

SECTION 1

ORGANIZATION

AND

ADMINISTRATION

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#### I. Organization

1. The facilities for arbitration under the auspices of The Palm Oil Refiners Association of Malaysia (PORAM) may be availed of by the parties who may request for it, be they individuals, bodies corporate, or any other organizations engaged in the trading of oilseeds, vegetable oils and fats and their derivatives.
2. The provision of facilities for arbitration under these Rules shall be for the purpose of settlement of disputes arising out of standard contracts issued by PORAM and/or contracts containing a reference to arbitration under the PORAM Rules of Arbitration and Appeal. If so empowered by an arbitration agreement, such arbitration facilities may be made available for the purpose of settlement of disputes arising out of contracts not using any standard contracts issued by PORAM.
3. PORAM itself does not settle disputes. It has the function of providing a secretariat to facilitate the implementation of these Rules and the conduct of arbitration under these Rules. PORAM shall, in its conduct of the administration of arbitrations/ appeals hereunder, act on behalf of and in accordance with the instructions of the Sole Arbitrator/Panel of Arbitrators/ Appeal Board after they have been duly appointed.

#### II. List of Arbitrators

1. PORAM shall maintain a List of Arbitrators. The list shall comprise of persons approved by PORAM to serve as Arbitrators and who have agreed to arbitrate under these Rules.
2. Persons approved to serve as Arbitrators shall be an employee of a member of PORAM who is known to have relevant experience in the trade or those who are directly connected with the trade or those who are known to have had considerable experience and background of the trade or in related matters.
3. PORAM reserves the rights, at its sole discretion, to refuse or accept any nomination to the List of Arbitrators and to review and update the List of Arbitrators from time to time.

### **III. Request for and Initiation of Arbitration**

#### **1. Notice of Arbitration**

- i) A party who wishes to seek recourse to arbitration (the "Claimant") shall submit its request to PORAM, who shall forward a copy of the request to the other party (the "Respondent").
- ii) The date of receipt of the request for arbitration and the relevant deposits of costs/fees for arbitration by PORAM shall be deemed to be the date of commencement of the arbitral proceedings.
- iii) The request for arbitration shall be in the form annexed hereto as Appendix I or Appendix 1 A as applicable.

#### **2. Time Limits**

- i) In the case of any dispute on quality, the party claiming arbitration shall submit its notice of arbitration to PORAM within twenty-one (21) calendar days from date of receipt of the goods at the place at which quality is deemed to be final in accordance with contractual terms. If sample(s) is available the same should also be sent along with the request to PORAM where such sample(s) shall be held at the disposal of the Sole Arbitrator/ Panel of Arbitrators/ Appeal Board.
- ii) Notwithstanding the above, if the Claimant requires supporting analysis(es), further sample(s) if available shall also be despatched at the same time to a recognised independent analyst.
- iii) In the case of any dispute other than on quality, the party claiming arbitration shall submit its notice of arbitration to PORAM within one hundred and twenty (120) calendar days after the expiry of the contract shipment period or the Bill of Lading date, whichever is later.

#### **3. Disputes Arising Out of Contracts in a String**

- i) Should a contract form part of a string of contracts, an arbitration may be held as between the first Seller and the last Buyer in the string as though they were contracting parties provided that all parties in the string agree in writing and provided that each intermediate party shall have submitted their contract and all relevant information to PORAM which shall then submit the same to the Sole Arbitrator/ Panel of Arbitrators upon the commencement of arbitration proceedings.
- ii) If the first Seller and the last Buyer in the string do not wish to proceed to arbitration or where all parties in the string do not agree in writing that an arbitration shall be held between the first Seller and the last Buyer, then an arbitration may be held between any two immediate contracting parties in

the string provided that if any dispute arising out of this contract raises issues which are substantially the same as or connected with issues raised within the arbitration agreement in any of the contracts in a string ("the related dispute") and if the related dispute has already been referred to arbitration in accordance with PORAM's Rules of Arbitration and Appeal, then all contracting parties in the string agree that the dispute between them shall be referred to the same arbitral tribunal appointed by PORAM to hear the related dispute.

- iii) In any arbitration held between the first Seller and the last Buyer or any two immediate contracting parties in a string, the contracting party seeking recourse to arbitration ("the Claimant") shall submit its request to PORAM which shall forward a copy of the request to the other party ("the Respondent") and also to all other parties in the String dispute ("the String Respondents").
- iv) Contracts in a string, any arbitration between the first Seller and the last Buyer or any two immediate contracting parties in a string, any Award in relation to a string, any Appeal in relation to a string and any Award in relation to the string appeal shall be referred to herein as String Contracts, String Arbitration, String Award, String Appeal and String Appeal Award respectively.

#### **4. Initiation**

Within five (5) working days of receiving the request for arbitration, PORAM shall forward the List of Arbitrators to the Claimant. At the same time, PORAM shall notify the Respondent of the request for arbitration and also forward to them a List of Arbitrators.

#### **IV. Appointment of Arbitrators**

- 1. The disputes referred to arbitration under these Rules may be settled by a Sole Arbitrator or by a panel of Arbitrators comprising three Arbitrators.
- 2. Any person who is an employee of a member of PORAM, subject to his acceptance, or whose name appears on the List of Arbitrators maintained by PORAM, may be nominated as an Arbitrator / Appeal Board member.
- 3. Each party shall nominate its arbitrator within fourteen (14) calendar days of the dispatch of the List of Arbitrators by PORAM. Within such fourteen (14) calendar days both parties may nominate an Arbitrator to act as Sole Arbitrator and inform PORAM accordingly.
- 4. When the dispute is to be referred to three Arbitrators, each party shall nominate respectively one Arbitrator within fourteen (14) calendar days of the dispatch of the List of Arbitrators by PORAM to both parties. If either party fails to so nominate its respective Arbitrator, the Chairman of PORAM shall nominate the Arbitrator on behalf of the party so failing. Upon receipt of the acceptance from the nominated Arbitrator in the form as in Appendix II, the nominated Arbitrator's appointment shall be deemed to be confirmed.

5. Within seven (7) calendar days of the acceptance of the nomination as Arbitrator, the two Arbitrators shall appoint a third Arbitrator failing which, the appointment shall be made by the Chairman of PORAM. The three Arbitrators shall constitute the Panel of Arbitrators. The third Arbitrator shall act as the Chairman at all meetings / hearings.
6. No person shall be eligible to act who, or whose company or firm, has any direct or indirect interest in the transaction in the dispute. An employee or director of any of the disputing parties or any of their associates shall be deemed to have an interest in the transaction in the dispute. In the event that such person is appointed as Arbitrator, PORAM shall have the right to disqualify such person.
7. The Arbitrators shall not cease to have jurisdiction by reason of any claim that the contract is null and void or allegation that it is non-existent.
8. In the event of a String Arbitration, the right of nominating the Arbitrators shall rest with the Claimant and the Respondent only. The String Respondents shall have no such right.

## **V. Vacancy**

If any Arbitrator should resign, die, withdraw, be disqualified, refuse to be disqualified or be unable to perform the duties of his office for any reason whatsoever, PORAM shall, upon due consideration, declare the office vacant. Any such vacancy shall be filled in the same manner as an original appointment.

## **VI. Administration of the Proceedings**

### **1. Place of Arbitration**

The arbitration may be held either at the PORAM Secretariat or any other place within Malaysia unanimously chosen by the Sole Arbitrator/Panel of Arbitrators/ Appeal Board.

### **2. Facilities for Arbitration**

PORAM shall make available or arrange for such facilities and assistance for the conduct of arbitral proceedings as may be necessary including suitable accommodation for the conduct of the proceedings, secretarial assistance and translation facilities.

### **3. Costs/Fees of Arbitration**

- i) All costs / fees of arbitration shall be borne by the parties in such proportions as may be stipulated in the Award. The costs/fees of arbitration shall be as stated in Appendix III.

- ii) The Sole Arbitrator/Panel of Arbitrators/ Appeal Board may instruct either of the disputing parties to deposit additional funds with PORAM, at any time, to cover additional costs/fees of arbitration.

#### **4. Other Costs**

Besides the costs/fees stated in Appendix III, the Sole Arbitrator/Panel of Arbitrators/Appeal Board may decide to include in the award any other costs/fees as they may deem fit. With respect to all the costs/fees pertaining to the arbitration/ appeal or incidental thereto, the Sole Arbitrator/ Panel of Arbitrators / Appeal Board, taking into account the circumstances of the case, shall be free to determine which party shall bear such costs, or may apportion such costs between the parties as they deem appropriate. No additional costs/fees shall be charged for interpretation, correction or completion of the Award.

#### **5. Waiver of Time Limit**

The time set for any act under these Rules may be varied at the sole discretion of the Sole Arbitrator/Panel of Arbitrators/Appeal Board.

#### **6. Interpretation of Rules**

The decision of PORAM in regard to the interpretation of these Rules shall be final.

#### **7. Provision of Facilities and Assistance in Ad Hoc Arbitration (Appendix IV)**

PORAM also provides facilities and assistance for holding of ad hoc arbitration proceedings where parties may request for such services upon payment of the costs / fees as stated in Appendix III.

#### **8. Address for Communication**

All communication should be addressed to :-

**The Palm Oil Refiners Association of Malaysia  
801C/802A, Block B, Executive Suites,  
Kelana Business Centre, 97, Jalan SS7/2,  
47301 Kelana Jaya, Selangor, Malaysia.**