

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9642



Introduced by Representative Wes Gatchalian

AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8792, OTHERWISE
KNOWN AS THE "ELECTRONIC COMMERCE ACT"

EXPLANATORY NOTE

Republic Act No. 8792, otherwise known as the Electronic Commerce Act of 2000 (ECA), was enacted on June 14, 2000. The ECA paved the way for the greater recognition of electronic commerce (e-commerce) in the country. The ECA thus, as early as 2000, allowed for the recognition of electronic contracts under Philippine law, thereby establishing the groundwork for electronic transactions in the country.

Five years after the ECA was enacted, the United Nations Commission on International Trade Law (UNCITRAL) prepared the United Nations Convention on the Use of Electronic Communications in International Contracts (ECC). The treaty was prepared as a common solution to the legal obstacles that many states face in the use of electronic communications and seeks to provide an assurance that all concluded contracts and other communications exchanged electronically are as valid and enforceable as their traditional paper-based equivalents. With the ECC, a uniform set of rules of recognition of international contracts would bind the countries that ratify the Convention. The uniform set of rules would avoid the problem of an electronic communication or document being validly recognized under the national law of one party while not being legally recognized under the national law of another party.

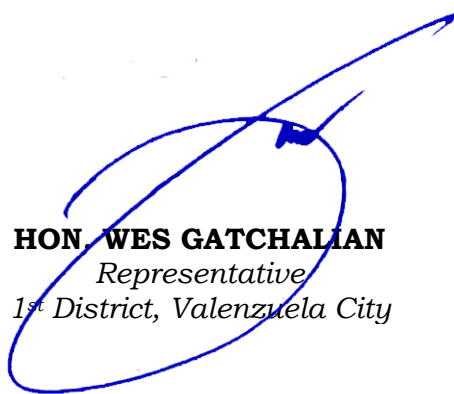
There are differences between the rules of recognition of electronic communications/contracts established in the ECA and the ECC. In 2007, the

Philippines signed the ECC and it was ratified in 2021. However, international electronic contracts can only receive recognition under Philippine law if these contracts are compliant with the ECA, even if such contracts adhere to the ECC. Therefore, these amendments to the ECA are hereby proposed in order to align our law with the ECC and to achieve a common rule of recognition between electronic communications/contracts between domestic parties, and those involving a foreign contracting party.

In particular, we are aligning our law on the legal recognition of electronic signatures, formation and validity of electronic contracts, error on electronic communication or electronic document, and the time and place of dispatch and receipt of electronic communications and documents. In addition, this amendment will introduce electronic and remote notarization, which has become increasingly relevant during this time of crisis.

These amendments will bring Philippine law at par with the ECC and remove any inconsistency that currently exists. This will ease cross-border transactions and greatly improve the efficiency of e-commerce.

In view of the foregoing, the immediate passage of the bill is earnestly sought.



HON. WES GATCHALIAN
Representative
1st District, Valenzuela City

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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** Section 3 of Republic Act No. 8792 is hereby amended to read as
2 follows:

3
4 “SECTION 3. *Objective.* – This Act aims to facilitate domestic and
5 international dealings, transactions, arrangements, agreements,
6 contracts and exchanges and storage of information through the
7 utilization of electronic, optical and similar medium, mode,
8 instrumentality and technology to recognize the authenticity and
9 reliability of electronic [data messages] **COMMUNICATIONS** or
10 electronic documents related to such activities and to promote the
11 universal use of electronic transactions in the government and by the
12 general public.”

13
14 **SEC. 2.** Section 4 of Republic Act No. 8792 is hereby amended to read as
15 follows:

16
17 “SECTION 4. *Sphere of Application.* – This Act shall apply to any kind
18 of electronic [data message] **COMMUNICATION** and electronic
19 document used in the context of commercial and non-commercial
20 activities to include domestic and international dealings, transactions,
21 arrangements, agreements, contracts and exchanges and storage of
22 information.”

1
2 **SEC. 3.** Section 5 of Republic Act No. 8792 is hereby amended to read as
3 follows:

4
5 “SECTION 5. *Definition of Terms.* – For the purposes of this Act, the
6 following terms are defined as follows:

7
8 (a) “Addressee” refers to a [person] **PARTY, WHETHER A NATURAL**
9 **PERSON OR AUTOMATED MESSAGE SYSTEM, IN AN ELECTRONIC**
10 **COMMUNICATION OR ELECTRONIC DOCUMENT** who is intended by
11 the originator to receive the electronic [data message]
12 **COMMUNICATION** or electronic document, but does not include a
13 [person] **PARTY** acting as an intermediary with respect to that
14 electronic [data message] **COMMUNICATION** or electronic document.

15
16 **(b) “AUTOMATED MESSAGE SYSTEM” REFERS TO ANY**
17 **COMPUTER PROGRAM, ELECTRONIC OR OTHER AUTOMATED**
18 **MEANS USED WITHOUT THE REVIEW OR INTERVENTION BY A**
19 **NATURAL PERSON IN EVERY INSTANCE, TO INITIATE AN ACTION**
20 **OR RESPOND TO ELECTRONIC COMMUNICATIONS, OR**
21 **PERFORMANCES IN WHOLE OR IN PART.**

22
23 **(c) “COMMUNICATION” REFERS TO ANY STATEMENT,**
24 **DECLARATION, DEMAND, NOTICE, OR REQUEST, INCLUDING AN**
25 **OFFER AND THE ACCEPTANCE OF AN OFFER, THAT THE PARTIES**
26 **ARE REQUIRED TO MAKE OR CHOOSE TO MAKE IN CONNECTION**
27 **WITH THE FORMATION OR PERFORMANCE OF A CONTRACT.**

28
29 **[(b)] (d)** “Computer” refers to any device or apparatus singly or
30 interconnected which, by electronic, electro-mechanical, optical and/or
31 magnetic impulse, or other means with the same function, can receive,
32 record, transmit, store, process, correlate, analyze, project, retrieve
33 and/or produce information, data, text, graphics, figures, voice, video,
34 symbols or other modes of expression, or perform any one or more of
35 these functions.
36

1 [(c)] **(e)** “[Electronic] **DATA MESSAGE**” **REFERS TO** information
2 generated, sent, received or stored by electronic, **MAGNETIC**, optical
3 or similar means, **INCLUDING ELECTRONIC DATA INTERCHANGE,**
4 **ELECTRONIC MAIL, TELEGRAM, TELEX OR TELECOPY.**

5
6 **(f) “ELECTRONIC COMMUNICATION” REFERS TO ANY**
7 **COMMUNICATION THAT THE PARTIES MAKE BY MEANS OF DATA**
8 **MESSAGES.**

9
10 [(e)] **(g)** “Electronic signature” refers to any distinctive mark,
11 characteristic and/or sound in electronic form, representing the
12 identity of a person and attached to or logically associated with the
13 electronic [data message] **COMMUNICATION** or electronic document or
14 any methodology or procedure[s] employed or adopted by a person and
15 executed or adopted by such person with the intention of
16 authenticating or approving an electronic [data message]
17 **COMMUNICATION** or electronic document.

18
19 [(f)] **(h)** “Electronic document” refers to information or the
20 representation of information, data, figures, symbols or other modes of
21 written expression, described or however represented, by which a right
22 is established or an obligation extinguished, or by which a fact may be
23 proved and affirmed, which is received, recorded, transmitted, stored,
24 processed, retrieved or produced electronically. **THE TERM**
25 **ELECTRONIC DOCUMENT SHALL INCLUDE ALL DATA MESSAGES,**
26 **INCLUDING THOSE GENERATED, RECORDED, AND STORED FOR**
27 **PURPOSES OTHER THAN COMMUNICATION.**

28
29 [(g)] **(i)** “Electronic key” refers to a secret code which secures and
30 defends sensitive information that crosses over public channels into a
31 form decipherable only with a matching electronic key.

32
33 [(d)] **(j)** “Information [and Communication] System” refers to a system
34 for generating, sending, receiving, storing or otherwise processing
35 [electronic] data messages. [or electronic documents and includes the
36 computer system or other similar device by or in which data is recorded

1 or stored and any procedures related to the recording or storage of
2 electronic data message or electronic document.]

3
4 [(h)] **(k)** “Intermediary” refers to a person who, in behalf of another
5 person and with respect to a particular electronic [data message]
6 **COMMUNICATION** or electronic document sends, receives and/or
7 stores or provides other services in respect of that electronic [data
8 message] **COMMUNICATION** or electronic document.

9
10 [i] **(l)** “Originator” refers to a [person] **PARTY, WHETHER A NATURAL**
11 **PERSON OR AUTOMATED MESSAGE SYSTEM, IN AN ELECTRONIC**
12 **COMMUNICATION OR ELECTRONIC DOCUMENT**, by whom, or on
13 whose behalf, the **ELECTRONIC COMMUNICATION OR** electronic
14 document [purports to have been created, generated and/or sent] **HAS**
15 **BEEN SENT OR GENERATED PRIOR TO STORAGE, IF ANY**, [The
16 term] **BUT** does not include a person acting as an intermediary with
17 respect to that **ELECTRONIC COMMUNICATION OR** electronic
18 document;

19
20 [j] **(m)** “Service provider” refers to a provider of —

- 21
22 i. Online services or network access, or the operator of facilities
23 therefor, including entities offering the transmission, routing, or
24 providing of connections for online communications, digital or
25 otherwise, between or among points specified by a user, of
26 **ELECTRONIC COMMUNICATIONS OR** electronic documents of
27 the user’s choosing; or
28
29 ii. The necessary technical means by which **ELECTRONIC**
30 **COMMUNICATIONS OR** electronic documents of an originator
31 may be stored and made accessible to a designated or
32 undesignated third party.

33
34 Such service providers shall have no authority to modify or alter
35 the content of the **ELECTRONIC COMMUNICATION OR**
36 electronic document received or to make any entry therein on

1 behalf of the originator, addressee or any third party unless
2 specifically authorized to do so, and who shall retain the
3 **ELECTRONIC COMMUNICATION OR** electronic document in
4 accordance with the specific request or as necessary for the
5 purpose of performing the services it was engaged to perform.”
6

7 **SEC. 4.** Section 6 of Republic Act No. 8792 is hereby amended to read as
8 follows:
9

10 “SECTION 6. *Legal Recognition of Electronic [Data Message]*
11 **COMMUNICATIONS AND ELECTRONIC DOCUMENTS.** —
12 [Information] **AN ELECTRONIC COMMUNICATION OR ELECTRONIC**
13 **DOCUMENT** shall not be denied **LEGAL EFFECT**, validity, or
14 enforceability solely on the ground that it is in the form of an electronic
15 [data message purporting to give rise to such legal effect, or that it is
16 merely incorporated by reference in that electronic data message.]
17 **COMMUNICATION OR ELECTRONIC DOCUMENT. NOTHING IN**
18 **THIS ACT REQUIRES A PARTY TO USE OR ACCEPT ELECTRONIC**
19 **COMMUNICATIONS OR ELECTRONIC DOCUMENTS, BUT A**
20 **PARTY'S AGREEMENT TO DO SO MAY BE PRESUMED FROM ANY**
21 **CONDUCT WHICH WOULD LEAD A REASONABLE MIND TO**
22 **BELIEVE THAT THEY INTENDED TO USE OR ACCEPT THE SAME.”**
23

24 **SEC. 5.** Section 7 of Republic Act No. 8792 is hereby amended to read as
25 follows:
26

27 “SECTION 7. *[Legal Recognition]* **FORM** *of Electronic*
28 **COMMUNICATIONS AND ELECTRONIC Documents** – Electronic
29 **COMMUNICATIONS AND ELECTRONIC** documents shall have the
30 legal effect, validity or enforceability as any other document or legal
31 writing, and –
32

33 (a) Where the law requires a **COMMUNICATION OR** document to be in
34 writing, that requirement is met by an **ELECTRONIC**
35 **COMMUNICATION OR** electronic document if the said **ELECTRONIC**
36 **COMMUNICATION OR** electronic document maintains its integrity and

1 reliability and can be authenticated so as to be usable for subsequent
2 reference. [, in that –

- 3
- 4 i. The electronic document has remained complete and unaltered,
5 apart from the addition of any endorsement and any authorized
6 change, or any change which arises in the normal course of
7 communication, storage and display; and
8
- 9 ii. The electronic document is reliable in the light of the purpose
10 for which it was generated and in the light of all relevant
11 circumstances.]
12

13 (b) Paragraph (a) applies whether the requirement therein is in the form
14 of an obligation or whether the law simply provides consequences for
15 the document not being presented or retained in its original form.
16

17 (c) Where the law requires that a **COMMUNICATION OR** document be
18 presented or retained in its original form, **OR PROVIDES**
19 **CONSEQUENCES FOR THE ABSENCE OF AN ORIGINAL**, that
20 requirement is met by an **ELECTRONIC COMMUNICATION OR**
21 electronic document if –
22

- 23 i. There exists a reliable assurance as to the integrity of the
24 document from the time when it was first generated in its final
25 form **AS AN ELECTRONIC COMMUNICATION, ELECTRONIC**
26 **DOCUMENT OR OTHERWISE**; and
27
- 28 ii. **WHERE IT IS REQUIRED THAT THE INFORMATION IT**
29 **CONTAINS BE MADE AVAILABLE**, that **COMMUNICATION OR**
30 document is capable of being displayed to the person to whom
31 it is to be presented: *Provided*, That no provision of this Act shall
32 apply to vary any and all requirements of existing laws on
33 formalities required in the execution of documents for their
34 validity.
35

36 **(D) FOR PURPOSES OF SUBPARAGRAPH (C):**

1
2 i. **THE CRITERIA FOR ASSESSING INTEGRITY SHALL BE**
3 **WHETHER THE INFORMATION HAS REMAINED COMPLETE**
4 **AND UNALTERED, APART FROM THE ADDITION OF ANY**
5 **ENDORSEMENT AND ANY CHANGE THAT ARISES IN THE**
6 **NORMAL COURSE OF COMMUNICATION, STORAGE AND**
7 **DISPLAY; AND**

8
9 ii. **THE STANDARD OF RELIABILITY REQUIRED SHALL BE**
10 **ASSESSED IN THE LIGHT OF THE PURPOSE FOR WHICH**
11 **THE INFORMATION WAS GENERATED AND IN LIGHT OF ALL**
12 **THE RELEVANT CIRCUMSTANCES.**

13
14 For evidentiary purposes, an electronic document shall be the
15 functional equivalent of a written document under existing laws.

16
17 This Act does not modify any statutory rule relating to the admissibility
18 of electronic data messages, **ELECTRONIC COMMUNICATIONS**, or
19 electronic documents, except the rules relating to authentication and
20 best evidence.”

21
22 **SEC. 6.** Section 8 of Republic Act No. 8792 is hereby amended to read as
23 follows:

24
25 “SECTION 8. *Legal Recognition of Electronic Signatures.* — [An
26 electronic signature on the electronic document shall be equivalent to
27 the signature of a person on a written document if the signature is an
28 electronic signature and proved by showing that a prescribed
29 procedure, not alterable by the parties interested in the electronic
30 document, existed under which] **WHERE THE LAW REQUIRES THAT**
31 **A COMMUNICATION OR DOCUMENT SHOULD BE SIGNED BY A**
32 **PARTY, OR PROVIDES CONSEQUENCES FOR THE ABSENCE OF A**
33 **SIGNATURE, THAT REQUIREMENT IS MET IN RELATION TO AN**
34 **ELECTRONIC COMMUNICATION OR ELECTRONIC DOCUMENT IF:**
35

(a) A method is used to identify the party [sought to be bound] and to indicate said party's [access to the electronic document necessary for his consent or approval through the electronic signature] **INTENTION IN RESPECT OF THE INFORMATION CONTAINED IN THE ELECTRONIC COMMUNICATION OR ELECTRONIC DOCUMENT; AND**

(b) Said method is reliable and appropriate for the purpose for which the **ELECTRONIC COMMUNICATION OR** electronic document was generated or communicated, in the light of all circumstances, including any relevant agreement **OR PROVEN IN FACT TO HAVE FULFILLED THE FUNCTIONS DESCRIBED IN SUBPARAGRAPH (A) ABOVE, BY ITSELF OR TOGETHER WITH FURTHER EVIDENCE.**

[(c) It is necessary for the party sought to be bound, in order to proceed further with the transaction, to have executed or provided the electronic signature; and

(d) The other party is authorized and enabled to verify the electronic signature and to make the decision to proceed with the transaction authenticated by the same.]"

SEC. 7. Section 9 of Republic Act No. 8792 is hereby amended to read as follows:

"SECTION 9. Presumption Relating to Electronic Signatures – In any proceedings involving an electronic signature, it shall be presumed that –

(a) The electronic signature is the signature of the person to whom it correlates; and

(b) The electronic signature was affixed by that person with the intention of signing or approving the **ELECTRONIC COMMUNICATION OR** electronic document unless the person relying on the electronically

1 signed **ELECTRONIC COMMUNICATION OR** electronic document
2 knows or has notice of defects in or unreliability of the signature or
3 reliance on the electronic signature is not reasonable under the
4 circumstances.”

5
6 **SEC. 8.** A new Section 10 shall be inserted in Republic Act No. 8792, and
7 all subsequent sections are hereby renumbered accordingly. The new Section 10
8 shall read as follows:

9
10 **“SECTION 10. ELECTRONIC AND REMOTE NOTARIZATION. –**
11 **NOTARIAL ACTS MAY BE CONDUCTED ELECTRONICALLY OR**
12 **REMOTELY THROUGH AN OFFICIAL ELECTRONIC SEAL AND THE**
13 **USE OF VIDEOCONFERENCING FACILITIES. PROVIDED, THAT**
14 **THIS PROVISION SHALL BE SUBJECT TO EXISTING OR FUTURE**
15 **RULES AND REGULATIONS ON ELECTRONIC OR REMOTE**
16 **NOTARIZATION, AS MAY BE PROMULGATED BY THE SUPREME**
17 **COURT.”**

18
19 **SEC. 9.** Section 10 of Republic Act No. 8792 is hereby renumbered to
20 Section 11 and amended to read as follows:

21
22 **“SECTION [10] 11. Original Documents –** (1) Where the law requires
23 information to be presented or retained in its original form, that
24 requirement is met by an electronic [data message] **COMMUNICATION**
25 or electronic document if:

26
27 (a) the integrity of the information from the time when it was
28 first generated in its final form, as an electronic [data
29 message] **COMMUNICATION** or electronic document is
30 shown by evidence *aliunde* or otherwise; and

31
32 (b) where it is required that information be presented, that the
33 information is capable of being displayed to the person to
34 whom it is to be presented.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

(3) For the purposes of subparagraph (a) of paragraph (1):

(a) the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and

(b) the standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.”

SEC. 10. Section 11 of Republic Act No. 8792 is hereby renumbered to Section 12 and amended to read as follows:

“SECTION [11] **12.** *Authentication of Electronic [Data Messages] **COMMUNICATIONS** and Electronic Documents* – Until the Supreme Court by appropriate rules shall have so provided, electronic documents, electronic [data messages] **COMMUNICATIONS** and electronic signatures, shall be authenticated by demonstrating, substantiating and validating a claimed identity of a user, device, or another entity in an information or communication system, among other ways, as follows:

(a) The electronic signature shall be authenticated by proof that a letter, character, number or other symbol in electronic form representing the persons named in and attached to or logically associated with an electronic [data message] **COMMUNICATION**, electronic document, or that the appropriate methodology or security procedures, when applicable, were employed or adopted by a person and executed or adopted by such person, with the intention of

1 authenticating or approving an electronic [data message]
2 **COMMUNICATION** or electronic document;
3

- 4 (b) The electronic [data message] **COMMUNICATION** or
5 electronic document shall be authenticated by proof that an
6 appropriate security procedure, when applicable was
7 adopted and employed for the purpose of verifying the
8 originator of an electronic [data message] **COMMUNICATION**
9 or electronic document, or detecting error or alteration in the
10 communication, content or storage of an electronic
11 document or electronic [data message] **COMMUNICATION**
12 from a specific point, which, using algorithm or codes,
13 identifying words or numbers, encryptions, answers back or
14 acknowledgment procedures, or similar security devices.
15

16 The Supreme Court may adopt such other authentication procedures,
17 including the use of electronic notarization systems as necessary and
18 advisable, as well as the certificate of authentication on printed or hard
19 copies of the electronic documents or electronic [data messages]
20 **COMMUNICATIONS** by electronic notaries, service providers and other
21 duly recognized or appointed certification authorities.
22

23 The person seeking to introduce an electronic [data message]
24 **COMMUNICATION** or electronic document in any legal proceeding has
25 the burden of proving its authenticity by evidence capable of
26 supporting a finding that the electronic [data message]
27 **COMMUNICATION** or electronic document is what the person claims
28 it to be.
29

30 In the absence of evidence to the contrary, the integrity of the
31 information and communication system in which an electronic [data
32 message] **COMMUNICATION** or electronic document is recorded or
33 stored may be established in any legal proceeding —
34

- 35 (a) By evidence that at all material times the information and
36 communication system or other similar device was operating

1 in a manner that did not affect the integrity of the electronic
2 [data message] **COMMUNICATION** or electronic document,
3 and there are no other reasonable grounds to doubt the
4 integrity of the information and communication system;

5
6 (b) By showing that the electronic [data message]
7 **COMMUNICATION** or electronic document was recorded or
8 stored by a party to the proceedings who is adverse in
9 interest to the party using it; or

10
11 (c) By showing that the electronic [data message]
12 **COMMUNICATION** or electronic document was recorded or
13 stored in the usual and ordinary course of business by a
14 person who is not a party to the proceedings and who did not
15 act under the control of the party using the record.”

16
17 **SEC. 11.** Section 12 of Republic Act No. 8792 is hereby renumbered to
18 Section 13 and amended to read as follows:

19
20 “SECTION [12] **13.** *Admissibility and Evidential Weight of Electronic*
21 *[Data Messages] COMMUNICATIONS and Electronic Documents* – In any
22 legal proceedings, nothing in the application of the rules on evidence
23 shall deny the admissibility of an electronic [data message]
24 **COMMUNICATION** or electronic document in evidence —

25
26 (a) On the sole ground that it is in electronic form; or

27
28 (b) On the ground that it is not in the standard written form,
29 and the electronic [data message] **COMMUNICATION** or
30 electronic document meeting, and complying with the
31 requirements under Sections 6 or 7 hereof shall be the best
32 evidence of the agreement and transaction contained therein.

33
34 In assessing the evidential weight of an electronic [data message]
35 **COMMUNICATION** or electronic document, the reliability of the
36 manner in which it was generated, stored or communicated, the

1 reliability of the manner in which its originator was identified, and
2 other relevant factor shall be given due regard.
3

4 **SEC. 12.** Section 13 of Republic Act No. 8792 is hereby renumbered to
5 Section 14 and amended to read as follows:
6

7 “SECTION [13] **14.** *Retention of Electronic [Data Message]*
8 **COMMUNICATION** or *Electronic Document* – Notwithstanding any
9 provision of law, rule or regulation to the contrary —
10

11 (a) The requirement in any provision of law that certain
12 documents be retained in their original form is satisfied by
13 retaining them in the form of an electronic [data message]
14 **COMMUNICATION** or electronic document which —
15

16 i. Remains accessible so as to be usable for subsequent
17 reference;
18

19 ii. Is retained in the format in which it was generated, sent
20 or received, or in a format which can be demonstrated
21 to accurately represent the electronic [data message]
22 **COMMUNICATION** or electronic document generated,
23 sent or received;
24

25 iii. Enables the identification of its originator and
26 addressee, as well as the determination of the date and
27 the time it was sent or received.
28

29 (b) The requirement referred to in paragraph (a) is satisfied by
30 using the services of a third party, provided that the
31 conditions set forth in subparagraphs (i), (ii) and (iii) of
32 paragraph (a) are met.”
33

34 **SEC. 13.** A new section is hereby inserted as Section 17 of Republic Act No.
35 8792, and all subsequent sections are hereby renumbered accordingly. The new
36 Section 17 shall read as follows:

1
2 **“SECTION 17. INVITATIONS TO MAKE OFFERS. – A PROPOSAL TO**
3 **CONCLUDE A CONTRACT MADE THROUGH ONE OR MORE**
4 **ELECTRONIC COMMUNICATIONS WHICH IS NOT ADDRESSED TO**
5 **ONE OR MORE SPECIFIC PARTIES, BUT IS GENERALLY**
6 **ACCESSIBLE TO PARTIES MAKING USE OF INFORMATION**
7 **SYSTEMS, INCLUDING PROPOSALS THAT MAKE USE OF**
8 **INTERACTIVE APPLICATIONS FOR THE PLACEMENT OF ORDERS**
9 **THROUGH SUCH INFORMATION SYSTEMS, IS TO BE**
10 **CONSIDERED AS AN INVITATION TO MAKE OFFERS, UNLESS IT**
11 **CLEARLY INDICATES THE INTENTION OF THE PARTY MAKING**
12 **THE PROPOSAL TO BE BOUND IN CASE OF ACCEPTANCE.”**
13

14 **SEC. 14.** Section 16 of Republic Act No. 8792 is hereby renumbered to
15 Section 18 and amended to read as follows:
16

17 **“SECTION. [16] 18. Formation and Validity of Electronic Contracts. –**

18 (1) Except as otherwise agreed by the parties, an offer, the acceptance
19 of an offer, and such other elements required under existing laws for
20 the formation of contracts may be expressed in, demonstrated, and
21 proved by means of electronic [data messages] **COMMUNICATIONS** or
22 electronic documents, and no contract shall be denied validity or
23 enforceability on the sole ground that it is in the form of an electronic
24 [**data message**] **COMMUNICATION** or electronic document, or that any
25 or all of the elements required under existing laws for the formation of
26 the contracts is expressed, demonstrated, and proved by means of
27 electronic [data messages] **COMMUNICATIONS** or electronic
28 documents.
29

30 (2) Electronic transactions made through networking among banks, or
31 linkages thereof with other entities or networks, and vice versa, shall
32 be deemed consummated upon the actual dispensing of cash or the
33 debit of one account and the corresponding credit to another, whether
34 such transaction is initiated by the depositor or by an authorized
35 collecting party: *Provided*, That the obligation of one bank, entity, or
36 person similarly situated to another arising therefrom shall be

1 considered absolute and shall not be subjected to the process of
2 preference of credits.

3
4 **(3) A CONTRACT FORMED BY THE INTERACTION BETWEEN AN**
5 **AUTOMATED MESSAGE SYSTEM AND A NATURAL PERSON, OR BY**
6 **THE INTERACTION BETWEEN ONE OR MORE AUTOMATED**
7 **MESSAGE SYSTEMS, SHALL NOT BE DENIED VALIDITY OR**
8 **ENFORCEABILITY ON THE SOLE GROUND THAT NO NATURAL**
9 **PERSON REVIEWED OR INTERVENED IN EACH OF THE**
10 **INDIVIDUAL ACTIONS CARRIED OUT BY THE AUTOMATED**
11 **MESSAGE SYSTEMS OR THE RESULTING CONTRACT.”**
12

13 **SEC. 15.** Section 17 of Republic Act No. 8792 is hereby renumbered to
14 Section 19, and amended to read as follows:
15

16 “SECTION [17] **19.** *Recognition by Parties of Electronic [Data Message]*
17 **COMMUNICATION** or *Electronic Document* – As between the originator
18 and the addressee of an electronic [data message] **COMMUNICATION**
19 or electronic document, a declaration of will or other statement shall
20 not be denied legal effect, validity or enforceability solely on the ground
21 that it is in the form of an electronic [data message] **COMMUNICATION**
22 or electronic document.”
23

24 **SEC. 16.** Section 18 of Republic Act No. 8792 is hereby renumbered to
25 Section 20, and amended to read as follows:
26

27 “SECTION [18] **20.** *Attribution of Electronic [Data Message]*
28 **COMMUNICATION** – (1) An electronic [data message]
29 **COMMUNICATION** or electronic document is that of the originator if it
30 was sent by the originator himself.
31

32 (2) As between the originator and the addressee, an electronic [data
33 message] **COMMUNICATION** or electronic document is deemed to be
34 that of the originator if it was sent:
35

1 (a) by a person who had the authority to act on behalf of the
2 originator with respect to that electronic [data message]
3 **COMMUNICATION** or electronic document; or
4

5 (b) by an information system programmed by, or on behalf of the
6 originator to operate automatically.
7

8 (3) As between the originator and the addressee, an addressee is
9 entitled to regard an electronic [data message] **COMMUNICATION** or
10 electronic document as being that of the originator, and to act on that
11 assumption, if:
12

13 (a) in order to ascertain whether the electronic [data message]
14 **COMMUNICATION** or electronic document was that of the
15 originator, the addressee properly applied a procedure
16 previously agreed to by the originator for that purpose; or
17

18 (b) the electronic [data message] **COMMUNICATION** or
19 electronic document as received by the addressee resulted
20 from the actions of a person whose relationship with the
21 originator or with any agent of the originator enabled that
22 person to gain access to a method used by the originator to
23 identify electronic [data messages] **COMMUNICATIONS** or
24 electronic documents as his own.
25

26 (4) Paragraph (3) does not apply:
27

28 (a) as of the time when the addressee has both received notice
29 from the originator that the electronic [data message]
30 **COMMUNICATION** or electronic document is not that of the
31 originator, and has reasonable time to act accordingly; or
32

33 (b) in a case within paragraph (3) sub-paragraph (b), at any time
34 when the addressee knew or should have known, had it
35 exercised reasonable care or used any agreed procedure, that

1 the electronic [data message] **COMMUNICATION** or
2 electronic document was not that of the originator.

3
4 (5) Where an electronic [data message] **COMMUNICATION** or electronic
5 document is that of the originator or is deemed to be that of the
6 originator, or the addressee is entitled to act on that assumption, then,
7 as between the originator and the addressee, the addressee is entitled
8 to regard the electronic [data message] **COMMUNICATION** or electronic
9 document as received as being what the originator intended to send,
10 and to act on that assumption. The addressee is not so entitled when
11 it knew or should have known, had it exercised reasonable care or used
12 any agreed procedure, that the transmission resulted in any error in
13 the electronic [data message] **COMMUNICATION** or electronic
14 document as received.

15
16 (6) The addressee is entitled to regard each electronic [data message]
17 **COMMUNICATION** or electronic document received as a separate
18 electronic [data message] **COMMUNICATION** or electronic document
19 and to act on that assumption, except to the extent that it duplicates
20 another electronic [data message] **COMMUNICATION** or electronic
21 document and the addressee knew or should have known, had it
22 exercised reasonable care or used any agreed procedure, that the
23 electronic [data message] **COMMUNICATION** or electronic document
24 was a duplicate.

25
26 **SEC. 17.** Section 19 of Republic Act No. 8792 is hereby renumbered to
27 Section 21, and amended to read as follows:

28
29 “SECTION. [19] **21.** *Error [on] IN Electronic [Data Message]*
30 **COMMUNICATIONS** or *Electronic Documents*. –

31
32 **(A)** The addressee is entitled to regard the electronic [data message]
33 **COMMUNICATION** or electronic document received as that which the
34 originator intended to send, and to act on that assumption, unless the
35 addressee knew or should have known, had the addressee exercised
36 reasonable care or used the appropriate procedure –

1
2 i. That the transmission resulted in any error therein or in the
3 electronic [data message] **COMMUNICATION** or electronic
4 document when the electronic [data message]
5 **COMMUNICATION** or electronic document enters the
6 designated information system, or

7
8 ii. That electronic [data message] **COMMUNICATION** or electronic
9 document is sent to an information system which is not so
10 designated by the addressee for the purpose.

11
12 **(B) WHERE AN ORIGINATOR, OR INTERMEDIARY ACTING ON ITS**
13 **BEHALF, MAKES AN INPUT ERROR IN AN ELECTRONIC**
14 **COMMUNICATION OR ELECTRONIC DOCUMENT EXCHANGED**
15 **WITH THE AUTOMATED MESSAGE SYSTEM OF ANOTHER PARTY**
16 **AND THE AUTOMATED MESSAGE SYSTEM DOES NOT PROVIDE**
17 **THE ORIGINATOR OR INTERMEDIARY WITH AN OPPORTUNITY**
18 **TO CORRECT THE ERROR, THE ORIGINATOR OR INTERMEDIARY**
19 **HAS THE RIGHT TO WITHDRAW THE PORTION OF THE**
20 **ELECTRONIC COMMUNICATION OR ELECTRONIC DOCUMENT IN**
21 **WHICH THE INPUT ERROR WAS MADE IF:**

22
23 i. **THE ORIGINATOR OR INTERMEDIARY NOTIFIES THE**
24 **OTHER PARTY OF THE ERROR AS SOON AS POSSIBLE**
25 **AFTER HAVING LEARNED OF THE ERROR AND INDICATES**
26 **THAT AN ERROR WAS MADE IN THE ELECTRONIC**
27 **COMMUNICATION OR ELECTRONIC DOCUMENT; AND**

28
29 ii. **THE ORIGINATOR OR INTERMEDIARY HAS NOT USED OR**
30 **RECEIVED ANY MATERIAL BENEFIT OR VALUE FROM THE**
31 **GOODS OR SERVICES, IF ANY, RECEIVED FROM THE**
32 **OTHER PARTY.”**

33
34 **SEC. 18.** Section 20 of Republic Act No. 8792 is hereby renumbered to
35 Section 22, and amended to read as follows:
36

1 “SECTION [20] **22. Agreement on Acknowledgment of Receipt of**
2 *Electronic [Data Messages] COMMUNICATIONS or Electronic*
3 *Documents.* — The following rules shall apply where, on or before
4 sending an electronic [data message] **COMMUNICATION** or electronic
5 document, the originator and the addressee have agreed, or in that
6 electronic document or electronic [data message] **COMMUNICATION**,
7 the originator has requested, that receipt of the electronic document or
8 electronic [data message] **COMMUNICATION** be acknowledged:
9

10 (a) Where the originator has not agreed with the addressee that the
11 acknowledgment be given in a particular form or by a particular
12 method, an acknowledgment may be given by or through any
13 communication by the addressee, automated or otherwise, or any
14 conduct of the addressee, sufficient to indicate to the originator that
15 the electronic [data message] **COMMUNICATION** or electronic
16 document has been received.
17

18 (b) Where the originator has stated that the effect or significance of the
19 electronic [data message] **COMMUNICATION** or electronic document is
20 conditional on receipt of the acknowledgment thereof, the electronic
21 [data message] **COMMUNICATION** or electronic document is treated as
22 though it has never been sent, until the acknowledgment is received.
23

24 (c) Where the originator has not stated that the effect or significance of
25 the electronic [data message] **COMMUNICATION** or electronic
26 document is conditional on receipt of the acknowledgment, and the
27 acknowledgment has not been received by the originator within the
28 time specified or agreed or, if no time has been specified or agreed,
29 within a reasonable time, the originator may give notice to the
30 addressee stating that no acknowledgment has been received and
31 specifying a reasonable time by which the acknowledgment must be
32 received; and if the acknowledgment is not received within the time
33 specified in subparagraph (c), the originator may, upon notice to the
34 addressee, treat the electronic [data message] **COMMUNICATION** or
35 electronic document as though it had never been sent, or exercise any
36 other rights it may have.

1
2 **SEC. 19.** Section 21 of Republic Act No. is hereby renumbered to Section 23,
3 and amended to read as follows:
4

5 “SECTION [21] **23.** *Time of Dispatch of Electronic [Data Messages]*
6 **COMMUNICATIONS** or *Electronic Documents*. — Unless otherwise
7 agreed between the originator and the addressee, the dispatch of an
8 electronic [data message] **COMMUNICATION** or electronic document
9 occurs when [it enters an information system outside the control of the
10 originator or of the person who sent the electronic data message or
11 electronic document on behalf of the originator.] **IT LEAVES AN**
12 **INFORMATION SYSTEM UNDER THE CONTROL OF THE**
13 **ORIGINATOR OR OF THE INTERMEDIARY WHO SENT IT ON**
14 **BEHALF OF THE ORIGINATOR OR, IF THE ELECTRONIC**
15 **COMMUNICATION HAS NOT LEFT AN INFORMATION SYSTEM**
16 **UNDER THE CONTROL OF THE ORIGINATOR OR INTERMEDIARY,**
17 **THE TIME WHEN THE ELECTRONIC COMMUNICATION IS**
18 **RECEIVED.”**
19

20 **SEC. 20.** Section 22 of Republic Act No. 8792 is hereby renumbered to
21 Section 24, and amended to read as follows:
22

23 “SECTION [22] **24.** *Time of Receipt of Electronic [Data Messages]*
24 **COMMUNICATIONS** or *Electronic Documents*. — Unless otherwise
25 agreed between the originator and the addressee, the time of receipt of
26 an electronic [data message] **COMMUNICATION** or electronic
27 document is as follows:
28

29 (a) [If the addressee has designated an information system for the
30 purpose of receiving electronic data messages or electronic documents,
31 receipt occurs at the time when the electronic data message or
32 electronic document enters the designated information
33 system: *Provided, however,* That if the originator and the addressee are
34 both participants in the designated information system, receipt occurs
35 at the time when the electronic data message or electronic document
36 is retrieved by the addressee.] **THE TIME OF RECEIPT OF AN**

1 **ELECTRONIC COMMUNICATION OR ELECTRONIC DOCUMENT IS**
2 **THE TIME WHEN IT BECOMES CAPABLE OF BEING RETRIEVED**
3 **BY THE ADDRESSEE AT AN ELECTRONIC ADDRESS DESIGNATED**
4 **BY THE ADDRESSEE.**

5
6 (b) [If the electronic data message or electronic document is sent to an
7 information system of the addressee that is not the designated
8 information system, receipt occurs at the time when the electronic data
9 message or electronic document is retrieved by the addressee;] **THE**
10 **TIME OF RECEIPT OF AN ELECTRONIC COMMUNICATION OR**
11 **ELECTRONIC DOCUMENT AT ANOTHER ELECTRONIC ADDRESS**
12 **OF THE ADDRESSEE IS THE TIME WHEN IT BECOMES CAPABLE**
13 **OF BEING RETRIEVED BY THE ADDRESSEE AT THAT ADDRESS**
14 **AND THE ADDRESSEE BECOMES AWARE THAT THE ELECTRONIC**
15 **COMMUNICATION OR ELECTRONIC DOCUMENT HAS BEEN SENT**
16 **TO THAT ADDRESS.**

17
18 (c) [If the addressee has not designated an information system, receipt
19 occurs when the electronic data message or electronic document enters
20 an information system of the addressee.] **AN ELECTRONIC**
21 **COMMUNICATION OR ELECTRONIC DOCUMENT IS PRESUMED TO**
22 **BE CAPABLE OF BEING RETRIEVED BY THE ADDRESSEE WHEN**
23 **IT REACHES THE ADDRESSEE'S ELECTRONIC ADDRESS;**
24 **PROVIDED, HOWEVER, THAT A PARTY SEEKING TO PROVE THAT**
25 **THE DOCUMENT WAS NOT CAPABLE OF BEING RETRIEVED BY**
26 **THE ADDRESSEE DESPITE REACHING THE ADDRESSEE'S**
27 **ELECTRONIC ADDRESS MUST DEMONSTRATE THAT THE DELAY**
28 **OR NON-RETRIEVAL WAS DUE TO ERRORS ATTRIBUTABLE TO**
29 **THE INFORMATION SYSTEMS INVOLVED. IN SUCH CASES, THE**
30 **TIME OF RECEIPT SHALL BE THE TIME WHEN THE ELECTRONIC**
31 **COMMUNICATION OR ELECTRONIC DOCUMENT IS ACTUALLY**
32 **RETRIEVED BY THE ADDRESSEE.**

33
34 **(D) WHEN THERE IS DELAY OR NON-RETRIEVAL DUE TO ERRORS**
35 **ATTRIBUTABLE TO THE INFORMATION SYSTEMS INVOLVED,**
36 **AND SUCH ERRORS ARE NOT REFLECTED IN THE ELECTRONIC**

1 **TIME STAMPS OF THE INFORMATION SYSTEM, THE TIME OF**
2 **RECEIPT SHALL BE THE TIME WHEN THE ELECTRONIC**
3 **COMMUNICATION OR DOCUMENT IS ACTUALLY RETRIEVED BY**
4 **THE ADDRESSEE. PROVIDED, THAT THE ADDRESSEE MUST**
5 **SHOW PROOF OF SUCH DELAY OR NON-RETRIEVAL.**

6
7 These rules apply notwithstanding that the place where the
8 information system is located may be different from the place where
9 the electronic [data message] **COMMUNICATION** or electronic
10 document is deemed to be received.”

11
12 **SEC. 21.** Section 23 of Republic Act No. is hereby renumbered to Section 25,
13 and amended to read as follows:

14
15 “SECTION [23] **25.** *Place of Dispatch and Receipt of Electronic [Data*
16 *Messages]* **COMMUNICATIONS** *or Electronic Documents.* — Unless
17 otherwise agreed between the originator and the addressee, an
18 electronic [data message] **COMMUNICATION** or electronic document is
19 deemed to be dispatched at the place where the originator has its place
20 of business and received at the place where the addressee has its place
21 of business. This rule shall apply even if the originator or addressee
22 had used a laptop other portable device to transmit or receive his
23 electronic [data message] **COMMUNICATION** or electronic document.
24 This rule shall also apply to determine the tax situs of such
25 transaction.

26
27 For the purpose hereof —

28
29 (a) **A PARTY’S PLACE OF BUSINESS IS PRESUMED TO BE THE**
30 **LOCATION INDICATED BY THAT PARTY, UNLESS ANOTHER**
31 **PARTY REBUTS THE PRESUMPTION BY ADDUCING EVIDENCE**
32 **THAT THE PARTY MAKING THE INDICATION DOES NOT HAVE A**
33 **PLACE OF BUSINESS AT SAID LOCATION.**

34
35 [a] (b) **If A PARTY HAS NOT INDICATED A PLACE OF BUSINESS AND**
36 **HAS MORE THAN ONE PLACE OF BUSINESS** [the originator or the

addressee has more than one place of business], the place of business is that which has the closest relationship to the **RELEVANT CONTRACT, HAVING REGARD TO THE CIRCUMSTANCES KNOWN TO OR CONTEMPLATED BY THE PARTIES AT ANY TIME BEFORE OR AT THE CONCLUSION OF THE CONTRACT.** [underlying transaction or, where there is no underlying transaction, the principal place of business.]

[b] **(C)** If [the originator or the addressee] **A NATURAL PERSON** does not have a place of business, reference is to be made to [its] **THE PERSON'S** habitual residence; or

[c] **(D)** The “usual place of residence” in relation to a body corporate, [means] **REFERS TO** the place where it is incorporated or otherwise legally constituted.

(e) A LOCATION IS NOT A PLACE OF BUSINESS MERELY BECAUSE THAT IS:

i. **WHERE EQUIPMENT AND TECHNOLOGY SUPPORTING AN INFORMATION SYSTEM USED BY A PARTY IN CONNECTION WITH THE FORMATION OF A CONTRACT ARE LOCATED; OR**

ii. **WHERE THE INFORMATION SYSTEM MAY BE ACCESSED BY OTHER PARTIES.**

(F) THE SOLE FACT THAT A PARTY MAKES USE OF A DOMAIN NAME OR ELECTRONIC MAIL ADDRESS CONNECTED TO A SPECIFIC COUNTRY DOES NOT CREATE A PRESUMPTION THAT ITS PLACE OF BUSINESS IS LOCATED IN THE SAME COUNTRY.”

SEC. 22. Section 24 of Republic Act No. is hereby renumbered to Section 26, and amended to read as follows:

1 “SECTION [24] **26.** *Choice of Security Methods.* — Subject to applicable
2 laws and/or rules and guidelines promulgated by the Department of
3 Trade and Industry with other appropriate government agencies,
4 parties to any electronic transaction shall be free to determine the type
5 and level of electronic [data message] **COMMUNICATION** and
6 electronic document security needed, and to select and use or
7 implement appropriate technological methods that suit their needs.”
8

9 **SEC. 23.** *Repealing Clause.* – All laws, presidential decrees, executive orders,
10 proclamations, and administrative issuances, circulars, rules, and regulations,
11 which are inconsistent with the provisions of this Act are hereby amended, modified,
12 superseded, or repealed accordingly.
13

14 **SEC. 24.** *Separability Clause.* – If any part of this Act is declared
15 unconstitutional or invalid, such parts or provisions thereof not so declared shall
16 remain valid and subsisting.
17

18 **SEC. 25.** This Act shall take effect fifteen (15) days after its complete
19 publication in the *Official Gazette* or in two (2) newspapers of general circulation.
20

21 Approved,