

Arbitration Procedures
(DFA of California and Specialty Crop Trade Council)

The Board of Directors of DFA of California (“DFA”) and the Specialty Crop Trade Council (“SCTC”) have each adopted the following procedures relative to arbitrations of disputes:

Article I

Procedure to Initiate Arbitration

Section 1. Any member of DFA or SCTC, or any non-member who has a written agreement with a member of DFA or SCTC to arbitrate disputes¹ pursuant to DFA/SCTC arbitration procedures, may deliver to the President of DFA or SCTC (as applicable) a “Request for Arbitration”, which shall be in substantially the form of Attachment A to these procedures, and which shall include but not be limited to the following:

- a. The name and contact person of the entity requesting the arbitration (“Applicant”), and whether the Applicant is a member of either DFA or SCTC.
- b. The name and contact person of the entity with whom the Applicant has a dispute, and whether that entity is a member of either DFA or SCTC.
- c. A copy of the contract which requires the Applicant or the other party to submit to arbitration pursuant to these procedures.
- d. A detailed description of the nature of the dispute to be arbitrated.

Section 2. The Association Secretary receiving the Request shall make a finding as to whether the controversy and the parties are properly subject to arbitration by DFA/SCTC. The Secretary shall take into account the Arbitration section (Section 29) of the “DFA/SCTC Contract Terms and Conditions for Dried Fruit, Tree Nuts and Kindred Products”, if applicable.

If the Secretary finds that the controversy and/or the parties are not properly subject to a request for arbitration, he/she shall so notify the Association President. The Association President shall review the Request and if the President finds that the controversy and/or

¹ A “written agreement to arbitrate” includes but is not necessarily limited to 1) a hardcopy paper agreement signed by both parties, 2) an electronic agreement in which electronic signatures are inserted, or 3) an email exchange in which it is clear to a reasonable person that the parties have agreed to be subject to the DFA/SCTC Arbitration Procedures.

the parties are not properly subject to a request for arbitration, he/she shall so notify the Applicant and the matter shall be deemed closed. An Applicant who believes that the President has incorrectly denied arbitration may appeal the President decision to the applicable Board of Directors (DFA or SCTC) by sending a letter to the Secretary of the applicable Association within thirty (30) days of notification outlining the reasons why the request for arbitration should be reconsidered. The appropriate Board will consider and vote on the appeal as soon as is practicable.

If the applicable Secretary finds, based on the application, that the controversy and the parties appear properly subject to arbitration, he/she shall so notify the Applicant and the other party. The Secretary shall request that the other party respond in writing within twenty (20) days of receipt of the notice.

Section 3. If a member or non-member of DFA or SCTC has signed an agreement with the Applicant to arbitrate disputes pursuant to DFA/SCTC procedures, but refuses to consent to arbitration or fails to respond to the notice, the arbitration will proceed and a judgment will be issued. Additionally, if any member of DFA or SCTC refuses to arbitrate, that member may be subject to suspension or expulsion proceedings pursuant to the Bylaws of DFA or SCTC, as applicable.

Section 4. Whether or not the other party responds to the notice in Section 2 above within the 20 day deadline, the applicable Secretary will send written notice to each party within a reasonable time after the 20 day deadline passes requesting that both parties provide any documentation or evidence they would like considered in the arbitration. The Secretary shall request that both parties respond in writing within thirty (30) days after receipt of the request for documents/evidence.

Upon receipt of the documentation/evidence from both parties, the applicable Secretary will assemble the documentation/evidence and send copies to each party so that each party can prepare their response the other party's arguments for the arbitration. Upon response from each party, the applicable Secretary will proceed with the selection of arbitrators as described below.

Article II

Selection of Arbitrators

Section 1. For any arbitration conducted pursuant to these procedures, the applicable Secretary shall select and appoint three disinterested members of the applicable Association to act as the arbitrators. It shall be the duty of any member so appointed to serve as arbitrator. "Disinterested" means that no person shall serve as an arbitrator in any controversy in which he/she or any firm with which he/she is connected has any interest, or in any controversy in which their past or present connections with either party are such as to imperil the impartiality of their decision. In the event a question should arise concerning the qualification of any arbitrator, he/she shall be disqualified if both of the other two arbitrators so hold. If any person appointed to act as an arbitrator shall for any reason be disqualified, fail or be unable to act, the Secretary shall select another qualified, disinterested member to act in his/her place.

Article III

Evidence and Procedure

Section 1. The arbitrators may request, receive and consider any evidence they deem material and proper. Evidence may be submitted in the form of statements, affidavits or any other form deemed acceptable by the arbitrators. The arbitrators may require that any unverified statements be verified by the parties making them or that the accuracy or authenticity of any documents or other papers submitted be verified by affidavit. The arbitrators may receive oral testimony if in their opinion it is necessary or desirable in order to obtain a full and complete understanding of the facts. The arbitrators may determine what personal appearances shall be made by the parties and regulate the holding of hearings. Except under extraordinary circumstances, as determined by the arbitrators, copies of all evidence received from any party shall be provided to the other party for its review.

Section 2. The arbitrators, in cooperation with the Secretary, shall set the date, time, and place for any meeting of the arbitrators or, if necessary, any hearing involving the parties. All hearings shall be held in the State of California, USA, in whatever specific location is chosen by the arbitrators. Parties to the arbitration shall be provided at least ten (10) days notice of any hearing at which their appearance is requested.

Section 3. Any party may be represented by counsel or other authorized representative at a hearing. A party intending to be so represented shall notify the other party and the arbitrators of the name and address of the representative at least three (3) days prior to the date set for the hearing at which that person is first to appear. When such a representative initiates arbitration or responds for a party, notice is deemed to have been given.

Section 4. Any party desiring a stenographic record of a hearing shall make arrangements directly with a stenographer and shall notify the Secretary of these arrangements in advance of the hearing. The requesting party or parties shall pay the cost of the record. If the transcript is agreed by the parties to be, or determined by the arbitrators to be, the official record of the proceeding, it must be made available to the arbitrators and to the other parties for inspection, at a date, time, and place determined by the arbitrators.

Section 5. Meetings between the arbitrators shall be closed except for persons deemed necessary by the arbitrators. The arbitrators shall also maintain the privacy of any hearing unless the law provides to the contrary. The arbitrators shall have the power to require the exclusion of any person from a hearing during the testimony of any other witness. The arbitrators may, in their sole discretion, determine the propriety of the attendance of any other person.

Section 6. The arbitrators for good cause shown may postpone any hearing upon the request of a party or upon the arbitrators' own initiative, and shall also grant such postponement when all of the parties agree thereto.

Section 7. An arbitrator finding it necessary to make an inspection or investigation in connection with the arbitration shall direct the applicable Association Secretary to so advise the parties. The arbitrators shall set the date and time and the Secretary shall notify the parties. Any party who so desires may be present at such an inspection or investigation. In the event that one or all parties are not present at the inspection or investigation, the arbitrator shall make a verbal or written report to the parties at the hearing and afford them an opportunity to comment.

Section 8. A party desiring the testimony of an expert witness, either by declaration or at a hearing, shall be solely responsible for arranging any appearance by the expert and for the payment of said expert's fees and costs.

Section 9. The arbitrators may issue such orders for interim relief as may be deemed necessary to safeguard the property that is the subject matter of the arbitration without prejudice to the rights of the parties or to the final determination of the dispute.

Section 10. There shall be no direct communication between the parties and the arbitrators other than at official hearings, unless both parties and the arbitrators agree otherwise in writing. Any other oral or written communication from the parties to the arbitrators shall be directed to the applicable Association Secretary for transmittal to the arbitrators.

Section 11. At the close of any hearing, the arbitrators shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the arbitrators shall declare the hearing closed. If briefs are to be filed, the hearing shall be declared closed as of the final date set by the arbitrators for the receipt of briefs. If additional documents are to be filed, and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearing.

Section 12. A hearing may be reopened on the arbitrators' initiative, or upon application of a party with approval of the arbitrators, at any time before the award is made.

Section 13. A party who agrees in writing to arbitrate a dispute pursuant to these Procedures shall not be allowed to withdraw from the arbitration except with the written agreement of the other party. Failure of one party to cooperate with the arbitration process after agreeing to participate (i.e. failure to submit requested evidence or appear at a hearing) shall not terminate the arbitration. In that event, the arbitrators shall simply make their decision based on the information or testimony received from the other party. Provided however, that if neither party to the arbitration cooperates after agreeing to do so, the arbitrators may deem the arbitration terminated and notify the parties in writing that no decision will be rendered.

Article IV

Award

Section 1. The decision of the arbitrators and the award, if any, shall be made as soon as practical after the evidence is presented and considered. All decisions of the arbitrators must be by a majority. The award must also be made by a majority unless the concurrence of all is expressly required by the arbitration agreement or by law. The decision and award shall be in writing and shall be signed by the arbitrators supporting the award. Any decision or award so signed shall be valid and binding. A copy of the decision and award shall be delivered to each of the parties to the controversy as soon as practicable after it is made.

Article V

Enforcement and Fees

Section 1. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Failure of a member of the Association to comply with an award shall be grounds for suspension or expulsion pursuant to Sections 2.09 and 2.10 of the Association's Bylaws.

Section 2. The fee in any arbitration pursuant to these procedures shall be set by the applicable Association President based on the cost of arbitration. The Secretary shall notify each party the amount to be sent in and deposited prior to the arbitration beginning. The arbitrators may in their award assess the costs of the arbitration against either party, in any proportion, in which case one or both parties may be refunded some or all of their deposit.

Each arbitrator shall receive, from the fee, an amount set by the applicable Association President for their services.

Article VI

No Liability

Section 1. Neither the applicable Association nor any arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under these procedures.