

FEDERATION OF OILS, SEEDS AND FATS ASSOCIATIONS LTD  
FOSFA INTERNATIONAL

**RULES OF ARBITRATION  
FOR BROKERAGE COMMISSION  
AND INTEREST**

Any dispute arising out of a contract or contracts subject to these Rules, including any questions of law arising in connection therewith, shall be referred to arbitration in London (or without prejudice to the juridical seat elsewhere if agreed) in accordance with the Arbitration Act 1996 and any statutory modification or re-enactment thereof for the time being in force.

The juridical seat of the arbitration shall be, and is hereby designated pursuant to Section 3 of the Arbitration Act 1996 as, England.

Each party engaging in an arbitration pursuant to these Rules, whether or not a Member of the Federation, is deemed therefore to abide by these Rules and to agree with the Federation to be liable to the Federation (jointly and severally with the other parties to the arbitration) for all fees and expenses incurred in connection with the arbitration, which said fees and expenses shall, upon notification by the Federation under the provision of Rule 5, be and become a debt to the Federation.

## **1. PROCEDURE FOR CLAIMING ARBITRATION AND TIME LIMITS**

- (a) Claims in respect of late and/or non payment of commission and/or concerning interest payable on commission shall be despatched by the claimant to the other party (the respondent) and to the Federation not later than 60 consecutive days after the dispute has arisen. The claim shall be in the form of a written submission together with a copy of the contract and any supporting documents.
- (b) The claimant shall arrange to pay to the Federation a deposit as prescribed by the Council of the Federation on account of the fees, costs and expenses of the arbitration, which is to be received by the Federation not later than 7 consecutive days after the notice of arbitration.

## **2. APPOINTMENT OF AN ARBITRATOR**

The Federation on receiving a submission under Rule 1 above shall appoint an arbitrator to determine the dispute whose award shall be final and binding on the parties and not open to appeal.

## **3. PROCEDURE FOR ARBITRATIONS**

- (a) On receipt of the appropriate deposit, the Federation shall notify both parties of the name and address of the duly appointed arbitrator who shall have accepted the appointment and, at the same time, shall send to the arbitrator the claimant's submission, any supporting documents and a copy of the contract out of which the dispute arose.
  - (b) If the party against whom a claim is made wishes to reply to the claimant's submission, such reply together with any supporting documents shall be despatched in writing to the arbitrator, the Federation and to the other party within 30 consecutive days from the date of despatch of the notice of appointment of an arbitrator. Failing receipt of such reply, the arbitrator shall proceed to arbitration without delay.
  - (c) The arbitrator shall have discretion to extend the time limits imposed under Rules 1 and 3(b).
  - (d) The arbitrator shall proceed to an award on the evidence supplied by the parties but shall have the power to request further information and/or documents from either of the parties. Such requests, information or documents, however, must also be made available to the other party who shall have the right to reply. The parties shall be entitled to a reasonable period within which to comply with such request and/or make such reply but the arbitrator, having given reasonable notice, may make an award if such requests have not been complied with or if such reply has not been received.
  - (e) If any party to an arbitration considers that the arbitrator is failing to exercise all reasonable despatch in entering on or proceeding with the arbitration then that party may notify the Federation accordingly in writing with full details. Upon receipt of such notice the Federation shall call upon the arbitrator to explain the reasons for the delay. The arbitrator must furnish the Federation with such an explanation within 7 days of the Federation's request for such an explanation. If the Federation is not satisfied with the arbitrator's explanation the Federation shall fix a 7 day period in which the arbitrator is to take the next step required to be done in proceeding with the arbitration. Should the arbitrator fail to respond to the Federation's request for an explanation or fail to take the next step required to be done in proceeding with the arbitration within the 7 day period, then the Federation shall have the right to require the arbitrator to resign his/her position as arbitrator in that particular arbitration. The arbitrator shall be deemed to have resigned his/her position 14 consecutive days after despatch to him/her of the Federation's written requirement that he resigns his appointment unless otherwise decided by the Federation. An arbitrator who is called upon to resign his position as arbitrator under this provision shall not be entitled to receive any remuneration in respect of his services provided in the particular arbitration in question unless otherwise decided by the Federation. Where an arbitrator resigns his position under this provision then the Federation shall appoint a substitute arbitrator within 7 days of the notice being despatched.
- In circumstances where an arbitrator is removed from an arbitration by the Federation as provided for above, the Federation may, by a decision of the Council, also suspend or remove that person's right to act as arbitrator under these Rules or to act as an arbitrator or to serve on the Appeal Panel of the Federation.

## **4. JURISDICTION**

- (a) The arbitrator may rule on his/her own jurisdiction as to whether there is a valid arbitration agreement.
- (b) If the arbitrator decides that he/she does have jurisdiction, he/she shall proceed with the arbitration without delay.
- (c) If the arbitrator decides that he/she has no jurisdiction he/she shall draw up an award in accordance with Rules 5(a) and 5(b).

## **5. PROCEDURE FOR ARBITRATION AWARDS**

- (a) Awards shall be in writing and shall be issued on the prescribed Federation Form. Awards shall contain the reasons for the decisions made by the arbitrator, shall have the power to assess and award by whom the total fees and expenses of the arbitration shall be paid. The Federation's fee shall be that in force as prescribed by the Council of the Federation. The arbitrator shall decide on his/her own fee.
- (b) It shall be the duty of the arbitrator, when he/she has signed an award, to lodge the original and one copy with the Federation who shall date them and give notice to the parties names in the award that the award is at their disposal upon payment of the balance of any fees and expenses of the arbitration. On receipt of payment of the balance of the fees the Federation shall immediately send

the original award to the party who has paid and send a copy to the other party. Under no circumstances may the arbitrator disclose the contents of, or decisions within, the award.

## **6. APPEALS**

The award of the arbitrator is final and binding. Parties to an award of arbitration concerning a contract for brokerage commission and or interest have no right to appeal.

## **7. GENERAL**

- (a) Any notice may be delivered personally or left at the place where the party to whom it is to be delivered is carrying on business or (by reason of the provisions of the contract) is to be considered to be carrying on business. A copy shall be delivered to the Federation.
- (b) If an arbitration award is not taken up by any of the parties to the dispute within 28 consecutive days after the date of the award, the Federation shall call upon the claimant and the respondent to take up the award. If the claimant or the respondent fails to take up the award, the Council of the Federation may post on the Federation's notice board and/or circularise to members in any way thought fit a notification to that effect. The parties to any such arbitration held under these Rules shall be deemed to have consented to the Council taking such action.
- (c) In the event of any party to an arbitration held under these Rules neglecting or refusing to carry out or abide by an award of an arbitrator made under these Rules, the Council of the Federation may post on the Federation's notice board and/or circularise to members in way thought fit a notification to that effect. The parties to any such arbitration shall be deemed to have consented to the Council taking such action.