

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Regional Tripartite Wages and Productivity Board-Region XI
Davao City

WAGE ORDER NO. RB XI-17

PROVIDING FOR NEW MINIMUM WAGE RATES IN
DAVAO REGION

WHEREAS, pursuant to Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board-Region XI (RTWPB-XI) is mandated to conduct continuing studies of wage rates and to periodically assess the prevailing economic conditions in the determination of the minimum wage applicable in the region or industry;

WHEREAS, the Regional Board has resolved to review *motu proprio* Wage Order No. RB XI-16;

WHEREAS, the Regional Board conducted public hearings in Tagum City on November 28, 2011 for the areas of Davao del Norte, Davao Oriental and Compostela Valley Province and in Davao City on December 6, 2011 for the areas of Davao del Sur and Island Garden City of Samal to determine the propriety of adjusting the minimum wage in Region XI;

WHEREAS, as a result of the studies on the socio-economic conditions of Region XI, public hearings and deliberations conducted, the Regional Board has determined the need to restore lost purchasing power of minimum wage earners in Davao Region for them to cope with the rising cost of living without impairing the productivity and viability of business and industry therein;

WHEREAS, the Regional Board considers the minimum wage structure of Davao Region in transition towards the two-tiered wage system which prescribes poverty threshold as the floor wage and productivity-based scheme for the second tier;

WHEREAS, consistent with the government's policy of achieving a higher level of productivity to preserve and generate jobs, and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement and gainsharing programs;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board-Region XI (RTWPB-XI) hereby issues this Wage Order:



Dr. Lourdes D. L.



17-11-11



SECTION 1. INTEGRATION OF COST OF LIVING ALLOWANCE (COLA). Upon the effectivity of this Wage Order, the FIFTEEN PESOS (P15.00) COLA granted under Wage Order No. RB XI-16 shall be integrated into the basic wage.

SECTION 2. GRANT OF COST OF LIVING ALLOWANCE (COLA). Upon the effectivity of this Wage Order, all private sector minimum wage earners in Davao Region shall receive a COLA of FIVE PESOS (P5.00) per day and an additional TEN PESOS (P10.00) COLA per day effective May 1, 2012.

SECTION 3. THE NEW DAILY MINIMUM WAGE RATES. The new daily minimum wage rates for all covered workers in the private sector in Davao Region are as follows:

UPON EFFECTIVITY OF THIS WAGE ORDER:

SECTOR/INDUSTRY	Basic Wage	COLA	New Minimum Wage
NON-AGRICULTURE	P286.00	P5.00	P291.00
AGRICULTURE	P276.00	P5.00	P281.00
RETAIL/SERVICE			
- Employing more than 10 workers	P286.00	P5.00	P291.00
- Employing not more than 10 workers	P255.00	P5.00	P260.00

EFFECTIVE MAY 1, 2012:

SECTOR/INDUSTRY	Basic Wage	COLA	New Minimum Wage
NON-AGRICULTURE	P286.00	P15.00	P301.00
AGRICULTURE	P276.00	P15.00	P291.00
RETAIL/SERVICE			
- Employing more than 10 workers	P286.00	P15.00	P301.00
- Employing not more than 10 workers	P255.00	P15.00	P270.00

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 M. Samuel S. J.
 M. S. J.
 M. S. J.

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SECTION 4. COVERAGE. The prescribed wage rates under this Wage Order shall apply to all workers and employees in the private sector receiving the minimum wage in Davao Region, regardless of position, designation or status of employment and irrespective of the method by which their wages are paid. This Wage Order shall not cover household or domestic helpers, family drivers, persons employed in the personal service of another, and workers in registered Barangay Micro Business Enterprises (BMBEs).

SECTION 5. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under this Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

SECTION 6. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall be entitled to receive the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof, for working less than eight (8) hours.

SECTION 7. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Wage Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Wage Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rates.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Differently-abled Persons.

SECTION 8. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the new minimum wage rates set forth herein shall be covered starting School Year 2012-2013.

Private educational institutions which have not increased their tuition fees for the School Year 2011-2012 may defer compliance with the increase prescribed herein until the beginning of School Year 2012-2013.

In any case, all private educational institutions shall implement the increase herein starting School Year 2012-2013.

SECTION 9. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects, and for security, janitorial and similar services, the prescribed minimum wage rates in this Wage Order shall be borne by the principals or clients of the construction or service contractors, and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the new minimum wage rates, the construction or service contractor shall be jointly and severally liable with his principal or client.

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 - Middle signature: *Mr. Lourdes S.J.*
 - Lower signature: *[Signature]*
 - Bottom signature: *[Signature]*

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SECTION 10. PRODUCTIVITY-BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor-management cooperation as well as implement gainsharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

SECTION 11. EXEMPTION. No exemption from compliance under this Wage Order shall be allowed except those provided under Section 4 above.

SECTION 12. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal in three (3) printed legible copies with the National Wages and Productivity Commission (NWPC) through the Regional Board within ten (10) calendar days from the publication thereof.

SECTION 13. EFFECT OF FILING OF APPEAL. The filing of the appeal does not operate to stay this Wage Order unless the party appealing this Wage Order shall file with the NWPC an undertaking with a surety or sureties satisfactory to the NWPC for payment of the prescribed increase to employees affected by this Wage Order in the event that the same is affirmed.

SECTION 14. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the increases in the wage rates under this Wage Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

SECTION 15. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

SECTION 16. NON-DIMINUTION OF BENEFITS. Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

SECTION 17. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage rates in accordance with this Wage Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

SECTION 18. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against this Wage Order or any proceedings before the Regional Board.

SECTION 19. FREEDOM TO BARGAIN. This Wage Order shall not be construed to prevent workers from bargaining for higher wages with their respective employers.

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- A signature that appears to be "R. B. ...".
- A signature that appears to be "Dr. ...".
- A signature that appears to be "A. S. ...".
- A signature that appears to be "M. ...".
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SECTION 20. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2012 and every year thereafter, in accordance with Section 3 of R.A. 6727 in relation to Art. 124 of the Labor Code, as amended and in the form as prescribed by the NWPC.

SECTION 21. REPEALING CLAUSE. All orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

SECTION 22. SEPARABILITY CLAUSE. If for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts hereof shall remain valid.

SECTION 23. IMPLEMENTING RULES. The Regional Board shall submit for approval of the Secretary of Labor and Employment upon recommendation of the NWPC, the necessary Implementing Rules and Regulations not later than ten (10) days from the publication of this Wage Order.

SECTION 24. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in Davao Region.

Approved, this 7th day of December 2011, in Davao City, Philippines.


JOFFREY M. SUYAO
DOLE-XI Regional Director
Board Chairman

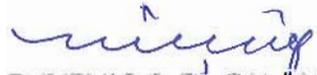

MARIZON S. LORETO
DTI-XI Regional Director
Vice-Chairman


MARIA LOURDES D. LIM
NEDA-XI Regional Director
Vice-Chairman


JORGE G. ALEGARBES
Labor Representative
Member


RULFO V. ASIS
Management Representative
Member


VIRGINIA T. CAMUS
Labor Representative
Member


BIENVENIDO D. CARIAGA
Management Representative
Member

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Regional Tripartite Wages and Productivity Board-Region XI
Davao City

RULES IMPLEMENTING WAGE ORDER NO. RB XI-17

Pursuant to Section 6, Rule IV of the National Wages and Productivity Commission Guidelines No. 01-2007, otherwise known as the Amended Rules of Procedure on Minimum Wage Fixing and Section 23 of Wage Order No. RB-XI-17, the following rules are hereby issued for the guidance and compliance by all concerned:

Rule I

DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS. As used in this Rules:

- a. **"WAGE ORDER"** means Wage Order No. RB XI-17, promulgated by this Regional Board pursuant to its wage-fixing authority.
- b. **"DEPARTMENT"** refers to the Department of Labor and Employment, Region XI.
- c. **"NWPC"** means the NATIONAL WAGES AND PRODUCTIVITY COMMISSION.
- d. **"REGIONAL BOARD"** means the Regional Tripartite Wages and Productivity Board of Region XI.
- e. **"DAVAO REGION (REGION-XI)"** covers the Cities of Davao, Digos, Island Garden of Samal, Tagum, Panabo, Mati, and the Provinces of Davao del Sur, Davao del Norte, Davao Oriental, and Compostela Valley.
- f. **"REGIONAL MINIMUM WAGE"** is the lowest wage rate fixed by RTWPB-XI that an employer can pay his/her workers which consists of the minimum basic wage and the cost of living allowance (COLA).
- g. **"BARANGAY MICRO BUSINESS ENTERPRISES (BMBEs)"** refer to any registered business entity or enterprise granted a Certificate of Authority pursuant to R.A. 9178.
- h. **"AGRICULTURE"** refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activity performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farms products.

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- i. **"RETAIL ESTABLISHMENT"** is one engaged in the sale of goods to end users for personal or household use.

A retail establishment that engages in wholesale activities loses its retail character.

- j. **"SERVICE ESTABLISHMENT"** is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such.

- k. **"WAGE DISTORTION"** refers to a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

Rule II

NEW MINIMUM WAGE RATES

SECTION 1. INTEGRATION OF COST OF LIVING ALLOWANCE (COLA). Upon the effectivity of the Wage Order, the FIFTEEN PESOS (P15.00) COLA granted under Wage Order No. RB XI-16 shall be integrated into the basic wage.

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*Mr. Douglas S. J. ...
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EFFECTIVE MAY 1, 2012:

SECTOR/INDUSTRY	Basic Wage	COLA	New Minimum Wage
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SECTION 4. COVERAGE. The prescribed wage rates under the Wage Order shall apply to all workers and employees in the private sector receiving the minimum wage in Davao Region, regardless of position, designation or status of employment and irrespective of the method by which their wages are paid.

Not covered in the Wage Order are household or domestic helpers, family drivers, persons employed in the personal service of another, and workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority.

SECTION 5. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under the Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

SECTION 6. EXEMPTION. No exemption from compliance under the Wage Order shall be allowed except those provided under Section 4 above.

SECTION 7. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the new minimum wage rates set forth herein shall be covered starting School Year 2012-2013.

Private educational institutions which have not increased their tuition fees for the School Year 2011-2012 may defer compliance with the increase prescribed herein until the beginning of School Year 2012-2013.

In any case, all private educational institutions shall implement the increase herein starting School Year 2012-2013.

SECTION 8. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects, and for security, janitorial and similar services, the prescribed minimum wage rates shall be borne by the principals or clients of the construction or service contractors, and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed new minimum wage rates, the construction or service contractor shall be jointly and severally liable with his principal or client.

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Mr. Lourdes D. J.
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R. L. ... *J.* *M. ...*

SECTION 9. WORKERS PAID BY RESULTS. All workers paid by results, including those paid on piecework, "takay", "pakyaw", or task basis, shall be entitled to receive the new minimum wage rates prescribed in the Wage Order per eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

The adjusted minimum wage rates for workers paid by results shall be computed in accordance with the following steps:

- a. Amount of increase in AMW (which is the applicable minimum wage rate) ÷ previous AMW x 100 = % increase;
- b. Existing rate/piece x % increase = Increase in rate/piece.
- c. Existing rate/piece + increase in rate/piece = Adjusted rate/piece.

The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations.

SECTION 10. WAGES OF SPECIAL GROUP OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in the Wage Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of the Wage Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed minimum wage rates.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Differently-abled Persons.

SECTION 11. SUGGESTED FORMULA IN DETERMINING THE ESTIMATED EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

- a. For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

$$\begin{matrix} \text{Estimated} \\ \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EEMR)} \end{matrix} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 393.50 \text{ days}}{12}$$

where 393.50 days:

298	days	-	Ordinary working days
24	days	-	Regular Holidays
67.60	days	-	52 Rest Days x 130%
3.90	days	-	3 Special Days x 130%
<u>393.50</u>	<u>days</u>	-	Total equivalent number of days in a year

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- b. For those who do not work but are considered paid on rest days, special days and regular holidays:

$$\text{EEMR} = \frac{\text{ADR} \times 365 \text{ days}}{12}$$

where 365 days:

298 days	-	Ordinary working days
52 days	-	Sunday/Rest days
12 days	-	Regular holidays
3 days	-	Special days
<u>365 days</u>	-	Total equivalent number of days in a year

- c. For those who do not work and are not considered paid on Sundays or Rest days:

$$\text{EEMR} = \frac{\text{ADR} \times 313 \text{ days}}{12}$$

where 313 days:

298 days	-	Ordinary working days
12 days	-	Regular holidays
3 days	-	Special days
<u>313 days</u>	-	Total equivalent number of days in a year

- d. For those who do not work and are not considered paid on Saturdays and Sundays or Rest Days:

$$\text{EEMR} = \frac{\text{ADR} \times 261 \text{ days}}{12}$$

where 261 days:

246 days	-	Ordinary Working Days
12 days	-	Regular Holidays
3 days	-	Special Days
<u>261 days</u>	-	Total equivalent number of days in a year

SECTION 12. MOBILE AND BRANCH WORKERS. The minimum wage rates of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The minimum wage rates of workers working in branches or agencies of establishments within Davao Region shall be those applicable in the place where they are stationed.

SECTION 13. TRANSFER OF PERSONNEL. The transfer of personnel to areas outside Davao Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

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SECTION 2. CONDUCT OF INSPECTION BY THE DEPARTMENT. The Department shall conduct inspection of establishments, as often as necessary, to determine whether workers are paid the prescribed wage rates and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, the Department inspectors shall always be accompanied by the President or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a representative chosen by the workers in the said company shall accompany the Department Inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the Department Inspector.

SECTION 3. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

SECTION 4. NON-DIMINUTION OF BENEFITS. Nothing in the Wage Order and in this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

SECTION 5. PENAL PROVISION. Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the new minimum wage rates prescribed in the Wage Order shall be punished by a fine of not less than Twenty-five thousand pesos (P25,000.00) nor more than One hundred thousand pesos (P100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under the Wage Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under this Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

SECTION 6. PROHIBITION AGAINST INJUNCTION. No preliminary injunction or temporary restraining order may be issued by any court, tribunal or other entity against the Wage Order or any proceedings before the Regional Board as provided for under Article 126 of the Labor Code, as amended.

SECTION 7. FREEDOM TO BARGAIN. The Wage Order shall not be construed to prevent workers in particular firms or enterprises from bargaining for higher wages and flexible working arrangements with their respective employers.

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Dr. Lourdes A. F.
17m A. Shu
Secretary

P. V. C.

[Signature]

[Signature]

SECTION 8. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2012 and every year thereafter in accordance with Section 3 of R.A. 6727 in relation to Art. 124 of the Labor Code, as amended and in the form as prescribed by the NWPC.

SECTION 9. REPEALING CLAUSE. All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provision of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

SECTION 10. SEPARABILITY CLAUSE. If any provision or part of the Wage Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Wage Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

SECTION 11. EFFECTIVITY. This Rules shall take effect upon the effectivity of the Wage Order.

Done in the City of Davao, Philippines, this 7th day of December 2011.


JOFFREY M. SUYAO

DOLE-XI Regional Director
Board Chairman



MARIZON S. LORETO
DTI-XI Regional Director
Vice-Chairman

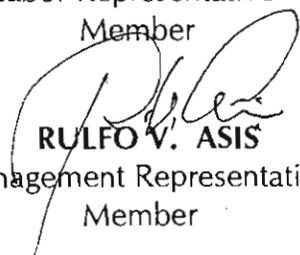

MARIA LOURDES D. LIM

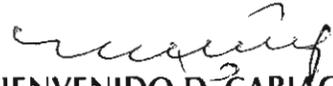
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Labor Representative
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Management Representative
Member


BIENVENIDO D. CARIAGA
Management Representative
Member

APPROVED this 23rd day of December 2011.


ROSALINDA DIMAPILIS-BALDOZ
Secretary
Department of Labor and Employment

Dept. of Labor & Employment
Office of the Secretary

