RESOLUTION ADOPTING AND PROMULGATING THE REVISED INTERNAL RULES OF THE COMMISSION EN BANC OF 2011

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WHEREAS, it is urgent and important that the commission en banc be guided by an updated and enhanced internal rules of procedure in its deliberations as it exercises its powers and functions under R.A. 8371 (IPRA), its implementing rules and regulations (IRR), and other pertinent laws;

WHEREAS, the technical working group (TWG) created for the purpose of drafting the updated and enhanced internal rules, with the honourable Percy A. Brawner as oversight commissioner, have reported out to the CEB and the latter, after due deliberation, approved the same.

WHEREFORE, the CEB resolves, as it hereby resolved, to approve, adopt and promulgate the following revised internal rules.

“The Revised Internal Rules of the Commission En Banc of 2011”

Section 1. Title. This Rules shall be known as The Revised Internal Rules of the Commission en banc (CEB), National Commission on Indigenous Peoples (NCIP).

Section 2. Scope. This Rules shall govern the sessions/deliberations of the CEB as
a collegial body performing quasi-judicial, quasi-legislative and administrative functions.

Section 3. Construction. This Rules shall be liberally construed in order to promote the spirit and purpose of the Indigenous Peoples Rights Act (IPRA) and to make government service accessible to the Indigenous Cultural Communities (ICCs)/Indigenous Peoples (IPs) and other stakeholders.

Section 4. Definitions. The terms and phrases defined under Section 3(a) to (p) of R.A. 8371, Section 4(a) and (b), of Administrative Circular No. 1, Series of 2003, and NCIP Administrative Order No. 1, Series of 2008 shall be given the same meaning when used herein.

As used herein, CEB shall mean Commission En Banc, OED as Office of the Executive Director, CoCC as Clerk of Court of the Commission, LAO as Legal Affairs Office, ADO as Ancestral Domains Office, RHO as Regional Hearing Officer, RRT as Regional Review Team, RRB as Regional Review Board, CSC as Community Service Center, CNO as Certificate of Non-Overlap, CP as Certification Precondition, FPIC as Free and Prior Informed Consent, FBI as Field-based Investigation. These acronyms shall be without prejudice to new ones or revisions thereof.

Section 5. Powers, Functions, Responsibilities of the CEB. All powers, functions and responsibilities of NCIP as provided for in R.A. 8371, its Implementing Rules and Regulations, and other relevant laws are lodged solely in the CEB. To give full meaning and understanding to the IPRA, the CEB as a collegial body shall exercise administrative, quasi-legislative, and quasi-judicial functions and shall arrive at decisions after extensive consultation and deliberation. The OED/Secretariat and the CoCC, in their respective functions and duties, shall see to it that all decisions, orders, resolutions, judgments and others, emanating from the CEB are strictly implemented and properly disposed of.

Section 6. Composition and the Chairman. The CEB is composed of seven (7) Commissioners appointed from the seven (7) Ethnographic Regions. The Chairman shall preside over all sessions of the CEB, In case of his/her effective absence or incapacity, he/she shall alternately delegate that authority to the other Commissioners.

Section 7. Nature of Deliberations. Proceedings before the Commission shall be consultative and deliberative in nature and must afford all members of the CEB to freely express their ideas or views on any matter subject of consideration. In making a collective decision, it must adhere to the primacy of consensus.

Section 8. Quorum. The presence of a majority of all the members of the Commission shall constitute a quorum. The vote or concurrence of a majority of the members constituting a quorum shall be the decision or resolution of the CEB except as otherwise provided hereafter.

Section 9. Sessions of the CEB. Sessions of the CEB may either be regular or special. The CEB Regular sessions shall be held every second week of each month for four (4) consecutive days beginning from Tuesday and ending Friday. The first two (2) days shall be devoted primarily to all matters outside quasi-judicial concerns while the remaining two (2) days shall be devoted primarily for quasi-judicial concerns/cases. Special sessions may be called by the Chairman or a majority of all the Commissioners whenever necessary, to consider matters that they deem urgent.

CEB sessions are open to the public, subject to regulation due to constraint of space, except when, in the exercise of sound discretion and for good reason/s, the CEB decides to convene in executive session on particular subject/s or case/s.

Section 10. Matters to be taken-up during CEB Sessions. Any administrative, quasi-legislative, quasi-judicial and other concerns may be the subject of deliberation during regular sessions.

Section 11. Venue of CEB Sessions. The official venue for sessions of the CEB shall be at the conference room in the central office, provided however, that the CEB may, in the exercise of sound discretion, decide to hold the same elsewhere to better serve the interest of the ICCs/IPs and for efficiency, effectivity and economy,

Section 12. Notice of Sessions. All concerned persons must be served written notice of en banc sessions attaching thereto the approved provisional agenda, and sent by appropriate memorandum transmitted through the fastest means, such as personal delivery, e-mail, fax transmission, or messengerial service, whichever is applicable. Notices for special sessions may be done through landline or mobile phone calls or text messaging or other similar expedient means of communication. Receipt of such notice by the person invited or directed to appear must be confirmed by the staff of the OED or the CoCC, as the case may be.

In quasi-judicial deliberations, before the inclusion of a particular case in the agenda, all appropriate notices, subpoenas, summonses, and/or orders pertinent thereto must have been served or caused to be served, whenever applicable, by the CoCC.

Section 13. Call for and Setting of the Provisional Agenda. The call for, and drafting of the provisional agenda shall be done by the OED. All requests for inclusion of items or concerns in the agenda from the Commissioners, Bureau, Directors, or other proponents shall be done in writing and supported by pertinent documents, if any, and transmitted to the OED at least ten (10) days before a regular session. Matters emanating from field offices in the various Ethnographic Regions proposed to be included in the agenda must be sent through the Commissioner from that Ethnographic Region, to afford the latter the opportunity to review the same, copy furnished the concerned bureau or bureaus, for appropriate evaluation.

Quasi-Judicial cases sought to be included is the responsibility of the CoCC and must also be done at least ten

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(10) days before the regular session.

Other matters of exceptional or urgent character, may be included in the agenda under “other matters” upon the consensus of the CEB.

Section 14. Approval of the Provisional Agenda. The proposed provisional agenda prepared by the OED shall be subject to the approval of the Chairman.

Section 15. Proper Decorum. Proper decorum must at all times be observed during en banc sessions. The Members of CEB are expected to be in business attire that is culturally sensitive. Resource persons must also be in the appropriate attire or uniform, as the case may be.

Cellular phones must be shut down or placed in silent mode and no still, mobile or video cameras and tape recording may be used without the express permission of the Chairman.

Section 16. Language to be used and Speaking Turns. The official languages to be used during CEB sessions shall be English and Pilipino. Use of other languages, whenever necessary, must be translated to English or Pilipino for documentation purposes. The use of intemperate language must be avoided at all times. Only those recognized by the Presiding Officer/Chairman are allowed to speak during sessions.

Section 17. Attendance/Absences. Attendance to CEB sessions by NCIP officials and/or personnel, when directed or invited as resource persons or presenters shall, as a rule, be given top priority, by such official/personnel.

Section 18. Order of Business. The Order of business shall be as follows:

A. For sessions other than for/on quasi-judicial matters:

- Prayer

- Determination of quorum

- Call to order

- Acknowledgment of guests/resource persons, if any

- Consideration of the Provisional Agenda

- Consideration of the minutes of the previous session

- Consideration of matters arising from the minutes

- Consideration of matters tabled during the previous session

- Consideration of matters/items stated in the current agenda

- Consideration of other matters

- Suspension or Adjournment

Recess, Suspension of session, adjournment. If the en banc session is scheduled for two or more days, at the end of each day, except the last, a motion for suspension is in order. Motion to adjourn is at the end of the last day, Recess may be done at any time during a day’s session.

A call for action by any member of the CEB must be in the form of a motion and must be duly seconded. The Chairman must always re-state any motion when calling for a consensus or vote and must also declare the result of consensus or vote.

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B. For sessions on quasi-judicial matters:

B.1 Where the CEB deliberates only by itself:

- Prayer

- Determination of quorum

- Call to Order

- Reading of the title of the case/s set for deliberation

- Discussion

- Determination of consensus or majority opinion

- Assignment of ponente

- Writing of the ponencia (on later date/s)

- Signing by those who concur (On later date/s)

- Promulgation of the decision (On later date)

Any member may opt to write a separate concurring opinion or dissenting opinion.

B.2 Where the CEB calls for actual hearing for the parties to be present for clarification on their respective causes and/or defenses:

- Proclamation of the entrance of the CEB

- Formal declaration of opening of the session (by the banging of the gavel) and few words from the Presiding Officer/Chairman

- Call for (by the Chairman), and reading of, the case/s calendar (by the COCC)

- Call for, and entry of, appearances

- Call for, and presentation of, case by counsel of each party, provided however, that the Commission may decide to direct the presentation of pertinent witnesses or evidences.

- Examination by the Commissioners. Commissioners may ask party/ies other than the counsel/s

- Issuance of order/s

- Adjournment

This shall be followed by Nos. 5 to 10 of B.1 above.

Section 19. Taking/Writing of Minutes. Except in CEB deliberations on quasi-judicial cases/matters, the minutes shall be taken and later prepared by the OED. Minutes of quasi-judicial deliberations shall be the responsibility of the COCC.

The taking of stenographic notes of proceedings during sessions will either be directed by the Chairman, the OED or the COCC. Transcript of Stenographic Notes (TSN) shall be prepared and certified by the assigned stenographer, and may be made available to parties-in-interst, upon request, at reasonable cost.

Section 20. Keeping of Minutes Journal or Book. The minutes, when approved shall constitute the journal of proceedings of each CEB session. It shall be prepared by the OED and the COCC, as the case may be, and

approved by the Chairman/Presiding Officer.

Section 21. Preparation of Resolutions. Draft Resolutions proposed for deliberation by the CEB shall be drafted by the bureau or office proposing the same and submitted to the OED who, in turn, shall forward the same to the Legal Affairs Office (LAO) for legal opinion or comment, at least five (5) working days before the scheduled CEB session, before including it in the provisional agenda.

Resolutions that must be signed by the Chairman and members of the CEB as a consequence of action/s during sessions shall be prepared by the OED and reviewed by LAO before submission to the CEB for signing.

Interlocutory and other minute orders of the CEB relative to quasi-judicial matters shall be prepared by the COCC and signed by the Chairman/Presiding Officer. CEB Decisions or Resolutions on quasi-judicial cases shall be done in accordance with Section 18 above.

Section 22. CEB Jurisdiction on Quasi-Judicial Cases. The jurisdiction of the CEB in quasi-judicial matters shall be governed by the Rules on Pleadings, Practice and Procedure before the NCIP, as amended, and other issuances.

Section 23. Rules of Order. In the absence of a duly adopted parliamentary rules to guide the CEB, the general rules in the conduct of business by deliberative bodies, including the Revised Robert's Rules of Order, will be used.

Section 24. Approval of CEB Resolutions. CEB resolutions shall be approved by consensus or simple majority vote, except for the approval/grant of CADT/CALT and CP, which must be by unanimous consensus or vote of those present constituting a quorum. No CADT/CALT or CP shall be acted upon by the CEB in the absence of the Commissioner representing the Ethnographic Region where the subject AD/AL is located or the proposed activity, program or project is to be undertaken.

Section 25. Separate or Dissenting Opinion. In quasi-judicial cases, any member may write and submit a separate concurring or dissenting opinion.

Section 26. Inhibition. No motion to inhibit the entire members of the CEB shall be entertained. Any Commissioner may voluntarily inhibit himself/herself from the consideration of any case/matter before the CEB, on valid grounds as may be determined by the CEB based on facts and circumstances.

Section 27. Speedy disposition of Quasi-Judicial cases. The CEB shall use every and all reasonable means to ascertain the facts in each case and decide speedily and objectively with due regard for the requirements of due process applicable to determinations done by administrative bodies.

Section 28. Duty to Conciliate and Mediate. In the exercise of its jurisdiction, the CEB must observe the primacy of customary law and shall exert all effort towards the amicable settlement or resolution of the dispute.

Section 29. Duty of the Legal Affairs Office (LAO). The Director of the Legal Affairs Office, or his/her duly authorized representative, shall always be present during the CEB deliberations as resource persons, whenever needed.

Section 30. CEB Deliberations on CADT/CALT Applications. Notwithstanding some of the foregoing provisions, CEB deliberations on CADT/CALT applications shall be as follows:

- Any CADT/CALT application determined by the ADO Director to be ready for CEB deliberation after consultation with the concerned Ethnographic Commissioner shall be endorsed to the CEB, through the OED, within ten (10) days prior to a regular session, for inclusion in the provisional agenda of the next en banc session;

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- Before the en banc session at which the CADT/CALT application is to be deliberated upon, the ADO Director must summon the appropriate and concerned field personnel, the applicant, and at least two (2) duly authorized representatives of the concerned ICC/IP, to be present as resource persons during the deliberation. The presentation of the application before the CEB shall be the responsibility of the ADO Director or his/her duly authorized representative; and

- During the deliberation, the CEB must determine compliance with the procedural and substantive requirements of law and the applicable Rules or Guidelines; the veracity of supporting proofs; correctness of technical descriptions; the party-in-interest; and other pertinent matters, to its full satisfaction, before taking any action thereon. In so doing, the CEB shall be assisted by the Director of ADO, the concerned Regional Director and Provincial Officer or Community Service Center head, and other appropriate bureau or field personnel.

Section 31. Disposition of the application. The CEB may grant/approve or deny/ disapprove the application. It may also remand the application to ADO for completion of lacking requirements before further action.

Section 32. Preparation and Signing of CADT/CALT. Should the application be approved, the appropriate CADT/CALT in the name of the owner/s shall be drafted by ADO and reviewed by the LAO before its printing into the formal judicial form. Thereafter, it shall be presented to the OED for signing by the Chairman, and the concerned Commissioner from the Region.

Section 33. Denial of Application/Petition. In case of denial of the application/ petition by the CEB, the ADO shall, within five (5) days from date of receipt of the resolution, notify the applicant/petitioner of the denial, attaching to the notice a copy of the resolution. The notice may indicate, among others, the remedy/ies available to the applicant/petitioner, if any.

Section 34. CEB Consideration of CP Applications. CEB consideration of applications for CP shall be as follows:

- Applications for CP that are determined by the ADO Director to be ready for deliberation, after consultation with the Commissioner from the concerned

Ethnographic Region, shall be endorsed by him/her to the OED at least ten (10) days before a regular session for inclusion in the provisional agenda. Once transmitted to the OED, the ADO Director shall prepare, or cause the preparation of an executive summary, and along with other pertinent documents comprising the record of the application, furnish the Chairman and each member of the CEB at least five (5) days before the en banc session;

- Presentation of the application during the en banc session shall be the responsibility of the ADO Director or anyone in ADO duly authorized by him/her;

- The parties to the MOA, which are the First Party (Proponent) and the Second Party (ICC/IP), shall be required to attend the deliberation as resource persons. These parties shall be represented by the President or the duly authorized representative/s and at least two (2) or more duly authorized ICC/IP representatives, respectively. Concerned officers and/or personnel of NCIP shall also be directed to appear as resource persons, one of whom should be the head of the RRT or a member thereof;

- As a result of the deliberation, the CEB may approve, disapprove or remand the application for further processing;

- Should the application be approved, ADO shall prepare the Resolution and the corresponding CP. The Resolution and CP shall be reviewed by the LAO and submitted to the OED. Thereafter, OED notifies the CEB of the readiness of the documents for signing by the CEB members and Chairman;

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- After the signing, the documents shall be forwarded to ADO for recording and custody; and

- If the application is not approved, the ADO Director shall properly inform the endorsing agency. If remanded, the ADO shall act on it accordingly.

Section 35. Recording of Certification Precondition. The approved and signed Resolution and CP shall be duly recorded and filed by the ADO. An original copy thereof shall be transmitted to the endorsing agency, office or person. Copies thereof shall also be transmitted to the concerned Regional Director, Provincial Officer and/or CSC head. A copy may also be released to the proponent upon its formal request.

Section 36. Saving Clause. Any matter not covered by any provision of this Rules shall be the subject of action of the CEB whenever the need arises.

Section 37. Repealing Clause. All previous Resolutions or provisions thereof, inconsistent with or contrary hereto are deemed superseded or modified.

Section 38. Effectivity. This Revised Internal Rules shall take effect fifteen (15) days after its publication.

Adopted: 18 May 2011

(SGD.) ZENAIDA BRIGIDA H. PAWID

(SGD.) ATTY. PERCY A. BRAWNER

Commissioner

Commissioner

(SGD.) CONCHITA C. CALZADO

(SGD.) DIONESIA O. BANWA

Commissioner

Commissioner

(SGD.) COSME M. LAMBAYON

(SGD.) SANTOS M. UNSAD

Commissioner

Commissioner

(SGD.) ATTY. ROQUE N. AGTON

Chairman

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