



**Republic of the Philippines  
DEPARTMENT OF ENERGY**

**DEPARTMENT CIRCULAR NO. DC 2020-02-0005**

**GUIDELINES ON THE DUTY-FREE IMPORTATION AND MONITORING OF THE  
UTILIZATION OF RE MACHINERY, EQUIPMENT, MATERIALS AND SPARE  
PARTS AND THEIR TRANSFER AND OTHER DISPOSITION**

**WHEREAS**, Section 4 of Republic Act (RA) No. 7638 or the "*Department of Energy Act of 1992*" mandates the DOE to prepare, integrate, coordinate, supervise, and control all plans, programs, projects, and activities of the Government relative to energy exploration, development, utilization, distribution, and conservation;

**WHEREAS**, Section 2(b) of RA No. 9513 or the "*Renewable Energy Act of 2008*" (hereinafter referred to as the "RE Law") mandates the increase of utilization of renewable energy (RE) by institutionalizing the development of national and local capabilities in the use of renewable energy systems and promoting its efficient and cost-effective commercial application by providing fiscal and non-fiscal incentives;

**WHEREAS**, the RE Law calls for the Government to establish the necessary infrastructure and mechanisms for all existing and new RE Developers/Operators to fully avail of the fiscal and non-fiscal incentives provided upon the effectivity of the RE Law;

**WHEREAS**, Section 2 of RA No. 9485, as amended by RA No. 11032, or the "*Ease of Doing Business and Efficient Government Service Delivery Act of 2018*" mandated the government to promote transparency in each agency with regard to the manner of transacting with the public, which shall encompass a program for the adoption of simplified requirements and procedures that will reduce red tape and expedite business and non-business related transactions in government;

**NOW THEREFORE**, for and in consideration of the foregoing premises, the DOE does hereby promulgate the following guidelines:

**SECTION 1. SCOPE AND APPLICATION.** This Circular shall govern the processing and approval of application for Certificate of Endorsement (COE), as well as issuance thereof for the duty-free importation of machinery, equipment, materials and spare parts used for RE operations. It shall likewise govern the application for COE involving temporary exportation, as well as sale, transfer, assignment, donation or other modes of disposition of originally imported capital equipment/machinery including spare parts brought into the RE facilities of the RE Developer/Operator which availed of duty-free importation.

**SECTION 2. DEFINITION OF TERMS.** As used in this Circular, the following shall be construed to mean, unless the context clearly provides otherwise:

- a. **Applicant** – means the RE Developer/Operator or accredited manufacturers, fabricators, and suppliers of locally – produced renewable energy components applying for COE from the DOE relative to the duty-free importation of machinery, equipment, materials and spare parts, and temporary exportation, and the sale or donation of unserviceable or used machinery, equipment, materials, and spare parts duly filed pursuant to this Circular.
- b. **Certificate of Endorsement** – means the document issued by the DOE in accordance with Section 15(b) of RA No. 9513 endorsing the application for duty-free importation of RE machinery, equipment, materials and spare parts to the RE Developer/Operator, to exempt the Applicant from payment of tariff duties on the importation. COE may also be issued pursuant to Section 21(a) of RA No. 9513, if applicable.
- c. **Emergency Importation** – means the importation of machinery, equipment, materials and spare parts not included in the work program but urgently needed to prevent accidents, losses, and unnecessary delays and expenses.
- d. **Exportation** – means the act of sending or transmitting, from the Philippines to a foreign territory, machinery, equipment, materials, and spare parts covered by a previously issued COE by the DOE, for the purpose of repairs and/or regular maintenance.
- e. **Importation** – means the act of bringing in machinery, equipment, materials, spare parts which are directly and actually needed and will be used exclusively in the RE facilities for RE operations from a foreign territory into the Philippine jurisdiction, with intent to land.
- f. **Machinery, Equipment, Materials and Spare Parts** – means capital equipment, major components thereof, non-perishable tools, machines and other mechanical, chemical and or electrical apparatus, including control and communication equipment, whether fixed or movable; usual components of machinery and/or equipment which are subject to wear and tear arising from normal use, utilization and operation; and matters which are intended to be used in the creation of a mechanical structure, needed in RE operations.
- g. **RE Developer/Operator** – means an individual or judicial entity created, registered and/or authorized to operate in the Philippines in accordance with existing Philippine Laws and engage in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities. It shall include existing entities engaged in the exploration, development, and/or utilization of RE resources, or the generation of electricity from RE resources, or both.
- h. **RE Operation** – means engaging in the exploration, development, utilization, distribution and conservation of RE resources and actual operation of RE systems/facilities, and all other operations incidental thereto conducted within the Philippines.

- i. **RE Operating Contract** – shall refer to the service agreement between the DOE and RE Developer for the development and/or utilization of biomass, solar and other RE Resources which, due to their inherent technical characteristics, need not to go through Pre-Development Stage.
- j. **RE Resources** – means energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, among others, biomass, solar, wind, geothermal, ocean energy, and hydropower conforming to internationally accepted norms and standards on dams, and other emerging renewable energy technologies.
- k. **RE Service Contract** – shall refer to a service agreement between the Philippine Government, through the president or the DOE Secretary, and RE Developer, covering an appropriate period as stated therein, in which the RE Developer shall have the exclusive right to explore, develop and utilize geothermal, hydropower, wind, ocean and other RE Resources within a particular area.
- l. **Shipping Documents** – refers to *proforma* invoice and/or other quotation together with shipment forms indicating the name of customers and date, method, quantities, and specification of shipment.
- m. **Technical Obsolescence** – means that the design or specification of the asset no longer fulfils the function for which it was originally designed and/or the machinery, equipment, materials and spare parts covered by previously DOE issued COE has diminished in value caused by changes in technology and new inventions rendering it less desirable in the industry, including a decline in value due to improved alternatives becoming available that are more cost effective, as may be verified and approved by the DOE.

### **SECTION 3. CONDITIONS FOR THE EVALUATION OF APPLICATION FOR DUTY-FREE IMPORTATION OF RE MACHINERY, EQUIPMENT, MATERIALS AND SPARE PARTS**

- A. **Duty-Free Importation of RE Machinery, Equipment, Materials and Spare Parts.** Pursuant to Sections 15(b) of RA No. 9513, within the first ten (10) years upon the issuance of a Certification of Registration to an RE Developer/Operator, the importation of RE machinery, equipment, materials and spare parts, including control and communication equipment, shall be exempt from tariff duties provided the following conditions are met:
  - 1. The RE machinery, equipment, materials and spare parts are not manufactured domestically in reasonable quantity and quality at competitive prices;
  - 2. The RE machinery and equipment are directly and actually needed and will be used exclusively in the RE facilities for transformation into energy and delivery of energy to the point of use.

Actual, direct and exclusive use of the machinery, equipment, materials and spare parts subject of the duty-free importation means the direct and immediate and actual application of the machinery, equipment, materials and spare parts themselves to the RE facilities;

3. The importation of materials and spare parts shall be restricted only to component materials and parts for the specific machinery and/or equipment authorized to be imported;
4. The kind of capital machinery and equipment to be imported must be in accordance with the approved work and financial program of the RE facilities; and
5. The RE machinery, equipment, materials, spare parts are covered by shipping documents in the name of the duly registered RE Developer/Operator to whom the shipment will be directly delivered by customs authorities.

**B. Duty-Free Importation of Components, Parts, and Materials.** Pursuant to Section 21(a) of RA No. 9513, all shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempted from importation tariff and duties and value added tax: Provided, that the said components, parts and materials are:

1. Not manufactured domestically in reasonable quantity and quality at competitive prices;
2. Directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment.

Actual, direct and exclusive use of the components, parts, or materials of the duty-free importation means the direct and immediate and actual application of the components, parts, or materials for the manufacture and/or fabrication of RE equipment and components;

3. Covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities; and

Prior approval of the DOE should be obtained before the importation of such components, parts and materials.

**SECTION 4. PROCEDURES FOR THE ISSUANCE OF CERTIFICATE OF ENDORSEMENT FOR DUTY-FREE IMPORTATION.** The Applicant shall comply with the following rules and regulations on the application, evaluation, endorsement, approval, recording and reporting for importation of machinery, equipment, spare parts and materials under this Circular.

1. The Applicant shall file four (4) original sets of a completely filled-out Application Form attached hereto as **Annex "A"** and sworn to by a duly authorized officer of the Applicant before a Notary Public.

The application shall cover only one (1) complete shipment and/or transaction.

In the Application Form, the Applicant shall submit proof or declare under oath, that the machinery, equipment, materials, and spare parts of comparable price and quality are not manufactured in the Philippines, and directly and actually needed and will be used exclusively in the RE facilities for the transformation and delivery of energy to the point of use.

The Applicant shall attach shipping documents of the imported machinery, equipment, spare parts and materials, in the name RE Developer/Operator to whom the shipment will be directly delivered by the customs authorities.

The applicant shall submit the following documentary requirements;

1. Board of Investment (BOI) Certificate of Registration;
  2. Pro-forma Invoice;
  3. Computation of Estimated Duties to be waived; and
  4. Technical Data Specification.
2. The application shall be filed at least thirty (30) calendar days prior to the actual Importation.
  3. The Applicant shall file the application, together with the documentary requirements, with the Records Management Division (RMD) of the DOE.
  4. The RMD shall endorse, within one (1) day upon receipt, the application and documentary requirements to the Renewable Energy Management Bureau-Office of the Director (REMB-OD).

Within one (1) day upon receipt, the REMB-OD shall endorse the application to the concerned Division.

The concerned Division of REMB shall determine, within one (1) day upon receipt, the completeness of the documentary requirements, and issue Order of Payment to the Applicant for the payment of the processing fee with the Treasury Division, in accordance with the DOE Schedule of Fees and Charges.

For incomplete application, the concerned Division shall notify the Applicant to submit the lacking documentary requirements within three (3) working days upon receipt of notice.

5. After payment of the processing fee, the Applicant shall provide copy of the Official Receipt (OR) issued by the Treasury Division to the concerned Division in order to commence the three (3) working days technical evaluation and subsequent approval by REMB Director.
6. Within three (3) working days from receipt of the technical evaluation by REMB, the Legal Services (LS) shall review and evaluate the application and revert the same to REMB for further processing.

Upon receipt of LS concurrence of the application and its accompanying documents, the REMB shall endorse the same to its Supervising Undersecretary and Assistant Secretary. The REMB shall attach to its Memorandum for Endorsement a duly-prepared COE, seeking approval and clearance for the REMB Director to sign and issue the COE. Within five (5) working days upon receipt of the Memorandum, attached with a duly-prepared COE, the Offices of the Undersecretary and Assistant Secretary may either approve or disapprove the same.

Should the Offices of the Undersecretary and Assistant Secretary give their approval and clearance thereof, the REMB Director, within two (2) working days therefrom, shall sign the duly-prepared COE.

COE applications concerning capital equipment, e.g. heavy equipment, special use equipment, fuel, etc. shall be coursed through and approved by the DOE Secretary.

7. Within two (2) working days thereafter, the approved and signed COE shall be endorsed to the RMD for dry seal, and will be released to the Applicant by the concerned Division. Any COE not bearing the said seal shall not be considered as valid.
8. In case the application is disapproved at any stage hereof, the REMB shall immediately inform the Applicant in writing, stating the cause and/or reason for the disapproval.

The Applicant may submit a request for reconsideration or a revised application within fifteen (15) calendar days from receipt of such notice. In case the Applicant submits a request for reconsideration or a revised application, the same shall be considered as a new application which is subject to payment of processing fee.

9. In case of sale or disposition of machinery, equipment, materials and spare parts under Section 7 hereof, the Applicant for the endorsement shall file four (4) original sets of a completely filled-out Application Form attached hereto as **Annex "B"** and sworn to by a duly authorized officer of the Applicant before a Notary Public.

In addition thereto, the Applicant shall also submit to the DOE a written statement under oath, issued by the Applicant, that a sale or disposition will take place: Provided, that in the case of sale, the conforme of the intended buyer must be obtained. Moreover, proof of importation of the machinery, equipment, materials and spare parts which are subject of the sale or disposition should likewise be submitted to the DOE.

The application for the sale of machinery, equipment, materials and spare parts under this Circular shall be endorsed to the Renewable Energy Resources Compliance Division of the Financial Services for review of the validated costs and related depreciation/amount cost recovered. Thereafter, the application shall then be forwarded to the REMB-OD. Thereafter, procedures in Sections 4.4 to 4.8 hereof shall apply.

**SECTION 5. EMERGENCY IMPORTATION.** In case of Emergency Importation, the Applicant shall also submit a written request showing the necessity of the Emergency Importation, subject to the conditions and procedures for regular importation under Section 3 (A) and Section 3 (B) hereof, whichever is applicable.

The application will be considered as Emergency Importation, if the machinery, equipment, spare parts and materials are not included in the work program and are urgently needed to prevent accidents, losses and unnecessary delays and expenses. Emergency Importation may be allowed for the following:

- a) Rehabilitation/repair of RE facility damaged by Force Majeure; or
- b) Replacement for existing machinery and equipment that may cause imminent danger to workers, community, and/or environment.

In addition, the Applicant shall comply with relevant and applicable Bureau of Customs (BOC) regulations and issuances, which may include the posting of a bond. Thereafter, the Applicant shall submit to the DOE proof of compliance within fifteen (15) calendar days from the date of posting of the bond.

**SECTION 6. POST IMPORTATION REQUIREMENTS.** All Applicants shall comply with the following post importation requirements.

1. Within thirty (30) calendar days following the release of the importation from BoC custody, the Applicant shall submit to the DOE copies of the official documents indicating the description, quantity and price of the machinery, equipment, materials and spare parts imported, including the names of the supplier and carrying vessels and other particulars relating to said importation.
2. The Applicant shall advise the DOE in writing of the precise place where the importation has been taken and the actual use thereof within fifteen (15) days therefrom. In case installation is necessary, the Applicant shall advise the DOE of such installation, within fifteen (15) days therefrom.

**SECTION 7. SALE OR DISPOSITION OF CAPITAL EQUIPMENT.** Any sale, transfer, assignment, donation, or other modes of disposition of originally imported capital equipment/machinery including material and spare parts, brought into the RE facilities of the RE Developer/Operator which availed of duty-free importation within ten (10) years from date of importation shall no longer be subject to the payment of taxes and duties, provided a prior endorsement of the DOE must be secured.

Such endorsement shall be granted only if any of the following conditions is present:

1. If made to another RE Developer/Operator enjoying tax and duty exemption on imported capital equipment;
2. If made to a non-RE Developer/Operator, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold;
3. Exportation of the used capital machinery, equipment materials and spare parts or source of documents or those required for RE development; or

4. For reasons of proven technical obsolescence as may be determined by the DOE.

If the sale or disposition is made within 10 years from the date of importation, the said endorsement shall be granted only if any of the above-enumerated conditions are present. The payment of taxes and duties is required only in the second condition when the sale or disposition is made to a non-RE developer, and the same shall be based on the net book value or the original cost less accumulated normal depreciation of the capital equipment to be sold. In the other three (3) conditions, no payment of taxes and duties is required.

When the aforementioned sale, transfer or disposition is made under any of the foregoing conditions after ten (10) years from the date of importation, the sale, transfer or disposition shall no longer be subject to the payment of taxes and duties.

**SECTION 8. EXPORTATION.** The DOE shall issue COE for the exportation of machinery, equipment, materials and spare parts when the following conditions exist:

1. The Exportation is only temporary as indicated in the application, and covered by previously issued COE by the DOE; and
2. The machinery, equipment, materials and spare parts are to be exported for repair and/or maintenance, as endorsed by the DOE.

In case of exportation without prior endorsement of the DOE and approval of the BOI, the applicant shall be liable to pay twice the amount of duties which are originally waived in its favor.

**SECTION 9. DOE INSPECTION, REPORTORIAL REQUIREMENTS, RECORDING AND DATABASE.**

The following rules shall govern the inspection, reporting, recording and data base management of COEs under this Circular.

1. All Applications under this Circular shall, at any reasonable time, be subject to inspection by the duly authorized staff of the DOE, subject to prior and reasonable notice to the Applicant. The DOE shall have the right of entry or access to any premises to inspect all machinery, equipment, materials and spare parts covered by this Circular.
2. The Applicant shall create a database of data and information on the machinery, equipment, materials and spare parts under this Circular and other related data and shall submit report to the DOE on the summary and status and/or updates of all Applications under this Circular on a semi-annual basis. The DOE may also require the submission of such other information as the DOE may reasonably require under this Circular.
3. The RMD shall prepare and submit a monthly list of approved applications for COE to the Mabuhay Lane of the Department of Finance for reconciliation reference. In addition, the RMD shall copy furnish the REMB a copy of such monthly list.



4. The concerned Division of REMB shall keep all records of all the Applications and related documents and shall maintain a data base for records and reference purposes.

**SECTION 10. POST AUDIT.** After the issuance of DOE endorsement and the issuance by the BOI of the Duty Free Importation Certificate, the DOE, through the Financial Services Compliance Division with the assistance of the concerned REMB division, together with BOI representatives shall conduct annual post audit in accordance with the Accounting Procedures set forth in the Applicant's Service (Operating) Contract to determine the Applicant's compliance with all the provisions of this Circular, during reasonable hours and without causing disruption, subject to fifteen (15) calendar days prior written notice to the Applicant.

**SECTION 11. PROHIBITED ACTS, ADMINISTRATIVE FINES AND PENALTIES.** Subject to the requirements and procedures before the Department Order No. DO2012-07-004 or the "*Rules of Practice and Procedures before the Department of Energy*", and pursuant to Section 36 of RA No. 9513, any person who wilfully commits the following prohibited acts shall be imposed with the penalties provided therein:

1. Falsification or tampering of public documents or official records to avail of the incentives provided in this Circular; and/or
2. Non-compliance with any or all the provisions of this Circular.

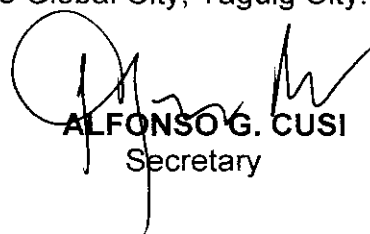
Any person who wilfully aids or abets the commission of any of the foregoing prohibited acts or who causes the commission of any such act by another shall be liable in the same manner as the principal.

**SECTION 12. SEPARABILITY CLAUSE.** If for any reasons, any provision of this Circular is declared unconstitutional or invalid, such part not affected shall remain in full force and effect.

**SECTION 13. REPEALING CLAUSE.** Any circulars, orders, letters of instruction or issuances contrary to or inconsistent with this Circular are hereby repealed, modified, or amended accordingly.

**SECTION 14. EFFECTIVITY.** This Circular shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation. Copies of this Circular shall be filed with the National Administrative Registrar of the University of the Philippines Law Center.

Issued at the Energy Center, Rizal Drive, Bonifacio Global City, Taguig City.

  
**ALFONSO G. CUSI**  
Secretary



**FEB 13 2020**

COE- \_\_\_\_\_

**REPUBLIC OF THE PHILIPPINES**  
**DEPARTMENT OF ENERGY**  
 APPLICATION FOR CERTIFICATE OF ENDORSEMENT ON CAPITAL EQUIPMENT IMPORTATIONS  
 UNDER REPUBLIC ACT 9513

NAME OF RE DEVELOPER :

NAME OF CONTRACT :

OFFICE ADDRESS :

TELEPHONE NUMBER :

MACHINERY, EQUIPMENT, SPARE PARTS AND MATERIALS TO BE IMPORTED

QTY.	DESCRIPTION	VALUE	ESTIMATED DUTY AND TAX WAIVED	SPECIFIC END USE AND PLACE OF USE OR INSTALLATION
		US\$	DUTY	
			0.00	
		( ) AIR FREIGHT	( ) SEA FREIGHT	

QUOTATION NO.

DEPARTMENT OF ENERGY	
DEPARTMENT	DATE INITIAL
TREASURY	
TECHNICAL	
LEGAL	

THE APPLICANT CERTIFIES THAT:

1. The undersigned is duly authorized by the Applicant as shown in the attached Secretary Certificate /Board Resolution.
2. The importation of the above described machinery , equipment, materials or spare parts are imported within the first ten (10) years upon the issuance of a Certificate of Registration to (Name of RE Developer).
3. The above described machinery, equipment, spare parts and or materials are directly and actually needed and would be used exclusively in the (Name and location of the RE facility)
4. The same are not manufactured domestically in reasonable quantity and quality at competitive prices.
5. The importation of materials and spare parts is restricted only to component materials and parts for the specific machinery and/or equipment authorized to be imported.
6. The kind of capital machinery and equipment to be imported must be in accordance to the approved work and financial program of the (Name and location of the RE facility)
7. The importation will be entered at the (Name of port/airport) on (Date of arrival).
8. The above described machinery, equipment, materials or spare parts are covered by shipping documents in the name of (Name of RE Developer) to whom the shipment will be directly delivered by custom authorities.

Done in the Taguig, Metro Manila, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Authorized Officer

Republic of the Philippines)  
 Taguig, Metro Manila)

SUBSCRIBED and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ in the \_\_\_\_\_, affiant exhibited to me  
 his \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_ and Applicant's Corporate Residence  
 \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Doc. No. \_\_\_\_\_  
 Page No. \_\_\_\_\_  
 Book No. \_\_\_\_\_  
 Series of \_\_\_\_\_

COE- \_\_\_\_\_

**REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF ENERGY**

**APPLICATION FOR ENDORSEMENT ON SALE OR DISPOSITION OF CAPITAL EQUIPMENT AND MATERIALS  
UNDER REPUBLIC ACT 9513**

NAME OF RE DEVELOPER :

NAME OF CONTRACT :

OFFICE ADDRESS :

TELEPHONE NUMBER :

MACHINERY, EQUIPMENT, SPARE PARTS AND MATERIALS SUBJECT OF SALE OR DISPOSITION

QTY.	DESCRIPTION	VALUE	ESTIMATED DUTY AND TAX WAIVED	REASON FOR DISPOSITION OR SALE
		US\$	DUTY	
			0.00	

DEPARTMENT OF ENERGY	
DEPARTMENT	DATE INITIAL
TREASURY	
TECHNICAL	
LEGAL	

## THE APPLICANT CERTIFIES THAT:

1. The undersigned is duly authorized by the Applicant as shown in the attached Secretary Certificate/Board Resolution.
2. The capital equipment/machinery, material and spare parts are subject of a *(Mode of Disposition)*
3. The disposition of thereof is done: (Check appropriate box/es)

☐ Within ten (10) years from the date of importation and any of the following conditions of disposition is present:

- ☐ a. If made to another RE Developer/Operator enjoying tax and duty exemption on imported capital equipment.
- ☐ b. If made to a non-RE Developer/Operator, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold.
- ☐ c. Exportation of the used capital equipment, machinery, spare parts or source documents or those required for RE Developer/Operator
- ☐ d. For reasons of proven technical obsolescence as may be determined by the DOE.

☐ After ten (10) years from the date of importation.

4. The said capital equipment /machineries, material and spare parts are originally imported and brought into the facilities of the RE Developer/Operator which availed of duty-free importation.

Done in the Taguig, Metro Manila, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Authorized Officer

Republic of the Philippines)  
Taguig, Metro Manila)

SUBSCRIBED and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the \_\_\_\_\_, affiant exhibited to me his \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_ and applicant's Corporate Residence \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

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Book No. \_\_\_\_\_  
Series of \_\_\_\_\_