

DEPARTMENT ADMINISTRATIVE ORDER No. 20 - 02
Series of 2020

**SUBJECT: REVISED RULES OF MEDIATION AND ADJUDICATION OF THE
DEPARTMENT OF TRADE AND INDUSTRY**

WHEREAS, Department Administrative Order No. 07, Series of 2006 (DAO No.07, S.2006) known as the "Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws" was issued with the end goal of providing a comprehensive process of mediation and adjudication for both consumer complaints and formal charges filed with DTI;

WHEREAS, to further achieve a unified mediation process, Department Administrative Order No.05, Series of 2007 (DAO No.05, S.2007), otherwise known as the "Rules on Mediation in the Resolution of Inquiries, Complaints and/or Cases Filed with the Department of Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws Supplementing Department Administrative Order No. 07, Series of 2006" was promulgated;

WHEREAS, amendments to certain provisions of the aforementioned DAO No.05, S.2007 and DAO No.07, S.2006 were made through the issuance of "Department Administrative Order No.13-02, Series of 2013 (DAO No.13-02, S.2013), to attain simple and easy access in seeking redress to the complaints and grievances filed by consumers;

WHEREAS, due to the various campaigns and programs initiated by DTI pertaining to consumer protection, which led to consumers becoming more aware of their rights and more acquainted with the processes by which to address their grievances resulting in the considerable increase of consumer complaints, there is a need to re-adjust the periods prescribed in the mediation and adjudication processes in order that quality of the services dispensed by the offices concerned may not be compromised, subject to the applicable provisions of Republic Act No. 11032 (RA No.11032), otherwise known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018";

WHEREAS, Department Administrative Order No.17-08, Series of 2017 (DAO No.17-08, S.2017), or the "Guidelines on the Grant of Bagwis Award" was issued to uphold consumer rights and interest and to practice business ethics;

WHEREAS, there is a need to revise the procedures in mediation and adjudication of cases for the purpose of more efficient, expedient and convenient disposition of cases.

Enabling Business, Empowering Consumers

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NOW THEREFORE, the following Order is hereby prescribed and promulgated for the information, guidance, and compliance of all concerned.

RULE I TITLE and SCOPE

Section 1. Title. This Order shall be referred to as the "Revised Rules of Mediation and Adjudication of Consumer Complaints."

Section 2. Scope. This Order shall apply to the following:

- 2.1. Consumer complaints for violation of the provisions of the Consumer Act of the Philippines; and
- 2.2. Consumer complaints for violation of the provisions of all other Fair Trade Laws.
- 2.3. This Order shall not apply to cases filed by DTI *motu proprio*.

Section 3. "No-Wrong-Door" Policy. Notwithstanding the provision in the preceding Section, any consumer complaint filed with DTI, the subject matter of which does not fall under its jurisdiction, shall be accepted for appropriate assistance subject to the limitations imposed by law.

RULE II INITIAL COMPLAINTS

Section 1. Initial Complaint. An initial complaint is a written statement filed by a consumer, personally by mail or through any electronic means or otherwise, expressing grievance over a violation of the Consumer Act of the Philippines and other trade and industry laws arising from consumer transaction.

Upon its filing, the concerned DTI Office or officer shall ensure to be obtained the following:

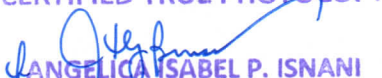
1. Names, addresses and contact details of the parties; and
2. Brief narration of facts including relief prayed for and all evidence necessary to support the claim.

Section 2. Where Filed. Subject to the options available to complainant under Section 2 of Rule IV as well as the rule on change of venue provided thereunder, all complaints under this Rule shall be filed with the Fair Trade Enforcement Bureau-Mediation Division (FTEB-MD), or with DTI-Regional Office (DTI-RO), or DTI-Provincial Office (DTI-PO).

Section 3. Complaints Against "Bagwis Awardee" Business Establishments. Upon receipt of the complaint against a Bagwis Awardee business establishment, the concerned DTI Office shall, within two (2) working days, refer/endorse, through registered or electronic mail, the complaint to the concerned business establishment which, in turn, shall address the complaint within seven (7) calendar days from receipt of said referral or endorsement.

On or before the seventh (7th) day of the period above-mentioned, the concerned business establishment shall report in writing, through registered or electronic mail, to

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the concerned DTI Office of the action taken on the complaint: Provided, That complainant shall not be precluded from notifying, by any means convenient to him/her, the DTI Office of the outcome of the action taken on his/her complaint not later than three (3) working days following the lapse of said 7-day period. If the complaint has been settled, the fact of such settlement shall be recorded by the concerned DTI Office, otherwise, a Notice of Mediation shall be issued pursuant to Section 3, Rule III hereof.

In the event that no report is made by the concerned business establishment within the 7-day period, and no notice is given by the complainant within the 3-day period above-mentioned, the complaint shall be deemed to have been settled and shall be recorded as such. Nevertheless, if it be known thereafter that the complaint remains unsettled with complainant manifesting his/her interest to pursue the same, the concerned DTI Office shall issue a Notice of Mediation therefor pursuant to Section 3, Rule III hereof.

However, if the complaint shows that prior to its filing, the same had already been brought to the attention of the concerned business establishment but no action was taken thereon, or even if there was, complainant was not satisfied thereof, the concerned DTI Office, in lieu of the aforementioned referral/endorsement, shall directly issue a Notice of Mediation.

Sec. 4. Complaints Against "Non-Bagwis Awardee" Business Establishment. Upon receipt of the complaint against a Non-Bagwis Awardee business establishment, the concerned DTI Office shall immediately issue a Notice of Mediation.

RULE III MEDIATION

Section 1. Mandatory Mediation. Mediation is an intervention by which DTI, through its appointed or designated mediation officers, facilitates communication and negotiation between the parties, and assists them in reaching a voluntary settlement of their dispute.

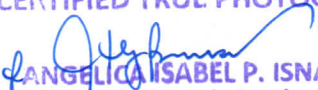
Mediation is mandatory in all consumer complaints involving violation of the Consumer Act of the Philippines and other Fair Trade Laws. It is a condition precedent for the filing of formal complaint for adjudication under Rule IV hereof.

Section 2. Confidentiality Rule. All information obtained during the mediation proceedings shall be privileged and confidential. This rule of confidentiality shall be governed by Sections 9, 10, 11 and 12 of Republic Act No. 9285 (RA No. 9285) or the "Alternative Dispute Resolution Act of 2004."

This rule shall likewise apply as to the existence of mediation proceedings as well as the fact of the filing of initial complaint, except after a formal complaint is subsequently filed pursuant to Rule IV.

Section 3. Schedule of Mediation. Upon receipt of the complaint, or after notice of failure of the Bagwis Awardee business establishment to settle the complaint, as the case may be, a Notice of Mediation shall be issued within three (3) working days stating therein the date, time and place of the mediation conference.

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The Notice of Mediation shall be served: (1) by personal service, courier or registered mail at the principal place of business of the establishment complained of, or its store, branch or station where the transaction involved took place; or (2) via e-mail at its online address as listed with the Securities and Exchange Commission (SEC) or DTI, if any or as prescribed by complainant.

In case the Notice cannot be served due to business closure, incorrect address, or the address given cannot be located, the Mediation Officer shall terminate the mediation proceedings and issue a Certificate to File Action (CFA).

Section 4. Mediation Period. The mediation proceedings shall be completed within seven (7) working days from the service of Notice of Mediation upon the business establishment complained of.

Upon agreement of both parties, such period may be extended for not more than ten (10) working days as may be allowed by applicable laws and regulations.

Section 5. Appearance of Parties. The parties shall appear personally at every mediation conference. A party may, however, appear through an agent or representative provided a written authority is presented to, and filed with, the Mediation Officer. The said authority shall expressly state that the agent or representative is authorized to enter into agreement for the settlement of the case.

A corporation or a juridical entity shall issue a duly executed Secretary's Certificate to its representative for the purpose of this Section.

Section 6. Effects of Mediation and Termination of Mediation.

6.1 *Mediation Agreement.* If a settlement of the complaint is arrived at, the parties, personally or through their duly authorized representatives, shall execute in writing a duly signed Mediation Agreement attested to by the Mediation Officer, setting forth therein the terms and conditions thereof.

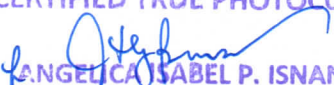
The Mediation Officer shall keep a copy of the Mediation Agreement and shall accordingly record the fact of the settlement of the case between the parties.

6.2 *Submission of Mediation Agreement for Decision.* Submission of Mediation Agreement to the Adjudication Office shall not be required. Nevertheless, the parties may, by mutual consent, seek the issuance of judgment on their agreement, in which case, they shall jointly file, within three (3) working days after the execution of the Mediation Agreement, before the Adjudication Office a verified petition, stating therein the fact of the agreement as well as the relief praying for approval thereof and issuance of decision based thereon, and attaching to said joint complaint the original or certified copy of the Mediation Agreement. The lapse of the 3-day period, however, shall not preclude the parties from filing their joint petition for the issuance of judgment on the agreement provided the same is filed within the period of prescription of action provided under DAO No.07, S2006.

6.3 *Certificate to File Action (CFA).*

a. In case of non-submission within the 3-day period mentioned in the preceding subsection and non-compliance of the mediation agreement, the concerned

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DTI Office, upon request of the aggrieved party within the prescriptive period to file action, shall issue a CFA with copy/ies thereof served on the adverse party/ies.

- b. When no settlement is reached by the parties, or the party complained of or his/her duly authorized representative fails or refuses to appear at the scheduled mediation conference despite due notice, the Mediation Officer, with or without the request of complainant, shall forthwith issue a CFA with copies thereof served on the parties.

6.4. *Complaint Deemed Withdrawn.* If complainant or his/her representative, without good cause, fails or refuses to appear in two (2) consecutive scheduled mediation conference despite due notice, the complaint shall be considered withdrawn without prejudice to the refiling of the same, subject to prescriptions of action under applicable laws or rules and regulations: Provided, that a similar failure or refusal to appear after such refiling shall cause the complaint to be considered permanently withdrawn with prejudice. In either case, the Mediation Officer shall issue a corresponding Notice served on the parties.

6.5 *Termination of Mediation and Its Effects.*

- a. The lapse of the 3-day period mentioned in Section 6.2 of this Rule without the parties submitting the mediation agreement shall terminate the mediation process. By the said termination, the prescriptive period of the action shall resume to run until a CFA is issued pursuant to Section 6.3(a) of this Rule: Provided, The prescriptive period shall remain to run despite the issuance of CFA if within ten (10) working days after said issuance, no complaint is filed under Rule IV.
- b. Mediation is terminated upon service on the complainant of the CFA issued under the circumstances mentioned in Section 6.3(b) of this Rule. The prescriptive period shall resume to run if no formal complaint is subsequently filed under Rule IV within ten (10) working days following the service of the CFA on complainant.


RULE IV ADJUDICATION

Section 1. Formal Complaint. A formal complaint, which is filed for the purpose of adjudication, is a written allegation of violation/s of the Consumer Act of the Philippines or of any Trade and Industry Laws arising from consumer transaction.

1.1 *Essential Requirements.* All formal complaints shall be duly verified, dated and signed, and shall set forth/attach the following:

- a. Names and addresses of the parties;
- b. An allegation that the complaint went through mediation process pursuant to Rule 3 hereof and the same was certified for adjudication.
- c. Concise statement of material facts and circumstances constituting the cause/s of action, including the date, time and place of commission of the act/s or omission/s complained of;

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- d. Certificate to File Action, Sworn statements of witnesses and/or object or documentary evidence, if any;
- e. The reliefs prayed for, and the preliminary or preventive measure/s sought, if any; and
- f. A certification of non-forum shopping.

1.2. *Formal Requirements.* A complaint shall be filed in duplicate. It shall be captioned by the name and address of the proper DTI Office, the docket number, and the names of the parties whose participation are indicated.

The complaining party shall be indicated as the "Complainant," and the party complained of, the "Respondent."

1.3. *Contents of Verification and Certification of Non-Forum Shopping.* Verification and certification of non-forum shopping shall comply with the requirements provided in Sections 4 and 5, Rule 7 of the Rules of Court: Provided, that a false certification, which constitutes a willful and deliberate forum shopping, shall be a ground for a *motu proprio* summary dismissal of the complaint with prejudice.

1.4. *Incomplete Formal Complaint.* A complaint lacking of one or some of the essential or formal requirements shall not be allowed to be filed with the Adjudication Office or proper DTI Office. However, to avoid unnecessary cost or inconvenience, the Adjudication Officer or DTI office concerned shall give complainant the needed assistance if the insufficiency or defect in the complaint consists in those that can be administered within its capacity or capability, such as, but not limited to, administration of oaths in the verification, certificate of non-forum shopping or affidavits.

In the event that an insufficient or defective complaint had been allowed to be filed, the same shall not be dismissed until after complainant shall have failed to remedy his/her complaint within three (3) working days from notice of the order issued by the Adjudicating Officer pertaining thereto. Dismissal issued pursuant to this Section shall be without prejudice to the refiling of a duly accomplished complaint.

Section 2. Venue of Filing and Exercise of Jurisdiction. In the absence of a prior written agreement by the parties, a formal complaint may be filed, personally or through courier or registered mail, with the DTI-Fair Trade Enforcement Bureau-Adjudication Division (FTEB-AD) in the National Capital Region (NCR); or, with the DTI-Regional Office (DTI-RO) or DTI-Provincial Office (DTI-PO) of the following places, at the option of complainant:

- a. Place where transaction was done, wholly or partially;
- b. Place where the violation of the Consumer Act of the Philippines was committed, wholly or partially;
- c. Place of the execution of the contract sued upon;
- d. Place of residence of the complainant at the time of the transaction, or at the time of the violation, or at the time of the filing of the complaint; and
- e. Place of residence of the respondent, or business domicile if the respondent is a juridical person, at the time of the transaction, or at the time of violation, or at the time of the filing of the complaint.

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Subject to the right of the parties to initiate a judicial action pursuant to Article 162 of the Consumer Act of the Philippines, the filing of the formal complaint in one of the DTI Offices above-mentioned confers to such office the sole authority to exercise jurisdiction over the same to the exclusion of the other DTI offices, unless a subsequent change of venue pursuant to this Rule is made.

2.1. *Change of Venue.* After the filing of the complaint but before the submission of the parties' position papers, venue of the adjudication of the case may be transferred to another DTI Office upon joint motion of the parties, or upon motion of one party but with conformity of the other.

2.2. *Transmittal of Case Records.* Within two (2) working days following the receipt of motion to transfer venue, the proper DTI Office or adjudication officer shall issue a corresponding transmittal order and cause the same, together with all of the original records of the case, to be forwarded by personal service or by courier, with proof of service and receipt, to the DTI Office where transfer is sought or ordered. The transmittal order shall state the list and short description of documents and papers contained in the record of the case.

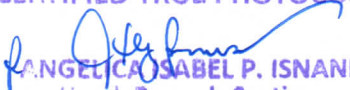
Section 3. Assignment of Adjudication Officer. Upon receipt of the complaint, the concerned DTI Office shall outright assign the same to its appointed or designated Adjudication Officer: Provided, that in case the office has two (2) or more Adjudication Officers, the assignment shall be made by raffle system: and, Provided further, that the complaint shall not be assigned or raffled to an Adjudication Officer who was designated to mediate, and actually mediated, the same case.

Section 4. Powers and Duties of the Adjudication Officer. The Adjudication Officer shall exercise the following powers and duties:

- a. Issue Notice of Adjudication;
- b. Administer oaths and affirmations;
- c. Issue preliminary orders, preventive orders, temporary orders and other processes;
- d. Regulate and maintain order in the adjudication proceedings;
- e. Issue *subpoena duces tecum*;
- f. Receive evidence of the parties;
- g. Rule upon proofs proffered;
- h. Rule on any procedural request;
- i. Render a decision in accordance with Section 13 of this Rule; and
- j. Perform such other functions as would contribute to the just, speedy and cost effective resolution of the case.

Section 5. Issuance of Notice of Adjudication (NOA) and Contents Thereof. On the next working day following the assignment of the complaint, the Adjudication Officer shall issue a NOA stating therein the name of the concerned DTI Office as well as the names of the parties, and directing both parties to submit their respective position papers, with a notice that if no position paper is submitted within the period fixed by these Rules, an order shall be issued declaring the concerned party to have waived his/her right to file one and submitting the case for decision based on the documents and evidence available on records.

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Where a petition is jointly filed by the parties to seek judgment on their mediation agreement pursuant to Section 6.2 of Rule III, the Adjudication Officer shall, instead of a NOA, issue an Order declaring that the case is submitted for decision.

Section 6. Service of Notice of Adjudication (NOA).

- 6.1 *On the Complainant.* Service of NOA shall be made on the complainant or his/her counsel, if any, either personally, by courier, registered mail, or by e-mail at the address stated in his/her formal complaint;
- 6.2. *On the Respondent.* The NOA, which shall be attached with a copy of the formal complaint, shall be served either by: (a) personal service, that is, by delivering personally a copy thereof to the respondent or his/her counsel, if any, or by leaving it with any person of sufficient age and discretion residing at the residence of respondent, or employed at his/her principal place of business or branch thereof where the transaction involved took place; (b) or, by courier or registered mail at the principal place of business of respondent, or its store, branch or station where the transaction involved took place.

In case of refusal by respondent to receive the NOA that is delivered personally, a tender of the same to him/her or any person at any of the places mentioned in the preceding paragraph, shall constitute and complete a valid service.

6.3. *Proof of Service and Receipt.*

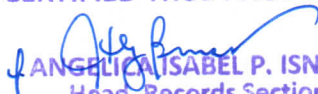
- a. *Personal Service.* Proof of personal service of NOA consists of the written acknowledgment of the party served, showing the name and signature of the actual receiver as well as the date of service; or, in case of service is made by means of tender, a written report by the DTI personnel-server stating therein the date, place and circumstances of the service.
- b. *Courier Service or Registered Mail.* Proof of service by courier or registered mail is evidenced by the return receipt/slip/card issued by the courier service or the mailing office showing therein the name and signature of the receiver as well as the date of receipt.

Section 7. Jurisdiction Over Respondent Acquired. Service of the NOA and a copy of the formal complaint with its annexes/attachments on respondent shall be equivalent to a service of summons.

Section 8. Unserved NOA and Archiving of the Case. When the NOA cannot be served upon the respondent due to business closure, incorrect address of respondent or the address given cannot be located, the Adjudication Officer shall issue an order directing complainant to furnish, within five (5) working days from receipt of the said order, the Adjudication Office the true and correct address of the respondent.

If the NOA remains unserved on the ground that respondent cannot be located, the Adjudication Officer shall issue an Order to archive the complaint subject to revival thereof within the remaining prescriptive period.

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Section 9. Filing and Service of Position Papers, Pleadings, Notices, Orders and Decisions.

- a. *Filing and Service of Position Papers and Other Pleadings.* Position Papers shall be accompanied by their supporting affidavits and documentary evidence. They shall be filed in their original copies with the concerned DTI Office within a non-extendable period of ten (10) working days from receipt of NOA, except that photocopies of the supporting documents may be allowed to be filed for good reason and the same bear the signatures or initials of the Adjudication Officer, or, in his/her absence, any Adjudication Officer of the same DTI Office, which signatures or initials shall serve as certification that their originals have been presented to him/her and that the photocopies are faithful reproduction of the originals.

Any subsequent pleadings, if required by the Adjudication Officer for justifiable reason, shall be filed not more than three (3) working days from date of the order requiring their filing.

No position paper or pleading shall be allowed to be filed unless prior service of a copy thereof is made on the adverse party/ies as evidenced by proof of personal service in accordance with Section 6 of this Rule, or by a courier receipt or registry receipt showing that a copy of the position paper or pleading has been deposited with the courier or postal service for delivery to the adverse party/ies.

- b. *Service of Notices, Orders, Decisions and Final Orders, and Writs.* All notices and orders issued by the Adjudication Officer shall be served in accordance with Section 6 of this Rule.
- c. *Service On Counsel.* If a party is represented by a lawyer, an Entry of Appearance shall be submitted and the service of position paper, pleadings as well as notices, orders, decision and other processes of the Adjudication Officer shall be made upon said counsel.

Section 10. Case Submitted for Decision. Subject to Section 12 of this Rule, a case shall be submitted for decision after the positions papers of all the parties have been filed, or after the lapse of the period for the filing of the parties' position papers, whichever is earlier.

A case for judgment on mediation agreement shall be deemed submitted for decision upon the issuance of the order referred to in Section 5 of this Rule.

Section 11. Prohibited Pleadings and Motions. For purposes of these Rules, the following pleadings and motions shall not be allowed and acted upon:

- a. Motions to Dismiss, except motion to dismiss based on lack of jurisdiction over the subject matter, res judicata, prescription and forum shopping, which should be raised at the earliest possible opportunity;
- b. Motion for Judgment on the Pleadings;
- c. Motion for Summary Judgment;
- d. Motion for Extension to file any required pleading;
- e. Counter-claim;
- f. Cross-claim;
- g. Reply;

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- h. Rejoinder; and
- i. Motion to Intervene

Section 12. Clarificatory Hearing and Submission of Additional Papers. If, after the lapse of the period for the filing of the parties' position papers, it be determined that relevant matters set forth in the position papers, its supporting affidavits or documentary evidence, need to be clarified and expounded for the proper disposition of the case, the Adjudication Officer may conduct a clarificatory hearing therefor which in no case shall be set more than once: Provided, that the parties cannot examine or cross-examine the party or witness/s being questioned, or a party cannot raise clarificatory questions directed to the adverse party or his/her witness/s.

For the purpose of the clarificatory hearing, the Adjudication Officer shall issue an Order setting the hearing within five (5) working days after the lapse of the period for filing of position papers, and directing the parties, including the witness/s whose affidavit/s or paper/s need clarification, to appear at the scheduled hearing. As far as practicable, the Order shall indicate the particulars in the position papers, affidavits or documentary evidence that shall be addressed at the hearing.

The case shall be deemed submitted for decision at the termination of the hearing. However, if, at said hearing, the Adjudication Officer finds it necessary, he/she may direct either or both parties to submit, within three (3) working days, additional paper/s purporting to support the clarification of matters considered at the hearing, in which scenario, the case shall be deemed submitted for decision after the filing of the said additional papers or after the lapse of the period for the filing thereof, whichever is earlier.

Section 13. Decision. Within fifteen (15) working days from the time the case is submitted for decision pursuant to this Rule, the Adjudication Officer shall render a decision in writing, dated and signed by him. The decision shall be clear and concise, and shall contain statements on: (a) the relevant facts of the case; (b) the issues involved; (c) applicable law and/or jurisprudence; (d) conclusions and reasons therefor; and (e) the reliefs granted, if any, and the administrative penalty/ies imposed, if any.

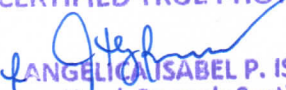
RULE V OTHER PROVISIONS

Section 1. Repealing Clause. All provisions of DAO No. 05, S2007; DAO 13-02, S2013; DAO 7, S2006; other DAOs and Department Orders (DOs) and issuances, or any portion thereof that are inconsistent with this Order are hereby repealed, modified, or amended accordingly.

Section 2. Separability Clause. If for any reason, any section, provision, or part of this Order, or the application of such section, provision, or part to any person, group, or circumstances is declared invalid or unconstitutional, the remainder of this Order shall not be affected by such declarations.

Section 3. Effectivity. This Order shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and a copy of this Order shall


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be sent to the National Administrative Register at the University of the Philippine Law Center or to the Official Gazette and in the DTI website.

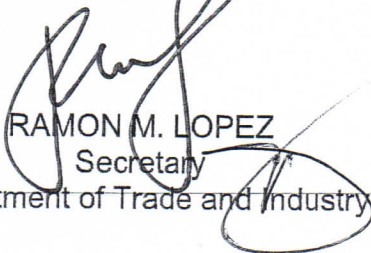
Issued this 07 Feb. 2020 Makati City, Philippines.

RECOMMENDING APPROVAL:



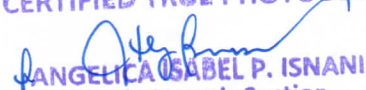
ATTY. RUTH B. CASTELO
Undersecretary
Consumer Protection Group
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APPROVED BY:



RAMON M. LOPEZ
Secretary
Department of Trade and Industry

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