

SOUTHERN AFRICAN GRAIN ARBITRATION SERVICES ASSOCIATION (SAGAS)

ARBITRATION RULES

Approved by the Governing Committee of SAGAS and adopted to be effective as from:
1 September 2006.

In all arbitrations under these rules SAGAS shall act as the secretariat for administrative and procedural purposes.

RULE 1. PRELIMINARY

- 1.1 Any dispute arising out of a contract embodying these Rules, or where both parties to a dispute do so agree, shall be referred to arbitration in accordance with the following provisions:-
- 1.2 Arbitrations shall take place in Pretoria or elsewhere if mutually agreed to by the parties.
- 1.3 The arbitration proceedings shall be conducted under South African Law. The provisions of the Arbitration Act of 1965 and of any statutory modification or re-enactment thereof for the time being in force, shall apply to every arbitration and appeal.
- 1.4 In these Rules:
 - (a) SAGAS means the Southern African Grain Arbitration Services Association.
 - (b) Council means the Governing Committee of SAGAS.
 - (c) Officers means the Chairman, the Deputy Chairman or any Council member of SAGAS.
 - (d) The masculine gender shall include the feminine gender.
- 1.5 Any party engaging in an arbitration or an appeal pursuant to these Rules, whether or not a member of SAGAS, is deemed to agree to abide by these Rules and to agree to be liable to SAGAS (jointly and severally with the other parties to the arbitration or appeal) for all fees and expenses incurred in connection with the arbitration or appeal or any remissions, which fees shall, upon notification by SAGAS under the provisions of Rules 7 and 13 be and become a debt due to SAGAS. Any costs incurred by SAGAS in connection with Rule 3, will be debited directly to that party by SAGAS when deemed appropriate.

RULE 2. PROCEDURE FOR CLAIMING ARBITRATION, AND TIME LIMITS

- 2.1 Where a dispute arises between two or more parties who specifically incorporated these Rules in their contract terms, and:
 - (i) Where the monetary amount of the claim, excluding interest, is not more than R100 000 (or a sum as amended from time to time) the disputing parties shall

submit the dispute for resolution under these Rules by a sole arbitrator. There is no provision for an appeal concerning such arbitration.

The sole arbitrator may be appointed jointly by the parties or they may apply to SAGAS for an appointment to be made. No objection may be made to the appointee by either party.

- (ii) Where the sum claimed is in excess of R100 000, excluding interest, (or a sum as amended from time to time) arbitration may be referred to a sole arbitrator as above, or a tribunal shall be formed. The tribunal shall consist of three arbitrators, one appointed by the claimant, one appointed by the respondent and the third appointed by SAGAS. Where a tribunal is formed the arbitrator appointed by SAGAS shall be the chairman of the tribunal.

2.2 Parties claiming arbitration shall notify the other party in writing within the time limits stipulated in the contract, that they are claiming arbitration, and shall, no later than nine consecutive days from the last day for claiming arbitration, appoint an arbitrator in accordance with Rule 3.

2.3 In the event of non-compliance with any of the time limits in the contract and such non-compliance being raised by the respondents as a defence, claims shall be deemed to be waived and absolutely barred, unless the arbitrator/s shall in his/their absolute discretion, otherwise determine. If the arbitrator/s does/do not exercise his/their discretion to admit a claim then a Board of Appeal, on appeal, shall have the power in its absolute discretion to determine otherwise, but not so as to over-rule or set aside any determination already made by the arbitrator/s to admit a claim.

2.4 No award by the arbitrator/s shall be questioned or invalidated on appeal or otherwise on the ground that the claim was not made within the time limits stipulated in this Rule if the respondents to the claim did not raise the matter before the arbitrator/s so as to enable him/them to consider whether or not to exercise the discretion vested in him/them by these Rules.

2.5 Lapse of Claim

If neither the claimant nor the respondent submits any documentary evidence or submissions to the arbitrator appointed by or for him, in writing with a copy to the other party, within the period of 12 months from the date of the appointment of the first named arbitrator, then the claim to arbitration shall be deemed to have lapsed on the expiry of the period of 12 months; unless before that date the claim is renewed by either party notifying the other in writing at least 30 consecutive days prior to the expiry date. The claim may be thus renewed for a further period of 12 months from the date of giving notice only and shall be deemed to lapse on expiry of that further period unless documentary evidence or submissions have been submitted by either the claimant or the respondent during that time.

In event of failure to submit documentary evidence or submissions as provided in this Rule such claim shall be deemed to have been withdrawn and abandoned unless the arbitrator/s or Board of Appeal on appeal shall in his/their absolute discretion otherwise determine upon such terms as he/they may think fit.

RULE 3. APPOINTMENT OF ARBITRATORS

- 3.1 Only persons approved by SAGAS may act as arbitrators under these Rules. In all cases an arbitrator appointed under these Rules shall either be a professionally qualified arbitrator, or have occupied a senior position in the grains industry.
- 3.2 An arbitrator is a person appointed to adjudicate impartially in a dispute between two or more parties. He shall not assume the role of an advocate for his appointing party or the party on behalf of whom he has been appointed.
- 3.3 A party claiming arbitration shall within the time limits specified in Rule 2 either:
- (a) Appoint an arbitrator and give notice in writing to the other party of the name of the arbitrator so appointed, or
 - (b) Apply to SAGAS for the appointment of an arbitrator as provided in Rule 3.7.

The other party shall within nine consecutive days of such notice of appointment either accept the appointment of that arbitrator as sole arbitrator in the dispute, or appoint a second arbitrator.

Alternatively, the parties may agree to appoint a sole arbitrator, not necessarily being the arbitrator first appointed by the claimant.

- 3.4 When two arbitrators have been appointed they shall, on receipt of the first set of documents submitted in accordance with the provisions of Rule 4.1, forthwith advise their names to SAGAS in writing and apply to SAGAS for the appointment of a third arbitrator. The third arbitrator shall be Chairman of the Tribunal so formed.

Any such appointment by SAGAS under this Rule shall be made at the absolute discretion of any two of the Officers of SAGAS.

- 3.5 It shall be the duty of the sole arbitrator or the Chairman of the Tribunal to ensure the prompt progress of the arbitration. Any delay in the proceedings on the part of the tribunal or arbitrator may be notified to SAGAS and, if appropriate, SAGAS shall after consultation with the Tribunal or arbitrator set down dates for proceeding with the arbitration.

- 3.6
- (a) An appointment of an arbitrator shall be valid provided that:
 - (i) the party making the appointment has notified the arbitrator of his appointment and confirmed that appointment to the arbitrator in writing, and
 - (ii) the arbitrator has signified his acceptance of the appointment to the party appointing him, or to SAGAS, as the case may be, prior to the hearing; or, if the originally appointed arbitrator is unwilling or unable to act, and a substitute has confirmed in writing to the appointing party or to SAGAS, as the case may be, his acceptance of the appointment prior to the hearing, and

(iii) in the case of a third arbitrator, when his acceptance has been communicated to SAGAS.

(b) In arbitrations for quality and/or condition when parties claim to be in a string, intermediate parties may pass on the name(s) of the arbitrator/s without his/their prior acceptance provided that subsequently the provisions of Rule 5.1 are complied with.

- 3.7 Any party requiring an arbitrator to be appointed on their behalf may apply to SAGAS for an appointment. Any two Officers shall appoint an arbitrator to act for the party applying, provided that such application is addressed in writing to SAGAS and provided that a copy has been dispatched to the other party within the nine consecutive days time limit specified. Such application for an appointment shall for the purpose of any time limit stipulated in these Rules be equivalent to the appointment of an arbitrator by the applicant.
- 3.8 If one party has appointed an arbitrator and has despatched notice of the appointment in writing to the other party and called upon that party either to concur with the appointment of that arbitrator as sole arbitrator or to appoint an arbitrator, and the other party fails to comply within nine consecutive days of the notice being served, then the party claiming arbitration may apply to SAGAS for the appointment of an arbitrator to act on behalf of the party who failed to appoint. Any two Officers of SAGAS shall appoint an arbitrator on behalf of the party who failed to appoint an arbitrator, provided that the application is accompanied by evidence that:
- (a) the parties had prima facie entered into a contract subject to these Rules;
 - (b) notice was despatched to the other party that arbitration was claimed;
 - (c) notice was despatched to the other party that application was being made to SAGAS for the appointment of an arbitrator; and
 - (d) the appropriate fee ruling at the date of application had been paid.
- 3.9 If an arbitrator dies, refuses to act, resigns his appointment, becomes incapable of acting, fails to proceed with the arbitration, or is found to be ineligible, the party appointing such arbitrator shall forthwith appoint a substitute. If a substitute is not appointed by the appointing party within seven consecutive days after notice of such death, refusal, incapacity, failure, or finding of ineligibility, as the case may be, any two of the Officers shall have power to appoint an arbitrator and, in the case of failure to proceed, to set down a date for the arbitration provided that application is made in accordance with Rule 3.8.
- 3.10 The arbitrator/s may call upon either party to deposit with SAGAS such sum or sums as he/they consider appropriate on account of fees, costs and expenses, prior to the commencement of the arbitration hearing. SAGAS may also, in its discretion, request either party prior to the commencement of the arbitration hearing to provide security, in a manner that SAGAS deems appropriate, on account of fees, costs and expenses.
- 3.11 If the arbitration is abandoned, suspended or concluded by agreement or otherwise, before the final award is made the parties shall be jointly and severally liable to pay to SAGAS the costs, fees and expenses of SAGAS and the arbitrator/s.
- 3.12 If the claimant withdraws from arbitration before commencement a penalty fee decided by SAGAS will be levied and paid by the claimant.

RULE 4. ARBITRATION PROCEDURES

- 4.1 All statements and evidence provided for hereunder shall in every case be delivered by each party, by means of Recorded Delivery mail, as follows:
- (a) One copy to the other party.
 - (b) Three copies to their appointed arbitrator (or one copy in the case of a sole arbitrator).
- 4.2 The claimant shall draw up a clear and concise statement of his case which, together with a copy of the contract and all supporting documents, shall be delivered as required under this Rule. Reasons for his case have to be provided in the statement.
- 4.3 The respondent shall, within 30 consecutive days of receipt of the claimant's case and documents, draw up a clear and concise statement of his defence (and counterclaim, if any) which, together with all supporting documents, shall be delivered as required under this Rule. Reasons for each and every denial must be provided.
- 4.4 The claimant shall have the right within 30 consecutive days of receipt of the respondents defence or claim to submit further written comments and/or documents in reply, such to be delivered as required by this Rule.
- 4.5 The arbitrator/s may admit further evidence from either party upon its being delivered as required by this Rule.
- 4.6 Where samples are involved the above procedure for the exchange of statements and documentary evidence shall apply, but the arbitrator/s may examine samples prior to the completion of these exchanges.
- 4.7 Nothing in this Rule shall prevent the respondent from delivering his statement and documentary evidence before receiving documents/statements from the claimant.
- 4.8 If any party to the arbitration wishes to attend the arbitration hearing they shall notify the arbitrator/s in writing who shall on receipt of such notice, inform the parties of the date, time and place of the arbitration hearing.
- Neither a party nor his representative (who shall not, subject to any agreement to the contrary between the parties and subject further to the discretion of the arbitrator, be an attorney or advocate, or other legally qualified person who was at any time wholly or principally engaged in private practice or was accredited at any time to a recognised law society) shall at the hearing be entitled to make further submissions orally or in writing in addition to those made and exchanged under this Rule.
- 4.9 No person (including any attorney/advocate or other legally qualified person who was at any time wholly or principally engaged in private practice or was accredited at any time to a recognised law society) other than the parties and witnesses shall be permitted to attend the arbitration hearing, unless the arbitrator/s otherwise decide(s) on application made in writing. Any party to an arbitration intending to have as their representative an attorney or advocate or legally qualified person other than those excluded in 4.8, shall declare this fact to the other party and to the chairman of the tribunal (or sole arbitrator) not less than 14 consecutive days prior to the date set for the hearing.
- 4.10 All arbitrations shall be in private.
- 4.11 Save for any agreement to the contrary between the parties before the commencement of the arbitration, which agreement must be in writing and signed by

both parties, the arbitrator shall have the general power to do or require from the parties all that is necessary for the arbitration to proceed and to be brought to finality.

RULE 5. STRING ARBITRATIONS (QUALITY AND/OR CONDITION)

5.1 In the event of a contract forming part of a string of contracts which are in all material points identical in terms, except as to price, any arbitration for quality and/or condition may be held between the first seller and the last buyer in the string as though they were contracting parties, provided that every party against whom arbitration is claimed and who claims to be in a string shall have supplied his contract and all relevant information to the arbitrator/s.

Any award so made, hereinafter referred to as a string award, shall, subject to the right of appeal, be binding on all intermediate contracting parties as though a separate award had been made under each contract.

RULE 6. JURISDICTION, PROVISIONAL ORDERS AND AWARDS ON DIFFERENT ASPECTS

6.1 Issues of substantive jurisdiction.

- (a) The arbitrator/s may rule on his/their own jurisdiction, whether there is a valid arbitration agreement; whether the tribunal is properly constituted and what matters have been submitted to arbitration in accordance with the arbitration agreement.
- (b) In the event that the arbitrator/s determine(s) he/they have no jurisdiction, SAGAS will notify the parties of the arbitrators' decision. Such decision shall be final and binding upon the parties subject to any right of appeal pursuant to Rule 8. SAGAS will invoice the claimant for any costs, fees and expenses incurred. In the event that the arbitrator/s determine(s) that they have jurisdiction, no appeal against that finding shall lie to a Board of Appeal.
- (c) If a Board of Appeal upholds the arbitrators' decision that he/they has/have no jurisdiction, the Board of Appeal shall order accordingly and SAGAS shall notify the parties and the arbitrator/s and will charge the appellants for any costs, fees and expenses incurred.
- (d) If a Board of Appeal reverses the arbitrators' decision that it has no jurisdiction, the Board of Appeal shall order accordingly and shall notify the parties, the arbitrator/s and SAGAS, and shall order that the dispute be referred to arbitration afresh, whereupon:
 - (i) The dispute shall be deemed to be one arising out of a contract embodying these Rules.
 - (ii) The arbitrator/s formerly appointed shall cease to act and shall not be reappointed when the dispute is referred for consideration.
 - (iii) The provisions of Rule 3 shall apply, the times for appointment running from the date of the Board of Appeal's order.
 - (iv) The Board of Appeal may, in its absolute discretion, extend the time limits in the Rules, and no objection that time has expired shall be taken if the requirements of these Rules were complied with.

6.2 Provisional Orders

Where the parties have made an application for a provisional order and the arbitrator/s decide(s) to order, on such a provisional basis, any relief which he/they would have power to grant in a final award, no appeal shall lie to a Board of Appeal until the arbitrator/s has/have issued a final award determining the issues between the parties.

6.3 Awards on Different Aspects

Where the arbitrator/s decide(s) during the course of an arbitration to make an award dealing finally with one or more aspects of the dispute, but which leaves to be decided by him/them other aspect(s) of the dispute, he/they may make an award which shall be final and binding as to the aspect(s) with which he/they deal(s), subject to any right of appeal pursuant to Rule 8.

RULE 7. AWARDS OF ARBITRATION

7.1 All awards of arbitration shall be in writing and shall be signed by the sole arbitrator or by all members of the Tribunal. The arbitrator/s may assess his/their own fees and shall have the power to award the costs of and connected with the reference, including costs of any experts consulted by the arbitrator/s. SAGAS's fees shall be those for the time being in force as prescribed by SAGAS. An arbitrator dissenting from the majority verdict shall in any event sign the award form and shall not refuse to do so. The attachment of minority statements to awards is prohibited.

7.2 The award shall be fully reasoned. It shall state whether any sum awarded carries interest thereon and at what rate. Awarding of interest is in the discretion of the arbitrator but may not exceed judgement rate. Interest shall be calculated from the date of occurrence of the action or omission by the defaulting party until the date on which the award is fully paid. The award shall also state the final date for compliance.

7.3 The arbitrator/s shall, on the application of either party, before the arbitration award is made, have power to extend the time for appealing any case which he/they consider(s) it just or necessary to do so. Any such extension must be stated in the award of arbitration.

It shall be the duty of the arbitrator/s to lodge three signed copies of the award with SAGAS within four months from the closing of the arbitration hearing. SAGAS shall then give notice to the parties named in the award that the award is available to them upon payment to SAGAS of the fees and expenses. If payment is not received by SAGAS within 14 consecutive days from such notice, SAGAS may call upon any one of the parties named to take up the award. In such case the party called upon shall pay the fees and expenses as directed.

7.4 Upon receipt of the fees SAGAS shall date and issue the award to the parties.

7.5 Awards of arbitration (subject to the right of appeal hereinafter mentioned) shall be conclusive and binding with respect both to the matter in dispute and to all expenses of, and incidental to, the reference and to the award.

7.6 No award shall be questioned or invalidated on the grounds that the arbitrator/s (or any of them) is/are not qualified or entitled to act as provided in Rule 3, unless objection to his/their appointment has been made before the hearing of such arbitration has begun.

7.7 The parties at all times have the right to refer an award for review if they are of the opinion that an arbitrator/s exercised his/their discretion in an inappropriate or biased manner.

RULE 8. RIGHT OF APPEAL

8.1 Save for any agreement to the contrary between the parties before the commencement of the arbitration, which agreement must be in writing and signed by both parties, there is no automatic right of appeal. If, however, there is such an agreement in existence between the parties and any party is dissatisfied with an arbitration award, the aggrieved party may appeal, provided that the following conditions are complied with:

- (a) The appellant shall give written notice of appeal to SAGAS accompanied by a copy of the notice which is required by Rule 8.1(c) to be sent by them to the other party to the arbitration award, and (subject to the provisions of Rule 14) shall make payment to SAGAS of the appeal fee stated on the arbitration award.
- (b) The appellant's notice and (except in the event stated in Rule 14) the remittance in respect of the fees shall reach SAGAS not later than 12:00, noon, on the 30th consecutive day after the date of the arbitration award, or on such later date as may be specified in the award pursuant to Rule 7.3. The provisions of the Notices Clause 16.1 shall not apply to this sub-rule.
- (c) The appellant, when giving written notice of appeal to SAGAS, shall also despatch written notice thereof to the other party.
- (d) The total fees and expenses of the arbitration award shall be paid before the appeal is heard.
- (e) The appellant shall pay such further sum or sums on account of fees, costs and expenses as may be called for by SAGAS at any time after the lodging of the appeal and prior to the publication of the award by the Board of Appeal.

The fees charged by the Board of Appeal shall be in accordance with the scale of fees laid down by SAGAS from time to time.

8.2 In cases of appeals lodged by more than one party in relation to the same award any two Officers of SAGAS shall have the power to consolidate such appeals for hearing by the same Board of Appeal.

RULE 9. BOARDS OF APPEAL

9.1 Where the arbitration award was made by a sole arbitrator the Board of Appeal will be comprised of three members. Where the arbitration award was made by a tribunal of three arbitrators the Board of Appeal will be comprised of five members. Only persons approved by SAGAS may act as Members of Boards of Appeal under these Rules. On formation of a Board of Appeal, the members shall promptly appoint one of their numbers to be the Chairman.

9.2 In the case of illness, death, refusal to act, incapacity, or inability to act, of any member appointed to serve on a Board of Appeal, a replacement member shall be appointed by SAGAS. In the event of no substitute being available for a five member Board, the parties may by agreement allow the appeal to continue with the remaining four members of the Board of Appeal, and shall determine beforehand what is to happen in the event of an equal vote at the conclusion of the hearing.

RULE 10. APPEAL PROCEDURE

- 10.1 The Board of Appeal shall set down a date and place for the hearing and advise the parties in writing.
- 10.2 Each party to an appeal arising from an arbitration award shall state its case either orally and/or in writing and may either appear personally or be represented by an agent engaged or who has been engaged in the trade and duly appointed in writing. No party shall be represented at the hearing of such appeal, or have present, an attorney/advocate or other legally qualified person who was at any time wholly or principally engaged in private practice or was accredited at any time to a recognised law society, unless special leave have previously been obtained in writing from the Board of Appeal, which leave the Board of Appeal may in its absolute discretion grant or refuse.
- 10.3 An appeal is a new hearing at which fresh evidence may be submitted and new witnesses introduced. The Board of Appeal may decide by a majority vote to confirm, vary, and amend or set-aside the award of the arbitrator/s. In particular, but not by way of restriction, the Board may:
- (a) Vary an award by increasing or reducing the liability of any party.
 - (b) Correct any errors in the award or otherwise alter or amend it.
 - (c) Award interest on any sum(s) awarded.
 - (d) Award the payment of costs and expenses incidental to the hearing of the arbitration and the appeal; such costs and expenses shall normally follow the event.
- 10.4 The Award of the Board of Appeal, whether confirming, varying, amending or setting aside the original award of arbitration, shall be signed by all the members of the Board of Appeal. When so-signed, it shall be deemed to be the Award of the Board of Appeal, and shall be final, conclusive and binding on all parties concerned.
- 10.5 Where a party gives notice to a Board of Appeal that a reasoned award will be required with a view to a possible judicial review of the award as provided for in the Arbitration Act of 1965, then, at the discretion of the Board of Appeal, both parties may be represented at the hearing by an attorney or advocate or other legally qualified person.
- 10.6
- (a) If the appellant, on receiving from the Board of Appeal notice of the date fixed for the hearing of the appeal, requests a postponement of more than 14 consecutive days, or at the first or any subsequent hearing of the appeal requests an adjournment, then in such event the Board of Appeal may in their absolute discretion direct that as a condition of granting an adjournment all or any part of the money required by the terms of the award of arbitration to be paid by either party to the other shall be deposited in such bank and in such currency (either in South Africa or abroad) as the Board of Appeal may direct. Such money shall be held by such bank in an account in the name of SAGAS and otherwise on such terms as the Board of Appeal may direct. The Board of Appeal shall where such money has been deposited direct in their award how

and to which of the parties the amount so held shall be paid. If in the opinion of the Board of Appeal, after hearing the parties at a preliminary meeting, the appellant shall be found guilty of undue delay in proceeding with his appeal, he shall, after due warning and if the Board of Appeal so decides, be deemed to have withdrawn his appeal (with the consequences as stated in Rule 11) in which event the money on deposit (with interest if any, less any tax deductible) shall immediately become due and payable to the party and/or parties entitled thereto under the terms of the award of arbitration.

(b) If the appellant fails to make such payment as aforesaid in accordance with the directions of the Board of Appeal and within such time as the Board of Appeal stipulates, then (subject to the provisions of Rule 14) the appeal shall be deemed withdrawn.

10.7 If the Board of Appeal shall determine that any of the conditions referred to in Rules 8.14 have not been complied with, they may in their absolute discretion extend the time for compliance (notwithstanding that the time may already have expired) or dispense with the necessity for compliance and may proceed to hear and determine the appeal as if each and all of those conditions had been complied with. The determination by the Board of Appeal of any matter to which Rule 10.8 applies shall be final conclusive and binding on all parties concerned.

10.8 No award of a Board of Appeal or decision by a Board of Appeal on a provisional order, as defined in Rule 6, shall be questioned or invalidated on the ground of any irregularity in the election of the Board of Appeal or of any of its members, or on the ground that any member of the Board of Appeal was 'not eligible to serve' unless objection is made in writing and established, to the satisfaction of the Board of Appeal, before the hearing of the appeal or of the provisional order is begun.

RULE 11. WITHDRAWALS OF APPEALS

11.1 An appellant against an arbitration award shall have the right at any time before an award is made to withdraw his appeal by giving written notice (excluding by the use of fax or e-mail) to SAGAS, and SAGAS shall forthwith notify all parties to the arbitration that the appeal has been withdrawn. On notice being received not less than ten consecutive days before the time fixed for the hearing 25 % of the fees shall be returned. On any later withdrawal no part of the fees shall be returned.

11.2 Settlement or abandonment of the appeal leading to cancellation of the hearing shall entitle each member of the Board of Appeal to a fee according to the scale laid down by SAGAS.

11.3 In the event of withdrawal following such settlement or abandonment both/any parties to an award of arbitration shall have the right of appeal against the award of a Board of Appeal in accordance with the provisions of Rule 8, save that the time limit laid down in Rule 8.1(b) shall be 12:00, noon, on the 30th consecutive day after the date of SAGAS's notice to that party of the aforesaid withdrawal.

RULE 12. APPEALS ON STRING CONTRACTS

12.1 In any case in which a string award shall have been made by the arbitrator/s and the first seller, or the last buyer, or any intermediate party bound thereby, shall be dissatisfied therewith (whether the award shall be in his favour or against him) the first

seller, the last buyer, and any intermediate party (as the case may be) or any of them, shall be entitled to appeal against that award to a Board of Appeal, provided that each of the following provisions, in addition to the provisions of Rule 8, shall first have been complied with:

- (a) If the appellant is an intermediate party he shall state in such notice of appeal whether he is appealing as a buyer or a seller.
- (b) If the appellant is the first seller or the last buyer he shall, when giving notice of appeal, also despatch written notice thereof to the party in immediate contractual relationship with him.
- (c) If the appellant is an intermediate party and is appealing as a buyer or a seller he shall, when giving notice of appeal, also dispatch written notice thereof (excluding by the use of fax or e-mail) to his own immediate seller or buyer as the case may be.
- (d) Every notice given to an intermediate party by a first seller, a last buyer or by another intermediate party, in accordance with the provisions of Rule 12.1, shall be passed on with due despatch, and such passing on shall, as between the intermediate party passing the same on and the party to whom the same is passed on, be deemed to be in compliance with the said conditions relating to appeals.

12.2 All appeals to which this Rule applies shall be held in the same manner in which the corresponding arbitrations are required by Rule 5 to be held. Any award made by a Board of Appeal shall in all respects have the same effect and shall be enforceable in the same manner as is provided in that Rule in the case of awards made in the corresponding arbitration, and non-compliance with any provisions of Rule 12.1(d) shall in no way limit or affect the rights and jurisdiction of the Board of Appeal.

RULE 13. TAKING UP APPEAL AWARDS

13.1 SAGAS may call upon either/any of the disputing parties to take up the award of the Board of Appeal and in such case the party so called upon shall take up and pay the fees, costs and expenses therein. If payment is not received by SAGAS within 14 consecutive days from such notice, SAGAS may call upon any other of the parties named to take up the award. In such case the party so called upon shall pay the fees and expenses as directed.

Upon receipt of the fees by SAGAS, SAGAS shall then date and issue the award to the parties.

RULE 14. CURRENCY REGULATIONS

14.1 If an appellant is precluded by currency regulations from paying immediately any money due to be paid by him under Rule 8 and notifies SAGAS in writing:

- (a) in the case of payment of the appeal fee when giving notice of appeal; and
- (b) in the case of any further sum being called for under Rule 8.1(e) or being directed to be paid under Rule 10.6;

within nine consecutive days of the money being demanded accompanied in every case by evidence from a bank that he has already made application for the transfer of the required sum, he shall be entitled to an extension of up to 35 consecutive days, from the date when the said payment became due, in which to pay such sum.

RULE 15. DEFAULTERS

- 15.1 In the event of any party to an arbitration or an appeal held under these Rules neglecting or refusing to carry out or abide by a final award of the arbitrator/s or Board of Appeal made under these Rules, the Governing Committee of SAGAS may, after due notice to the defaulting party, post on the Notice Board at their offices and/or circularise members in any way thought fit, notification to that effect. The parties to such arbitration or appeal shall be deemed to have consented to the Governing Committee of SAGAS taking such action as aforesaid.
- 15.2 In the event that parties do not pay the arbitration or appeal fees and expenses when called upon to do so by SAGAS in accordance with these Rules, the Governing Committee may post on the Notice Board at their offices and/or circularise members in any way thought fit, notification to that effect. The parties to any such arbitration or appeal shall be deemed to have consented to the Governing Committee taking such action as aforesaid, but in any event the defaulting party shall be notified in advance of any action taken under this rule.

RULE 16. NOTICES

- 16.1 All notices given under these Rules, except where explicitly stated otherwise, shall be given by letter, telex, telegram or by other rapid written communication (including fax and e-mail) and shall be deemed to be properly given if proved to have been dispatched within the required time limits.
- 16.2 Except at a hearing, all Notices, Proceedings and Documents to be served on Members of a Board of Appeal shall be given by means of Rule 16.1 to the Secretary of SAGAS at SAGAS's offices, and when so given shall be deemed to be properly served. For the purposes of any time limits, receipt of such notice by SAGAS shall be deemed to be the date of receipt by the Board of Appeal.

RULE 17. DISCRETION TO EXTEND TIME LIMITS

- 17.1 Whenever it shall appear to SAGAS that by reason of a state of war, war-like operation, strike, lock-out, riot or civil commotion, parties to contracts which have been or may be made incorporating these Rules, may be prevented from exercising any of their rights within the time limits prescribed by these Rules, SAGAS shall have and shall be deemed always to have, the power to extend any of such time limits at any time and from time to time and to any extent necessary to enable justice to be done between the parties. Such extension may be made generally or with reference to any particular dispute.
- 17.2 In the event of SAGAS deciding to extend any such time limits with reference to any particular dispute, notice thereof shall be given by SAGAS to such of the parties to the contract as may be available.

RULE 18. SAMPLES

18.1 All samples sent to SAGAS for arbitration or appeal, for analysis, testing and/or other purposes shall become and be the absolute property of SAGAS.

RULE 19. GENERAL

19.1 Neither SAGAS nor any of its Officers or employees shall be liable to all or any of the parties to any arbitration or appeal for any loss or damage caused to any such party by any act or omission of SAGAS or any of its Officers or employees, whether such act and/or omission be negligent or not. This is deemed to be accepted by all parties applying for arbitration under these Rules, also those having previously consented to arbitration with reference to them.