselves.

SECTION 4. Disqualification of or Non-acceptance by Nominees. –

If the nominee(s) of a Party shall be disqualified or fail or refuse to accept appointment, the Appointing Authority shall choose and appoint any accredited and qualified arbitrator who is willing to be so appointed.

SECTION 5. Challenge. –

An Arbitrator may be challenged by a party at any time after his appointment but before the lapse of the period of time to file memoranda under Section 17, Article XIV of these rules on the ground of his/her partiality, bias, incompetence, professional misconduct or other grounds for the disqualification of an Arbitrator. A party may also request the inhibition of an arbitrator upon the same grounds.

A motion for inhibition or a request for the disqualification and replacement of an arbitrator shall be treated as a challenge.

The challenge, motion or request shall be in the form of a separate complaint under oath, stating distinctly and concisely the facts complained of, supported by affidavits, if any, of persons having personal knowledge of the facts therein alleged and shall be accompanied with copies of such documents as may substantiate said facts.

Within fifteen (15) days from receipt of the challenge, the challenged arbitrator shall decide whether he/she shall accept the challenge or reject it. If he/she accepts the challenge, he/she shall voluntarily withdraw as arbitrator. If he/she rejects it, he/she shall communicate, within the same period of time, his/her rejection of the challenge and state the facts and arguments relied upon for such rejection. In case of an Arbitral Tribunal, the challenge shall be decided by the Tribunal itself. If the Sole Arbitrator or Arbitrator concerned rejects the challenge, the challenging party may request the Appointing Authority in writing to decide on the challenge within thirty (30) days after having received notice of the decision rejecting the challenge. The Appointing Authority shall decide on the challenge within fifteen (15) days from receipt of the request. The decision of the Arbitral Tribunal, the Appointing Authority, to accept or reject a challenge is not subject to appeal or motion for reconsideration.

In case the challenged arbitrator voluntarily inhibits himself/herself or is removed, the appointing authority shall promptly appoint his/her replacement. If the arbitrator concerned is the third member of the Arbitral Tribunal, the first two members thereof shall select his/her replacement. The decision of the appointing authority to retain, remove or replace a voluntary arbitrator shall be final.

SECTION 6. When Arbitrator Previously Acted as Conciliator/ Mediator. –

A Voluntary Arbitrator who previously acted as conciliator/mediator in the same controversy cannot act as arbitrator for the same case when brought to arbitration, unless all the parties consent to his appointment in writing.

**ARTICLE X
APPOINTMENT AND ACCEPTANCE OF ARBITRATORS**

SECTION 1. Communication of Appointments. –

The Secretariat shall communicate to the Arbitrator(s) their appointment.

SECTION 2. Disclosure by Arbitrator of Disqualification. –

Upon acceptance of appointment, the Arbitrator(s) shall disclose in writing to the institution any circumstance likely to create in either party a presumption of bias or which he/she believes might disqualify him/her as an impartial Arbitrator. Such written disclosure shall be communicated to the parties immediately by the Secretariat. The purpose of such disclosure shall enable either party to investigate and ascertain whether there is a substantial legal basis to file a motion for inhibition/challenge of the arbitrator concerned or seek his/her replacement.

SECTION 3. Acceptance or Refusal. –

The Sole Arbitrator must communicate to the Secretariat his/her acceptance or refusal of the appointment within five (5) working days from receipt thereof. If no communication is received within the prescribed period, the appointing authority shall appoint another from the list of the party who nominated him/her or, if none is available or qualified, from the list of CDA-accredited arbitrators. The parties shall be notified in writing by the Secretariat of such acceptance.

SECTION 4. Vacancies. –

If any Arbitrator should resign, be incapacitated, refuse or be unable, or be disqualified for any reason to perform the duties of his/her office, the institution shall, within five (5) working days from the occurrence of a vacancy or refusal/inability to accept appointment, appoint a substitute(s) to be chosen from a list of alternatives previously agreed upon by the parties. In the absence of such a list, the appointing authority shall fill the vacancy from the list of CDA-accredited voluntary arbitrators.

**ARTICLE XI
PRELIMINARY CONFERENCE**

SECTION 1. Preliminary Conference. –

In any cooperative dispute, after the respondent has filed his/her Answer, the Arbitrator/Arbitral Tribunal shall set the case for preliminary conference and a notice to the parties thereof shall be sent at least five (5) days before the date set but not later than fifteen (15) days after the acceptance of the appointment of arbitrator to consider the following:

- a. Possibility of amicable settlement;
- b. Necessity or desirability of amendments to pleadings;
- c. Possibility of obtaining stipulations or admission of facts and/or documents to avoid unnecessary proof;
- d. Limitation of the number of witnesses;
- e. Simplification of the issues; and
- f. Such other matters as may aid in the just and speedy disposition of the case.

SECTION 2. Effect of Non-Appearance/Non-Compliance.-

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 therefor 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 a cause for dismissal of the complaint. A similar failure on the part of the Respondent at the first instance, a second Notice shall be issued. Non-compliance with the second Notice by the Respondent/s shall be a cause for the dismissal of the complaint. In this case, a Certificate of Non-Resolution may be issued upon request of the Complainant. However, if the

complainant opts to continue with the proceeding in accordance with Section 2, Article IV of these rules, a motion to that effect shall be made during the preliminary conference and the Arbitrator/Arbitral Tribunal may continue with the proceedings at the initial expense 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, in such case, a Certificate of Non-Resolution may be issued to the Complainant. In the same vein, if the complainant opts to continue with the proceeding in accordance with Section 2, Article IV of these rules, a motion to that effect shall be made during the preliminary conference and the Arbitrator/Arbitral Tribunal may continue with the proceedings at the initial expense of the complainant.

Should the parties appear in the Preliminary Conference, the parties shall be required to sign a Submission Agreement, unless such intent to submit to arbitration has been manifested and conveyed in some other form of communication as expressed in Section 2 (b) (i) and (ii), Article II of these Rules.

ARTICLE XII TERMS OF REFERENCE

SECTION 1. Contents. –

Before proceeding with the hearing of the case, the Arbitrator(s) shall formulate the Terms of Reference (TOR) on the basis of the documents submitted and agreements reached in the preliminary and subsequent conferences with the parties. The TOR shall include the following particulars:

1. The full names of the parties and their personal circumstances;
2. The addresses of the parties to which notifications or communications arising in the course of the arbitration may validly be made;
3. A summary of the parties' respective claims;
4. Definition of the issues to be determined;
5. The Arbitrators' full names, and addresses;
6. The place of arbitration;
7. Application for interim relief;
8. Language to be used;
9. The breakdown, schedule of payment, and sharing of arbitration fees; and

10. Such other particulars as may be required to make the arbitral award enforceable in law, or may be regarded as helpful by the institution or the Arbitrator(s).

SECTION 2. Signing of the Terms of Reference. –

The Terms of Reference mentioned in Section 1 hereof shall be signed by the parties and the Arbitrator(s), within fifteen (15) days from the date of the preliminary conference or from the date of the last meeting held for the purpose of finalizing the TOR as the case may be. The same shall then be transmitted to the Secretariat within three (3) days after the signing. Upon the Arbitrator's request, the Institution, through the Secretariat, may in exceptional circumstances, extend this time limit.

SECTION 3. Arbitration To Proceed Even Without the Terms Of Reference. –

Except in cases where arbitration cannot proceed under Section 3, Article IV of these rules, arbitration shall proceed despite the absence of the Terms of Reference (TOR) due to the refusal of any of the parties to sign, participate despite a valid arbitration complaint or for reasons other than the exceptions stated above. In the absence of a TOR, all of the issues and related matters in the pleadings filed by the parties and admitted by the Sole Arbitrator or the Arbitral Tribunal, as the case may be, shall be deemed submitted for resolution by the appointed arbitrator(s). In this instance, the Sole Arbitrator/Arbitral Tribunal shall have full control of the proceedings.

**ARTICLE XIII
VENUE AND GENERAL MATTERS**

SECTION 1. Venue, Date and Time of Hearing. –

The venue, date and time of the arbitral proceedings shall be mutually agreed upon by the parties and the Arbitrator(s) or an Arbitral Tribunal. In case of disagreement, the choice of the Arbitrator(s) shall prevail.

SECTION 2. Recording of Proceedings. –

Proceedings before an Arbitrator or an Arbitral Tribunal may be recorded by a personnel designated by the institution or the arbitrator(s) by means of any audio and/or audio visual recording equipment, such as, but not limited to, tape recorders, compact discs and video cameras, or if a stenographer is available, either through stenographic notes or minutes taken of the proceedings. All recordings on tapes, films, cassettes, discs, or diskettes shall be

done by a personnel designated by the institution. However, custody, safekeeping and eventual disposal of such recordings after the resolution of the case shall be with the Secretariat. Copies of such recordings including transcripts and minutes of the proceedings shall be made available to the parties upon request for a nominal fee. The Sole Arbitrator or the Chairperson of the Arbitral Tribunal, as the case may be, may opt to dispense with the use of recording devices or stenographic services and take down notes of the proceedings himself/herself/themselves. Such notes taken shall be filed with the institution and shall be part of the records of the case. Copies of the notes filed shall be made available to the parties, upon request, at reproduction cost.

SECTION 3. Control Over Proceedings. –

The Arbitrator or the Arbitral Tribunal shall exercise complete control over all proceedings to ensure a speedy, adequate and justifiable disposition of all dispute(s) and case(s) submitted to them for resolution.

SECTION 4. Extent of Power of Arbitrator. –

The Arbitrator or the Arbitral Tribunal shall decide only such issues and related matters as are submitted to them for adjudication.

They have no power to add, subtract from, modify, or amend any of the terms of the contract or any supplementary agreement thereto, or any rule, regulation or policy promulgated by the institution.

SECTION 5. Appointment of Experts. –

The service of technical or legal experts may be engaged in the settlement of disputes if requested by any of the parties or by the Sole Arbitrator/Arbitral Tribunal. If the request for an expert is done by either or by both of the parties, it is necessary that the engagement of the expert be confirmed by the Sole Arbitrator/Arbitral Tribunal.

Whenever the parties request for the services of an expert, they shall equally shoulder the expert's fees and expenses, half of which shall be deposited with the Secretariat before the expert renders service. When only one party makes the request, he/she shall deposit the whole amount required.

If the engagement of an expert is required by the Arbitrator(s), the cost of such service(s) shall be considered part of the arbitration expenses which may be ordered to be paid by the losing party or by both parties as the arbitrator(s) in his/her/their award may adjudge, in the absence of a provision in the Terms of Reference signed by the parties relative to the

sharing of these expenses; provided, however, both parties consented to the engagement of an expert.

SECTION 6. Interpretation and Application of Rules. –

The Sole Arbitrator or the Arbitral Tribunal shall interpret and apply these Rules in so far as they relate to his/its powers and duties. Where there is an Arbitral Tribunal, and a disagreement arises among the Arbitrators concerning the meaning or application of these Rules, the same shall be decided by a majority vote.

SECTION 7. Attendance During Hearings. –

Persons having direct interest in the arbitration are entitled to attend the hearings. It shall be discretionary upon the Sole Arbitrator/Arbitral Tribunal to determine the propriety of the attendance of any other person. The Sole Arbitrator/Arbitral Tribunal shall have the power to require the exclusion of any witness.

SECTION 8. Adjournments. –

The Sole Arbitrator/Arbitral Tribunal for good cause shown may adjourn the hearing upon his/its own initiative or upon the request of one of the parties. Adjournment, as far as practicable, shall not be more than fifteen (15) working days. Hearings may be adjourned for more than fifteen (15) working days when such have been suspended due to payment defaults of any or both of the parties. The Arbitrator(s) shall order the suspension of hearings upon advice by the institution of non-payment of arbitration fees by one or both parties. Hearings shall resume upon notice by the institution of compliance by the non-complying party/ies.

SECTION 9. Arbitration in the Absence of the Party. –

After the preliminary conference, the Arbitration may proceed despite the absence of any party who after due notice fails to be present or fails to obtain an adjournment. An award, however, shall not be made solely on the default of a party but on the basis of evidence submitted and proven.

SECTION 10. Waiver of Rules. –

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and fails to state his objection thereto in writing prior to the rendition of the award, shall be deemed to have waived his right to object.

SECTION 11. Expenses and Deposit. –

Arbitration expenses shall include the filing fee, administrative charges, arbitrator's fees, fee and expenses of the expert, and others which may be imposed by the institution.

The administrative charges and arbitrator's fees shall be in accordance with the Schedule of Administrative Charges and Arbitrator's Fees as promulgated by the CDA

There shall be a filing fee of Three Hundred Pesos (P300.00) plus a deposit equivalent to 10% of expected arbitrator(s)' fees (based on the claim) or P 5,000.00 whichever is higher upon filing of the claim.

The institution may fix the Arbitrator(s)' fees at a figure higher or lower than that which would result from the application of the Table of Fees if in the exceptional circumstances of the case, the same appears to be necessary.

SECTION 12. Freedom to Settle. –

The parties shall be free to settle the dispute(s) anytime even if the same is under arbitration. In such case, the actual expenses incurred for arbitration shall be charged against the deposit. If the deposit is insufficient, the parties shall equally shoulder the balance. The parties may either jointly withdraw or submit their compromise agreement to the arbitrator(s) for the rendition of an award, if the arbitrator(s) have already been appointed. Where the arbitrators have been appointed and proceedings have commenced, the arbitration fees to be charged the parties shall be in accordance with the stage of proceedings.

**ARTICLE XIV
ARBITRATION PROCEEDINGS**

SECTION 1. Quorum. –

Two members of a tribunal shall comprise a quorum for the purpose of conducting a hearing.

SECTION 2. Briefing on Rules and Procedures. –

At the initial hearing, the Arbitrator/Arbitral Tribunal shall inform the parties of the general rules and procedures that will be adopted to ensure a speedy and adequate disposition of the issues.

SECTION 3. Opening Statements. –

The initial proceedings may start with the parties making an opening statement or its explanation of the issues, a brief statement of allegations, what it proposes to prove and the relief sought.

SECTION 4. Clarification of the Issues. –

After the opening statements, the Arbitrator/Arbitral Tribunal shall clarify and further redefine the issues, if necessary.

SECTION 5. Order of Presentation. –

It shall be within the discretion of the Arbitrator/Arbitral Tribunal to determine the order of presentation. The party who seeks to enforce a right or establish a claim shall be required to present its evidence first, followed by the other party.

SECTION 6. Expeditious Procedures. –

The Arbitrator/Arbitral Tribunal shall at all times adopt the most expeditious procedure for the introduction and reception of evidences, and shall have complete control over the proceedings, but in any case shall afford full and equal opportunity to all parties to present relevant evidence.

SECTION 7. Presentation of Evidence. –

The parties may present such evidence they desire and shall produce such additional documents and witnesses as the Arbitrator/Arbitral Tribunal may deem necessary to an understanding and determination of the dispute(s). The Arbitrator/Arbitral Tribunal shall act according to merits of the case, without regard to technicalities or legal forms and need not be bound by any technical rule of evidence. All evidences shall be taken in the presence of the Arbitrator or a majority of the Arbitrators in an Arbitral Tribunal and all of the parties, except where any of the parties is absent, or has waived his right to be present.

Upon motion of either or both of the parties, or on its own initiative, the Arbitrator/Arbitral Tribunal may request any person, board, body, tribunal, or government office, agency or instrumentality, or cooperative to produce real or documentary evidences necessary for the proper adjudication of the issues.

The Arbitrator/Arbitral Tribunal may, likewise, request any person to give testimony at any proceedings for arbitration.

Unless the parties shall agree upon a different mode of presentation of evidence, the Arbitrator/Arbitral Tribunal may require the simultaneous or successive submission of affidavits of witnesses which contain both direct and rebuttal testimony, attached to which shall be the documents which they shall identify to support their respective declarations. These documents shall be properly marked for purposes of identification.

SECTION 8. Examination by Arbitrator/Arbitral Tribunal. –

The Arbitrator/Arbitral Tribunal may conduct the direct and cross-examination of such witnesses whether or not the parties are represented by counsel. Such counsel at his request may be allowed to ask additional direct or cross-examination questions of any witness.

SECTION 9. Documentary Evidence. –

As a general rule, all documentary evidence(s) presented and offered shall be accepted unless the same is found by the Sole Arbitrator/Arbitral Tribunal to be completely irrelevant or fraudulent.

SECTION 10. Offer of Documents. –

All documents shall be offered and filed within five (5) days from the termination of the hearing. All parties shall be afforded opportunity to examine such documents.

SECTION 11. Ocular Inspection. –

The Sole Arbitrator/Arbitral Tribunal may at any time during working hours, after due notice to the parties who may, if they so desire, be present, conduct an ocular inspection of any building, place or premises, including any work, material, implement, machinery, appliance or any object therein, and ask any officer, employee or laborer, or other person, as the case may be, for any information or data concerning any matter, or questions relative to the object of the controversy.

SECTION 12. Interim Measures. –

In the course of the proceedings, the Arbitrator(s) may, upon the request of either of both parties or upon his/their own initiative, issue orders as is necessary for the following:

- a. To ensure the enforcement of the award;
- b. To prevent loss or deterioration of property;

- c. To minimize or avoid undue delays in project or contract Implementation;
or
- d. Such other measures deemed by the Arbitrator(s) to be necessary to prevent a miscarriage of justice or abuse of rights of any of the parties.

SECTION 13. Termination of the Hearings. –

After all parties have completed its presentation and offer of evidence, the hearing is terminated.

SECTION 14. Submission of Memoranda. –

The parties are required to submit a written memoranda within five (5) working days from the termination of the hearing or from the date of the filing of additional documents as previously agreed upon, whichever is later.

SECTION 15. Award or Decision on the Pleadings. –

Instead of a formal hearing, the parties may agree to submit the issues for resolution after the filing of pleadings, documents, evidences, or memoranda.

**ARTICLE XV
THE ARBITRATION AWARD**

SECTION 1. Time of Award. –

Unless the parties agree otherwise, it is mandatory for the Voluntary Arbitrator/s to render a Decision or Award within thirty (30) days from the date the parties agreed to submit the case for resolution. The case is deemed submitted for resolution upon the lapse of the period to file written memoranda. There shall be no extension of time unless approved by the Institution.

SECTION 2. Form and Contents of Award. –

The Award shall be in writing and signed by the Arbitrator(s). 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 and shall be signed by the Voluntary Arbitrator/s. A copy of the Decision/Award shall be furnished the Institution/Authority. In the case of an Arbitral Tribunal, the decision of the majority shall prevail. However, each Arbitrator must indicate his/her concurrence or dissent.,

SECTION 3. Award by virtue of a Settlement. –

If the parties settle their dispute(s) during the course of the arbitration, the Arbitrator/Arbitral Tribunal, upon the request of the former, may set forth the agreed settlement as an Award.

SECTION 4. Decision as to Costs of Arbitration. –

In the instances wherein the discretion to determine the costs and sharing of the fees is left to the Arbitrator(s), the award shall also include the costs of the arbitration, and/or decide which of the parties shall bear the cost(s) or in what proportion the cost(s) shall be borne by each of them.

SECTION 5. Termination of Jurisdiction. –

The jurisdiction of the Arbitrator(s) over the dispute shall terminate upon the finality of the Award or Decision. However, where an appeal is perfected, jurisdiction terminates only upon a final disposition of the case by the appellate entity and/or a final determination of all incidental matters thereto.

SECTION 6. Notification of Award to Parties. –

The Secretariat shall notify and send to the parties a copy of the award signed by the Arbitrator or Arbitral Tribunal. Additional copies certified true (at cost) by the Director of the Secretariat shall be made available, on request and at any time, to the parties or their Counsel only.

SECTION 7. Deposit of Award. –

An original copy of each Award made in accordance with these Rules shall be deposited with the Secretariat. The Arbitrators and the Secretariat shall assist the parties in complying with whatever further formalities may be necessary.

SECTION 8. Motion for Correction of Award. –

Any of the parties may file a motion for correction of the award within fifteen (15) days from receipt thereof upon any of the following grounds:

- I. An evident miscalculation of figures, a typographical or arithmetical error;

- II. An evident mistake in the description of any party, person, date, amount, thing or property referred to in the award. The filing of the motion for correction shall interrupt the running of the period for appeal. A Motion for Reconsideration or for correction upon grounds other than those mentioned in this section shall not interrupt the running of the period for appeal.

SECTION 9. 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 becomes final and executory.

**ARTICLE XVI
EXECUTION OF FINAL AWARD**

SECTION 1. When Executory.-

An arbitral award shall become executory upon the lapse of fifteen (15) days from receipt thereof by the parties. If an arbitral award is appealed, such award shall become executory upon the issuance of the entry of judgment of the appellate entity.

SECTION 2. Execution and Enforcement of Awards.

As soon as a decision, order or award has become final and executory, the Arbitral Tribunal or Sole Arbitrator shall, with the concurrence of the Institution, motu proprio or on motion of the prevailing party, if allowed under the circumstances, issue a writ of execution requiring any sheriff or proper officer to execute said decision, order or award. In the event of non-availability of such officer, the enforcement of the award shall be filed with the appropriate court.

**ARTICLE XVII
SEPARABILITY CLAUSE**

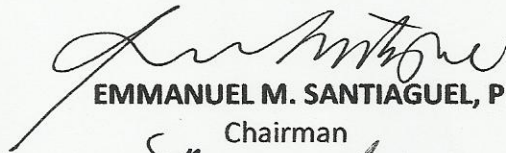
If for any reason or reasons, any portion or provision of these Rules shall be declared unconstitutional or invalid, all other parts or provisions not affected thereby shall continue to be in full force and effect.

**ARTICLE XVIII
EFFECTIVITY**

These Rules shall take effect fifteen (15) days after its publication and filing with the Office of the National Administrative Register (ONAR), U.P. Law Center or Official Gazette.

Approved per BOA Resolution No. 411-A, s-2011 dated December 14, 2011.

For the Board of Administrators


EMMANUEL M. SANTIAGUEL, Ph.D.
Chairman
