

RULES
FOR HEARINGS OF
THE SUGAR INDUSTRY APPEALS TRIBUNAL

PREAMBLE

Pursuant to the provisions of clause 46 of the Sugar Industry Agreement of 2000 (“the Agreement”), the Sugar Industry Appeals Tribunal (“the Appeals Tribunal”) has made the following Rules for the conduct of hearings before it which Rules are effective from 1 February 2010.

All members of the Appeals Tribunal, serving in that capacity from time to time, whether industry members or non-industry members, acknowledge that the proceedings before the Appeals Tribunal are confidential in nature and that they will, at all times, whether during their currency as members of the Appeals Tribunal or thereafter, respect and maintain that confidentiality.

HEARING AND DECIDING OF APPEALS

1. In terms of clause 34(a) of the Agreement, the Appeals Tribunal shall hear and decide any appeal where a right of appeal is provided for in the Agreement.

2. In terms of clause 33 of the Agreement, any person having a direct interest in a decision, order, ruling or determination of the Sugar Industry Administration Board (“the Administration Board”) shall have the right to appeal to the Appeals Tribunal against the decision, order, ruling or determination.

3. Any such person who lodges a written notice of appeal with the Administration Board must ensure that an electronic version must be provided on CD and that such notice of appeal deals with the following in sequentially numbered paragraphs under each of the headings set out hereunder:-
 - (a) The decision, order, ruling or determination of the Administration Board sought to be appealed.

 - (b) Whether the whole of the decision, order, ruling or determination is appealed or a part thereof and, if a part, the part so appealed.

 - (c) The grounds upon which the appeal is based.

 - (d) The precise relief that the Appellant seeks from the Appeals Tribunal.

- (e) Whether the Appellant is content for the appeal to be based solely on the basis of the information, documents, evidence and representations that were placed before the Administration Board or whether the Appellant requires the Appeals Tribunal to rehear any such evidence and/or to receive additional evidence and/or to receive additional representations in regard to the matter.
 - (f) Whether the Appellant is of the view that there is a point of law or a point of fact which can be determined independently of all other points of law or points of fact and that such point of law or of fact could be decisive of the appeal.
 - (g) The Appellant's estimation of the duration of the appeal.
 - (h) Whether the Appellant seeks for the matter to be heard on a priority basis and the reasons therefor.
4. Within 10 court days of receipt by the Administration Board of any such notice of appeal, the Administration Board will circulate such notice of appeal to members of the Appeals Tribunal and to each other party directly affected by the decision, order, ruling or determination against which the appeal shall have been lodged. The notice of appeal so circulated shall be accompanied by a complete record of the proceedings before the Administration Board.

5. Within 20 court days of receipt of the notice of appeal, any party having a direct interest in the decision, order, ruling or determination sought to be appealed, shall lodge with the Secretary of the Appeals Tribunal and serve on the Appellant a document titled "*Response to Notice of Appeal*" ("Response"), ensuring that an electronic version is also provided on CD, in which such party shall furnish its response to Appellant's submissions and contentions detailed in sub-paragraphs 3(e), (f) and (g) above. The Secretary of the Appeals Tribunal will, immediately upon receipt of the Response, circulate copies of that document to the Appeals Tribunal.

6. Within 20 court days of receipt of the Response, the Appeals Tribunal will issue a notice setting out when the appeal will be heard together with any directions as to the conduct of the hearing. Without derogating from the generality thereof, such directions will be, *inter alia*, in regard to the number of days over which the appeal is to be heard and as to whether:-
 - (a) The Appeals Tribunal will rehear any evidence and/or hear additional evidence and/or receive additional representations.

 - (b) The Appeals Tribunal requires further information from the parties and/or the Administration Board, and, if so, by when such information must be furnished.

- (c) The parties are required to discover documents, and/or any audio or visual recordings and, if so, by when and how such discovery must take place. (In the event of any party failing to discover as directed, the defaulting party will not be permitted to use any document, and/or audio or visual recording not discovered unless the opposing party consents to such use or the Appeals Tribunal, on application, grants leave for the use of such document, and/or audio or visual recording).
- (d) Any issue of law or fact is to be heard independently of the other issues of law and fact.
- (e) The parties to the appeal are required to file heads of argument or written submissions, and, if so, by when such heads of argument or written submissions must be filed.
- (f) Where it has been determined that the matter is one that is to be treated as priority, the procedure prescribed in clause 55 shall be applicable.

MATTERS REFERRED TO APPEALS TRIBUNAL BY ADMINISTRATION BOARD OR THE SOUTH AFRICAN SUGAR ASSOCIATION

7. In terms of clause 34(b) of the Agreement, the Appeals Tribunal shall hear and decide any issue or issue any directive in regard to any matter referred to it for a decision or directive by the Administration Board or by the South African Sugar Association (SASA).

8. Whenever the Administration Board or SASA resolves to so refer any matter to the Appeals Tribunal for a decision or a directive, the Administration Board or SASA will do so in terms of a document to be titled “*Referral to the Appeals Tribunal under Clause 34(b) of the Agreement*” (“the Referral Document”), of which an electronic version must be provided on CD.

9. In so referring an issue for a decision or a directive, the Administration Board or SASA will ensure that the Referral Document deals with the following in sequentially numbered paragraphs under the headings set out hereunder:-
 - (a) The issue for decision or the directive sought, described as succinctly as possible.

 - (b) If the issue is one for decision:-
 - (i) The reason why the Administration Board or SASA would prefer the Appeals Tribunal to make a decision thereon as opposed to the Administration Board or SASA taking a decision on the issue itself in the event that the Administration Board or SASA has jurisdiction in regard to the matter.

 - (ii) What attempt, if any, the Administration Board or SASA has made to take a decision itself on the issue in question.

 - (iii) The necessity for a decision on the issue.

 - (iv) What impact, if any, the Administration Board or SASA envisages that the decision will have on the Sugar Industry or any component thereof,

provided that there is agreement within the Administration Board or SASA in regard to the aforesaid impact, if any.

- (v) Whether the Administration Board or SASA believes that the decision can be taken by the Appeals Tribunal on the basis of the information, documents, evidence and representations, if any, in the Administration Board's or SASA's possession relevant to the issue for decision or whether the Administration Board or SASA is of the view that the Appeals Tribunal will have to rehear evidence and/or hear additional evidence and/or receive additional representations on the issue.

(c) If the referral is for a directive:-

- (i) The reason why the Administration Board or SASA would prefer the Appeals Tribunal to issue a directive as opposed to the Administration Board or SASA deciding the issue itself in the event that such decision falls within the jurisdiction of the Administration Board or SASA.
- (ii) What attempt, if any, the Administration Board or SASA has made to issue a directive itself on the issue in question.
- (iii) The necessity for a directive.
- (iv) What impact, if any, the Administration Board or SASA envisages that the directive will have on the Sugar Industry or any component thereof, provided that there is agreement within the Administration Board or SASA in regard to the aforesaid impact, if any.
- (v) Whether the Administration Board or SASA believes that the directive can be issued by the Appeals Tribunal on the basis of the information,

documents, evidence and representations, if any, in the Administration Board's or SASA's possession relevant to the directive in question or whether the Administration Board or SASA is of the view that the Appeals Tribunal will have to rehear evidence and/or hear additional evidence and/or receive additional representations on the issue.

- (d) If the issue is to be treated as priority and dealt with under clause 55:-
- (i) The reasons why the Administration Board or SASA requests that the Appeals Tribunal hear the matter on a priority basis. Such reasons are to be lodged simultaneously with the Referral Document.
 - (ii) Whether all affected parties consent to the matter being dealt with as a matter of priority.
 - (iii) What impact, if any, is envisaged by the Administration Board or SASA on the sugar industry if the matter is not be dealt with on the basis of priority.
10. The Administration Board or SASA will, simultaneously with lodging the Referral Document with the Secretary of the Appeals Tribunal also serve copies and electronic version on CDs on the Millers' Association, Growers' Association and any other party that may be affected thereby.
11. Immediately on receipt of the Referral Document, the Secretary of the Appeals Tribunal will circulate that document to members of the Appeals Tribunal.
12. Within 20 court days of receipt of the Referral Document, the Millers' Association,

the Growers' Association and any other party that may be affected by the decision or directive sought shall lodge with the Secretary of the Appeals Tribunal and all other parties upon whom the Referral Document was served a document, in hard copy and electronic version on CD, titled "*Response to Referral Document*" in which any such party shall be entitled to furnish its response to the submissions and contentions detailed in sub-paragraph 9(b) and/or 9(c) above.

13. Immediately on receipt of any such Response to Referral Document or Documents, the Secretary of the Appeals Tribunal will circulate copies of such Document or Documents to the members of the Appeals Tribunal.

14. Within 20 court days of receipt of the Response to Referral Document or Documents, if any, the Appeals Tribunal will direct , *inter alia*, whether the Appeals Tribunal:-
 - (a) Will determine the matter on the basis of the information, documents, evidence and representations referred to it by the Administration Board or SASA.

 - (b) Will rehear any evidence and/or hear any additional evidence, and, if so, when it will hear such evidence.

 - (c) Requires further information from the Administration Board or SASA, the Millers' Association, the Growers' Association and/or any other party which may be affected by the determination, and, if so, by when and how such information must be furnished.

 - (d) Requires the Administration Board or SASA, the Millers' Association, the

Growers' Association and/or any other party which may be affected by the determination to discover documents, and/or audio or visual recordings and, if so, by when such discovery must take place. (In the event of any party failing to discover as directed, the defaulting party will not be permitted to use any document, and/or audio or visual recordings not discovered unless the Appeals Tribunal, on application, grants leave for the use of such document and/or audio or visual recordings).

- (e) Will entertain argument and/or representations from any one or more of the Administration Board or SASA, the Millers' Association, the Growers' Association and/or any other party which may be affected by the determination, and, if so, when it will entertain such argument and/or representations.

- 15. Where the Appeals Tribunal has granted the parties leave for the matter to be treated as priority the time limits specified in clause 55, or in exceptional circumstances determined by the Appeals Tribunal in terms of clause 56, shall be applicable.

MATTERS REFERRED DIRECTLY TO THE APPEALS TRIBUNAL

- 16. In terms of clause 34(c) of the Agreement, read together with clause 35 thereof, the Appeals Tribunal must hear and decide any dispute which may arise between a mill and a grower arising from a cane supply agreement or any agreement between those parties relating to the supply or delivery of cane unless such agreement stipulates otherwise.
- 17. In terms of clause 35 of the Agreement, if any dispute arises between any persons upon whom the Agreement is binding insofar as the dispute relates to the subject matter, application, any right or obligation arising out of, or the interpretation of the

Agreement, the Appeals Tribunal shall have jurisdiction to determine such dispute and any party to such dispute may submit such dispute for determination to the Appeals Tribunal.

No Disputes of Fact

18. Where the party referring the dispute to the Appeals Tribunal (“Claimant”) does not anticipate any dispute of fact in regard thereto, such party may submit, to the Secretary of the Appeals Tribunal, a “*Statement of Claim*”, in hard copy and electronic version on CD, with or without an accompanying affidavit, setting out the substance of the dispute, the facts upon which that party relies, the contentions of the party in regard thereto and the relief claimed by that party. The Statement of Claim must also indicate whether the Claimant wishes to tender oral argument to the Appeals Tribunal. Such Statement of Claim shall be accompanied by any documentary evidence upon which the Claimant relies. The Claimant must also serve a copy of the Statement of Claim on the Respondent or Respondents as the case may be.
19. Immediately on receipt of the Statement of Claim, the Secretary of the Appeals Tribunal must circulate that document to the members of the Appeals Tribunal
20. Within 20 court days of receipt of the Statement of Claim, the Respondent or Respondents must answer thereto by filing with the Secretary of the Appeals Tribunal and serving on the Claimant and any other Respondent a document titled “*Answer to Statement of Claim*”, in hard copy and electronic version on CD, with or without an affidavit, in which the Respondent or Respondents are required to set out their response to the substance of the dispute, the facts relied upon by the Claimant, the Claimant’s contentions and the relief sought by the Claimant. The Answer to Statement of Claim must also indicate whether the Respondent or Respondents wish

to tender oral argument to the Appeals Tribunal. The Answer to Statement of Claim shall also be accompanied by any documents sought to be relied upon by the Respondent or Respondents.

21. Simultaneously with lodging and serving the Answer to Statement of Claim, the Respondent or Respondents will lodge a document referred to as a Statement of Counter-Claim ("*Counter-Claim*"), in hard copy and electronic version on CD, in regard to any counterclaim which such Respondent or Respondents might have against the Claimant. All the provisions applying to the Statement of Claim shall apply *mutatis mutandi* to the Counter- Claim.
22. Immediately on receipt of the Answer to Statement of Claim and Counter-Claim, if any, the Secretary of the Appeals Tribunal shall circulate copies of the document or documents to members of the Tribunal.
23. Within 10 court days of receipt of the Answer to Statement of Claim and Counter-Claim, if any, the Claimant will be entitled to file a "*Reply to the Answer*" ("Reply"), in hard copy and electronic version on CD, with or without an affidavit, by filing same with the Secretary of the Appeals Tribunal and serving a copy on the Respondent or Respondents.
24. Simultaneously therewith, the Claimant will also be entitled to file a document titled Answer to Statement of Counter-Claim ("*Answer to Counter-Claim*"), in hard copy and electronic version on CD, in the event of a counter-claim against the Claimant. All the provisions applying to the Answer to Statement of Claim shall apply *mutatis mutandi* to the Answer to Counter-Claim.

25. Immediately on receipt of the Reply and Answer to Counter-Claim, if any, the Secretary of the Appeals Tribunal will circulate copies of the document or documents to members of the Appeal Tribunal.
26. Within 10 court days of receipt of the Answer to Counter-Claim, if any, the Respondent or Respondents will be entitled to file a "*Reply to the Answer to Counter-Claim*" ("Reply to Counter-Claim"), in hard copy and electronic version on CD, with or without an affidavit, by filing same with the Secretary of the Appeals Tribunal and serving a copy on the Claimant.
27. Immediately on receipt of the Reply to Counter-Claim, if any, the Secretary of the Appeals Tribunal will circulate copies of the document to members of the Appeal Tribunal.
28. The Appeals Tribunal will either:-
 - (a) Determine the dispute on the documents filed, with or without hearing oral argument.

or
 - (b) Refer the matter for the hearing of oral evidence if it is of the view that there are disputes of fact which cannot be determined on paper alone. In such event, the hearing and determination of the dispute will take the further course set out below in regard to matters where a dispute of fact is anticipated.

29. Where the Appeals Tribunal has granted the parties leave for the matter to be treated as priority the time limits specified in clause 55, or in exceptional circumstances determined by the Appeals Tribunal in terms of clause 56, shall be applicable.

Dispute of Fact Anticipated

30. Where the party referring the dispute to the Appeals Tribunal, (“the Claimant”), anticipates a dispute of fact in regard thereto, such party may submit, to the Secretary of the Appeals Tribunal, a “*Statement of Claim*”, in hard copy and electronic version on CD, without an accompanying affidavit, setting out the substance of the dispute, the facts upon which that party relies and the relief claimed by that party. If the Claimant relies on a written document, such document must be annexed to the Statement of Claim. The Claimant must also serve a copy of the Statement of Claim on the Respondent or Respondents as the case may be.
31. Immediately on receipt of the Statement of Claim, the Secretary of the Appeals Tribunal must circulate that document to the members of the Appeal Tribunal.
32. Within 20 court days of receipt of the Statement of Claim, the Respondent or Respondents must answer thereto by filing with the Secretary of the Appeals Tribunal and serving on the Claimant and any other Respondent a document titled “*Answer to Statement of Claim*”, in hard copy and electronic version on CD, without an affidavit, in which the Respondent or Respondents are required to set out their response to the substance of the dispute, the facts relied upon by the Claimant and the relief sought by the Claimant.

33. Simultaneously with lodging and serving the Answer to Statement of Claim, the Respondent or Respondents will lodge a document referred to as a Statement of Counter- Claim (“Counter-Claim”) in hard copy and electronic version on CD, in regard to any counterclaim which such Respondent or Respondents might have against the Claimant. All the provisions applying to the Statement of Claim shall apply *mutatis mutandi* to the Counter-Claim.
34. Immediately on receipt of the Answer to Statement of Claim and Counter-Claim, if any, the Secretary of the Appeals Tribunal shall circulate copies of the document or documents to members of the Appeals Tribunal.
35. Within 10 court days of receipt of the Answer to Statement of Claim and Counter-Claim, if any, the Claimant will be entitled to file a “*Reply to the Answer*”, in hard copy and electronic version on CD, without an affidavit, by filing same with the Secretary of the Appeals Tribunal and serving a copy on the Respondent or Respondents.
36. Simultaneously therewith, the Claimant will also be entitled to file a document titled Answer to Statement of Counter-Claim (“Answer to Counter-Claim”), in hard copy and electronic version on CD, in the event of a counter-claim against the Claimant. All the provisions applying to the Answer to Statement of Claim shall apply *mutatis mutandi* to the Answer to Counter-Claim.

37. Immediately on receipt of the Reply and Answer to Counter-Claim, if any, the Secretary of the Appeals Tribunal will circulate copies of the document or documents to members of the Appeals Tribunal.
38. Within 10 court days of receipt of the Answer to Counter-Claim, if any, the Respondent or Respondents will be entitled to file a "*Reply to the Answer to Counter-Claim*" ("Reply to Counter-Claim"), in hard copy and electronic version on CD, by filing same with the Secretary of the Appeals Tribunal and serving a copy on the Claimant.
39. Within 20 court days of receipt of the Reply to Counter-Claim or within 20 court days of the last date by when the Reply to Counter-Claim was required to be filed, the parties to the dispute will be required to make discovery of all documents and/or audio or visual recordings which may be relevant to a determination of the dispute. (In the event of any party failing to discover, the defaulting party will not be permitted to use any document and/or audio or visual recording not discovered unless the opposing party consents to such use or the Appeals Tribunal, on application, grants leave for the use of such document and/or audio or visual recording).
40. Within 10 court days of such discovery, the party making discovery will be required to make available to the other party or parties copies of such recordings and documents against receipt of the reasonable costs of making such copies from the party or parties so requiring copies.
41. Within 10 court days of the expiry of the period referred to in paragraph 38 above, any party shall be entitled to request further particulars from another party such as are strictly necessary for the first party to properly prepare for the hearing of the dispute and the party from whom such further particulars are sought shall be required to furnish such further particulars within 10 court days of receipt of the request.

42. If any party is dissatisfied with the discovery made by another party or with the further particulars supplied by another party, the party so dissatisfied may, within 10 court days of the 10 court days countenanced in paragraph 41 above, make application to the Appeals Tribunal in regard to such dissatisfaction with discovery or further particulars. In the event of any such application being made, the Appeals Tribunal will give further directions with regard to the conduct of such application for discovery or further particulars.
43. Any party who fails to comply with any directive of the Appeals Tribunal may be liable, upon application by the aggrieved party, to have its case dismissed.
44. An application to dismiss must be on notice to the other party or parties and shall be heard on a date to be determined by the Appeals Tribunal.
45. Immediately following on discovery and further particulars, as set out in paragraphs 39 to 42 above, the Appeals Tribunal will give directions as to when the dispute is to be heard and the duration of such hearing.
46. Not less than 3 calendar weeks before the hearing of the dispute, the parties to the dispute will hold a pre-hearing conference with a view to narrowing the ambit of the dispute and the obtaining of agreement on the status of documents to be used at the hearing. A minute of this pre-hearing conference will, within 1 calendar week of the holding of the pre-hearing conference, be filed with the Secretary of the Appeals Tribunal who will immediately circulate copies of same to the members of the Appeals Tribunal.

RESOLUTION OF MATTERS WHERE ADMINISTRATION BOARD IS UNABLE TO OR FAILS TO RESOLVE

47. In terms of clause 34(d) of the Agreement, the Appeals Tribunal is required to undertake and resolve any matter which, in terms of the Agreement, the Administration Board is required to resolve in circumstances where the Administration Board is unable to or fails to duly resolve such matter owing to a deadlock or for any other reason.

48. In such event, the Administration Board, the Millers' Association, the Growers' Association and/or any other person directly affected by the Administration Board's inability or failure to resolve such an issue, may refer the issue to the Appeals Tribunal for resolution. The party so referring the matter will do so in terms of a document titled "*Referral on Failure of Administration Board to Resolve an Issue*" ("Referral on Failure") filed with the Secretary of the Appeals Tribunal and served on all other interested parties in hard copy and electronic version on CD.

49. The party making such referral shall ensure that the Referral on Failure deals with the following in sequentially numbered paragraphs under each of the headings set out hereunder:-
 - (a) The matter which the Administration Board has been unable to or has failed to resolve, set out succinctly.

 - (b) The precise resolution of the matter sought by the referring party.

- (c) Whether the referring party is content for the Appeals Tribunal to resolve the issue on the basis of the information, documents, evidence and representations, if any, which had been placed before the Administration Board or whether the referring party requires the Appeals Tribunal to rehear any such evidence or to receive additional evidence or representations in regard to the matter.
 - (d) Whether the referring party requests that the matter be dealt with on an urgent basis and the reasons therefor.
50. Immediately on receipt of the Referral on Failure, the Secretary of the Appeals Tribunal will circulate copies of the document to the members of the Appeals Tribunal.
51. Within 20 court days of receipt by any party upon whom the Referral on Failure is served, such party shall be entitled to lodge with the Secretary of the Appeals Tribunal and serve on the referring party and all other parties upon whom Referral on Failure was served a document titled "*Response to Referral on Failure*" in hard copy and electronic version on CD, in which such party shall furnish its response to the referring party's submissions and contentions detailed in paragraph 47 above.
52. Immediately on receipt of the Response to Referral on Failure, the Secretary of the Appeals Tribunal will circulate copies of the document to the members of the Appeals Tribunal.

53. Within 20 court days of the filing and serving of the Response to Referral on Failure, the Appeals Tribunal will make a ruling in regard, *inter alia*, to whether the Appeals Tribunal:-
- (a) Will undertake the resolution of the matter based on the information, documents, evidence and representations that were before the Administration Board, with or without hearing further argument or representations from affected parties.
 - (b) Will rehear any evidence or hear any additional evidence, and, if so, when it will do so.
 - (c) Requires further information from the Administration Board, the Millers' Association, the Growers' Association and/or any other party affected, and, if so, by when.
 - (d) Requires any one or more of the Administration Board, the Millers' Association, the Growers' Association and/or any other party affected to make discovery of documents, and, if so, by when.
54. Where the Appeals Tribunal has granted the referral party leave for the matter to be treated as priority, the time limits specified in clause 55, or in exceptional circumstances determined by the Appeals Tribunal in terms of clause 56, shall be applicable.

HEARINGS OF PRIORITY

55. The rules made by the Appeals Tribunal and the time limits prescribed to determine the resolution of a dispute require strict adherence by the parties. However due to the nature of the sugar industry, there may be matters that arise which require the

expeditious resolution of the dispute. Where this is *prima facie* deemed by either or both parties to be the case:-

- (a) Where both parties consent to the expeditious nature of the matter, a *Notice of Priority* signed by both parties is to be lodged with the Secretary of the Appeals Tribunal simultaneously with the lodgment of the notice of appeal, statement of claim, referral, or directive.
 - (i) Upon receipt of the notice of priority the Secretary of the Appeals Tribunal shall circulate such notice to the members of the Appeals Tribunal for consideration.
 - (ii) The Appeals Tribunal shall, if deemed necessary, request reasons from each party as to the priority nature of the matter.
 - (iii) Subsequent to the receipt of reasons from each party, the Appeals Tribunal shall within 5 court days issue a determination regarding the resolution of the matter which shall include:
 - a. A determination of whether the matter is priority or not.
 - b. The time limits prescribed for the filing of all pleadings, heads of argument and other documents.
 - c. The estimated time prescribed for the hearing.
 - d. The dates of hearing.
- (b) Where one party requests that the matter be heard on a priority basis, that party shall lodge with the Secretary of the Appeals Tribunal A *Notice of Priority* supplemented by the adequate *Reasons for Priority* in the form of an affidavit by a duly authorised person as to why the matter needs to be treated as priority

and what the effect on the sugar industry and the parties would be should the matter not be heard on a priority basis.

- (i) Upon receipt of the notice of priority accompanied by the reasons for priority, the Secretary of the Appeals Tribunal shall circulate such notice and reasons to the Appeals Tribunal members for consideration.
- (ii) Subsequent to the consideration by the Appeals Tribunal members, should there be a *prima facie* view of priority, a directive shall be issued within 5 court days which will provide for:
 - a. The date of hearing for the issue of priority to be heard.
- (iii) Subsequent to the Appeals Tribunal considering the matter of priority and providing its ruling thereof, should priority be established the Appeals Tribunal shall issue an order within 5 court days which shall prescribe:
 - a. The time limits prescribed for the filing of all pleadings, heads of argument, and other documents.
 - b. The estimated time prescribed for the hearing.
 - c. The dates of hearing.
- (c) In terms of clause 92 of the Agreement, provision is made for the appeal of a decision of a local Pest, Disease and Variety Control Committee to the Administration Board, which shall be subject to an appeal to the Appeals Tribunal. Where an appeal relating to the threat of pests or diseases to the industry, the

following rule shall be applicable:

- The appeal to the Appeals Tribunal shall be deemed to be priority and dealt with as if the parties had lodged the appeal as per the provisions in clause 55(a) unless the Tribunal directs otherwise.

(d) The Appeals Tribunal shall possess the necessary discretion to direct any matter to be dealt with in any way that it sees fit in the best interest of the sugar industry.

GENERAL

56. The Rules made by the Appeals Tribunal for the conduct of proceedings before it are there for the benefit of the Appeals Tribunal and although the Appeals Tribunal will, in the normal course, attempt to itself adhere to the Rules and to ensure that parties before it comply with such Rules, the Appeals Tribunal will retain flexibility in that regard and reserves the right, on good cause shown, to condone non-compliance with the Rules, including the abridging and extension of time-periods whether application is made therefor before or after expiry of the time period in question. In addition, the Appeals Tribunal reserves the right, in any particular matter before it, to give ad hoc directions in regard to matters not specifically covered in these Rules notwithstanding that such a direction or directions have not yet been formally adopted by the Appeals Tribunal as part of these Rules and notwithstanding that such a direction or directions may not be formally adopted by the Appeals Tribunal at any stage.
57. Furthermore, these Rules are subject to amendment, modification and supplementation from time to time, as the need arises and as experience dictates, and the Appeals Tribunal reserves the right to so amend, modify and supplement these

Rules subject, however, to the Appeals Tribunal giving timeous notice to the parties subject to the Agreement of the coming into force of any such amendments, modifications and supplementations.

58. Whenever a party lodges any document with the Appeals Tribunal, such party should ensure that it lodges six copies of such document.

59. (a) When a person lodges a written notice of appeal or a written response to notice of appeal, or any written referral of whatsoever nature to the Appeals Tribunal, or any written notice of priority or any other written document upon which a person requests the Appeals Tribunal to entertain any matter of any nature whatever, such person must also deliver a written notice setting out:

(i) The:-

(aa) physical address;

(bb) postal address;

(cc) electronic mail address (if available);

(dd) facsimile number (if available);

(ee) landline telephone number (if available);

(ff) cellular telephone number (if available);

(gg) other means of audible communication, such as a voice over internet protocol/application (if available);

of such person, or if such person wishes, of its Legal Representative, representing it in such matter.

- (ii) An indication of the address/number (being one of (i) (aa) to (dd) above) at which the person concerned elects to receive notices, documents and communications, which will be its chosen domicilium citandi et executandi for the purpose of such matter (such address may be changed in writing by notice addressed to the Appeals Tribunal and all other parties involved in such matter at any stage – save that such written change of address will only take effect once the said document is lodged with the Appeals Tribunal).

- (iii) The name of the person for whose attention any notices, documents or communications in the matter should be marked and, if possible, the name of an alternate such person (although it shall not be required to serve any of the foregoing on such person or his/her alternate).

- (iv) An express acknowledgement that in the event of the above elected address/number not being available for the receipt of notices, documents or communications, for any reason whatever, the Appeals Tribunal and all other parties to the proceedings will be immediately notified in writing of an alternate address/number to which any notices, documents or communications must be sent and that failure to so notify may result in the matter being finalised by the Appeals Tribunal without the person concerned receiving any further notices, documents or communications.

(b) A failure to comply with (i) (a) above may result in the Appeals Tribunal concluding that there is no proper appeal before it, or that there is no proper response to appeal before it, or that there is no proper referral before it, or that there is no proper notice of priority before it, or that there is no proper request for any matter to be entertained before it and the Appeals Tribunal may thereafter determine and dispose of the matter on any documents of whatever nature (if any) legitimately before it.”

60. The Tribunal will also decide, on a case by case basis, how long before the date of hearing the parties to the dispute are required to advise the Tribunal as to whether the matter is proceeding or not. This is obviously subject to exceptional circumstances and some measure of flexibility and any such direction shall not be cast in stone nor will it prevent parties from settling even though they have advised the Tribunal that the matter is running. Instead, what will be required of parties to disputes is to provide a genuine and bona fide indication by an appointed date as to whether it is seriously contemplated that the matter will indeed run.
61. The proceedings before the Appeals Tribunal are intended to be accessible to all parties subject to the Agreement. As a result, the general rule is that each party shall be required to bear its own costs. Only in cases of extreme vexatiousness, tardiness, sloppiness and/or abuse of the Appeals Tribunal’s processes will the Appeals Tribunal award costs. In the event of such an award such costs shall be billable on the High Court’s scale and be taxed by the Taxing Master of the High Court.
62. When a reference in these Rules is made to a court day or to court days, this will be a reference to a court day or court days as defined in the Uniform Rules of the High Court.

63. When provision is made in these Rules for pleadings or other documents to be filed, it will not be obligatory on a party to file any such document notwithstanding the use of any peremptive language in these Rules it being at the election of party or parties concerned whether to file such pleadings or other documents or not.

64. The Appeals Tribunal will endeavor to furnish reasons simultaneously with any order, decision, ruling it makes. Notwithstanding, if in the sole discretion of the Appeals Tribunal it is warranted in a particular matter before the Appeals Tribunal for an order, decision, ruling to be made first and for reasons to be furnished subsequently the Appeals Tribunal will do so.

65. Subject to what is set out in the sub-paragraphs below, the period between 16 December of each year and 15 January of the next year, both days inclusive, will not be counted in the time provided in these Rules for the lodging of any documents or the giving of any directions or procedural rulings by the Tribunal. (“*dies non*”)
 - 65.1 The foregoing *dies non* will not apply to any dates falling within that period where the Appeals Tribunal has specified otherwise in any directions, or in any procedural rulings for the delivery of any documents during that period.

 - 65.2 The foregoing *dies non* will also not apply in respect of any Hearings of Priority as countenanced or provided for by these Rules.

 - 65.3 The foregoing *dies non* do not and cannot apply to or derogate from the provisions of clause 33 of the Agreement.

Promulgated	:	February 2010	
Revised	:	8 April 2010	- Amendment to prescribe the format for a Notice of Appeal to be lodged with the Appeals Tribunal
	:	10 June 2010	- Amendment to cater for the obligation on the Administration Board as prescribed in clause 33 of the Sugar Industry Agreement, 2000
	:	11 August 2010	- Amended to include that documents are to be provided in hard copy and electronic format
	:	4 August 2011	- Amendment to cater for priority hearings
	:	4 December 2012	- Clause 3 amended to read 3(a) – 3(h) to ensure consistent format within the document
	:	5 February 2013	- Clause inserted regarding parties to a dispute advising the Tribunal as to whether the matter is proceeding or not Clause inserted in respect to reasons being furnished either with any order, decision, ruling or subsequent to any order, decision, ruling at the discretion of the Tribunal
	:	22 September 2016	- Clause inserted in respect to dies non
	:	7 March 2018	- Amended to include requirements in respect of <i>Domicilium citandi et executandi</i>