REVISED GUIDELINES GOVERNING THE CONDUCT OF CONCILIATION-MEDIATION PROCEEDINGS BEFORE THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA)

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Pursuant to Section 8 of RA 6939, which provides, “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 Authority prior to the filing of appropriate action before the proper courts,” the Authority hereby adopts and promulgates the following Guidelines:

Section 1. Scope – These Guidelines shall govern the conduct of conciliation or mediation proceedings before the CDA.

Section 2. Coverage – These Guidelines shall apply to all disputes among members, officers, directors and committee members, and intra-cooperative, inter-cooperative, inter-federation or inter-federation disputes shall, as far as practicable, be settled amicable in accordance with the conciliation or mediation mechanism, embodied in the by-laws of cooperatives and in such other applicable laws.

The conciliation and mediation committee of the cooperative shall facilitate the amicable settlement of intra-cooperative disputes and disputes among members, officers, directors, and committee members.

Should such conciliation or mediation proceedings fail, the matter shall be settled through voluntary arbitration: Provided, however, That before any party can validly file a complaint with the Authority for voluntary arbitration, it must first secure a certification from its conciliation and mediation committee and from the cooperative union or federation to which it belongs that despite all efforts to settle the issues, the same have failed.

The jurisdiction of the voluntary arbitrators shall be exclusive and original and their decisions shall be appealable to the Office of the President. The Authority shall issue and adopt the proper rules of procedures governing arbitration as the primary and exclusive mode for dispute resolution in accordance with the Alternative Dispute Resolution Act of 2004.

Section 3. Definition of Terms. As used in these guidelines, the following terms shall mean:

a)

Conciliation is a process whereby a neutral third party takes a vigorous and active role in assisting disputants formulate solutions in order to reach an amicable settlement.

b)

Mediation is a process whereby neutral third-party facilitates the negotiation between disputing parties to reach a voluntary, mutually satisfactory outcome.

c)

Conciliation-Mediation Officer is an employee of the Authority designated to act as such in relation to such requests for mediation and conciliation. The extension office director shall have the authority to appoint other CDA Regional employees qualified to act as mediator/conciliator.

d)

Conflict Coaching is a stage in the conciliation-mediation process, the objective of which is to clarify the issues and interests of each party.

e)

Certificate of Non-Settlement is a document issued by the Primary Cooperative or Union/Federation Conciliation-Mediation Committee in case of failed or refused Conciliation-Mediation.

f)

Certificate of Non-Resolution is a document issued by the CDA in case of failed or refused Conciliation-Mediation.

g)

Failed Conciliation-Mediation is a situation where no settlement is reached by the disputants after the conflict coaching has started.

h)

Refused Conciliation-Mediation is a situation when one or both parties refused to enter Conciliation-Mediation or failed to appear despite notice or despite signing of the Agreement to Conciliate-Mediate.

i)

Conciliated-Mediated Settlement Agreement is written agreement following successful conciliation-mediation proceedings prepared and duly signed by the parties with the assistance of the Conciliator-Mediator.

j)

Party in interest is any member, officer, committee or cooperative who stands to be benefited or injured by the settlement agreement.

Section 4. Exclusions Matters. The following matters are not covered by mediation and conciliation proceedings:

a)

Violation of Article 47 of RA 9520 (Dealings of Directors, Officers or Committee Members);

b)

Violation of Article 48 of RA 9520 (Disloyalty of Directors);

c)

Violation of Article 49 of RA 9520 (Illegal Use of Confidential Information);

d)

Violation of Article 83 of RA 9520 (Right to Examine);

e)

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All matters relating to franchise or certificate of public convenience and necessity of public service cooperatives as stated in Article 111 (2) of RA 9520;

f)

Non-compliance with other laws as stated under Article 125 of RA 9520;

g)

Violation of Article 140 of RA 9520(Penal Provisions);

h)

Issues which are criminal in nature cognizable by the regular or special courts;

i)

Violation of Article 125 of RA 9520 (Prohibition);

j)

Other disputes which is not subject to a compromise; and

k)

Other matters which fall under the administrative and regulatory functions or matters that pertain to compliance with the mandatory requirements of law and related issuances.

Section 5. Filing of the Complaint – Any party in interest shall file his/her/its complaint with the CDA.

Section 6. Contents of the Complaint. – The complaint shall be in writing. It shall contain the name/s, position/s in the cooperative, address/es of the parties including a narration of facts and statement of issues. The complaint shall be accompanied by a Certificate of Non-Settlement issued by the conciliation/ mediation committee by a primary cooperative and/or union/federation.

Section 7. Preliminary Conference – The primary purpose of the preliminary conference is to confirm the parties' interest to enter into conciliation-mediation and to choose the conciliator-mediator. A Notice of conference which states the venue, time and date of the conference, shall be in writing and signed by the Conciliation/Mediation Officer.

If one or all parties does/do not appear in the scheduled conference, the Conciliator shall send another Notice for another scheduled conference. Failure to appear without valid cause shall be construed as Refused Conciliation-Mediation.

Section 8. Order of Conciliation-Mediation Proceedings

a)

Filing of Complaint. The Complainant/s shall file the complaint with the Authority.

b)

Issuance of Notice of Preliminary Conference. The Conciliation/ Mediation Officer shall issue a Notice of Preliminary Conference to the parties.

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c)

Conduct of Preliminary Conference by the Officer. During the conference, the Conciliation/Mediation Officer shall encourage the parties to mediate.

d)

Notice to the Parties for Conciliation-Mediation. The Conciliation/ Mediation Officer shall notify the parties to the scheduled Conciliation- Mediation Conference. The Conciliation-Mediation proceedings shall immediately commence with a Conflict Coaching session.

f)

Conduct of the Conflict Coaching Session. The Conciliation/Mediation Officer may initially meet with the disputants separately in a conflict coaching session, with the aim of clarifying their respective issues and interests. The Conciliation/Mediation Officer then proceeds to clarify the issues, facilitates to generate options and agree on the options that best meet their needs and interests.

g)

Signing of the Settlement Agreement. When the conciliation-mediation is successful in generating an agreement, the Conciliation/Mediation Officer shall prepare a written agreement for the parties' approval and signature. Each party shall be provided with a copy of the agreement.

If the conciliation/mediation is not successful before the CDA, a Certificate of Non-Resolution shall be issued by the Authority within five (5) calendar days from termination of conference/failure to appear during the preliminary conference despite due notice or written notice of parties' non-interest in conciliation-mediation

Section 9. Validity of Certificate of Non-resolution. The Certificate of Non-resolution shall be valid for one hundred twenty (120) days from the date of its issuance.

The issuance of Certificate of Non-resolution shall be non-appealable.

Section 10. Nature of Conciliation/Mediation Proceedings – The proceedings and all incidents thereto shall be kept strictly confidential, unless otherwise specifically provided by law. All admissions or statements made therein shall be inadmissible for any purpose in any proceeding, nor divulged to any other third person.

Any communication made by one disputant to the Conciliation/Mediation Officer, either during conflict coaching or at anytime during the Conciliation- Mediation proceedings, which are not intended to be known by the other party or by anyone shall not be divulged. Documents, reports, position papers and affidavits submitted by one disputant must not be shown to the other without the consent of the former.

Both parties shall not rely or introduce as evidence in any other proceeding, the following:

a)

Views expressed or suggestions made by the other disputant in respect of a possible settlement of the dispute;

b)

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Admissions made by either disputant in the course of the proceedings;

c)

Proposals made by the Conciliation/Mediation Officer;

d)

The fact that the other disputant had indicated his willingness to accept a proposal for settlement.

No transcript, minutes or any record of the Conciliation-Mediation proceedings shall be taken. Any personal notes taken by the Conciliation/ Mediation Officer on the proceedings shall be destroyed after the termination of the proceedings. Such transcript, minutes or notes shall be inadmissible as evidence in other proceedings.

The Rules of Evidence shall not apply to the proceedings.

Section 11. Duration of the Conciliation-Mediation Proceedings – The conciliation-mediation proceedings must be completed within three (3) months from the request thereof.

Section 12. Failure of Conciliation-Mediation – The conciliation-mediation proceedings shall be declared as failed under the following circumstances:

a)

When no settlement is reached by the parties within three (3) months from the start of the conflict coaching;

b)

When any or both of the parties decide to terminate the proceedings if, in his/her/their judgment, further efforts at Conciliation-Mediation are unlikely to lead to a resolution of the dispute.

Section 13. Repealing Clause – These Guidelines repeal Memorandum Circular No. 2007-03 and other related issuances which are inconsistent herewith.

Section 14. 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 shall remain in full force and effect.

Section 15. Effectivity – These Guidelines shall take effect upon approval by the Cooperative Development Authority Board of Administrators and fifteen (15) days after its publication in the Official Gazette.

APPROVED per CDA Board of Administrators Resolution No. 206, s-2013 dated September 11, 2013.

FOR THE BOARD OF ADMINISTRATORS:

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