PROCEDURES FOR MEDIATION AND CONCILIATION CASES

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Pursuant to the provisions of Section 8, Republic Act No. 6939, authorizing the Cooperative Development Authority to mediate and conciliate disputes within a cooperative or between cooperatives, the Authority hereby promulgates the following procedures for the request/petition for mediation and conciliation, under the said section, to wit:

> "SECTION 8. Mediation and Conciliation — Upon request of either or both parties, the Authority shall mediate and conciliate disputes within a cooperative or between cooperatives; Provided, That if no mediation or conciliation succeeds within three (3) months from request thereof, a certificate of non-resolution shall be issued by the commission prior to the filing of the appropriate action before the proper courts."

SECTION 1. Title — The following shall be known as the procedures for Mediation and Conciliation Cases before the Cooperative Development Authority.

SECTION 2. Definition of Terms — As used in these procedures, the term:

a. Conciliation shall refer to a process where-by a conciliator designated by the Authority brings the representatives of the parties involved together, encourages them to discuss their differences and assist them in developing their own proposed solutions.

b. Mediation shall refer to a process whereby a third party designated by the Authority as mediator takes a more active part in assisting the parties reach an amicable solution to the problem/s and helps the conflicting parties develop or come out with an acceptable solution.

The mediator may submit his own proposal/s for the settlement of the disputes.

c. Mediator/Conciliator shall refer to an employee of the Authority designated to act as such in relation to such requests for mediation and conciliation. As far as practicable, the Legal Officer assigned to each Extension Office shall act as mediators/conciliators. The Extension Director shall have the authority to appoint his employees to act as mediator/conciliator in the absence of such Legal Officer.

SECTION 3. Petition — A verified petition or letter/request under oath for mediation/conciliation may be filed with the nearest Extension Office having jurisdiction over the cooperative. It may be in the form provided herein as Annex "A". It shall contain the following:

a. The name/s and address/es of the complainant/s;

b. The name/s and address/es of the persons being complained of;

c The issues and subject matter of the controversy;

d A showing that the complainant has undergone the grievance mechanism outlined in the cooperative's by-laws and with the federation or union to which the cooperative belongs, except when the dispute to be mediated or conciliated is between a primary cooperative and a federation or union; and

e The definite prayer of the complainant or the expected result.

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SECTION 4. Grounds for Petition/Request for Mediation And/Or Conciliation — (a) Matters involving the internal affairs of the Cooperative, such as but not limited to the rights and privileges of members, the rules and procedures for meeting of the General Assembly, Board of Directors and the different cooperative committee; the rules and procedures for the election and qualifications for officers, directors and committee members, the allocation and distribution of surpluses and reserves and all other matters involving the internal affairs of the cooperative that the Authority may deem vital to the operations of the cooperative, shall be cognizable by the Authority for conciliation and mediation conferences.

b) For disputes between cooperative, such matters may involve the area of operations of the cooperatives and other such matters involving disputes between cooperative.

SECTION 5. Matters not Cognizable Under These Procedures — The following are not cognizable for mediation and conciliation conferences and hence cannot be the subject of any amicable settlement:

a. Violation of Article 48, R.A. 6938;

b. Violation of Article 49, R.A. 6938;

c. Violation of Article 50, R.A. 6938;

d. Violation of Article 84, R.A. 6938;

e. Matters involving the grants and exercise of a franchise, license, or certificate of public convenience or necessity as stated in Article 98 paragraph (2) of R.A. 6938;

f. Violation of Article 114, R.A. 6938;

g Non-compliance with other laws as stated in Article 119, R.A. 6938;

h Violation of Section 124, R.A. 6938;

i Violation of Section 3 (o), R.A. 6939; and

j.Criminal cases cognizable by the regular and/or special courts.

SECTION 6. Comments — Upon receipt of such petition or letter-request, an order shall be issued from the Extension Office requiring the persons being complained of to file their comments thereto within fifteen (15) days from the receipt of the order. Such comments shall also include their availability for a conference.

SECTION 7. Prohibited Motions — The following motions shall not be allowed under these conciliation/mediation procedures:

a. Motion to Dismiss;

b. Motion for a Bill of Particulars;

c. Motion for Extension of Time to File Pleadings, Affidavits or any other paper;

d. Motion to declare petitioner/respondent in default; and

e. Motion for intervention.

SECTION 8. Conference — Upon receipt of the comments from the person being complained of, the Extension Office shall schedule the conference on a date and time convenient for all concerned, with notice all necessary parties given at least two (2) weeks prior to the initial conference.

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SECTION 9. General Preparations — (a) The mediator/conciliator shall have the following documents at his disposal during the said conference:

a. A copy of the 1987 Constitution;

b. A copy of R.A. 6938 and R.A. 6939;

c. A copy of these procedures and other pertinent issuances of the Authority;

d. A copy of the cooperative's articles of cooperation and by-laws;

e. A copy of the Complaint and the Comments; and

f. Other documents that may be deemed necessary for the conference.

b) As far as practicable, the mediator/conciliator shall be dressed in semiformal office attire if the conference is held within the Extension Office. If the conference is held in the field, he may opt to wear casual dress.

c) The room where the conference is to be held must be comfortable to all so that its atmosphere shall be conducive to the settlement of disputes.

SECTION 10. Purpose of Conference — At the start of conference, it shall be made clear that the purpose of the conference is to see whether any settlement or argument may be reached between the parties after a thorough discussion of the issues. The conference shall also define the issues clearly before any discussion.

SECTION 11. Conduct of Conference — a) It is not required that the parties are represented by legal counsels for the purposes of conciliation and mediation. However, they may be at or near the conference are in order to provide whatever legal advice their clients may require.

b) A conciliation/mediation conference is not a judicial proceeding per se. Hence, the technical rules and procedure shall not be applicable in such cases.

c) The conduct of the conference shall be non-adversarial in nature and shall proceed with the end in view of settling any internal dispute within the cooperative.

d) All parties involved or interested in the dispute shall be afforded the opportunity to ventilate their views concerning the dispute.

SECTION 12. Notes — Notes of the proceedings of the conference shall be made by the mediator/conciliator and shall form part of the records of the case. At the request of either party, stenographic notes or tape recordings of the meetings may be taken and transcripts will be made available at cost to be paid by the party requesting such transcript.

SECTION 13. Recess and Suspension — The conference may be recessed from time to time in order for the parties to consult with one another. It may also be suspended from day to day until the positions of both parties on all issues are properly ventilated and exhausted.

SECTION 14. Motion of Postponement — No motion for the postponement of a scheduled conference shall be entertained by the Authority.

SECTION 15. Settlement of Agreement — (a) Once all the issues have been ventilated and disposed of and parties have reached an agreement, it shall be reduced into writing and signed by the parties thereto and their representatives and the mediator/conciliator.

b) The agreement shall be clear and concise and must contain all points of the parties' understanding. Extra care

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must be taken in drafting the Agreement in order to minimize doubtful or vague interpretations that might result to further disagreement or worsening of the problem.

c) Copies of the Agreement shall be furnished to the parties at the soonest possible time for their own records.

SECTION 16. Responsibility of Mediator/Conciliator — The conclusion of an agreement does not per se terminate the responsibility of the mediator/conciliator over the case. He must monitor the implementation and compliance therewith to ensure that the parties have indeed normalized their relationship.

SECTION 17. Certificate of Non-Resolution — a) In the event that after the holding of conferences and the issues have not been resolved to the full satisfaction of all the parties concerned, a certificate of non-resolution shall be issued by the Extension Office to both parties, stating the reasons for non-resolution. Such certificate may be the basis for the filing of any action in the courts.

b) If no mediation of conciliation conference succeeds within three (3) months from the filing of the petition or letter-request, a certificate of non-resolution shall be issued by the Authority prior to the filing of appropriate action before the proper courts.

c) If no conference succeeds due to the non-attendance of either or both parties within the three-month period, a certificate of non-resolution may be issued stating the non-attendance of the parties and other pertinent information.

SECTION 18. Interpretation — These procedures shall be construed liberally in favor of the parties and in the interest of harmony in the cooperative in order to afford the parties sufficient efforts to resolve their disputes amicably among themselves.

Adopted: 23 Sept. 1991

(Sgd.) EDNA E. ABERILLA
Chairman

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