

**MALAYSIAN RUBBER EXCHANGE**  
**RULES**

**January 1998**

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**11 OF 1962**  
**THE SECOND SCHEDULE**  
**(Section 14)**

**RULES**

1. (1) These rules may be cited as the Malaysian Rubber Exchange (Amendment) Rules 1997. Title
- (2) These Rules shall come into operation on 1 January 1998.

**PRELIMINARY**

2. (1) In these Rules unless the context otherwise requires :- Interpretation

“The Act” means the Federation of Malaya Rubber Exchange (Incorporation) Act, 1962;

“Alternative Representative” means a person appointed under Rule 47 by a corporation which is an Ordinary Member to represent such Member at meetings in the absence of the Authorised Representative of such Member;

“Annual General Meeting” means a General Meeting duly convened under Rule 26;

“Associate Member” means a Member registered in that Category under the Rules;

“Auditor” means the person appointed to be the Auditor for the time being under the Rules;

“Authorised Representative” means a person appointed under Rule 47 by a corporation which is an Ordinary Member to represent such Member at meetings of the Corporation;

“Broker” means a Member who is registered as a member of the Broker Class constituted under the Rules;

“Category” means any category of membership of the Corporation constituted under the Rules;

“Change Notice” means a notice to the Corporation given by a Member pursuant to Rule 13 or Rule 14;

“Class” means any class of membership of the Corporation constituted under the Rules;

“contract term” means any contractual term and condition and trade ruling made by the Management Committee pursuant to the powers conferred by the Rules;

PU(A)412/67 “corporation” means any body corporate wherever established registered or incorporated under the provisions of any written law, Royal Charter or other instrument;

“the Corporation” means the Malaysian Rubber Exchange constituted under the Act;

“Dealer” means a Member who is registered as a member of the Dealers Class constituted under the Rules;

“defaulter” means a Member so described in Rule 22 and a person against whom action has been taken under Rule 23;

“Extraordinary General Meeting” means a General Meeting convened pursuant to Rule 29;

“First Members” means the person whose names are set out in the First Schedule to the Act;

“general meeting” means any meeting of the Corporation duly convened pursuant to the Rules;

PU(A)32/85 “Guarantee Contract” means a contract in a form prescribed by these Rules, bye-laws or contract terms and made by a Guarantee Trader acting on behalf of his client in terms of which, and subject to such conditions as may be prescribed, the Guarantee Trader guarantees the quality and weight of the rubber contracted for;

“Guarantee Fund” means a fund established by the Board pursuant to Rule 59(c);

“Guarantee Trader” means any trader who is authorised under these Rules or the bye-laws or the contract terms to enter into Guarantee Contracts; PU(A)32/85

“Guarantee Trading Right” means the right granted by the Corporation to conduct business on a Guarantee Contract; PU(A)32/85

“Joint Members” means any two or more persons carrying on business in partnership and elected to join membership under the Rules;

“Management Committee member” means a member of the Management Committee and includes an alternate member;

“Member” means a person whose name appears in the Register as a member in any Class or Category and includes any two or more persons whose names are registered together as Joint Members;

“Ordinary Member” means a Member registered in that Category under section 7 of the Act and the Rules;

“person” means an individual and any corporation but does not include a partnership firm or other unincorporated body or association;

“Principal Office” means the principal office established pursuant to section 4 of the Act;

“Producer” means a Member who is registered as a Member of the Producers' Class constituted under the Rules;

“Register” means the register of Members established pursuant to Section 9 of the Act and rule 10 of the Rules;

“rubber” has the meaning assigned to it in section 2 of the Malaysian Rubber Board (Incorporation) Act 1996;

“rubber products” has the meaning assigned to it in section 2 of the Malaysian Rubber Board (Incorporation) Act 1996;

“Rules” means these rules and any amendments, alterations and additions thereto for the time being in force;

“User” means a Member who is registered as a member of the User Class constituted under the Rules;

M.U.7 of 1948           (2) Save as otherwise provided by the Act or by the Rules or by the bye-laws, the Interpretation and General Clauses Ordinance, 1948, shall apply in the construction and interpretation of these Rules and the bye-laws.

#### **CLASSES AND CATEGORIES OF MEMBERSHIP**

Membership           3. Membership shall be limited to the First Members and to such persons as, being eligible for membership in accordance with the provisions of these Rules, shall apply for election, be elected and have their names entered as Members in the Register.

Joint  
Membership           4. (1) Where two or more persons carry on business in any Class in partnership, they shall not be eligible for membership in respect of such business as separate and individual Members but shall all apply for Joint Membership in respect of such business and upon election all their names shall be entered in the Register as such Joint Members.

- (2) Subject to any provisions to the contrary contained in the Rules, bye-laws or contract terms, any two or more partners so registered as Joint Members shall be deemed for the purposes of membership in the Corporation to constitute a single Member.
  - (3) The Register shall contain particulars of the trade or business name under which any partners who have been registered as Joint Members carry on their said business and in all contracts entered into or other dealings carried out by such Joint Members under the Rules, bye-laws or contract terms they shall be sufficiently and properly described and identified if referred to by such trade or business name and it shall not be necessary to add the individual names of the partners.
5. (1) All Ordinary Members shall be registered in any one of the following Classes;
- (a) Producers, consisting of those Members who carry on or intend to carry on business as planters or producers of rubber.
  - (b) Deleted.
  - (c) Deleted.
  - (d) Brokers, consisting of those Members who carry on or intend to carry on business as rubber brokers.
  - (e) Dealers, consisting of those Members who carry on or intend to carry on business as dealers, packers, millers, importers, exporters, shippers or in any other capacity within the rubber trade or industry not otherwise classified above.

Classes of  
Members  
PU(A)255/74  
PU(A)407/76

(f) Users, consisting of those Members who carry on or intend to carry on business as manufacturers of rubber products.

PU(A)255/74

(2) Deleted.

(3) Save in-so-far as the same are specifically dealt with in the Rules, the obligations and rights of each Class shall be as from time to time provided in the bye-laws and the contract terms.

PU(A)407/76  
PU(A)32/85

(4) Associate Members shall not be registered as Members of any particular Class and shall not be allowed to carry on the activities of a broker within Malaysia; nor shall they be eligible to obtain any Guarantee Trading Right.

6. There shall be two categories of Membership as follows :-

Categories of  
Members  
PU(A)255/74

(a) Ordinary Members being those persons -

(i) whose names appear in the Register before 1 January 1998; or

(ii) who carry on or intend to carry on business in the rubber trade or industry in and from a place of business in Malaysia and -

(A) in the case of individuals, are ordinarily resident in Malaysia, or

(B) in the case of corporations, are incorporated in and registered under any written law of Malaysia;

(b) Associate Members being those who :-

PU(A)17/77

(i) carry on business or intend to carry on business in any territory outside Malaysia; and

(ii) are members in good standing of any recognised rubber trade association, Rubber or Commodity Exchange or other Association connected with the rubber trade in that territory

PROVIDED ALWAYS that the Management Committee shall have the power of waiver in respect of the application of such conditions for membership, in specific cases, as it shall in its absolute discretion consider desirable or appropriate.

7. (1) The First Members shall be Ordinary Members and the Board shall determine in which Classes they shall respectively be registered. Such decision shall be final and conclusive and effect shall be given thereto in the Register. Members to be members of only one Class and Category
- (2) (a) A person shall not be entitled to apply for membership in more than one Class and in more than one Category and in the event of his carrying on business in more than one Class or in more than one category at the same time he shall give full particulars of his said business activities to the Corporation when applying for membership and shall state in which Class and in which Category he wishes to obtain membership. The Management Committee shall have the right to determine in which Class and in which Category he should properly be placed having regard to all the circumstances of the case and such decision shall be final and conclusive and effect shall be given thereto in the Register.
- (b) Joint Members shall not be entitled to be registered as Ordinary Members unless all the partners are ordinarily resident in Malaysia. PU(A)433/75
- (c) It shall be the duty of every Ordinary Member to notify the Corporation forthwith of any alternation which takes place in the nature or class of the business carried on by him within the rubber trade or industry, or of any alteration which takes place in the territorial location of his residence or of his said business activities. PU(A)255/74  
PU(A) 407/76
- (d) Upon receiving any notification from a Member in accordance with the provisions of sub-paragraph (c) or upon receiving information of the relevant facts from any other source, the Management Committee shall determine whether, having regard to all the circumstances of the case, such Member should be transferred from his existing Class or Category or both to any other Class or

Category or both. Such decision shall be final and conclusive and if necessary the Register shall be amended to give effect thereto.

### ELECTION OF MEMBERS

Applications  
for election  
PU(A)255/74  
PU(A)27/83

8. (1) Every applicant for election as an Ordinary Member shall forward to the Corporation an application in writing in the form prescribed by the bye-laws. Such application shall be signed, in the case of an individual applicant by such applicant personally, in the case of a corporation by a Director or member of the governing body of such corporation, and in the case of partners of a firm by all the partners of such firm.

PU(A)255/74  
PU(A)32/85

(2) Every application for Associate Membership by a member of a trade association with which the Corporation has entered into arrangements for reciprocal membership rights, shall be supported by a letter from the said association sponsoring such application.

Election of  
Members  
PU(A)27/83

9. (1) The Corporation shall submit every application to the Management Committee for its consideration.

PU(A)255/74  
PU(A)123/75  
PU(A)17/77  
PU(A)32/85

(2) In the case of an application for Associate Membership by an applicant who is a member of a trade association with which the Corporation has concluded an arrangement for reciprocal membership rights, the Management Committee, upon being satisfied that the said application is properly sponsored by such trade association may forthwith elect the applicant to membership.

- (3) In the case of an application other than as provided for in paragraph (2), the Management Committee shall proceed to vote upon the question of the election of the applicant. Any two or more votes against his election shall result in his being deemed not to be elected and he shall not be entitled to make a further application for election for a period of six months from the date of such unfavourable vote unless all the Management Committee members shall unanimously agree to waive this Rule. PU(A)27/83
- (4) The Corporation shall forthwith notify the applicant of the decision of the Management Committee and if the applicant has been elected he shall thereupon be required to pay such entrance fee and annual subscription as may be prescribed by the bye-laws. When such payment is made the name and particulars of the applicant shall be entered in the Register and he shall become a Member for all purposes on the date upon which registration is so effected. PU(A)27/83
10. (1) The entries in the Register shall be conclusive as to the Members and their respective Classes and Categories. The Register
- (2) The Register shall be kept at the Principal Office and shall be available for inspection by any Member at any time during normal working hours.
11. The rights and privileges of a Member are personal to him and (subject to the provisions of the Act) shall not be transferable or transmittable to any other person in any way whatsoever. Membership rights not transferable
12. A Member shall be required to pay in each year such annual subscription as may from time to time be prescribed by the bye-laws. Upon any such subscription becoming two months overdue all his rights and privileges of Membership shall be forfeited and he shall forthwith cease to be a Member. His arrears of subscription shall remain a debt due to the Board. The Management Committee shall have the power to reinstate such Member upon such terms and conditions as it shall think fit. Annual subscriptions

## **BUSINESS CHANGES**

- PU(A)255/74      13. (1) Deleted.
- PU(A)255/74      (2) (a) Any corporation which is a Member or which is one of a number of persons registered as Joint Members shall forthwith give notice in writing (hereinafter called “a Change Notice”) to the Corporation of any change in its Directors or any reduction in its issue share capital or of any change in its shareholders which results in the effective control of the business of such corporation changing hands.
- PU(A)27/83      (b) The Corporation shall upon receipt of a Change Notice refer it to the Management Committee which shall in its absolute discretion decide by a simple majority present and voting :-
- (i) that the membership of such Member shall continue notwithstanding the change which has occurred; or
  - (ii) that the membership of such Member shall be transferred to another Class or Category, or both; or
  - (iii) that such Member shall make an application for re-election; or
  - (iv) that the membership of such Member shall be terminated.
- (c) Notice in writing shall be given to such Member advising it of the decision of the Management Committee.
- PU(A)27/83      (d) Where such member is required to make an application for re-election under sub-paragraph (b)(iii) of this paragraph such application shall be made within one calendar month from the date of the service of notice of the said decision of the Management Committee and during that time and pending the decision of the Management Committee on such application, the Member shall continue to be a Member. If an

application for re-election has not been received by the Corporation within such time the Member shall thereupon cease to be a Member.

- (e) The provisions of Rules 8 and 9 shall apply to all applications for re-election made under this Rule as if the applicant were a new applicant save that such applicant if re-elected shall not be required to pay a further entrance fee or a further annual subscription for the then current year or to be re-registered as a Member.
- (f) If such application for re-election be rejected such Member shall cease to be a Member on the date of service of the notice thereof on him.
- (g) Where under the provisions of sub-paragraph (b)(ii) or (b)(iv) of this paragraph the Management Committee decides that a Member shall be transferred to another Class or Category or both or shall cease to be a Member such decision shall take effect on the date on which notice thereof is served on such Member.
- (h) The Management Committee may at any time and from time to time prior to the expiry thereof extend the time for compliance with any of the provisions of this Rule and the granting of such extension shall stay the effect of the decision of the Management Committee until the expiry of such extended time.

14. (1) This Rule shall apply whenever two or more partners of a firm are registered as Joint Member and :

Charges in a Partnership

- (a) any one or more of such partners shall cease for any reason to be a partner in such firm; or
  - (b) any new partner or partners shall be admitted to partnership in such firm.
- (2) In cases falling only within the provisions of sub-paragraph (1) (a) of this Rule, the following provisions shall have effect :-

- (a) The continuing partner or partners in the firm shall forthwith give notice in writing of such change (hereinafter called “a Change Notice”) to the Corporation.
- PU(A)27/83
- (b) Upon receipt of such notice the Corporation shall strike out the name or names of the retiring partner or partners from the Register.
- PU(A)255/74
- (c) In the case of Associate Members the continuing partner or partners shall continue as a single Member or Joint Members as the case may be.
- PU(A)27/83
- (d) The Corporation shall upon receipt of a Change Notice from Ordinary Members or Associate Members refer it to the Management Committee which shall in its absolute discretion decide by a simple majority present and voting:
    - (i) that the membership of the continuing partner or partners continue in the same Class and/or Category as a single Member or Joint Members as the case may be; or
    - (ii) that the membership of the continuing partner or partners continue as a single Member or Joint Members as the case may be but in a different Class or Category or both; or
    - (iii) that the continuing partner or partners shall make an application for election; or
    - (iv) that the membership of the continuing partner or partners shall be terminated.
- PU(A)407/76
- (3) In any other case falling within the provisions of paragraph (1) of this Rule, the following provisions shall have effect :
    - (a) The person or those persons registered as a Joint Member or Joint Members in respect of the firm who continues or continue as a partner or partners in the firm shall forthwith give notice in writing of such change (hereinafter called “a Change Notice”) to the Corporation.

- (b) Upon receipt of such notice the Corporation shall if necessary strike out the name or names of any retiring partner or partners from the Register. PU(A)27/83
- (c) In the case of Associate Members, subject to the new partner or partners confirming to the Corporation in writing his or their desire to become registered with the continuing partner or partners as Joint Members in respect of the firm, he or they shall be so registered. PU(A)257/74
- (d) In the case of receipt of a Change Notice from Ordinary Members or Associate Members the Management Committee shall meet to consider the same and may in its absolute discretion decide by a simple majority present and voting :- PU(A)27/83
- (i) that, subject to the new partner or partners confirming to the Corporation in writing his or their desire to become registered with the continuing partner or partners as Joint Members in respect of the firm,
- (A) the name or names of the new partner or partners shall be added to that or those of the continuing partner or partners as Joint Members and that such Joint Membership shall continue in the same Class and/or Category as before; or PU(A)407/76
- (B) the name or names of the new partner or partners shall be added to that or those of the continuing partner or partners as Joint Members in respect of the firm but that such Joint Membership be transferred to another Class or Category or both; or
- (ii) that the continuing partner or partners together with the new partner or partners shall make an application for election; or
- (iii) that the membership of the continuing partner or partners shall be terminated.
- (4) The provision of Rules 8 and 9 shall apply to all applications for election under this Rule as if the applicants were new

applicants save that such applicants if elected shall not be required to pay a further entrance fee or a further annual subscription for the current year or (subject to such amendment of the Register as shall be necessary to give effect to the changes in the constitution of the firm which have taken place) to be re-registered as Joint Members.

Reciprocal  
Arrangements

15. Notwithstanding anything contained in Rule 13 or 14, if an Associate Member or Joint Associate Members to which or to whom the provisions of either of the said Rules apply is a member or are joint members as the case may be of an association with which the Corporation has made arrangements for reciprocal membership rights, the Corporation shall not take any action upon a Change Notice submitted by such Member or Joint Members until the same has been referred to such association for consideration and the Corporation shall have regard to any arrangements which have been made between the Corporation and such association for dealing with such matters in exercising its powers under the said Rules.

Cessation of  
Business

16. (1) If at any time the Corporation is of the opinion that an Ordinary Member has ceased actively to carry on business in the rubber trade or industry it may give written notice to him of such its opinion.

(2) If at the expiration of six months after the giving of such notice the Corporation remains of the same opinion it may give a further notice to such Member calling on him to show cause why his membership should not be terminated.

(3) Such further notice shall name a time and date not being less than 48 hours after service thereof when the Management Committee will meet to consider the matter and shall inform the Member of his right to attend such meeting and to make such representations to the Management Committee upon the subject as he may so desire.

PU(A)27/83

(4) If after considering any representations made by such Member a simple majority present at the meeting of the Management Committee remain of the same opinion in the matter the Member shall be informed thereof in writing and shall cease to be a Member on the date of service of such notice.

17. (1) Each Member upon becoming a Member shall be bound by and abide by the Rules, bye-laws and contract terms whether in regard to the rights, privileges, obligations, and duties of the Members in general or the Class or Category to which he for the time being belongs in particular and he shall be deemed to have contracted with the Corporation and with every other Member jointly and severally to conduct his business in accordance with the said Rules, bye-laws and contract terms. Members to observe Rules, etc.
- (2) (a) The Management Committee may by written notice call upon any Ordinary Member or Associate Member to attend before it in order to furnish any information in respect of the affairs of the Corporation, of such Member, or of any other Member which the Management Committee may reasonably require to have.
- (b) Such notice shall specify the place in Malaysia at which such Member shall attend, the time when he shall attend (not being less than 48 hours after the time of the service of such notice to him) and particulars of the information which is required to him. PU(A)433/75
- (c) Such Member shall be bound to comply with the requirements of any such notice.
18. Every Member shall promptly call to the attention of the Corporation all cases of failure on the part of any of the Members to observe any of the Rules, bye-laws or contract terms which come to the notice of such Member and all acts committed by any Member which may be detrimental to the interest or reputation of the Corporation or contrary to the general interests of fair dealing in the rubber trade. Members to report infringements of Rules, etc.
19. (1) If at any time the Corporation receives a report or it otherwise comes to the notice of the Corporation that any Member is suspected of having failed to observe, carry out or comply with any of the Rules, bye-laws or contract terms and the Corporation considers that an investigation should be made into the business or affairs of such Member in order to Investigations into infringements, etc.

enable the truth or otherwise of the matter to be established, the Management Committee shall be entitled to appoint any person (hereinafter called “the Investigator”) who in its opinion is competent, independent and qualified for the purpose, to conduct such an investigation.

- (2) (a) For the purposes of such investigation, the Investigator shall have power :-
- (i) to inspect at such time and place as he shall appoint any of the books, documents, accounts, returns or any other papers whatsoever (including copies of Bank accounts) relating to the affairs or business of such Member as he shall specify; or
  - (ii) to require production by such Member of any of the documents specified in sub-paragraph (i) of this paragraph; or
  - (iii) to call for such other or further information or explanation from such Member or his servant or agent as to the Investigator may appear necessary.
- (b) Such Member shall be bound to comply with the provisions of this paragraph, notwithstanding that such documents, information or explanation relate to transactions entered into between or business relations with such Member and any other person or firm whether a Member or not.
- (c) Non-compliance with the provisions of this paragraph, whether by such Member or his servant or agent shall constitute a breach of the Rules by such Member.
- (3) Every other Member shall be deemed to have given his irrevocable consent to the production by such Member to the Investigator of all documents and the supplying to the Investigator of any information which the Investigator requires as aforesaid notwithstanding that such documents or information relate to transactions or business relations between such Member and such other Member, and that the

production of such documents or the supplying of such information would, but for the provisions of this Rule constitute a breach of any contract on the part of such Member.

- (4) Upon the conclusion of any investigation under this Rule, the Investigator shall submit a written report to the Management Committee setting out his findings upon all relevant points.
  - (5) When information has been obtained which relates to transactions or business relations between such Member and any other person or firm (whether a Member or not) the name of such other person or firm shall not be disclosed by the Investigator either to the Management Committee or to any other person unless such other person or the partners of such firm be a Member or Members and in the view of the Investigator have committed any breach of the Rules, bye-laws or contract terms.
  - (6) Save as expressly provided in the Rules, any report by an Investigator made to the Management Committee pursuant to this Rule and all information obtained by an Investigator in the course of an investigation shall be kept secret by the Investigator and by the Management Committee.
  - (7) The Management Committee shall consider the written report of the Investigator and determine whether action under Rule 20 should be taken against such Member or any other Member.
20. (1) Where in the opinion of the Management Committee there is prima facie evidence that a Member has :- Disciplinary proceedings
- (a) committed any breach or non-observance of or non-compliance with any of the Rules, bye-laws or contract terms; or
  - (b) failed to comply with any decision or direction of the Corporation; or

- (c) been guilty of any improper dealing or any other dishonourable or disgraceful conduct, or conducted himself or his business in a manner which is detrimental to the interests of the Corporation or of the rubber trade in general or of the Malaysian rubber trade in particular or unbecoming the character of a Member,

the Management Committee shall have power to resolve to take disciplinary proceedings against such Member.

- (2) As soon as practicable after so resolving, the Management Committee shall by notice in writing summon such Member to appear before it at a place and time to be specified in such notice (not being less than 48 hours after the time of the service of such notice on the Member concerned). Such notice shall give adequate particulars of the allegations against such Member in order to enable him to meet and deal with the same.
- (3) In any such disciplinary proceedings the Management Committee shall have and exercise all powers which they deem necessary for the ascertainment of the facts and in particular may :-
  - (a) procure and receive all such evidence, written or oral, and examine all such persons as witnesses as it may think it necessary or desirable to procure or examine; and
  - (b) may summon any Member to attend the hearing to give evidence or produce any books, documents, accounts, returns or any other papers whatsoever (including Bank accounts) in his possession and may require him to answer any questions relating to such proceedings,

and such Member and all other Members shall be bound to comply with the directions of the Management Committee so given.

- (4) Such Member shall, before the Management Committee proceeds to vote on the matter, be entitled to be heard and to call any evidence which he so desires, but if he fails to appear

before the Management Committee after notice duly given as aforesaid the Management Committee may proceed to vote on the matter in his absence.

- (5) If after hearing the evidence and any representations made by such Member the Management Committee finds the allegations proved it shall have power to censure, suspend, expel or otherwise penalise him in such manner as it shall deem just. The Management Committee may also make any order regarding costs as it deems just.
- (6) The powers conferred in paragraph (5) of this Rule shall not be exercised unless not less than two-thirds of the Management Committee members present at the Meeting record their votes in favour thereof. PU(A)27/83
- (7) Such Member shall be informed by written notice as soon as practicable of the decision of the Management Committee and of any punishment or penalty imposed upon him by the Management Committee as aforesaid and any such punishment or penalty shall take effect on the date on which such notice is served upon him.
- (8) If any pecuniary penalty is imposed upon or any costs are ordered to be paid by such Member the amount thereof shall constitute a debt due to the Board and shall be recoverable by legal action against him.
- (9) The Management Committee shall have power at any time after it has imposed any penalty upon such Member under this Rule to remit, mitigate or suspend such penalty upon such terms as it deems just but shall not be entitled to enhance the same.
- (10) When a Member is suspended by the Management Committee under paragraph (5) of this rule, such Member shall be deprived during the term of his suspension of all rights and privileges of membership with such exception, limitations or other terms as the Management Committee may determine, but he may be proceeded against by the Management Committee for an offence other than that for which he was suspended. PU(A)81/86

Insolvency etc.  
of Member

21. (1) If any Member-

- (a) shall have a receiving order in bankruptcy made against him; or
- (b) being a corporation shall have an effectual order made or an effectual resolution passed for its winding up (unless such winding up is, in the opinion of the Management Committee, only for the purposes of a reconstruction) or has been placed under receivership; or
- (c) shall enter into any arrangement or composition with his creditors; or
- (d) shall in the opinion of the Management Committee suspend payment or become insolvent or fail to pay at the time and date appointed by any of the Rules, bye-laws or contract terms any sum of money payable by him thereunder;

such member shall be deemed to be in default.

(2) Notwithstanding the provisions of paragraph (i) of subrule (1) of Rule 24 the Management Committee may upon receipt of a written notice that any Member has been placed under receivership, meet to consider the same and may in its absolute discretion decide by a simple majority present and voting :-

- (a) that the membership of such Member shall continue subject to such conditions as the Management Committee may impose ; or
- (b) that the membership of such Member shall be suspended until the receivership upon the Member has been lifted and it has settled any payments due to other Members incurred under the provisions of the Rules, bye-laws and contract terms.

Defaulters.  
PU(A)81/86

22. (1) (a) Any member who has been expelled under Rule 20 or who is deemed to be in default under Rule 21 is hereinafter referred to as a “defaulter”, and the provisions of the bye-laws and contract terms relating to defaulters shall apply to him.

(b) The Corporation may in its absolute discretion and in such manner as it thinks fit notify or cause to be notified either to the Members, to any trade association or to the public that any member has been expelled, suspended or penalised or has otherwise become a defaulter and may give the name of such Member. No action or other proceedings shall in any circumstances be maintainable by such person either against the Corporation, its servants or agents, or against any person publishing and circulating such notification and this Rule shall operate as leave to any person to publish and circulate such notification and be pleadable accordingly.

(2) A defaulter shall as from the time of default cease to be a Member except for the purpose of settling under the provisions of the said bye-laws and contract terms every outstanding contract made by him directly or indirectly with other Members

23. If an Associate Member elected to membership of the Corporation on the sponsorship of a trade association outside Malaysia with which the Corporation has entered into arrangements for reciprocal membership rights, be expelled or suspended from membership of or be declared a defaulter by such association, the Management Committee shall have power to take similar action against him under the Rules; provided that such action shall not be taken unless the arrangement in force between Corporation and such association requires reciprocal effect to be given by such association to any resolution of the Management Committee expelling or suspending an Ordinary Member or declaring him to be in default.

Action against  
foreign  
sponsored  
Associate  
Member

24. (1) A Member shall cease to be a Member :

Termination of  
Membership

(a) in the case of an individual on death, or, in the case of a corporation which is being wound up for purposes of reconstruction, on the date of its final dissolution; or

(b) at the expiration of one calendar month after giving notice in writing to the Corporation of his desire to retire from membership; or

(c) under Rule 12 upon his annual subscription becoming two months over-due in any year; or

(d) in the case of a Member which is a Corporation, under Rule 13 pursuant to a Change Notice if the Management Committee so resolve; or

(e) in the case of Joint Members under Rule 14 pursuant to a Change Notice if the Management Committee so resolve; or

(f) under Rule 16 in the case of the cessation of business activities if the Management Committee so resolve; or

PU(A)255/74  
PU(A)433/75

(g) if, being an Associate Member, he ceases to be a Member of any of the trade associations or bodies referred to in Rule 6(b)(ii); or

(h) if he be expelled under Rule 20; or

(i) if he be declared to be in default under Rule 21; or

PU(A)255/74

(j) if being an Associate Member, he shall have been expelled or declared a defaulter pursuant to Rule 23.

(2) Except in any of the cases provided for in sub-paragraphs (h), (i), or (j) of paragraph (1) of this Rule, a Member shall notwithstanding such cessation be deemed, for the purpose of winding up, settling and completing in accordance with the Rules, bye-laws and contract terms (other than those relating to defaulters), all contracts entered into by him with any other Member under the provisions of the Rules, bye-laws or contract terms prior to the date of such cessation, to remain a Member and to remain subject to the provisions of Rules 21, 22 and 23 until all such contracts have been so wound up, settled and completed, but save as aforesaid he shall not during such further period enjoy any of the rights or privileges of membership.

(3) A Member who ceases to be a Member shall be liable for the annual subscription for the whole of the year in which he ceases to be a member.

## **GENERAL MEETINGS**

- |  |  |
|--|--|
| 25. The first Annual General Meeting shall be held at such time not earlier than twelve months or later than twenty-four months from the date of the coming into force of the Act and at such place within Malaysia as the Board shall appoint.  | First Annual General Meeting<br>PU(A)27/83                               |
| 26. The Corporation shall in each year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting and that of the next.   | Annual General Meetings  |
| 27. The Annual General Meetings shall be held at such times and places within Malaysia as the Corporation shall appoint.   | Dates and places of Annual General Meetings.<br>PU(A)27/83               |
| 28. All general meetings, other than Annual General Meetings, shall be called Extraordinary General Meetings.  | Extraordinary General Meetings   |
| 29. The Corporation may, whenever it thinks fit, convene an Extraordinary General Meeting and Extraordinary General Meetings shall be convened when required by the Rules or on the requisition of twenty Ordinary Members. Any such requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the Principal Office and may consist of several documents in like form each signed by one or more requisitionists. Extraordinary General Meetings shall be held at such times and places within Malaysia as the Corporation shall appoint. | Convening of Extraordinary General Meetings<br>PU(A)433/75<br>PU(A)27/83 |

## **NOTICE OF GENERAL MEETINGS**

- |  |                     |
|--|---------------------|
| 30. (1) An Annual General Meeting and a meeting called for the passing of a resolution to revoke, alter or add to any of the Rules shall be called by twenty-one clear days' notice in writing. Any other meeting of the Corporation shall be called by seven clear days' notice in writing. The notice shall specify the place, the day and the hour of meeting and in the case of special business the general nature of that business and shall be given in manner hereinafter provided, or in such other | Notices to be given |
|--|---------------------|

manner, if any, as may be prescribed by the Corporation in general meeting, to the Ordinary Members and the Auditor. No other person shall be entitled to receive notices of general meetings.

- (2) The accidental omission to give notice of a meeting to or the non-receipt of notice of a meetings by any person entitled to receive notice shall not invalidate the proceedings at that meeting.

### **PROCEEDINGS AT GENERAL MEETINGS**

Special  
business.  
PU(A)255/74  
PU(A)27/83

31. All business shall be deemed special that is transacted at an Annual General Meeting. All business that is transacted at an Annual General Meeting shall also be deemed special with the exception of the consideration of the accounts and balance sheet and the reports of the Management Committee and Auditor.

Quorum  
PU(A)89/87

32. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. Fifteen Ordinary Members present personally or by proxy shall be a quorum for all purposes.

Procedure if  
quorum not  
present

33. If within half an hour from the time appointed for the holding of a general meeting the quorum is not present, the meeting, if convened on the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place and if at such adjourned meeting a quorum is not present within fifteen minutes from the time appointed for holding the meeting, the Member or Members present (being Ordinary Members) shall be a quorum.

Adjournment  
PU(A)27/83

34. The Chairman or, in his absence, the Deputy Chairman with the consent of any meeting at which a quorum is present, may adjourn the meeting from time to time and from place to place as the meeting shall determine. Whenever a meeting is adjourned for ten days or more notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid the Members shall not be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting. No business shall be transacted at any adjourned meeting other than

the business which might have been transacted at the meeting from which the adjournment took place.

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|--|------------------------------------|
| 35. The Chairman or, in his absence, the Deputy Chairman shall preside at every general meeting but if there be no such Chairman or Deputy Chairman or if at any meeting neither of them shall be present within fifteen minutes after the time appointed for holding the same or shall be unwilling to act as Chairman of the meeting, the Ordinary Members present shall choose one of the Management Committee members, or if no Management Committee member be present, or if all the Management Committee members present decline to take the chair, one of themselves, to be Chairman of the meeting.  | Chairman of Meeting<br>PU(A) 27/83 |
| 36. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll be demanded by the chairman of the meeting or at least three Ordinary Members present in person or by proxy and unless a poll be so demanded a declaration by the chairman of the meeting that a resolution has been carried or has been carried by a particular majority or lost or not carried by a particular majority shall be conclusive and an entry to that effect in the Minute Book of the Corporation shall be conclusive evidence thereof without proof of the number or proportion of the votes recorded in favour of or against such resolution. | Resolutions<br>how<br>determined   |
| 37. A proxy may demand or join in demanding a poll.  | Proxy entitled<br>do demand poll   |
| 38. The demand for a poll may be withdrawn.  | Demand may<br>be withdrawn         |
| 39. If a poll be demanded in manner aforesaid it shall be taken at such time and place and in such manner as the chairman shall direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.  | How poll taken                     |
| 40. No poll shall be demanded of the election of a chairman of a meeting or of any question of adjournment.  | Which poll not<br>allowed          |
| 41. In the case of equality of votes, either on a show of hands or at a poll, the chairman of the meeting shall be entitled to a further or casting vote in addition to the vote to which he is entitled as an Ordinary Member.  | Chairman<br>casting vote           |

- Other business to proceed 42. The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

### VOTES OF MEMBERS

- Voting rights 43. On a show of hands every Ordinary Member personally present (which in the case of a corporation means present by its Authorised Representative or Alternative Representative attending such meeting) and in the case of a poll every Ordinary Member shall (subject as hereinafter provided) have one vote.
- Members of unsound mind 44. If any Ordinary Member be lunatic, idiot or non compos mentis, he may vote at a poll by a proxy appointed by his Committee, curator bonis, or other legal curator.
- Joint Members 45. In the case of Joint Ordinary Members, the vote of a senior who tenders a vote, whether in person or by proxy shall be accepted to the exclusion of the votes of the other person or persons registered with him as Joint Ordinary Members and, for this purpose, seniority shall be determined by the order in which the names of such Joint Ordinary Members stand in the Register.
- How votes cast 46. Votes may be given either personally (which in the case of a corporation means by its Authorised Representative or Alternative Representative) or by proxy. On a show of hands a Member present only by proxy shall have no vote.
- Authorised Representative and Alternative Representatives 47. (1) Any corporation which is an Ordinary Member may by resolution of its Directors or other governing body appoint a person to be the Authorised Representative of such Member at all general meetings and such Representative shall be entitled to exercise the same powers on behalf of the corporation which he represents as if he had been an individual Ordinary Member, including power when personally present, to vote on a show of hands or at a poll. In addition, each such Member may nominate an additional person to be an Alternative Representative and such Alternative Representative may attend all general meetings and in the case of the absence of the Member's Authorised Representative shall have the same powers as such Authorised Representative, but if the Authorised Representative be present at a meeting, the Alternative Representative shall take no active part in it.

- (2) The Authorised and Alternative Representative of an Ordinary Member must be officers or employees of such Member.
  - (3) Notice in writing shall be given to the Corporation of all appointments of Authorised Representatives and Alternative Representatives and such appointments shall only be effective as from the date of receipt of such notice by the Corporation.
  - (4) An Ordinary Member may from time to time, in a like manner revoke or vary by a similar notice any such appointment and may nominate different persons to act in place of the original appointees.
  - (5) A register of all persons appointed as Authorised Representative or Alternative Representatives shall be kept and the names of all such persons shall be entered against the respective names of the nominating Members.
  - (6) For the purposes of the Rules relating to a quorum, the majority necessary for the passing of any resolution, the requisitioning of a meeting or the demand of a poll, an Authorised Representative or Alternative Representative (when entitled to act) shall be counted as an Ordinary Member.
48. A proxy must be an Ordinary Member (which Member, when a corporation, shall act as such proxy by its Authorised Representative or Alternative Representative). Proxy to be an Ordinary Member
49. The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing or if such appointor is a corporation under its common seal, if any, and if it has no common seal then under the hand of some officer or attorney duly authorised in that behalf. How proxy appointed
50. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be deposited at the Principal Office at least forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person nominated in such instrument proposes to vote; otherwise the person so nominated shall not be entitled to vote in respect thereof. Appointments of proxies to be deposited

Revocation not to affect validity of proxies votes

51. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which it was executed, provided no intimation in writing of the death, insanity or revocation shall have been received at the Principal Office one hour at least before the time fixed for holding the meeting.

Form of appointment PU(A)27/83

52. The instrument appointing a proxy shall be in the form or to the effect following or in any other form which the Corporation may approve :

**“THE MALAYSIAN RUBBER EXCHANGE**

I ..... of ..... being an Ordinary Member of the above-named Corporation hereby appoint ..... of ..... being an Ordinary Member of the Corporation, as my proxy to vote for me and on my behalf at the Annual (or Extraordinary as the case may be) General Meeting of the Corporation to be held on the ..... day of ..... 19 ..... and at any adjournment thereof.

As witness my hand this ..... day of ..... 19.....

Signed by the said appointor ).....”  
in the presence of )

PU(A)27/83

53. Deleted.

PU(A)27/83

**MANAGEMENT COMMITTEE MEMBERS**

Composition of Management Committee Act 551

54. (1) The Management Committee shall consist of such members as may be appointed by the Board under section 17 of the Malaysian Rubber Board (Incorporation) Act 1996.

(2) With prejudice to section 17 of the Malaysian Rubber Board (Incorporation) Act 1996, the Chairman may recommend the replacement of any Management Committee member who fails to attend four consecutive meetings of the Management Committee without any valid reason.

55. Deleted. PU(A)255/74
56. Deleted. PU(A)255/74
57. No remuneration shall be paid out of the funds of the Corporation to the Management Committee members in respect of the carrying out of their normal powers and duties as Management Committee members but they shall be entitled to be repaid all travelling, hotel and other expenses incurred by them in and about the business of the Corporation according to Government circulars including their expenses of travelling to and from Management Committee or other Committee Meetings. Board Members remuneration PU(A)27/83

**POWERS AND DUTIES OF THE MANAGEMENT COMMITTEE**

PU(A)27/83

58. The business and affairs of the Corporation shall be managed and administered by and the general control thereof shall be vested in the Management Committee which may, in addition to the powers and authorities by these Rules or otherwise expressly conferred upon it, exercise all such powers and carry into effect all the objects of the Corporation set out in the Act and do on behalf of the Corporation all such acts as may be exercised and done by the Corporation and as are not by the Act or by these Rules required to be exercised or to be done by the Corporation in General Meeting but subject nevertheless to the provisions of the Act and of these Rules and to such rulings not being inconsistent therewith as may be prescribed by the Corporation in General Meeting; but no ruling made by the Corporation in General Meeting shall invalidate any prior act of the Management Committee which would have been valid if such ruling had not been made. Management Committee to manage affairs of Corporation PU(A)27/83
59. (1) Without prejudice to the generality of the powers hereinbefore conferred upon it the Board may make bye-laws and contract terms relating to all or any of the following matters, namely :- Power to make Bye-Laws and Contract Terms

- (a) the definition of the respective rights, privileges and obligations of Members of each Category and Class, including the business in connection with rubber which may or may not be properly undertaken by members of the several Categories and Classes;
- PU(A)433/75  
PU(A)32/85
- (b) the setting up, maintenance and conduct of a market for rubber in Malaysia and the terms and conditions upon and subject to which trade in rubber shall be carried on through such market, the terms to which contracts in connection with rubber made by Members are to be subject and the method of settling questions and disputes thereunder;
- PU(A)32/85
- (c) the constitution and operation of a fund to be known as the Guarantee Fund to be used for the purpose of meeting claims arising out of any default in respect of quality and weight by Guarantee Traders in the carrying out of Guarantee Contracts;
- PU(A)433/75  
PU(A)27/83
- (d) the establishment and procedure of Committees as are considered expedient and the appointment of members to any Committees or other bodies which the Management Committee may deem it expedient to setup jointly with any trade association or body having objects altogether or in part similar to those of the Corporation and whether such trade associations or bodies be constituted in Malaysia or in any other territory and generally the co-operation and liaison with such trade associations or bodies;
- (e) generally, any other matters within the objects of the Corporation upon which the Management Committee thinks that bye-laws and contract terms are desirable.
- Act 551
- (2) Without prejudice to subrule (1) and pursuant to and in accordance with section 16 of the Malaysian Rubber Board (Incorporation) Act 1996, the Board may delegate its powers under subrule (1) to the Management Committee.
- Additional provisions as to bye-laws and contract terms
60. (1) Any bye-laws or contract terms made by the Board or the Management Committee, as the case may be, under the powers vested in it may reserve to the Board such dispensing, administrative, emergency and other powers as may be deemed fit.

- (2) The Board or the Management Committee, as the case may be, may prescribe such penalties as it may deem fit including imposition of fines or liability to expulsion or suspension from the Corporation in cases of breach or non-observance by Members of any such bye-laws or contract terms.
- (3) The bye-laws and contract terms for the time being in force shall be entered in a book to be kept for that purpose. The Management Committee shall bring all bye-laws and contract terms to the notice of all Members in such manner as it shall deem appropriate as soon as practicable after the making of any such bye-laws or contract terms and a copy of all the bye-laws and contract terms for the time being in force shall be obtainable by each Member on payment of a fee which shall be fixed from time to time by the Management Committee.

61. Deleted.

62. Deleted.

63. In connection with the carrying out of any business or functions on behalf of the Corporation in territories outside Malaysia the Management Committee shall be authorised to appoint by power of attorney under the seal of the Corporation any person or persons to be the attorney or attorneys of the Corporation in such territory or territories for such purposes and with such power, authority and discretion (not exceeding those vested in or exerciseable by the Management Committee under the Rules) and for such period and subject to such conditions as the Management Committee may from time to time think fit and may from time to time revoke or annul or vary any such appointment as it shall think fit.

Power to  
appoint  
Attorneys of  
Corporation  
PU(A)433/75

64. Deleted.

PU(A)255/75

65. Deleted.

PU(A)255/74

66. Deleted.

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- PU(A)255/74 71. Deleted.
- PU(A)255/74 72. Deleted.
- PU(A)255/74 73. Deleted.
- PU(A)255/74 74. Deleted.
- PU(A)255/74 75. Deleted.

PU(A)27/83 **PROCEEDINGS OF THE MANAGEMENT COMMITTEE**

- Meetings of Management Committee.  
PU(A)407/76
76. (1) The Management Committee shall meet not less than four times in each calendar year.
- (2) Subject to the provisions of paragraph (1) the Management Committee or any Committee thereof may meet together for the despatch of business, adjourn and otherwise regulate its meetings as they think fit.
- PU(A)27/83 (3) The Chairman or in his absence the Deputy Chairman or one-third of the Management Committee members may at any time require the secretary of the Management Committee to summon a special meeting of the Management Committee for the purpose of considering special business of which notice in writing shall have been given to the secretary of the Management Committee and the secretary of the Management Committee shall, upon receipt of any such requisition, proceed to summon a meeting forthwith.
- Notice and Agenda  
PU(A)27/83
77. (1) Except in cases certified by the Chairman or, in his absence, the Deputy Chairman to be occasions of urgency, at least twenty-four hours' notice shall be given to all Management Committee members of the summoning of a meeting of the Management Committee and of the business to be discussed or dealt with at such meeting and except in the case aforementioned or with the consent of all Management Committee members present at the meeting, no business other than that of which such prior notice was given to the Management Committee members shall be discussed or dealt with at any such meeting.

- (2) Notice of a meeting of the Management Committee shall not be required to be given to Alternate Management Committee members but it shall be the duty of a Management Committee member who will be absent from a meeting to give his Alternate advance notice thereof. PU(A)27/83
78. Except where a meeting of the Management Committee is called for the purpose of dealing with any matter arising under Rule 21 or 22, no meeting of the Management Committee shall be held unless a quorum of half of the duly appointed Management Committee members are present. Quorum  
PU(A)27/83
79. Save as herein otherwise provided questions arising at any meeting of the Management Committee shall be decided by a majority of votes and in the case of an equality of votes the Chairman or, in his absence, the Deputy Chairman or, in his absence, the person presiding as Chairman of the particular meeting shall have a second or casting vote :- Decisions of the Management Committee  
PU(A)27/83
- Provided that any resolution for the adoption of any new bye-law or for the revocation, amendment or modification of any existing bye-law shall be deemed to have been rejected unless the same shall have received the affirmative vote of at least two-thirds of the duly appointed Management Committee members;
- And provided further that any dissenting Management Committee member may require that a vote of his dissent and of the reasons therefore be recorded in the minutes of the meeting.
80. Deleted. PU(A)255/74
81. (1) The Chairman shall preside at all meetings of the Management Committee at which he shall attend. If at any meeting the Chairman be not present within 5 minutes after the time appointed for holding the same the Deputy Chairman shall preside. If the Deputy Chairman shall also not be present within the time aforementioned, a chairman for that meeting shall be appointed by such meeting from among the Management Committee members present. Chairman and Deputy Chairman  
PU(A)412/67  
PU(A)27/83

(2) It shall be lawful for the Management Committee to delegate to the Chairman or, in his absence, to the Deputy Chairman such powers and functions of the Management Committee with respect to the day to day management and administration of the business and affairs of the Corporation as shall to the Management Committee seem expedient in order to provide for the efficient conduct thereof :

Provided that the Management Committee shall not be entitled to delegate to the Chairman or the Deputy Chairman the power to make bye-laws or contract terms or to make decisions upon matters of policy affecting the conduct of the trade.

Appointment and powers of Committee

82. The Management Committee may delegate any of its powers, other than the powers to make bye-laws or contract terms or to make decisions upon matters of policy, to Committees consisting of such member or members of its body as it thinks fit and may (subject to the like restrictions) authorise such Committee or Committees to take part in joint bodies set up by the Corporation and any trade association or body having objects altogether or in part similar to those of the Corporation.

Proceedings of Committees

83. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any rulings that may from time to time be imposed upon it by the Management Committee but subject thereto shall have power to make its own rulings for the conduct of its business and for all matters incidental thereto and to elect its own chairman and other officers.

Validation of acts done. etc. PU(A)27/83

84. All acts bona fide done by any meeting of the Management Committee or by a Committee established by the Management Committee or by any person acting as a Management Committee member shall notwithstanding it be afterwards discovered that there was some defect in the appointment of any Management Committee member or person acting as aforesaid or that they or any of them were disqualified be as valid as if every such person had been duly appointed and was qualified to be a Management Committee member.

Minutes to be kept PU(A)27/83

85. The Corporation shall cause proper Minutes to be made in books to be provided for the purpose of recording all appointments of officers made by them, the proceedings of all meetings of the

Management Committee and Committees established by the Management Committee, the attendances thereat, the proceedings of all meetings of the Corporation and all business transacted, resolutions passed and orders made at such meetings. Any such Minute of any meeting if signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting of the Corporation or Management Committee or Committee as the case may be, shall be sufficient evidence without any further proof of the facts therein stated.

86. Deleted. PU(A)27/83
87. The Chairman or, in his absence, the Deputy Chairman shall be responsible for keeping all the books and registers of the Corporation which are required to be kept under the provisions of the Act or of the Rules, bye-laws or contract terms, or which he shall be directed to keep by the Management Committee, including books containing proper minutes of all proceedings of the Corporation, of the Management Committee and of any Committee established by the Management Committee, and shall be ready, subject to any directions given to him by the Management Committee, to communicate with any Member requiring information or access to the trade records kept by the Corporation and shall attend to such other duties as may be required of him by the Management Committee. The Chairman's Office shall be in the Principal Office and shall be kept open during normal working hours. Books and Records to be kept PU(A)27/83
88. Deleted. PU(A)255/74
89. Deleted. PU(A)255/74

#### ACCOUNTS

90. The accounts shall be kept and audited in accordance with section 40 of the Malaysian Rubber Board (Incorporation) Act 1996. Accounts to be kept Act 551
91. The Management Committee shall from time to time determine whether and to what extent and at which times and places and under what conditions the accounts and books of the Corporation or any of them shall be open to the inspection of Inspection of Books and Accounts

Members of any Category or Class and no Member being a Director shall have any right of inspecting any account or book or document of the Corporation except as conferred by statute or authorised by the Management Committee or by a resolution of the Corporation in General Meeting.

Members to receive copies of audited accounts, etc.

92. (1) There shall be sent to every Member in each year a copy of the audited Balance Sheet as at 31st December of the previous year and of the audited Income and Expenditure Account and of the separate accounts required to be kept as aforementioned in respect of the calendar year ending on the date aforementioned together with a copy of the Auditor's Report thereon and a Report by the Chairman or in his absence by the Deputy Chairman on the affairs and finances of the Corporation during the period covered by the accounts.

(2) Such accounts and reports shall be sent to each Ordinary Member with the notice convening the Annual General Meeting for each year.

Provided that the accidental omission to supply the documents aforementioned to any of the Ordinary Members shall not invalidate the proceedings at an Annual General Meeting.

#### MISCELLANEOUS PROVISIONS

Seal Register

93. The Board shall cause a register to be kept in which shall be recorded all occasions upon which the seal of the Corporation shall have been used as provided by the Act.

Arbitration

94. (1) In the event of any dispute or difference arising either between a Member and the Corporation or between any two or more Members as to :-

(a) the construction or interpretation of these Rules or any bye-laws or contract terms made thereunder or of any alteration or modification thereto; or

PU(A)32/85

(b) their several rights, privileges, obligations or liabilities arising out of any contract or business made or transacted through or under the trading rules of the market; or

- (c) any other matter whatsoever affecting the rights, privileges, obligations or liabilities of the Members or any particular Category or Class;

such dispute or difference shall be referred to arbitration in accordance with the provisions of this Rule and (subject to any right of appeal from the decision of the Arbitrator or Arbitrators provided for hereunder) the award made upon the determination of such arbitration shall be final and binding on all parties concerned.

- (2) The Management Committee may make bye-laws or contract terms as it deems fit to provide for the setting up of an Arbitration Tribunal or Tribunals for the purpose of dealing with any dispute or difference to be referred to arbitration under the provisions aforementioned, to provide for the procedure to be followed upon any such reference to arbitration, the fees to be paid in respect of arbitration proceedings, appeals from awards, the enforcement of awards, and generally for the carrying into effect of the provisions of this Rule.

- 95. These Rules or any of them may from time to time be revoked, altered or added to by the Corporation in General Meeting in manner prescribed by section 16 of the Act. Alteration etc.,  
of Rules
- 96. Any notice or other document may be served by the Corporation upon any Member either personally or by sending it through the post to such Member at his registered address. Service of  
notices
- 97. All notices directed to be given to Joint Members shall be given to whichever of such Joint Members is named first in the Register and a notice so given shall be sufficient notice to all other Members jointly registered with him. Notices to Joint  
Members  
PU(A)27/83
- 98. Every Member upon applying for membership may give to the Corporation a registered address at which notices may be served upon him and may from time to time advise the Corporation of any change in that registered address and the Corporation shall record any such change in the Register. If at any time a Member has no registered address, a notice posted up in the Principal Office shall be deemed to be duly served on him personally on the close of the day on which it was posted up. Registered  
addresses of  
Members  
PU(A)27/83

99. Any summons, notice, order or other document required to be sent to or served upon the Corporation may be sent or served by leaving the same or sending it through the post in a registered letter addressed to the Corporation. Service on Corporation

100. (1) A notice or other document served by post under the Rules shall be deemed to have been served on the day on which it would have been delivered in the ordinary course of the post. Time of service

(2) In proving due service of a notice or other document served by post under the Rules, it shall be sufficient to prove that the cover containing the notice or other document was properly addressed and posted.

101. Deleted.

PU(A)255/74

**MALAYSIAN RUBBER EXCHANGE**  
**BYE-LAWS**

**July 2008**

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# MALAYSIAN RUBBER EXCHANGE BYE-LAWS

## 1. Interpretations

In these Rules and Bye-laws and in any contract entered into by a Member, unless a contrary intention appears:-

“Bill of lading” includes Mate's Receipt.

“Bona fide delivery” means any delivery of rubber which, when delivered by the seller, is in sound condition, of the grade specified in the contract, and

(a) if sold by description, corresponds with and is equal to the description or of a quality not calling for an allowance of more than one half of the difference between the prices at the time of delivery of the quality called for under the contract and the next lower quality. PROVIDED THAT if the quality is not equal to the description and no lower grade of the same type exists, the delivery shall be considered non-bona fide; or

(b) if sold by sample shall correspond with and be equal to the sample or be of a quality not calling for an allowance of more than 2% of the price at the time of delivery of the quality called for by the contract and where packed in bales or cases, the bales or cases shall be in sound shippable condition.

“Business day” means the period from 0900 hours to 1300 hours and 1430 hours to 1700 hours on any day except Saturday, Sunday, a Public Holiday and any day on which the rubber market is declared officially closed by the Corporation.

“Container”	means a container with the following external dimensions:-  (i) 5.9m by 2.35m by 2.39m (twenty-footer equivalent unit); or  (ii) 12.03m by 2.35m by 2.39m (forty-footer equivalent unit).
“Contract”	means and includes, besides any form of written contract, the rights and duties resulting thereunder.
“Current Month”	means the first delivery month quoted in the Corporation's official prices.
“Day”	where it appears refer to calendar day unless otherwise specified.
“Deliverer”	means a seller delivering or a third party delivering on behalf of a seller.
“Delivery instructions”	means instructions in writing to ship or deliver rubber to a warehouse in which space has been obtained by buyer and shall include shipping marks if required.
“FOB”	FOB means:-  (i) where the contract is on FOB (conventional) terms, delivery is deemed to be completed as if the contract was concluded in accordance with the current market practice for “Free Alongside Ship”; and  ii) where the contract is on FOB (container) terms and in the case of sea transport:-

- (a) where the bales to be delivered constitute a full container load (FCL), delivery is deemed to be completed either when the loaded container is taken over by the sea carrier or in the case where the loaded container is carried to an operator of a transport terminal acting on behalf of the carrier, when the container is entered into the premises of that terminal; and
- (b) where the bales to be delivered are less than a full container load (LCL), delivery is deemed to be completed when the Selling Member delivers them to the transport terminal and the bales are handed over to the sea carrier or to another person acting on the carrier's behalf,

Provided always that the Terminal Handling Charges (THC), where applicable, at the port of loading for contracts on the above terms shall be borne by the Buying Member.

- “Final documents” means signed Bills of Lading or Warehouse Receipt.
- “Freight conference” refers to a group of two or more vessel-operating carriers which provides regular or liner services for the carriage of cargo on a particular route or routes within specified geographical limits and which has an agreement or arrangement, whatever its nature within the framework of which they operate under uniform or common freight rates and any other agreed conditions with respect to the provision of liner services.
- “Further contract” means a contract made subject to the terms and conditions of a contract of the Rubber Trade Association of North America, Inc. or The Association of the International Rubber Trade or the Singapore Commodity Exchange Limited or the International Rubber Association under which the rubber the subject matter of a Member's FOB Contract in a form recognised by the Corporation is resold by buyer, and where arbitration facilities of the appropriate Association are available to either of the parties.

“Guarantee business”	means business conducted under the terms of the Guarantee Contract in accordance with the Rules, Bye-laws and contract terms of the Corporation.
“Month”	where it appears refer to calendar month unless otherwise specified.
“Non-guarantee business”	means business conducted under the terms of the Non-Guarantee Contract in accordance with the Rules, Bye-laws and contract terms of the Corporation.
“Non-guarantee contract”	means a contract in a form prescribed by the Rules, Bye-laws or contract terms and made by a broker acting on behalf of his client in terms of which the broker does not guarantee the performance of the contract by his client.
“Ocean ports”	means the ports of Port Kelang, Penang and any other port approved by the Corporation.
“Pay”	means pay in cash or by cheque which is not post-dated and is duly honoured, and derivatives of the word “pay” shall have corresponding meanings.
“Recognised Factory”	means any factory which is included in the list of recognised factories maintained by the Corporation.
“Shipping instructions”	means instructions in writing to ship rubber and shall include the port of destination, name of steamer on which space has been obtained by buyer, shipping marks and, if any Currency Declaration Form and/or Licence is required, such Form and/or Licence. Shipping instructions shall not be invalidated by the absence of the name of the steamer or of the Currency Declaration Form or Licence provided that notification to seller of the name of the steamer and delivery of such Form or Licence shall be made not less than two business days before the published date of the sailing of the steamer. Shipment shall mean shipment by conventional or container vessel and in the case of containerised rubber, LCL shipment for Singapore and Port Kelang and FCL for Penang.

- “Shut out” is deemed to occur when loading of rubber is not permitted by a steamship company on a vessel for which space had previously been booked.
- “Tender” means an FOB Tender duly registered by the Malaysian Derivatives Clearing House Berhad.
- “Warehouse” means a public warehouse which is recognised as such by the Corporation unless otherwise specified.
- “Warehouse receipt” means a receipt for rubber issued by a warehouse.

## **2. Applications for Election**

- (a) All applications for election as:-
- (i) an Ordinary Member under Rule 5(1)(a), 5 (1)(d), 5(1)(e) and 5(1)(f) shall be in the form as set out in sub-paragraph (b) hereof;
  - (ii) an Associate Member shall be in the form as set out in sub-paragraph (c) hereof;

and each applicant for membership shall supply all the particulars called for in the form of application which he is by this Bye-law required to complete;

- (b) Form of Application for Ordinary Membership Under Rule 5(1)(a), 5(1)(d), 5(1)(e) and 5(1)(f):-

**FORM NO. I**

**APPLICATION FOR ORDINARY MEMBERSHIP OF THE  
MALAYSIAN RUBBER EXCHANGE**

1. Name of Applicant:.....  
Official Address: .....  
.....  
.....  
Tel No: ..... Fax No:.....  
E-mail: .....

2. Membership Classification Applied For :

Producer	<input type="checkbox"/>	Dealer	<input type="checkbox"/>
Broker	<input type="checkbox"/>	User	<input type="checkbox"/>

*(Please √ the relevant box)*

3. (a) Constitution of Business \*:

Sole Proprietorship	<input type="checkbox"/>	Partnership	<input type="checkbox"/>
Private Limited Company	<input type="checkbox"/>	Public Limited Company	<input type="checkbox"/>

*(Please √ the relevant box)*

[\*Attach Memorandum and Articles of Association or Partnership Agreement]

(b) Date of Incorporation / Registration#: .....

(c) Country of Incorporation / Registration#: .....

[# Delete where appropriate]

4. (a) Nature of business being undertaken / to be undertaken\*:

Rubber Trading  Rubber Product   
Manufacturing

Rubber Processing  Others

.....  
.....

*(Please ✓ the relevant box)*

(b) Types of rubber / rubber product\*:

.....  
.....

(c) Number of years in rubber / rubber products\* business:

.....

(d) Type of licence(s) issued / being applied for\* under Regulation 6 of the Malaysian Rubber Board (Licensing) Regulations, 1997 :

To Purchase Rubber (Ai)  To Treat Rubber (B)

To Sell Rubber (Aii)  To Purchase Rubber For   
Manufacturing Rubber Product (C)

To Germinate, Grow, Plant or   
Transplant Rubber Planting Material (D)

*(Please ✓ the relevant box)*

(e) Type of certificate(s) issued / being applied for\* under Sub-regulation 37(1) of the Malaysian Rubber Board (Licensing) Regulations 1997:

To Pack Rubber  To Ship Rubber   
for Export (CC) for Export (DD)

To Ship Rubber Gloves   
for Export (EE)

*(Please ✓ the relevant box)*

*[\*Delete where appropriate]*

5. Paid-up Capital

(a) Amount: RM.....

(b) Ownership structure

(i) Malaysian

Bumiputra	RM .....	( ..... %)
Non-Bumiputra	RM .....	( ..... %)
Total Malaysian	RM .....	( ..... %)

(ii) Non-Malaysian

<u>Nationality</u>		
.....	RM .....	( ..... %)
.....	RM .....	( ..... %)
.....	RM .....	( ..... %)
Total Non-Malaysian	RM .....	( ..... %)

*[Attach copy of the latest Annual Report and Audited Accounts]*

6. Bank Guarantee (if applicable)

Amount: .....

Banker .....

.....

7. Particulars of Directors / Partners and Principal Officers\*:

Directors/Partners

Principal Officers

.....

.....

.....

.....

.....

.....

.....

.....

*[\*As at date of application]*

*[Attach latest copy of Form 24 and Form 49 from the Registrar of Companies]*

8. Trade Association/Affiliation (if any): .....

.....

.....

9. Bank Confidential Report from: .....  
.....  
.....

Date: .....

.....  
Authorised Signature of Applicant

Name: .....

Designation: .....

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FOR OFFICE USE ONLY

(c) Form of Application for Associate Membership:-

**FORM NO. II**

**APPLICATION FOR ASSOCIATE MEMBERSHIP OF THE  
MALAYSIAN RUBBER EXCHANGE**

2. Name of Applicant: .....  
Official Address: .....  
.....  
.....  
Tel No: ..... Fax No: .....  
E-mail: .....

2. (a) Constitution of Business\*:

Sole Proprietorship	<input type="checkbox"/>	Partnership	<input type="checkbox"/>
Private Company	<input type="checkbox"/>	Public Company	<input type="checkbox"/>

*(Please √ the relevant box)*

*[\*Attach Memorandum and Articles of Association or Partnership Agreement]*

(b) Date of Incorporation / Registration#: .....

(c) Country of Incorporation / Registration#: .....

*[# Delete where appropriate]*

3. (a) Nature of business in rubber / rubber products\*: .....

(b) Number of years in rubber / rubber products\* business: .....

*[\*Delete where appropriate]*

4. Paid-up Capital\*: .....

*[Attach copy of the latest Annual Report and Audited Accounts]*

5. Bank Guarantee (if applicable)

Amount: .....  
 Banker: .....  
 .....

6. Particulars of Directors/Partners\*:

Name & Residential Address	Designation	Nationality	Occupation Vitae	Shares in Company (if any)
.....	.....	.....	.....	.....
.....			.....	
.....			.....	
.....			.....	
.....	.....	.....	.....	.....
.....			.....	
.....			.....	
.....			.....	
.....	.....	.....	.....	.....
.....			.....	
.....			.....	
.....			.....	

[\* As at time of application]

7. Principal Officers\*:

Name & Position in Company	Nationality	Occupation Vitae	Experience in Rubber Trade & Industry	Shares in Company (if any)
.....	.....	.....	.....	.....
.....		.....	.....	
.....		.....	.....	
.....		.....	.....	
.....	.....	.....	.....	.....
.....		.....	.....	
.....		.....	.....	
.....		.....	.....	
.....	.....	.....	.....	.....
.....		.....	.....	
.....		.....	.....	
.....		.....	.....	

[\* As at time of application]

8. Trade Association/Affiliation (if any): .....  
.....  
.....

9. Bank Confidential Report from: .....  
.....  
.....

Date: .....

.....  
Authorised Signature of Applicant

Name: .....

Designation: .....

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FOR OFFICE USE ONLY

- (d) Form III - Deleted
- (e) Form IV - Deleted

### **3. Entrance Fees and Subscriptions**

The amount payable by Members as entrance fees and subscriptions shall be as follows:-

(a) Ordinary Members	Entrance Fee	Annual Subscription
Producers, Brokers, Dealers and Users	RM500	RM500
(b) Associate Members	RM750	RM750

### **4. Class Rights and Obligations**

#### **(a) Non-Guarantee Business**

- (i) Ordinary Members in Classes 5(1)(a), 5(1)(e) and 5(1)(f); or Associate Members shall not carry on non-guarantee business normally carried on by MRE brokers;

Members who cannot act as brokers
  
- (ii) Ordinary Members in Class 5(1)(f) shall be entitled only to purchase rubber for own consumption;

Members trading limitations and obligations
  
- (iii) Ordinary Members in Classes 5(1)(a) and 5(1)(e) :

  - (a) shall not buy or sell rubber through an intermediary acting as a broker unless
    - (i) such intermediary is an Ordinary Member in Class 5(1)(d) of the Corporation; and
    - (ii) brokerage is paid to such broker at not less than the minimum brokerage rate applicable to the particular transaction under any scale of charges laid down by the Management Committee.

Brokerage

- (b) shall not enter into contracts for the sale or purchase of rubber on behalf of, or on the instructions of, any non-Member provided that this prohibition shall not apply to contracts entered into by an Ordinary Member in Class 5(1)(e) as agent for and on the instruction of a non-Member if
  - (i) such non-Member is a bona fide producer or packer of rubber and the contracts in question relate to rubber produced or packed by such Member in the ordinary course of his said business; and
  - (ii) the Ordinary Member in Class 5(1)(e) concerned warrants that the contracts in question are in all cases to be carried out under non-guarantee terms.

(iv) Non-Guarantee Business Carried Out by Ordinary Members in Class 5(1)(d)

Non-guarantee business

- (a) Subject to paragraph (iii) herein any broker Member shall be entitled to conduct any class of non-guarantee business.

As intermediary between sellers and buyers

- (b) In such business he shall only act as an intermediary between sellers and buyers and shall not intentionally buy or sell as principal except where this may be necessary to cover a contract which has been repudiated by his customer.

Any grade and any period of delivery

- (c) Such business may be undertaken in respect of any grade of rubber and for any period of delivery but all contracts in respect of it shall be clearly stamped "Non-Guarantee Contract" and the Broker shall not be entitled to give any guarantee to or on behalf of either party to the contract in respect of solvency, delivery, quality, payment or any term of the contract.

No obligation on part of broker

- (d) The Broker shall not be under any obligation to or on behalf of either party to the contract.

- |   |                                      |
|---|--------------------------------------|
| (e) The Broker's sellers and buyers may be Members or non-Members and may be resident inside or outside Malaysia provided that, in the latter case, brokers shall not take delivery of or initiate shipments of physical rubber on their own behalf or on behalf of overseas principals, or parent or associate companies or persons. | Sellers and buyers                   |
| (f) Brokerage is to be charged in respect of all contracts at the rate prescribed in any scale of charges laid down by the Management Committee.  | Brokerage                            |
| (g) The Broker shall be entitled to disclose his customer's identity to the other party to the contract at any time.  | Customer's identity can be disclosed |

**(b) Guarantee Business**

- |  |  |
|--|--|
| (i) Guarantee business shall only be conducted by an Ordinary Member who has been granted Guarantee Trading Right by the Management Committee.   | Approved by the Management Committee         |
| (ii) All applications for Guarantee Trading Right from any Ordinary Member shall be in the form as set out in Form No. V.  | Application Form for Guarantee Trading Right |
| (iii) Approval shall be at the absolute discretion of the Management Committee save that it shall not be given unless :  | Conditions for approval                      |
| (a) the applicant is also a Member of the Malaysian Derivatives Exchange Berhad (MDEX).  |  |
| (b) the applicant has contributed towards the Common Fund financial security in a form acceptable to the Management Committee in a sum as decided from time to time by the Management Committee. |  |
| (c) he expressly agrees to abide by the Rules and Bye-laws of the Corporation.   |  |

Provided that the approval granted to a Guarantee Trader shall be automatically suspended when the membership of such Guarantee Trader in the MDEX has been suspended under the Rules of the MDEX.

- Yearly reports
- (iv) Every Guarantee Trader shall submit to the Management Committee yearly reports by approved auditors giving such information as the Management Committee may from time to time require.
  - (v) The Management Committee may at any time direct an auditor appointed by it to carry out an audit on the affairs of any Guarantee Trader and if any irregularities be discovered the Guarantee Trader shall pay the cost of such audit.
  - (vi) Approval may be withdrawn if after considering an auditor's report the Management Committee is of the opinion that approval should be withdrawn or if at any time in the opinion of the Management Committee the Member has conducted his business in an improper manner provided that withdrawal shall not be made without giving the Member an opportunity of being heard.
- Notices of approval, withdrawal and suspension
- (vii) The Management Committee shall publish notification of all approvals granted, all withdrawals of approval or all suspensions of approval.
- Any grade and any period of delivery
- (viii) Guarantee business may be conducted in respect of any grade of rubber and for any period of delivery but all contracts shall be clearly stamped "Guarantee Contract".
- Guarantee Trader's Obligations and Fee
- (ix) The Guarantee Trader shall :
    - (1) in respect of any guarantee contract, be deemed to guarantee to the buyer, quality and weight in accordance with the terms of the contract as provided for under the Rules, Bye-laws and contract terms.
    - (2) be indemnified by the Member on whose behalf he has undertaken guarantee business against all expenses and losses incurred in carrying out such business.
    - (3) be entitled in respect of all contracts to charge a fee at the rate prescribed in any scale of charges laid down by the Management Committee.

**MALAYSIAN RUBBER EXCHANGE  
FORM NO. V  
APPLICATION FOR GUARANTEE TRADING RIGHT**

I/We\*,..... an Ordinary Member of the Malaysian Rubber Exchange under ..... Class being also a member of the MDEX hereby apply for Guarantee Trading Right to conduct the business of a Guarantee Trader as provided for under the Rules and Bye-laws of the Malaysian Rubber Exchange.

I/We\* certify that I/we\* have been in the rubber business since ..... (date) as a ..... (type of business) and hold the following licences and/or certificates issued under the Malaysian Rubber Board (Licensing) Regulations, 1997:  
.....

I/We\* submit herewith my/our\* latest Auditor's Report and Audited Financial Statements for the year ended .....

I/We\* hereby undertake to provide the required financial security in the amount of RM ..... and to abide by the Rules and Bye-laws of the MRE upon the approval of my/our\* application.

Date : .....

.....  
Authorised Signature of Applicant

Name : .....

Designation : .....

[\*Delete where appropriate]

## 5. Guarantee Fund

- Guarantee Fund Committee
- (a) Pursuant to Rule 59(c) the Board shall establish and maintain a Guarantee Fund, hereinafter referred to as “the Fund”.
  - (b) The Fund shall be managed by a Committee of seven persons appointed by the Management Committee from its own number, hereinafter referred to as “the Committee”.
  - (c) The Fund shall consist of :-
    - (i) a Common Fund comprising securities furnished by individual Guarantee Trader in accordance with the requirements of Bye-law 4, and to be used in accordance with the provisions of sub-paragraph (l), and
    - (ii) a General Fund of the Corporation.
- General Fund
- (d) The General Fund shall be made up of :-
    - (i) any accumulated surplus of the Corporation, after the Board has set aside such reserve funds as it thinks necessary; and
    - (ii) such fees or levies imposed on Members generally or on any particular class or category of Members, or on transactions generally or on any particular class of transaction as the Management Committee may from time to time by regulations direct; and
    - (iii) such other funds as the Corporation may obtain from Government, banks, insurance companies or any other business, and in order to obtain such other funds the Board shall have power to make such terms as it thinks fit and to impose levies on Members provided that such levy shall not exceed RM500 in any year without the approval in the General Meeting of the Members.
- Limits on claims
- (e) The Management Committee shall from time to time determine, having regard to the total amount of the Common Fund and the General Fund, what is the maximum limits which each Fund will bear in respect of any properly constituted quality and weight claim as provided for under sub-paragraph (f) and shall publish notification of the amounts so fixed.

- (f) In the event of a default by a Guarantee Trader, all customers claiming on the Fund must give notice and particulars of such claim to the Committee within one month of the default or of the debt arising, whichever is later, and if such notice be not given by any customer, such customer shall have no right to participate in any payment made out of the Fund. Claims to Guarantee Fund
- (g) The Committee shall so notify any creditor as soon as his claim has been accepted and thereupon the creditor's rights against the Guarantee Trader shall vest in the Corporation and the Committee shall be entitled :- Notices of acceptance of claims
- (i) to direct the creditor to prosecute action against the Guarantee Trader in his own name at the expense of the Fund; or
- (ii) to require him to assign his claim to the Corporation or its nominee.
- (h) The Committee shall take all practical steps to protect and get in all assets of the defaulting Guarantee Trader.
- (i) The Committee shall have power to reject any claim or to withdraw its acceptance of any claim if in its opinion the claim or any transaction relating to the claim was fraudulent or if all material facts were not disclosed to the Committee in making the claim. To reject claims
- (j) Any creditor whose claim has been accepted by the Committee shall forthwith notify the Committee of any sum received by him to account of the claim whether from the Guarantee Trader or from any other person, and in default of such notification such creditor's rights to participate in the Fund shall cease. The Committee may require the creditor to pay to the Fund any sum received by such creditor from the Guarantee Trader or from any other person. Creditors to notify Committee on sums received
- (k) The Committee shall have full discretion as to the times and manner in which payments are to be made out of the Fund in payment or part payment of any claim and all creditors shall be bound by the Committee's decision in this regard. Times and manner of payment

- (l) The claims of the creditors which have been accepted by the Committee shall be settled first out of the general assets of the defaulting Guarantee Trader; and any amount remaining unpaid shall then be paid out of the Common Fund, and thereafter out of the General Fund, each of such payment being up to the maximum limits for each Fund for the time being promulgated by the Management Committee.

## 6. Sample Committee

- Appointment (a) The Management Committee shall appoint a Sample Committee and may make such arrangements as may be expedient for such Committee to work in conjunction with any similar committee of any association or persons in the rubber trade.
- Constitution (b) The Sample Committee shall consist of at least six individuals who shall be Ordinary Members or representatives of Ordinary Members of whom one at least shall be in Class 5(1)(a) and one at least shall be in Class 5(1)(e).
- Resignation (c) A member of the Sample Committee may at any time resign office by giving notice in writing to the Chairman or his Deputy.
- Removal from office (d) The Management Committee may at any time remove from office any member of the Sample Committee and shall be under no obligation to give any reasons of such action.
- When Membership of the Sample Committee ceases (e) If any member of the Sample Committee be removed from office by the Management Committee, or if he shall continuously absent himself from three meetings of the Sample Committee or if he shall by notice in writing resign his office or if he or the Member whom he represents shall cease to be a Member, he shall cease to be a member of the Sample Committee.
- Casual vacancy (f) In the event of any casual vacancy in the Sample Committee, the Management Committee may appoint an Ordinary Member or a representative of an Ordinary Member to fill the vacancy but no such appointment shall be made which would affect an alteration in the constitution as provided in paragraph (b) hereof.

- |  |                                |
|--|--------------------------------|
| (g) The Sample Committee shall meet on such day and at such hour as may be most convenient and at such other time as occasion may require.   | Meetings                       |
| (h) At a meeting of the Sample Committee four members including one representative of Class 5(1)(a) and one representative of Class 5(1)(e) shall be a quorum.   | Quorum                         |
| (i) The Sample Committee shall, in the absence of either the Chairman or his Deputy, elect from amongst its members, a chairman to preside at its meeting(s).  | Chairman of Meeting(s)         |
| (j) All questions arising at any meeting of the Sample Committee shall be decided by a majority of votes and in the event of an equality of voting the chairman of the meeting shall have a second or casting vote, but no resolution shall be carried unless one representative of Class 5(1)(a) and 5(1)(e) shall vote in favour.  | Casting vote                   |
| (k) Deleted  |                                |
| (l) The Sample Committee shall undertake such duties as may be referred to it by the Management Committee and in particular shall be responsible for the collection and selection of materials for the preparation of samples on behalf of the International Sample Committee appointed for the purpose of the publication "International Standards of Quality and Packing for Natural Rubber Grades" published by the International Rubber Quality and Packing Conferences and for preparing, establishing and maintaining duplicate samples of types and grades of rubber as described in such publication and for the preparation of samples of other types and grades of rubber as directed by the Management Committee. | Duties                         |
| (m) The Sample Committee shall ensure that all master, official and copy samples in the Corporation's possession are in good order and that such samples are at all times adequate and sufficient for the purposes of the Corporation.   | Regular examination of samples |
| (n) All master and official samples belonging to the Corporation which for any reason are replaced by new samples shall be kept by the Chairman or his Deputy for a period of five years from the date of their replacement.   | Old samples                    |

Inspection of  
samples by  
Members

(o) Master and official samples in the possession of the Corporation may be inspected by Members during any working hour but shall not be removed from the premises of the Corporation.

Seal

(p) The Sample Committee shall have authority to require the Chairman or his Deputy to seal samples prepared by the Committee with the seal of the Corporation.

## **7. Trading Bye-laws**

### **PART A - General**

(a) Transactions to be evidenced by written Contracts

Every transaction by a Member or Associate Member with another Member or Associate Member shall be evidenced by a written contract and shall be governed by the Rules and Bye-laws in so far as these are applicable, except in so far as their provisions are modified or excluded by the terms of a written contract between the parties.

(b) Types and Grades ; Packing Specifications

(i) Unless otherwise agreed upon in the contract all type and grade descriptions and packing specifications of rubber sold under a contract which is subject to the Rules, Bye-laws and contract terms of the Corporation shall be the Type and Grade Descriptions and Packing Specifications published by the International Rubber Quality and Packing Conferences in the publication entitled “International Standards of Quality and Packing for Natural Rubber Grades” and in force at the time of the contract.

(ii) Types and Grades ; Packing Specifications “China Terms”

(1) Rubber : Hevea Braziliensis

(2) Grade : International (INT) Standards of Quality and Packing for Natural Rubber Grades. The Green Book and in accordance with the Standards stipulated in this contract.

(3) Packing : Each bale to be 4.9 cubic feet and 111.11 kgs. Should the bales be in excess in weight or too large in size, the freight thus incurred will be for Sellers' account. The sheets covering the bales should be of the same quality as the sheets in the bale. The bales to be coated with talcum powder not exceeding one pound per bale but the interior of the bales to be free from talcum powder.

(c) Despatch and Receipt of Documents in respect of Members and Associate Members.

Every Ordinary Member and every Associate Member shall :-

- (i) employ his own messenger for the purpose of delivering to another Ordinary Member or Associate Member who has an office in the same town or city, every confirmation, contract, store receiving order, notice, invoice, account or other document the use of which is required by these Bye-laws or terms of the contract; Employ messengers
- (ii) keep a despatch book and cause to be made therein entries showing clearly the name of the addressee and the date and time of despatch of any of the above-mentioned documents; Keep despatch book
- (iii) cause such despatch book to be presented to the addressee of any of the above-mentioned documents sent out by him, so that the addressee may therein duly acknowledge that documents received. Present despatch book to addressee
- (iv) cause an entry to be made in any despatch book presented to him, showing clearly the date and time of receipt of any of the above-mentioned documents received by him, and return such despatch book to the messenger of the sender thereof; and Acknowledge in despatch book
- (v) keep a postage book and cause to be made therein entries clearly showing the despatch of any such documents by him to another Ordinary Member or Associate Member who has no office in the same town or city, and the name of the addressee. Keep postage book

Electronic  
Mail

- (vi) keep a record of every confirmation, contract, store receiving order, notice, invoice, account or other document the use of which is required by these Bye-laws or terms of the contract which are despatched through any mode of electronic mail and such record shall be evidence that such documents have been duly sent and received.

(d) Force Majeure

- (i) Should either the seller or buyer be prevented from fulfilling his obligations under a contract which is made subject to the Rules, Bye-laws and contract terms of the Corporation during the period stipulated therein, by reason of an act of God, an act of the sovereign, government or parliament, consequences of hostilities or warlike operations (other than those referred to in Clause (ii) hereof), blockade, political or civil disturbances or insurrections, riots, strikes, lock-outs, combination of workmen or any other cause of force majeure, and such cause continues for a period of twelve calendar months from the commencement thereof, any obligations thereunder relating to shipments or deliveries not then completed and payment therefor shall be cancelled and no claim shall lie by either party against the other in respect of loss or damage arising out of such cancellation.

Should such cause continue for a period of less than twelve calendar months any outstanding shipments or deliveries shall be shipped or delivered and any outstanding obligations hereunder shall be fulfilled as soon as possible after such cause ceases to operate, provided that such shipments, deliveries or fulfilment shall in no case be later than six calendar months after such cessation.

- (ii) Should either party be prevented from fulfilling his contract by hostilities or warlike operations in which the country of which either party is a national, or in which the country to or from which the rubber is to be shipped, is a participant, the contract shall be cancelled.
- (iii) The question whether or not there has been “prevention” within the meaning of the preceding clauses shall, failing agreement between the parties, be determined by arbitration.

(e) Passing of Property

Every contract of whatsoever description, which is made so as to import or be subject to the Rules, Bye-laws and contract terms of the Corporation shall be deemed to import, or read as if it included and was subject to, the clauses following :-

- (i) the property in any rubber belonging to a seller delivered by such seller to his immediate buyer shall, notwithstanding such delivery, remain in the seller, and shall not pass or be deemed to pass to the buyer until he has paid to his seller the full price payable for the rubber delivered and the seller's charges if any, for delivery
- Property remains with seller until paid
- (ii) as from the time of delivery of rubber belonging to a seller to his immediate buyer until payment therefor has been made to the seller as aforesaid, the buyer shall hold the rubber delivered to him or if he has disposed, or disposes, thereof, the price he contracted to pay therefor, in trust for such seller free from any claim thereto or from any lien thereon except as provided in Clause (v).
- Buyer holds in trust for unpaid seller
- (iii) if a Member or Associate Member who delivers rubber to a buyer is not the immediate seller to such buyer of the rubber delivered, he may at the time of giving delivery, give to such buyer a notice in writing (Form No. VI) specifying the nature (as unpaid seller or otherwise) and amount of his claim to, or interest in, the rubber delivered, and requesting the buyer to hold the rubber or, at the buyer's option, the price contracted to be paid by the buyer to his immediate seller therefor, or such part of such price as shall be necessary to satisfy his (the deliverer's) claim in respect of the rubber delivered, in trust for the deliverer, and if the immediate seller to such buyer has previously admitted in writing, or admits in writing, prior to the expiration of the business day next following delivery, the correctness of such notice, the buyer shall at his option either hold the rubber delivered to him, or if he has disposed, or disposes, of it, the price he has contracted to pay therefor to his immediate seller or so much of such price as shall be sufficient to satisfy the claim of the deliverer in trust for the deliverer free from any claim thereto or from any lien thereon except as provided in Clause (v).
- Deliverer may give notice requiring buyer to hold in trust or pay claim

Deliverer's  
claims not  
admitted to go  
to arbitration

(iv) if the correctness of any notice given by a deliverer under the provisions of Clause (iii) is not admitted by the buyer's immediate seller within the time mentioned in that clause, the settlement of the claims against the buyer in respect of the said rubber or the price thereof shall unless the deliverer and the buyer's immediate seller can agree as to the terms of settlement, be referred to arbitration in accordance with the provisions of Rule 94 or Bye-law 7 PART C and shall be settled pursuant to the award therein and, pending such settlement, the buyer shall (subject to Clause (v)), either retain the rubber upon trust to be dealt with in accordance with the award or, if he has disposed or disposes, of the rubber, pay the price he contracted to pay therefor to the Corporation to be dealt with in accordance with such award. Any such award may direct how and by whom the buyer's storage charges are to be paid.

Buyer lien for  
deposit

(v) The buyer shall be entitled to a lien on rubber delivered to him as aforesaid, for the amount of any such deposit paid to his immediate seller in respect thereof, or may set off such amount against the price of the rubber.

(f) Risks

All rubber sold shall be at the risk of the deliverer until the same has been delivered in accordance with the provisions of the contract and thereafter shall be at the risk of the buyer; provided always that in any case in which rubber has been delivered to the buyer and the deliverer is liable to remove such rubber or any portion thereof, the rubber which the deliverer is liable to remove shall be at the risk of the buyer only up to time when such rubber ought to be removed by the deliverer and thereafter shall be at the risk of the deliverer.

(g) Set Off by Agreement

Subject to the provisions of Rule 22 if at any time an Ordinary Member or Associate Member has entered into a contract or contracts to sell rubber of a particular quality for a particular delivery to another Ordinary Member or Associate Member and has also entered into a contract or contracts for the purchase from such last mentioned Ordinary Member or Associate Member of

similar rubber for a similar delivery, then and in any such case, the parties concerned may by mutual agreement set off any such contracts or portions of any such contracts, one against the other, and in such cases an account shall be taken of the amount due from each party to the other in respect of the contracts or portions of contracts so set off and only the balance due upon such account shall be paid or payable as between the parties.

(h) Payment

- (i) Every Ordinary or Associate Member to whom any sum (except as hereinafter provided) is properly payable under the provisions of any of the Rules or the Bye-laws or the contract terms shall deliver at the business address of the person liable to pay an invoice giving particulars of the sum so payable and the person who receives any such invoice shall, in the case of an invoice presented before 1030 hours, pay the amount due in respect thereof before 1230 hours of the business day next after presentation. Date and time due
- (ii) Notwithstanding the provisions of Bye-law 7 PART A (h)(i) the Management Committee may make contract terms from time to time for an extension of the time for payment when the person liable to pay and the person to whom the payment is due do not have offices in the same town or city, and the Management Committee may in such case make contract terms to prescribe the manner of payment. Variation
- (iii) The due date for payment of every balance in respect of contracts set-off in accordance with paragraph (g) of this Bye-law, shall be the last business day of the month of delivery specified in the contract, and invoices for any such balance shall be delivered on or before the business day next before due date, and, if delivered later, payment shall be made in accordance with Clause (i) hereof, or as prescribed by any contract terms of the Corporation. Date for payment on set off
- (iv) Brokerage shall be payable in respect of every contract entered into through or by a broker by the person employing such broker irrespective of whether or not such contract is fulfilled; provided that nothing in this paragraph shall entitle a broker to brokerage in respect of any contract which is not Brokerage payable on contract, date when due

performed due to his own default. The due date for payment of brokerage shall be the last business day of the calendar month during which the contract in respect of which it is payable falls due for fulfillment. Where a contract is to be fulfilled by delivery or receipt by instalments, brokerage shall become due by instalments as if each instalment was delivered or received under a separate contract. Bills for any brokerage due as above shall be delivered on or before the business day next before the last business day of the calendar month, and, if delivered later, payment shall be made in accordance with Clause (i) hereof.

Penalty for non-payment

- (v) Failure to make payment when the same ought to be paid shall be deemed a breach of the Bye-laws of the Corporation and the person so failing shall be liable to pay the Corporation RM50.00 per day from the day when the payment fell due until payment is made, and he shall be liable to be dealt with under Rule 22. The Corporation may out of any penalties received under this clause pay to the person to whom payment was due any interest or other expenses incurred by reason of the failure to make payment.

### **PART B - Contracts of Defaulters**

- (a) This Bye-law shall apply whenever a person has become a defaulter within the meaning of Rule 22 unless any other Bye-law or contract term makes specific provision for the way in which any particular outstanding contract shall be settled.
- (b) For the purposes of this Bye-law :-

Time of default

- (i) “the time of default” means the time and date which the Management Committee in its absolute discretion decides should be deemed to be the time and date when the Defaulter becomes a Defaulter having regard to the circumstances of the case; and

Outstanding contract

- (ii) “outstanding contract” means every contract purporting to be made so as to import or be subject to the Rules, Bye-laws and contract terms of the Corporation which shall not have been wholly performed to the mutual satisfaction of both the

seller and buyer prior to the time of default and includes any portion of such contract which has not been wholly performed as aforesaid; but the expression does not mean that, and this Bye-law shall not be construed so that, it shall be necessary to reopen accounts between Members in respect of any portion of a contract which prior to the time of default has been wholly performed to the mutual satisfaction of both the seller and buyer; and

(iii) a contract or part of a contract in respect of which full payment has been made in accordance with these Bye-laws shall be deemed to have been wholly performed to the mutual satisfaction of both the seller and buyer if, prior to the time of default, either :-

Contract deemed to have been wholly performed

(a) a seller has made a delivery of the rubber or the parties have agreed to set-off in accordance with paragraph (i) of Bye-law 7 PART A(g); or

(b) the rights of the parties have been fixed by mutual agreement (not being an agreement made with knowledge by either party of an act of bankruptcy committed by the other, or made for the purpose of a collusive preference with knowledge by either of an impending default of the other) or by arbitration.

(c) (i) Subject as hereinafter provided every outstanding contract entered into between the defaulter and any Member shall be deemed to be closed as at the time of default and the rubber the subject matter of such contract shall be, or shall be deemed to be, invoiced back by the seller or buyer thereof at the price or prices as certified by the Management Committee at the time of default.

Contracts with Members deemed to be closed, invoiced back

(ii) Subject as hereinafter provided accounts between the defaulter and every Member in respect of every such outstanding contract shall be settled upon the basis of such invoicing back at the price or prices so certified.

(d) If between the same parties there shall be more than one outstanding contract which ought to be closed by invoicing back in accordance with the foregoing provisions of this Bye-law an

account as at the time of default shall be taken of what is due to one part from the other having regard to the price or prices so certified as aforesaid in respect of every such outstanding contract and except in cases in which the Bye-laws or contract terms otherwise provide the sum due from one party shall be set off against the sum due from the other party and the balance of the account and no more shall be claimed or paid on either side respectively.

(e) Subject to paragraph (f) of this Bye-law

- (i) (a) Where the whole or part of the rubber which is the subject matter of an outstanding contract has been delivered to the buyer prior to the time of default, he shall be entitled to retain such rubber notwithstanding that he has not paid for the same or has given a provisional receipt in respect of it or may under the provisions of any of the Bye-laws or contract terms hold the same in trust for the other party and the outstanding contract shall only be closed out in respect of any balance of the rubber which has not been so delivered.
- (b) In any such case, the buyer shall give credit to the other party for the contract price of the rubber so delivered (less any proper deductions for short weight or inferior quality) and any balance of the rubber which has not been so delivered shall be invoiced back at the price certified by the Management Committee in accordance with the preceding provisions of this Bye-law. Any sum due from the one party to the other on invoicing back shall be added to or set off against the contract price of the rubber so delivered as aforesaid and the contract price or the total or the balance of the two said sums as the case may be shall (subject to any further right of set off provided for by this Bye-law) be payable by the one party to the other.
- (ii) (a) Where prior to the time of default the buyer has given any money to or has deposited any security with the other party to an outstanding contract to procure delivery of rubber pursuant to such outstanding contract the other party shall be entitled to retain the whole or part of such money or security as appropriate in accordance with the provisions of sub-paragraph (b) of this Bye-law and to realise any such security notwithstanding that such rubber

has not been delivered prior to the time of the default and the outstanding contract shall be closed out in respect of all the rubber to which the same relates.

- (b) In any such case such other party shall be entitled to set off such money or the value of such security so held by him against any other debt due to him from the buyer and shall only pay to the buyer the balance (if any) then remaining.
- (f) A Member shall not be entitled under this Bye-law or otherwise howsoever to claim any set-off, and no set-off shall be allowed, in respect of any money given to, security for money deposited with, or rubber contracted to be sold or sold or delivered or otherwise made over to him by or on behalf of the defaulter
  - (i) after notice to him
    - (a) that the defaulter had become a defaulter; or
    - (b) of an act of bankruptcy committed by the defaulter; or
    - (c) of the insolvency of the defaulter; or
  - (ii) for the purpose of collusive preference, after notice to him that a person is about to become, or is likely to become, a defaulter; or
  - (iii) if precluded by any Bye-law or contract terms or by any decision of the Management Committee or by the decision of any Management Committee Member or Management Committee Members to whom the Management Committee may delegate its powers under any Rule, Bye-law or contract term.
- (g) The foregoing provisions of this Bye-law shall in the absence of express provisions to the contrary in the Bye-laws or contract terms be deemed to be terms of every contract made between Members so as to import or be subject to the Rules, Bye-laws and contract terms and accordingly shall when applicable apply bankruptcy and in the winding up of any company in lieu of any statutory provisions as to the carrying out or avoidance of contracts, the realisation of the estate of the bankrupt or company, or set-off for the time being in force but in so far as the provisions of this Bye-law do not apply the statutory provisions with respect to the matters aforesaid shall apply.

## **PART C – Arbitration Rules**

### **GENERAL PROVISIONS FOR MEMBERS AND NON MEMBERS (Rules 1 to 5)**

#### **1. SCOPE OF PROVISIONS**

1. These Rules shall govern the resolution of all disputes except that where any of these Rules is in conflict with a provision of the Arbitration Act 2005 from which the parties cannot derogate, that provision shall prevail.
2. Subject to Rule 35, these Rules shall apply when arbitrations are held in Malaysia.
3. Any dispute that may arise between Members as to their rights, duties, obligations or liabilities in respect of any contract shall, if either party so require, be referred to an arbitral tribunal comprising of three arbitrators selected from the panel of arbitrators appointed under Rule 33.
4. Subject to Rule 35, either party to a contract in which a Member or Associate Member is a party and which is stated to be subject to the Rules and Bye-laws of the Corporation, shall be entitled to refer any dispute that may arise between them for arbitration as in accordance with the Rules for arbitration as laid down herein.
5. Any non-member having a dispute with another non-member may apply to the Corporation for arbitration facilities provided that they give their consent in writing to such arbitration and agree to be bound by the Corporation's Rules and Bye-laws insofar they apply to arbitrations.
6. In the event of a non-member or an Associate Member being a party to an arbitration, such non-member or Associate Member may appoint a representative in Kuala Lumpur, being a Member of the Corporation, to represent him at the arbitration, and such representative shall be

authorised to receive all notices relating thereto on behalf of the non-member or the Associate Member.

7. Every arbitration entered into under the provisions of the MRE Arbitration Rules shall be completed and the award reported to the Chairman or his Deputy within three (3) months from date of acceptance by the Corporation the relevant Form No. VII (Request for Dispute Resolution).
8. In the case of special circumstances as determined and agreed upon by the arbitral tribunal, the Chairman or his Deputy may extend this period further and it shall not exceed two (2) months.
9. Notwithstanding anything to the contrary, MRE may decline to accept any dispute for arbitration under these Rules where MRE decides that such dispute is not a proper subject matter for arbitration under these Rules.

## **2. NOTICES, CALCULATION OF PERIOD OF TIME**

Any notice to be delivered to an arbitrator or the MRE shall be deemed to have been validly served as if it has been physically delivered to the MRE.

## **3. INITIATION OF ARBITRATION**

1. Any Party initiating recourse to arbitration (the "claimant") shall give to the MRE and the other Party (the "respondent") a request for dispute resolution together with the appropriate administrative fee set by the Management Committee of the MRE.
2. Subject to acceptance of the dispute for arbitration by MRE, the Parties agree that arbitral proceedings shall be deemed to commence on the date on which the request for dispute resolution is received by the respondent or the date on which the dispute is accepted by MRE (whichever is later).
3. The request for dispute resolution shall be made in FORM VII and shall include the following:-

- (a) A demand that the dispute be referred to arbitration;
  - (b) the names and addresses of the Parties;
  - (c) a reference to the Contract out of or in relation to which the dispute arises;
  - (d) the general nature of the claim and an indication of the amount involved (if any); and
  - (e) the relief or remedy sought.
4. The request for dispute resolution may also include the statement of claim referred to in Rule 12 and the appointment of the required arbitrator referred to in Rule 6.
5. Where the MRE accepts a dispute for resolution by arbitration, the Parties agree that such arbitration shall be conducted in accordance with the provisions of Rules 6 to 30.

#### **4. TIME LIMITATION**

The Parties agree that no dispute shall be arbitrated under these Rules unless a request for dispute resolution shall have been lodged in accordance with Rule 3(1) within two (2) years from the occurrence of the event giving rise to the dispute.

#### **5. LIABILITY OF ARBITRAL TRIBUNAL AND IMMUNITY OF MRE**

1. Neither the MRE, the Management Committee, the Committee, nor the arbitral tribunal presiding the arbitral proceedings shall be liable to the Parties for any act or omission in connection with any arbitration conducted under these Rules, save that such arbitrator (but not the MRE, the Management Committee or the Committee) may be liable for the consequences of conscious and deliberate wrongdoing.

2. The MRE, the Management Committee and the Committee for Dissolution or any other person designated or requested by the parties to appoint or nominate an arbitrator, shall not be liable for anything done or omitted in the discharge of the function unless the act or omission is shown to have been in bad faith.
3. Subject to anything to the contrary in these Rules, after the Award has been made and the possibilities of correction and additional Awards referred to in Rules 28, 29 and 30 have lapsed or been exhausted, neither the Committee, the MRE nor the arbitral tribunal shall be under any obligation to make any statement to any person about any matter concerning the arbitration nor shall any person seek to make the arbitral tribunal, any member of the Committee nor the MRE a witness in any legal proceedings arising out of the arbitration.

## **RULES OF ARBITRATION**

### **(Rules 6 to 30)**

#### **6. APPOINTMENT OF ARBITRATOR**

1. In so far as the Parties shall not have provided otherwise, the Parties shall request the Committee to appoint, arbitrators selected from the Panel in accordance with these Rules.
2. Without prejudice to the impartiality of the Panel, in making any appointments of arbitrators, the Parties shall have regard to such considerations as are likely to secure that appointment of an independent, impartial and suitable arbitrator to hear the dispute.
3. All arbitrators to be appointed to hear any dispute shall be selected only from the Panel.
4. The Parties agree that the disputes shall be settled by an arbitral tribunal comprising of three arbitrators.

5. Each Party shall nominate respectively one arbitrator within seven (7) days from the date the request for dispute resolution has been communicated to the respondent. The appointment of arbitrator shall be made in Form VII A (for Claimant) and Form VII B (for Respondent). If a Party fails to nominate an arbitrator, the other Party shall request the Committee to make such appointment.
6. The Parties agree that the third arbitrator, who will act as presiding chairman, shall be appointed by the two arbitrators and failing which, shall be appointed by the Committee.
7. The Parties agree that every arbitrator appointed must be and remain independent of the Parties involved in the arbitration.

## **7. CHALLENGE OF APPOINTMENT OF ARBITRATOR**

1. A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment any circumstance likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed or chosen, shall disclose such circumstances to the Parties unless they have already been informed by him of these circumstances.
2. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
3. A Party who intends to challenge an arbitrator shall, within fifteen (15) days after becoming aware of the constitution of the arbitral tribunal or of any reasons referred to in Sub-Rule (2) above, send a written statement of the reasons for the challenge to the Committee, the other Party and to the arbitrator who is challenged.
4. When an arbitrator has been challenged by one Party, the other Party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In

neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases, a substitute arbitrator shall be appointed by the Party who appointed such withdrawing arbitrator in accordance with Rule 6.

5. If the other Party does not agree to the challenge and the challenged arbitrator does not withdraw, the Parties agree that the decision on the challenge will be made by the Committee.
6. If the Committee sustains the challenge, a substitute arbitrator shall be appointed by the person who appointed the arbitrator to be substituted in accordance with Rule 6. The decision of the Committee on the challenge shall be final and conclusive.

## **8. REPLACEMENT OF AN ARBITRATOR**

1. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed as follows:-
  - (a) where the arbitrator was one of three arbitrators and he was appointed by one of the Parties, the substitute arbitrator shall be appointed by the Party who appointed such arbitrator within seven (7) days of the date of the arbitrator's resignation or death and if the relevant Party shall fail to nominate an arbitrator, the other Party shall request the Committee to make such appointment. In the event that no such request is made within the aforementioned period, the Committee shall make the appointment;
  - (b) where the arbitrator is the chairman of a panel of three arbitrators, the substitute arbitrator (who shall also serve as the substitute chairman) shall be appointed in accordance to Rule 6 (6).
2. In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his performing his functions, the procedure in respect of the challenge and

replacement of an arbitrator as provided in Rule 7 shall apply.

3. If any arbitrator is replaced, any hearings held previously may be repeated at the discretion of the substitute arbitrator.

## **9. CONDUCT OF ARBITRAL PROCEEDINGS**

1. Subject to these Rules, the Parties agree that the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the Parties are treated with equality and that at any stage of the proceedings each Party is given a full opportunity of presenting his case.
2. Where the dispute of the Party requesting arbitration involves a liquidated amount which exceeds RM100,000 equivalent in any other currency (exclusive of interest and expenses) or an unliquidated amount or a non monetary claim, the Parties agree that a hearing before the arbitral tribunal shall be required unless the Parties and the arbitral tribunal agree to waive such hearing.
3. Where Sub- Rule (2) above does not apply; the Parties agree that the arbitration shall be by written submission except where the arbitral tribunal requires a hearing.
4. Notwithstanding anything in these Rules, the Parties agree that the arbitral tribunal shall have the power to decide whether to hold oral hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
5. The arbitral tribunal shall have power to decide where in Malaysia such arbitration shall be conducted.
6. No Party shall be represented by counsel in any arbitral proceedings.

## **10. LANGUAGE**

1. Unless the arbitral tribunal decides otherwise having regard to the circumstances of the arbitration, the language to be used in the arbitration shall be English. This determination shall apply to the Statement of Claim, the Statement of Defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.
2. The arbitral tribunal may order that any documents annexed to the Statement of Claim or Statement of Defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language shall be accompanied by a translation into the language or languages determined by the arbitral tribunal. In the event of disputes on facts arising from such translations then the English version shall prevail.

## **11. REQUEST FOR DISPUTE RESOLUTION**

1. In every case of reference to arbitration under these Rules each disputant shall fill up the necessary particulars and sign the appropriate form (Form No. VII) and shall deliver five (5) copies thereof to the MRE.
2. The copy of Form No. VII requiring to be served in accordance with the Rules hereof, shall be served at the correspondence address of the other disputant, or sent to such correspondence address by courier service or registered post, and in the last mentioned case shall be deemed to have been served on the day when, in the ordinary course of post, such letter would be delivered.

## **12. STATEMENT OF CLAIM**

1. Unless the Statement of Claim were contained in the request for dispute resolution, within seven (7) days of the acceptance of a request for dispute resolution by the MRE, the claimant shall file five (5) copies of its Statement of Claim with the MRE. A copy of the Contract (if any), and of

the arbitration agreement (if any) shall be annexed thereto. The MRE shall promptly furnish to the respondent and the arbitrators a copy each of the Statement of Claim and all documents annexed thereto.

2. The Statement of Claim shall include the following particulars:-
  - (a) The names and addresses of the Parties;
  - (b) a statement of the facts supporting the claim;
  - (c) the points at issue; and
  - (d) the relief or remedy sought.
3. The claimant may annex to its Statement of Claim all documents it deems relevant or may add a reference to the documents or other evidence it will submit.

### **13. STATEMENT OF DEFENCE**

1. Within fourteen (14) days of receipt of the Statement of Claim by the respondent, the respondent shall file five (5) copies of its Statement of Defence with the MRE. The MRE shall promptly furnish to the claimant and the arbitrators a copy each of the Statement of Defence and all documents annexed thereto.
2. The Statement of Defence shall reply to the particulars (b), (c) and (d) of the Statement of Claim Rule 12(2). The respondent may annex to its statement the documents on which it relies for its defence or may add a reference to the documents or other evidence it will submit.

### **14. REPLY TO DEFENCE AND COUNTER CLAIM**

1. In its Statement of Defence or at a later stage in the arbitral proceedings  if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counter-claim arising out of the same transaction or

rely on a claim arising out of the same transaction for the purpose of a set-off.

2. Within fourteen (14) days of receipt of the Statement of Defence by the claimant, the claimant shall file five (5) copies of his reply to defence (if any) and if the Statement of Defence also contains a counterclaim, a defence to counterclaim with the arbitral tribunal. The arbitral tribunal shall promptly furnish the respondent with a copy of the reply to defence (if any) and defence to counterclaim (if any) and all documents annexed thereto.
3. The provisions of Rule 12(2), shall apply to counter-claim and a claim relied on for the purpose of a set-off and the provision of Rule 13(2), shall apply to a defence to counterclaim.
4. During the course of the arbitral proceedings either person may amend or supplement its claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other Party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of these Rules.

## **15. FURTHER WRITTEN STATEMENTS**

The arbitral tribunal shall decide which further written statements in addition to the Statement of Claim and the Statement of Defence, shall be required from the Parties or may be presented by them and shall fix the period of time for communicating such statements.

## **16. PLEAS AS TO THE JURISDICTION OF THE ARBITRATOR**

1. Subject to anything to the contrary in these Rules, the Parties shall be conclusively deemed to have voluntarily recognised the jurisdiction of the arbitral tribunal to hear and determine such dispute and any award made thereunder

shall be binding on such person, notwithstanding that the person is not present or represented at the hearing.

2. The arbitral tribunal shall have the power to rule on objections whatsoever that it has no jurisdiction and to proceed in the arbitration notwithstanding the failure or refusal of any Party to comply with these Rules or with the arbitral tribunal orders or directions, or to attend any meeting or hearing, but only after giving that Party written notice that it intends to do so and to receive and take into account such written or oral evidence as it shall determine to be relevant whether or not strictly admissible in law.
3. The arbitral tribunal shall have the power to determine the existence or the validity of the Contract (if any) of which an arbitration clause forms a part. A decision by the arbitral tribunal that the Contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.
4. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the Statement of Defence or, with respect to a counter-claim, in the defence to the counter-claim.
5. In general, the arbitral tribunal should rule on a plea concerning its jurisdiction as a preliminary question. However, the arbitral tribunal may proceed with the arbitration and rule on such a plea in its final Award.

## **17. PERIOD OF TIME**

The period of time fixed by the arbitral tribunal for the communication of written statements (including the Statement of Claim and Statement of Defence) should not exceed forty-five (45) days. However, the arbitral tribunal may extend the time-limit if it concludes that an extension is justified.

## **18. INTERIM MEASURES OF PROTECTION**

1. At the request of either Party, the arbitral tribunal may take any interim measure it deems necessary in respect of the

subject-matter of the dispute, including measures for the conservation of the goods forming the subject matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.

2. Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to require security for the costs of such measures.
3. A request for interim measures addressed by any Party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

## **19. DEFAULTS**

1. Where the claimant fails to file its Statement of Claim within the time provided in Rule 12(1) the respondent may apply to the arbitral tribunal to dismiss the claimant's claim.
2. Where the respondent fails to file its Statement of Defence within the time provided in Rule 13(1) the claimant may apply to the arbitral tribunal to make an Award on the basis of the Statement of Claim.
3. The provision of Sub-Rules (1) and (2) above shall apply to such counterclaim, and defence to counterclaim in accordance with the time period provided in Rule 14(2).
4. Where any Party applies to the arbitral tribunal to make an Award pursuant to the provisions of this Rule, the arbitral tribunal may make any such Award only upon the expiry of seven (7) days' notice in writing given by the arbitral tribunal to the Party in default of pleadings and in the interim the pleadings have not been filed.
5. If any of the Parties, after due notice, fails to appear at a hearing or any adjourned hearing, the arbitral tribunal may, in its discretion proceed with the arbitration. In such cases, all Awards shall be rendered as if each Party had entered an appearance in the arbitration. An Award shall not be made solely on the default of a Party. The arbitral tribunal shall

require the Party present to submit such evidence as the arbitral tribunal may require for the making of an Award.

6. Notwithstanding that any Party fails to appear at a hearing or any adjourned hearing, the arbitral tribunal shall continue to give such Party reasonable notice of all proceedings held in their absence and to afford such Party every opportunity to appear and be heard if such Party so chooses.
7. If one of the Parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the Award on the evidence before it.

## **20. EXPERT APPOINTED BY ARBITRAL TRIBUNAL**

1. Unless otherwise agreed by the parties, the arbitral tribunal may:-
  - (a) appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; or
  - (b) require a party to give the expert any relevant information or to produce or to provide access to any relevant documents, goods or other property for the expert's inspection.
2. Unless otherwise agreed by the Parties, if a Party so request or if the arbitral tribunal considers it necessary, the expert shall, after delivery of a written or oral report, participate in a hearing where the Parties have the opportunity to put questions to the expert and to present other expert witnesses in order to testify on the points at issue.

## **21. CLOSURE OF ARBITRAL PROCEEDINGS**

A written record of the arbitral proceedings shall be made and maintained by the arbitral tribunal and submitted to the Chairman or his Deputy of the MRE at the closure of the arbitral proceedings. The Parties shall provide such assistance as may be

requested by the arbitral tribunal for the keeping of such records.

## **22. WAIVER OF PROVISIONS**

A Party who knows that any provision of, or requirement under these Rules has not been complied with and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

## **23. SETTLEMENT**

1. If during arbitral proceedings, the Parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the Parties and not objected to by the arbitral tribunal, record the settlement in the form of an award on agreed terms.
2. An award on agreed terms shall be made in accordance with the provisions of Rule 24 and shall state that it is an award.
3. An award made under Sub-Rule (1) shall have the same status and effect as an award on the merits of the case.

## **24. FORM AND EFFECT OF THE AWARD**

1. Subject to anything to the contrary in these Rules, all Awards or other decisions shall be made by a majority of the arbitral tribunal.
2. In addition to making a final Award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial Awards.
3. The Award shall be made in writing and shall be final and binding on the Parties.
4. An award shall state the reasons upon which it is based, unless –

- (a) the parties have agreed that no reasons are to be given;  
or
  - (b) that award is an award on agreed terms under Rule 23.
5. An award shall be signed by majority of the arbitral tribunal and shall contain the date on which and the place where the Award was made and forwarded by them together with a record of the arbitral proceedings to the Chairman or his Deputy who shall seal, sign, date and file the same with the records of the Corporation. The Chairman or his Deputy shall forthwith thereafter serve notice to the disputants that the award is ready for delivery upon payment of the prescribed fees.
6. Where under an award a sum of money is payable by one party to another such sum shall become payable within fourteen (14) days after service of notification by the Chairman or his Deputy that the award is ready for delivery.
7. Unless otherwise provided in the arbitral agreement, the arbitral tribunal may:-
- a. award interest on any sum of money ordered to be paid by the award from the date of the award to the date of realisation; and
  - b. determine the rate of interest.
8. The Award may be made public only with the consent of both Parties.

## **25. INTERPRETATION OF PROVISIONS**

The arbitral tribunal shall be the sole judge of these Rules and the facts and shall be empowered to interpret and determine the applicability of all provisions of these Rules which interpretation shall be final and binding on the Parties and not subject to challenge.

## **26. APPLICABLE LAW, AMIABLE COMPOSITEUR**

1. In respect of a domestic arbitration where the seat of arbitration is in Malaysia, the arbitral tribunal shall decide the dispute in accordance with the substantive law of Malaysia.
2. In respect of an international arbitration, the arbitral tribunal shall decide the dispute in accordance with the law as agreed upon by the parties as applicable to the substance of the dispute.
3. Any designation by the parties of the law of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.
4. Failing any agreement under Sub-Rule (2), the arbitral tribunal shall apply the law determined by the conflict of laws rules.
5. The arbitral tribunal shall, in all cases, decide in accordance with the terms and circumstances of the Contract and shall take into account the usages of the trade applicable to the transaction.

## **27. SETTLEMENT OR OTHER GROUNDS FOR TERMINATION**

1. If before an Award is made, the Parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both Parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral Award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an Award.
2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in Sub-Rule (1) above, the arbitral tribunal shall inform the Parties of its intention to issue an order for the termination of the proceedings. The arbitral

tribunal shall have the power to issue such an order unless a Party raises justifiable grounds for objection.

3. In all events, the arbitral tribunal shall have the power at any time upon their own initiative or at the request of a Party to terminate the arbitral proceedings.

## **28. CORRECTION OF THE AWARD**

1. Within fourteen (14) days after the receipt of the Award, either Party, with notice to the other Party may request the arbitral tribunal to correct in the Award any errors in computation, any clerical or typographical errors, or any errors of similar nature.
2. The arbitral tribunal may within fourteen (14) days after the communication of the Award make such corrections referred to in Sub-Rule (1) on its own initiative.
3. Such corrections shall be in writing.

## **29. INTERPRETATION OF THE AWARD**

1. Within fourteen (14) days after the receipt of the Award, either Party with notice to the other Party, may request that the arbitral tribunal give an interpretation of a specific point or part of the Award.
2. Where the arbitral tribunal considers the request made under Sub-Rule (1) to be justified, it shall give the interpretation within fourteen (14) days of the receipt of the request and such interpretation shall form part of the award.

## **30. ADDITIONAL AWARD**

1. Within fourteen (14) days after the receipt of the Award, either Party, with notice to the other Party, may request the arbitral tribunal to make an additional Award as to claims presented in the arbitral proceedings but omitted from the Award.

2. Where the arbitral tribunal considers the request for an additional Award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall make the additional Award within fourteen (14) days after the receipt of the request.
3. The arbitral tribunal may, where it thinks necessary, extend the period of time within which it shall make a correction, interpretation or an additional Award referred to in Rules 28, 29 and 30 respectively.
4. The provisions of Rule 24 shall apply to a correction or interpretation of the Award or to an additional Award.

**INTERNAL RULES FOR THE CONDUCT OF ARBITRAL  
PROCEEDINGS  
(Rules 31 to 39)**

**31. CONFIDENTIAL CHARACTER OF ARBITRAL PROCEEDINGS**

1. The arbitral proceedings are of a confidential character which must be respected by the Parties.
2. The arbitral proceedings are open only to the Parties in dispute, the arbitral tribunal and the MRE.
3. The documents submitted to the arbitral proceedings or drawn up by any Party to the arbitral proceedings in the course of the proceedings shall be communicated only to the Parties in dispute, the arbitral tribunal and to the MRE.

**32. COMMITTEE FOR DISPUTE RESOLUTION**

1. The “Committee” referred to in these Rules shall be the Committee for Dispute Resolution established by the Management Committee under the MRE Rules & Bye-Laws composed as follows and having the following powers:-
2. The Committee shall consist of a Chairman and two members. The Chairman may designate a Vice-Chairman to replace him during a session of the Committee.

3. All members of the Committee are appointed by the Management Committee to serve for a term of two years each or until they resign or are replaced by the Management Committee.
4. The Committee meets when convened by its Chairman or the Management Committee.
5. The Committee is empowered to take any decision concerning challenges of arbitrators, including allegations that an arbitrator is not fulfilling his functions.
6. The decisions of the Committee are made unanimously.
7. The Committee's proceedings are reported to the Management Committee at every meeting of the same.

### **33. PANEL OF ARBITRATORS**

1. The "Panel" referred to in these Rules shall be the panel of arbitrators established by the Management Committee under the MRE Rules & Bye-Laws.
2. The Panel of Arbitrators shall consist of not less than ten members who shall be appointed by the Management Committee for such term of office as the Management Committee so decides. The Management Committee shall be empowered to fill any vacancy on the Panel that may occur from time to time.

### **34. JOINDER OF CLAIMS**

1. When any Party presents a request for dispute resolution in connection with a legal relationship already submitted to arbitral proceedings under these Rules and pending arbitral proceedings the presiding arbitrator may decide to include that claim in the existing proceedings.
2. Any Party to a legal relationship undergoing arbitral proceedings under these Rules may with the leave of the presiding arbitrator, issue a notice to any other person not already a Party to such proceedings to join such person to

such proceedings where such issuing Party's claim against such person is substantially the same as that or connected to that under such proceedings.

### **35. ARBITRATIONS ON FOB CONTRACTS TO BE HELD OUTSIDE MALAYSIA**

1. Unless otherwise mutually agreed between the seller and buyer, in all disputes in respect of a FOB contract arising after shipment where the destination is a port in the U.S.A. or Canada, arbitration shall take place in New York under the regulations of the Rubber Trade Association of North America, Inc. and where the destination is a port in the U.K. or the Continent of Europe, in London under the regulations of The Rubber Trade Association of Europe; provided that facilities for such arbitrations under the regulations of the respective Associations are available to the parties concerned. If facilities for such arbitrations are not available to the parties concerned arbitration shall take place in Malaysia and the provisions of Rule 1 of the MRE Arbitration Rules shall apply.
2. Any Award made against the buyer at the instance of the buyer from him in an arbitration properly held pursuant to a further contract shall be deemed an Award obtained by the buyer against the seller, and the buyer shall be entitled to be indemnified by the seller against all losses suffered by him and all sums (including expenses of and incidental to the arbitration) paid by him in complying with such Award.
3. Awards in arbitration shall be promptly settled in Malaysia between the seller and buyer and if not settled within fourteen (14) days of the presentation of a debit note accompanied by a duly authenticated copy of the Award the defaulting party shall be liable to be dealt with in accordance with Rule 22 of the Malaysian Rubber Exchange Rules (Amendment) 1997. In cases where the buyer is entitled to be indemnified by the seller against losses suffered or sums paid by the buyer to his buyer in complying with an Award made under a further contract the buyer shall be entitled to be paid in Malaysian Ringgit at the

bank's current T. T. selling rate for U.S. Dollars or for Sterling/Euro as the case may be, if :-

- (i) the buyer has already remitted money for the purpose of settling such Award at the date of such remittance; or
  - (ii) the buyer has not already remitted, at the rate current on the date of presentation to the Seller in Singapore or Malaysia of his debit note.
4. The buyer shall also be entitled to recover from the Seller simple interest at current prime rate per annum on any remittance by him or payment by his representative at destination of an amount greater than One Thousand Malaysian Ringgit or its equivalent in the currency of the destination made for the purpose of complying with an Award against which the buyer is entitled to indemnity; provided that the buyer shall not be entitled to interest unless he presents his debit note to the seller before the expiration of seven (7) days after arrival in Malaysia of the duly authenticated copy of the Award. Interest shall run from the date of payment at destination until the date of recovery in Malaysia.
5. If a seller does not settle a debit note due by him in respect of an Award in an arbitration under the provisions of this Rule, the buyer concerned shall report the failure to the Corporation immediately.

### **36. TIME LIMIT FOR AWARD ALLOWING REJECTION AND REPLACEMENT**

If the arbitral tribunal allows rejection and replacement, such Award shall specify the time limit within which the various obligations are to be carried out provided that such time limit shall not be less than fourteen (14) days from the date when notice has been served by the Chairman or his Deputy that the Award is ready for delivery.

### **37. DISPUTES AFTER SHIPMENT**

In the case of disputes in respect of FOB contracts arising after shipment (other than shipments made under further contracts or shipments to a port in the U.S.A, Canada, the United Kingdom or the Continent of Europe where arbitration is by Rule 35(1) of the MRE Arbitration Rules hereof required to be in New York or London) in which samples for arbitration are necessary, samples shall within (4) four weeks of final discharge at destination be drawn at quay or in public or private bonded warehouse or factory, to a factory which is recognised by the Corporation, at the factory, from ten (10) percent of the quantity and forwarded to Malaysia.

Samples shall be produced by the Buyer in Malaysia within nine (9) weeks of final discharge at destination and the seller shall be notified that the samples have arrived and are available for inspection. Labels signed and sealed by representatives of the seller and buyer shall be attached to the samples stating the number of units or bales opened and the unit or bale numbers. If the seller does not name his representative in the quality guarantee or arrange for his representative to attend the sampling, the samples shall be drawn and the labels shall be signed and sealed by the Buyer's representative in the presence of an independent recognised sampler. Claims for expenses of sampling at destination including reasonable expenses incurred in forwarding the samples to Malaysia shall be dealt with by the arbitral tribunal. Either party may at his own expense call for a further sample provided that further sampling is possible from the whole or any portion of the bulk and may produce such samples before the arbitral tribunal.

### **38. ENFORCEMENT OF AWARD ON NON - MEMBERS**

The Corporation shall neither be responsible nor liable for the enforcement of an award obtained against a non-member but reserve the right to take whatever action it deems fit and necessary against any non-member who refuses to comply with an award made against him.

### **39. NON-COMPLIANCE BY MEMBERS OF OVERSEAS ARBITRATION AWARDS IN RESPECT OF RECIPROCAL ARRANGEMENTS**

Where the Management Committee is satisfied that a member has failed to comply with an arbitration and/or appeal Award made by an overseas rubber trade association, corporation or exchange provided that such overseas organisation has made reciprocal arrangements, in their regulations and/or Rules, to discipline their members in the event of their not complying with an arbitration Award made by this Corporation, the Management Committee may take disciplinary proceedings against such a Member under Rule 20 of the Malaysian Rubber Exchange (Amendment) Rules 1997.

### **ARBITRATION CHARGES (Rule 40 – 41)**

#### **40. CORPORATION FEES**

Each party to the dispute shall be entitled to receive a copy of the award from the Chairman or his Deputy, on payment of a fee as determined by the Management Committee for such purpose.

#### **41. ARBITRATION FEES**

1. Fees payable in respect of the appointment of arbitrators, shall be paid on application to the Corporation in accordance with the scale laid down, from time to time by the Management Committee and shall be ultimately borne and paid by the losing party unless otherwise awarded. In the case of arbitration involving non-members, the fees payable on application shall include the standard arbitration fees in addition to the fees payable to the Corporation. In such cases the Corporation shall have the right to call for any additional sum to be deposited with it which it may consider necessary for the proper conduct of the arbitration.
2. In any case demanding exceptional application and time the arbitral tribunal shall be entitled, subject to the approval of the Management Committee, to a fee not exceeding three

times as that laid down by the Management Committee in respect of such arbitration.

3. The arbitral tribunal shall have power to award that the fee or fees (including stamp fees on the award) or any part thereof, and any expenses properly incurred in the arbitration with the approval of the Management Committee shall be paid and borne by the disputants or either one of them.

## **42. GENERAL AND DEFINITIONS**

1. These Rules shall govern the resolution of all disputes, claims, grievances and controversies between Buyers and Sellers.
2. Unless the context otherwise requires, the following words and expressions in these Rules shall be defined as follows:-

“arbitral tribunal” means a panel of three arbitrators presiding a dispute;

“Arbitration Agreement” means an agreement by the Parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not;

“Associate Member” means a Member registered in that Category under the Malaysian Rubber Exchange (Amendment) Rules 1997;

“Award” means an award or judgement made under these Rules;

“Category” means any category of membership of the Corporation constituted under the Malaysian Rubber Exchange (Amendment) Rules 1997;

“Class” means any class of membership of the Corporation constituted under the Malaysian Rubber Exchange (Amendment) Rules 1997;

“Committee” means the Committee for Dispute Resolution appointed by the Management Committee;

“the Corporation” means the Malaysian Rubber Exchange (MRE) constituted under the Malaysian Rubber Exchange (Incorporation) Act 1962 (Act 402);

“Management Committee” means the Management Committee established under Section 17 of the Malaysian Rubber Board (Incorporation) Act 1996, to manage the Malaysian Rubber Exchange;

“Member” means a person whose name appears in the Register as a member in any Class or Category and includes any two or more persons whose names are registered together as Joint Members;

“Panel” means the panel of arbitrators appointed by Malaysian Rubber Exchange from time to time pursuant to the Malaysian Rubber Exchange Rules & Bye-Laws;

“Party” or “Parties” mean the Buyers and the Sellers and, as relevant, includes their respective officers and employees;

“Provisions” means the provisions in the Malaysian Rubber Exchange Arbitration Rules.

“Rule or Rules” means the Malaysian Rubber Exchange Arbitration Rules, Part C of the Trading Bye-Laws;

**FORM VII**

**REQUEST FOR DISPUTE RESOLUTION  
(Pursuant to Rule 3 of the MRE Arbitration Rules)**

To:

Chairman  
Malaysian Rubber Exchange  
4<sup>th</sup> Floor, Bangunan Getah Asli (Menara)  
148 Jalan Ampang  
50450 Kuala Lumpur  
MALAYSIA.

Dear Sir/Madam

I/We\* \_\_\_\_\_ (as Claimant) hereby  
request for a resolution with regard to the dispute with  
\_\_\_\_\_ (as Respondent),  
particulars of which are as follows:

- (i) Names and addresses of the parties.

Buyers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sellers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (ii) Reference to the disputed contract

Date of Contract and  
Contract No. : \_\_\_\_\_  
Contract Quantity : \_\_\_\_\_  
(Price) : \_\_\_\_\_  
(Type and Grade) : \_\_\_\_\_  
Special conditions (if any) : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(iii) Nature of claims (Including amount if any)

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(iv) Relief or remedy sought

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Attached please find five (5) copies of our statement of claim\*\* for your kind perusal.

Thank you.

\_\_\_\_\_  
Signature of claimant

Date: \_\_\_\_\_

c. c. \_\_\_\_\_ (Respondent)

\* Delete where appropriate

\*\* The statement of claim shall include the following particulars:

- (a) The names and addresses of the Parties (b) a statement of the facts supporting the claim;  
(c) the points at issue and (d) the relief of remedy sought

**FORM VII A**

**APPOINTMENT OF ARBITRATOR BY CLAIMANT  
(Pursuant to Rule 6 of the MRE Arbitration Rules)**

To:

Chairman  
Malaysian Rubber Exchange  
4<sup>th</sup> Floor, Bangunan Getah Asli (Menara)  
148 Jalan Ampang  
50450 Kuala Lumpur  
MALAYSIA

Dear Sir/Madam

**Contract No. :** \_\_\_\_\_

I / we\* are pleased to appoint Mr./Ms.\* \_\_\_\_\_  
as our Arbitrator for the above dispute.

Thank you.

\_\_\_\_\_  
Signature of Claimant

Date: \_\_\_\_\_

c. c. \_\_\_\_\_  
(Respondent)

\* *Delete where appropriate*

Note:

Any objection from the Respondent to the appointment of the arbitrator by the Claimant must be submitted in writing to the Committee for Dispute Resolution, c/o Malaysian Rubber Exchange by fax within 15 days from the date of service of this form.

**FORM VII B**

**APPOINTMENT OF ARBITRATOR BY RESPONDENT  
(Pursuant to Rule 6 of the MRE Arbitration Rules)**

To:

Chairman  
Malaysian Rubber Exchange  
4<sup>th</sup> Floor, Bangunan Getah Asli (Menara)  
148 Jalan Ampang  
50450 Kuala Lumpur  
MALAYSIA

Dear Sir/Madam

**Contract No. :** \_\_\_\_\_

With reference to the request for dispute resolution from \_\_\_\_\_ (as Claimant) dated \_\_\_\_\_, I/We\* are pleased to appoint Mr./Ms.\* \_\_\_\_\_ as the second Arbitrator.

Attached please find five copies of our statement of defence \*\* for your kind perusal.

Thank you.

\_\_\_\_\_  
Signature of Respondent

Date: \_\_\_\_\_

c. c. \_\_\_\_\_ (Claimant)

\* *Delete where appropriate*

\*\* *The statement of defence shall reply to:*

- (a) *a statement of the facts supporting the claim;*
- (b) *the points at issue; and*
- (c) *the relief of remedy sought by the claimant.*

Note:

Any objection from the Claimant to the appointment of the arbitrator by the Respondent must be submitted in writing to the Committee for Dispute Resolution c/o Malaysian Rubber Exchange by fax within 15 days from the date of service of this form.

## 8. Recognised forms of Contract

The Corporation establishes and recognises the forms of contract and the contract terms applicable thereto hereinafter set out as being suitable for the purposes of the rubber trade and any contract expressed to be subject to the Bye-laws of the Corporation shall also be subject to these contract terms insofar as they are applicable; except where they are permitted to be and are modified or excluded by the parties in writing.

The forms of Contract are :

- |   |  |
|---|--|
| (a) Contract No. 1 - Local Delivery                               | (See Appendix I<br>for Contract Terms)   |
| (b) Contract No. 2 - FOB Ordinary<br>[Non-Guarantee]              | (See Appendix II<br>for Contract Terms)  |
| (c) Contract No. 3 - FOB Ordinary<br>[Guarantee] for RSS          | (See Appendix III<br>for Contract Terms) |
| (d) Contract No. 4 - FOB Ordinary<br>[Guarantee] for SMR          | (See Appendix IV<br>for Contract Terms)  |
| (e) Contract No. 5 - Local Delivery<br>For Preserved Rubber Latex | (See Appendix V<br>for Contract Terms)   |

## 9. Savings

If at any time it appears to the Management Committee that circumstances have arisen in respect of any transaction effected under the Bye-laws or contract terms which require some action to be taken or procedure followed which is not specifically provided for in the Bye-laws or contract terms the Management Committee may give such directions as to the actions to be taken or procedure to be followed as shall appear just and equitable and shall notify all interested parties thereof, and such parties shall give effect to and be bound by the same.

**APPENDIX I**

**MRE CONTRACT NO. 1  
LOCAL DELIVERY**

July 1998

**MRE CONTRACT NO. 1  
LOCAL DELIVERY**

**TERMS**

A contract for local delivery in the form set out herein and subject to the following contract terms may be made by an Ordinary or Associate Member with another Ordinary or Associate Member.

**1. Notice of Intention to Deliver**

- |  |  |
|--|--|
| (a) The Seller shall at least 6 business days before the expiration of the period for delivery specified in the contract sent to the Buyer a written notice (Form No. 2 duly filled in with the requisite particulars) of his intention to deliver the whole or part of the rubber deliverable under the contract during the period in respect of which the notice is given before the expiration of 3 business days next after the day of receipt by him from the Buyer of a store receiving order for the rubber specified in the notice provided that | Procedure                              |
| (i) when notice is given of intention to deliver part of the rubber deliverable during the period in respect of which the notice is given the quantities delivered shall be in accordance with the provisions of Contract Terms 3(c) and (d); and  | Part delivery                          |
| (ii) when the contract calls for payment of a cash deposit prior to delivery the written notice shall provide for delivery after receipt by the Seller of the cash deposit or of the Corporation's receipt for the same.   | Deposit                                |
| (iii) the word "notice" in these contract terms shall, unless a contrary intention appears, mean notice of intention to deliver in accordance with the provisions of these contract terms.   | Definition of Notice                   |
| (iv) when in accordance with the provisions of this paragraph a seller shall have given notice to a buyer the rights and duties of seller and buyer arising under the provisions of these contract terms shall be deemed to constitute a separate contract in respect of the rubber specified in such notice.  | Notice constitutes a separate contract |

## 2. Store Receiving Orders

- |  |  |
|--|--|
| Time for delivery of store receiving order   | (a) Upon receipt of a notice from a seller, the Buyer shall before 1230 hours on the 2nd business day next after the day of receipt of the notice, give to the Seller a store receiving order for the rubber specified in the Seller's notice, and at the same time, if liable to do so, shall pay the cash deposit either to the Seller or to the Corporation.  |
| No deposit payable unless contract specifies | (b) The Buyer shall not be liable to pay any cash deposit unless the amount thereof be specified in or may be ascertained from the contract.   |
| Deposit to be included in invoice            | (c) Every cash deposit paid by the Buyer to the Seller or to the Corporation under the provisions of this paragraph shall be taken into account in any invoice delivered by the Seller to the Buyer in respect of the rubber the subject matter of the contract.   |
| Deposit to be held by Corporation            | (d) Cash deposits paid to the Corporation shall be accompanied by particulars sufficiently identifying the contract or contracts in respect of which they are paid, and shall be held and dealt with by the Corporation in accordance with the rules, bye-laws and contract terms. Upon receipt of any cash deposit from the Buyer the Corporation shall issue to him a receipt therefor. Such particulars and receipt may be in Form No. 3 and No. 4. |

## 3. Cess

- (a) All cesses which are due upon delivery shall be collected and paid by the Seller in accordance with the Cess Order.
- (b) In the event of any delay on delivery, any additional cess that may fall due by reason of the aforesaid delay, shall be paid by the party requesting for the aforesaid delay.

## 4. Delivery

- |               |  |
|---------------|--|
| Delivery time | (a) The Seller shall within 3 business days of receipt of the store receiving order together with cash deposit or the Corporation receipt for the same, if a cash deposit be payable, deliver the rubber specified in the Seller's notice. |
|---------------|--|

- (b) In the case of a contract wherein the place for delivery is not specified the Seller shall at his own expense deliver the rubber at the place agreed upon with the Buyer and if no place is so agreed upon at the Buyer's store and the Seller shall with each and every delivery send to the Buyer a cart note showing the registration number of the vehicle and the name of the Seller, and particulars sufficient to identify the contract in respect of which the delivery is made, provided always that no Seller shall be obliged to deliver at a place outside a radius of 13 kilometers from the main or General Post Office in the town or city in which delivery is required under the contract and if a Buyer shall desire and the Seller shall give delivery at any such place, the Buyer shall unless otherwise agreed, pay the Seller's charges for delivery. Place
- (c) The Seller having complied with the provisions of Contract Term 1(a) may, at any time during the period for delivery, deliver to the Buyer on account as follows :- Delivery on Account
- (i) in the case of a contract for a quantity not exceeding 2½ tonnes, not less than 500 kg; and
  - (ii) in the case of a contract for a quantity not exceeding 2½ tonnes, not less than 1 tonne.
- but the foregoing provisions of this clause shall not apply to delivery made to complete a contract.
- (d) The Seller shall deliver within 50 kg either way of the quantity specified in the contract for each delivery, or specified in a notice of part delivery.

### **5. Rights and Duties after Delivery**

- (a) The Buyer shall duly receive and accept every bona fide delivery of rubber by the deliverer, but if the rubber be packed in cases, the Buyer shall be entitled to require the deliverer to open 10% of such cases for inspection by the Buyer, and the deliverer shall comply with the Buyer's request, and shall bear the cost of opening and any necessary repacking and reconditioning of such cases. Buyer must receive bona fide delivery

- |  |   |
|--|---|
| Rights and duties in respect of non-bona fide delivery | (b) If the Seller admits or, on reference to arbitration, it is decided that any delivery is not bona fide the Buyer shall be entitled either to accept at an agreed allowance or to reject, in which latter case the deliverer shall remove the rubber and the deliverer, or if he shall fail to do so, the Seller, shall replace it with a bona fide delivery within 3 business days next after the date of the admission or award.   |
| Seller's right to replace                              | (c) In no case shall a deliverer have the right to replace any rubber other than that originally delivered or to claim space in buyer's store or other place of delivery for selection of a faulty delivery.  |
| Inferior packing                                       | (d) Failure by the deliverer to deliver rubber packed in accordance with the provisions of Bye-law 7 PART A (b) shall, unless the contract calls for other packing, entitle the Buyer either to refuse the whole or any portion of the delivery and to claim from the Seller an allowance as compensation for inferior packing.   |
| Weighing and provisional receipt                       | (e) Upon every bona fide delivery of rubber, the same shall be weighed, and the Seller or his representative shall be entitled to be present at such weighing, and on completion thereof the Buyer shall give to the Seller a provisional receipt (Form No. 5) specifying the weight of the rubber delivered, but such receipt shall not be or be deemed to be evidence of admission by the Buyer that the rubber delivered is of the quality contracted for.   |
| Objections   | (f) Any objection as to quality, packing or otherwise shall be lodged in writing with the deliverer before 1200 hours of the business day next following the day of completion of delivery or, in the case of rubber delivered packed in cases, before 1200 hours of the business day next after that on which 10% of such cases shall have been opened by the deliverer for the Buyer's inspection, and any objection not lodged with the deliverer as aforesaid shall be absolutely barred, and no claim shall be made for damages, or any matter in respect of which an objection could have been raised but was not raised. |

- (g) If no objection has been lodged by the Buyer with the deliverer within the time specified by and in accordance with the provisions of these contract terms, the Seller shall by 1200 hours of the business day next following the day within which the time for lodging an objection expires, be entitled to a final receipt for the rubber sold, and, if no objection has been raised by the Buyer as aforesaid, shall then be entitled, whether or not he has obtained such final receipt to invoice the Buyer for the balance of the purchase price. Final receipt and invoice
- (h) In every case in which a cash deposit has been paid to the Corporation, the Seller shall upon presenting to the Corporation the original or duplicate of the Buyer's final receipt, and the Corporation's receipt for the cash deposit, be entitled to payment of the amount of the cash deposit, provided that if before paying out any cash deposit, the Corporation is notified of any dispute relating thereto, the Corporation may retain the cash deposit, pending settlement of the dispute by agreement, or to abide by an arbitration award, or awards. Seller's right to cash deposit

**6. Consequences of Failure to Comply with these Contract Terms**

- (a) If a seller :- Default by seller
- (i) fails to give notice in accordance with Contract Term 1(a); or
- (ii) subject to Contract Term 5(b), fails to deliver in accordance with Contract Term 3; or
- (iii) fails to replace in accordance with Contract Term 4(b) of any rubber properly rejected by a buyer,

then, unless otherwise mutually agreed between the parties, the rubber in respect of which such failure has occurred shall be invoiced back by the Buyer to the Seller and on invoicing back the contract or portion of the contract shall be deemed to have been fulfilled, provided that in any case in which a cash deposit has been paid to the Seller or the Corporation such deposit shall

be available to the Seller only for the amount of the liability of the Buyer in respect of the contract or portion of the contract for which such deposit was made after making due allowance for the result of the invoicing back above-mentioned.

After receipt of cash deposit

(b) If in any case after the receipt of the cash deposit from the Buyer, the Seller fails to deliver in accordance with Contract Term 3 the rubber in respect of which such cash deposit was made the Buyer may on the day on which the Seller should have completed delivery give to the Seller a notice in writing demanding complete delivery before 1200 hours of the next business day, and if the Seller fails to comply with such notice he shall be a defaulter within the meaning of Rule 22 unless the Management Committee otherwise decides.

(c) If a buyer :-

Default by Buyer

(i) fails to give a store receiving order and, in cases where a cash deposit is payable, the cash deposit or the Corporation's receipt therefor, in accordance with Contract Term 2; or

(ii) fails to receive and accept any bona fide delivery of rubber in accordance with Contract Term 4,

then in any such case, and subject to Contract Term 5(d) or unless otherwise mutually agreed between the parties, the Seller shall weigh the rubber in respect of which notice was given and shall immediately thereupon be entitled to be paid the price of the weight of rubber so ascertained, and if the Buyer fails to pay the amount due in accordance with the provisions of Bye-law 7 PART A (e) or to take delivery from the Seller's store of the rubber in respect of which notice was given within 3 business days of such notice the rubber shall be invoiced back by the Seller to the Buyer and on invoicing back the contract or part of the contract shall be deemed to have been closed provided that in any case in which a cash deposit has been paid to the Seller or the Corporation, such deposit shall be available to the Seller only for the amount of the liability of the Buyer in respect of the

contract or part of the contract for which such deposit was made, after making due allowance for the result of the invoicing back above-mentioned.

- (d) If after the receipt of a notice from the Seller in accordance with Contract Term 1(a) the Buyer fails to pay in accordance with Contract Term 2 any cash deposit payable under the Contract the Seller may at any time before 1000 hours of the business day next following the day upon which such cash deposit ought to have been paid, give the Buyer notice in writing demanding immediate payment and if the Buyer fails to comply with such notice before 1200 hours on the same day he shall be a defaulter within the meaning of Rule 22, unless the Management Committee otherwise decides. Failure to pay deposit
- (e) The invoicing back price shall be fixed by the Management Committee and shall include liquidated damages at such rate as may be fixed by the Management Committee against the defaulter, and such liquidated damages shall be deemed to include all or any penalty, damages, loss of profit cost and expenses incurred or suffered by the injured party. Any difference between the invoicing back price and the contract price shall be payable to the party in whose favour it is found to be. Invoicing back price

## **7. Arbitration**

Any controversy or claim arising out of or relating to this contract, or the breach, thereof, shall be settled by arbitration in accordance with Bye-law 7, PART C.

All disputes to be settled by Arbitration

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 1  
FORM No. 1  
LOCAL DELIVERY CONTRACT  
(Pursuant to Bye-law 8(a))

.....  
(Date)

Messrs., .....

We have this day \_\_\_\_ sold \_\_\_\_ on your behalf\* subject to the terms of the Rules,  
bought from \_\_\_\_ you  
Bye-laws and Contract Terms of the Malaysian Rubber Exchange the  
undermentioned Rubber.

Particulars of Rubber  
Price  
Amount of Cash Deposit +  
When Cash Deposit payable  
Place of Delivery  
Time of Delivery  
Brokerage

Contract No .....

.....  
(Signature)

.....  
(Name of Company)

We acknowledge that we have this ..... day of  
....., ..... received from you contract  
No. .... dated the ..... day of ....., .....,  
from the \_\_\_\_ sale to \_\_\_\_ you \_\_\_\_ of the undermentioned Rubber,  
purchase from you \_\_\_\_ on our behalf\*

Particulars of Rubber  
Price  
Amount of Cash Deposit  
When Cash Deposit payable +  
Place of Delivery  
Time of Delivery  
Brokerage

And we hereby confirm the above Contract.

.....  
(Signature)

.....  
(Name of Company)

[\*The words "on your/our behalf" to be struck out in all cases except where the contract is signed by a Broker acting on behalf of a named principal.]

[+If the Cash Deposit is not to be paid when the Store Receiving Order is given, insert here the time agreed upon for its payment]

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 1  
FORM No. 2  
NOTICE OF INTENTION TO DELIVER  
(Pursuant to Bye-law 8(a))

Messrs. ....

We hereby give you notice that before the expiration of three business days next after the day of receipt from you of a Store Receiving Order for the rubber herein specified.

- (a) (and of the Cash Deposit of RM .....  
or the .....Corporation's receipt therefor for  
which we now apply to you) we propose to deliver to you
- (b) the whole ..... tonnes of the rubber  
kilo  
specified in our contract with you dated the
- (c) ..... day of ..... for
- (d) .....

Dated this                      day of                      ,                      .

Signature of Seller .....

- (a) Insert the amount of Cash Deposit payable or if no deposit is payable delete the words between brackets.
- (b) If part delivery is intended delete the words "the whole" and fill in the quantity to be delivered.
- (c) Insert the date of the Contract.
- (d) Insert particulars of the quantity and quality of rubber contracted for.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 1  
FORM No. 3  
PARTICULARS ACCOMPANYING PAYMENT OF CASH  
DEPOSIT TO THE CORPORATION  
(Pursuant to Bye-law 8(a))

To the Chairman

Please receive for deposit with the Corporation pursuant to the rules, bye-laws and contract terms the accompanying Cash Deposit of RM                      payable in respect of the undermentioned contract.

Date of Contract .....

Number of Contract .....

Seller's Name .....

Particulars of rubber and price .....

.....

Delivery .....

Dated .....

Buyer's Signature .....

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 1  
FORM No. 4  
THE CORPORATION RECEIPT FOR CASH DEPOSIT  
(Pursuant to Bye-law 8(a))

Receive from Messrs. ....  
the sum of RM ..... as a Cash Deposit pursuant to the  
rules, bye-laws and contract terms in respect of their undermentioned contract.

Date of Contract .....

Number of Contract .....

Seller's Name .....

Particulars of rubber and price .....

Delivery .....

Dated .....

.....  
Chairman

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 1  
FORM No. 5  
PROVISIONAL RECEIPT  
(Pursuant to Contract Term 4(e) of Bye-law 8(a))

.....  
(Date)

Received from Messrs. ....  
Rubber of the description, and estimated weight, following :-

We hereby undertake and agree to weigh the abovementioned Rubber on or before the ..... day of ..... next, and provided the quality be passed, to give a final receipt and duly to pay for the same, in accordance with the rules, bye-laws and contract terms of the Corporation. We also undertake and agree to hold such rubber or its contract price upon trust to deal with the same in accordance with Contract Term 4(e) or, in the event of our rejecting the rubber, to allow you to remove it.

And we further undertake that such rubber shall be at our risk as regards Insurance, etc. as from the time of its receipt by us, and that it shall continue at our risk unless and until, after having been requested to remove the same, or any part thereof on account of rejection by us, you fail to remove it.

Buyer's Signature .....

To Messrs. ....

**APPENDIX II**

**MRE CONTRACT NO. 2  
FOB ORDINARY (NON-GUARANTEE)**

January 1998

**MRE CONTRACT NO. 2**  
**FOB ORDINARY (NON-GUARANTEE)**

**TERMS**

Contracts for the sale and purchase of rubber in the form set out herein and subject to these contract terms may be made between members or between members and non-members.

**1. Shipping Marks**

Shipping Marks shall be as instructed by the Buyer in accordance with Malaysian Government regulations. No other marks shall appear without buyer's consent but any slight variation in marks (other than quality marks) shall not avoid the contract.

**2. Warranty of Quality and Claim**

The Seller warrants the quality described in the contract and also warrants the rubber free from mould in excess of such mould, if any, as is allowed in such quality description and the Seller is liable for excess mould ascertained at destination not caused by damage in transit provided that the Seller shall be under no liability in respect of :-

- (a) his warranty of quality, if the rubber is not shipped to ultimate destination within 30 days from the date of the seller's receipt of payment;
- (b) his warranty against excess mould, if the rubber is not shipped to ultimate destination within 7 days from the date of the Seller's receipt of payment;
- (c) his warranty against excess mould, if the period of transit of the rubber, in case of shipment to a destination in China or Japan exceeds 22 days or in case of shipment to a destination in Europe exceeds 45 days or in case of shipment to a destination in United States of America or Canada or elsewhere exceeds 52 days, counting from the date of the carrying ship's departure from the last port of call in Malaysia to the date of final discharge at destination;  
or

- (d) any claim unless such claim states the grounds of the complaint and is lodged with the seller or his representative within 28 days of final discharge at destination, or within 7 business days after the expiration of the time limit specified in a further contract if a claim has been made in due time under such further contract.

Final discharge at destination "Final discharge at destination" when used in these contract terms shall mean the date of discharge of the rubber on the quay or otherwise in accordance with the customs of port of discharge, but in the case of destination in South America the expression shall mean final release of the rubber by customs provided that samples produced to an arbitrator or arbitrators in Kuala Lumpur in accordance with the provisions of Contract Term 12 are accompanied by an official document or official copy of an original document proving the date of such final release by customs.

### **3. Freight**

If ocean freight paid by Seller to be reimbursed The Seller may pay the freight from Ocean Port to destination on behalf of the Buyer and shall be entitled to be reimbursed by the Buyer immediately.

### **4. Excess Freight**

For account of Seller Any excess freight and/or any penalty for oversized bales imposed by any Freight Conference shall be for account of the Seller.

### **5. Savings in Freight**

For account of Seller Any savings in freight on account of packing (such packing being allowed by the contract or by these contract terms) shall be for account of the Seller.

### **6. Export Duty and Cess**

Payable by Seller Export duty and cess in whatever form on the date of shipment shall be borne by the Seller provided that if the Buyer and Seller have agreed to delay shipment, any additional export duty or cess by reason of the delayed shipment shall be borne by the Buyer.

## 7. Shipment Quantities

Shipment shall be in lots of not less than 5 tonnes, unless the contract calls for a smaller quantity.

Minimum lots  
5 tonnes

## 8. Shipping Documents

Shipping Documents shall include the Bill of Lading or Warehouse Receipt, Quality and Weight Guarantee, Weight Notes and Certificate of Origin, if required. If a Certificate of Origin is required by the Buyer the cost of same shall be borne by the Buyer.

## 9. Proof of Date of Shipment

- (a) The date on the Bill of Lading shall be proof of the date of shipment in the absence of conclusive evidence to the contrary.
- (b) A Bill of Lading dated in the month immediately following the contract month of delivery shall be accepted as proof of good delivery provided it contains a warranty endorsed on the face of the Bill of Lading and signed by the Ship's Owners or on their behalf by their authorised agent to the effect that the ship commenced loading in the port of shipment in the contract month of delivery and has been continuously loading therein until the date of shipment

Date on Bill of  
Lading

Bill of Lading  
for month after  
contract may  
be good  
delivery

## 10. Shut Out

If shipping or delivery instructions have been given by the Buyer and the rubber is shut out from shipment through no fault of the Seller, the Seller shall immediately inform the Buyer who shall nominate another steamer which permits loading within the contracted delivery month, or make other mutual arrangements.

Seller to inform  
Buyer of shut  
out

## 11. Loss in Weight

- (a) Any claim for loss in weight shall be lodged with the Seller or his representative in accordance with the provisions of Contract Term 2(d).
- (b) If the rubber is shipped under a further contract conditions of such further contract relating to loss in weight shall apply.

Claim to be in  
accordance with  
Contract Term  
2(d)

Conditions of  
further contract  
apply

General Rules  
if no further  
contract

- (c) In all other cases the Seller shall be responsible for all the loss in weight during transit excluding theft and pilferage :-
  - (i) exceeding ½% for all grades of Ribbed Smoked Sheets; and
  - (ii) exceeding 1% for all other types and grades provided that if the loss exceeds ½% but no more than 1% the Seller shall be responsible only for the excess loss over ½%.

Any loss in weight shall be invoiced back at buyer's contract price. Claims shall be supported by Llyods Agents Weight Certificate or Sworn Weighers Certificate agreed by the Seller's representative. Weighing shall take place in a public warehouse unless otherwise stipulated in the contract or, if in Australia, at a factory or bonded warehouse.

## 12. Arbitration

All disputes to  
be settled by  
Arbitration

- (a) Any controversy or claim arising out of or relating to this contract, or the breach, thereof, shall be settled by arbitration in accordance with Bye-law 7, PART C.

Disputes before  
shipment and  
after shipment  
to follow Bye-  
law 7, PART C

- (b) Subject to Bye-law 7, PART C, Section 2(a) such disputes arising prior to shipment and disputes arising after shipment other than a shipment made under a further contract or unless otherwise agreed, shall be arbitrated upon in Malaysia at such place as the arbitrator(s) shall decide, in accordance with Bye-law 7, PART C

## 13. Payment of Approved Claims

Claims approved by seller's representative at destination shall be settled and shall bear interest in like manner and shall be paid at the rate of exchange as if it were an award in an arbitration and the party failing to pay within 3 business days of presentation of a debit note accompanied by a duly authenticated copy of the approved claim shall be dealt with under Rule 22.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 2  
FORM No. 1  
FOB ORDINARY (NON-GUARANTEE) CONTRACT  
[Pursuant to Bye-law 8(b)]

.....  
(Date)

Contract No:

We have this day entered into the abovementioned contract for the following rubber (Hevea Braziliensis):

Quantity  
Type and Grade  
Price per kilo FOB  
Delivery Period  
Port of Shipment

Subject to the contract terms of the Malaysian Rubber Exchange FOB Ordinary (Non-Guarantee) Contract.

.....  
(Seller's/appointed agent's  
signature)

.....  
(Buyer's/appointed agent's  
signature)

.....  
.....  
.....  
(Name and address of Seller)

.....  
.....  
.....  
(Name and address of Buyer)

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 2  
FORM No. 2  
QUALITY AND WEIGHT GUARANTEE  
(Pursuant to Contract Term 8)

.....  
(Date)

Messrs. ....  
.....

Dear Sirs,

Quality and Weight\* Guarantee No. ....

We hereby guarantee the quality and weight of the undernoted shipment on arrival at port of destination, namely ..... in accordance with the terms and conditions of the Malaysian Rubber Exchange FOB Ordinary (Non-Guarantee) Contract and subject to the following :-

- (1) this rubber is to be sampled separately from any other shipment under the same leading marks.
- (2) any claim under this guarantee must be submitted to our representatives .....  
.....  
.....  
who reserve the right to refer the claim to arbitration.
- \*(3) we also guarantee the quality of the rubber to conform with the technical specifications of .....

Particulars of Shipment

Contract No: .....	Steamer : .....
Port of Shipment : .....	Bill of Lading Date : .....
Destination : .....	Quality : .....
Shipper's No:.....	Packer's No: .....
Marks & Nos : .....	Quantity: .....

Detailed Weight Note

Number of Packages	Number of bales/pallets*	Gross Weight		Tare Weight		Nett Weight	
		lbs.	kilos	lbs.	kilos	lbs.	kilos

Each bale/pallet\*

Gross Weight	lbs.	kilos
Tare Weight	lbs.	kilos
Nett Weight	lbs.	kilos

Yours faithfully,

.....

[\*Cancel where unnecessary]

**APPENDIX III**

**MRE CONTRACT NO. 3  
FOB ORDINARY (GUARANTEE) FOR RSS**

January 1998

**MRE CONTRACT NO. 3  
FOB ORDINARY (GUARANTEE) FOR RSS**

**TERMS**

Subject to Bye-law 4(b), contracts for the sale and purchase of rubber in the form set out herein and subject to these contract terms may be made by an Ordinary or Associate Member with another Ordinary or Associate Member.

This contract is linked to the Kuala Lumpur Commodity Exchange (KLCE) futures contract for rubber for any RSS grade agreed upon, from time to time, between the Corporation and the KLCE. Linkage with  
KLCE rubber  
futures contract

The Malaysian Derivatives Clearing House Berhad (MDCH) shall notify the Corporation not later than 1700 hours on the 3rd business day of the contracted delivery month of full particulars of such contracts entered into. Contract  
notification day

**1. Shipping Marks**

- (a) Shipping Marks shall be as instructed by the Buyer in accordance with Malaysian Government regulations. No other marks shall appear without buyer's consent but any slight variation in marks (other than quality marks) shall not avoid the contract.
- (b) Marking: Each bale to have RSS 1, 2, 3, 4, 5 in the respective colours of red, blue, black, violet and green marked on two sides together with the contract numbers, visibly marked. The marks should take up two-thirds of the face of the bale, in 8" letters and numbers for the grade and 6" letters and numbers of the contract in clear heavy lines. Markings of the individual supplier bale numbers should be displayed in 5" letters and numbers on the other two faces of the bales.

Markings  
"China Terms"

**2. Warranty of Quality and Claim**

The Seller warrants the quality described in the contract and also warrants the rubber free from mould in excess of such mould, if any, as is allowed in such quality description and the Seller is liable for

excess mould ascertained at destination not caused by damage in transit provided that the Seller shall be under no liability in respect of :-

- (a) his warranty of quality, if the rubber is not shipped to ultimate destination within 30 days from the date of the Seller's receipt of payment;
- (b) his warranty against excess mould, if the rubber is not shipped to ultimate destination within 7 days from the date of the Seller's receipt of payment, or in the event the Buyer opts for delayed shipment within 14 days from the last day of the contract month;
- (c) his warranty against excess mould, if the period of transit of the rubber, in case of shipment to Japan exceeds 22 days or in case of shipment to a destination in Europe exceeds 45 days or in case of shipment to a destination in the United States of America or Canada or elsewhere exceeds 52 days, counting from the date of the carrying ship's departure from the last port of call in Malaysia to the date of final discharge at destination; or
- (d) any claim unless such claim states the grounds of the complaint and is lodged with the Seller or his representative within 28 days of final discharge at destination, or within 7 business days after the expiration of the time limit specified in a further contract if a claim has been made in due time under such further contract.
- (e) All consignments of rubber shipped in terms of Agreement on arrival at any port in the People's Republic of China shall be subject to inspection by the China Commodity Inspection Bureau as to grade and quantity. If any shipped consignment of rubber shall be of an inferior grade or less than the quantity specified in the shipping documents and the particular sale contract, the Seller shall be rendered liable to reimburse the monetary claims in respect thereof as may be made and submitted by the said Buyer.

"Final discharge at destination" when used in these contract terms shall mean the date of discharge of the rubber on the quay or in the case of container shipment to Europe by direct transit Full Container Load (FCL) to a factory which is recognised by the Corporation, at the factory, or otherwise in accordance with the customs of port of discharge, but in the case of destination in South America the

expression shall mean final release of the rubber by customs provided that samples produced to an arbitrator or arbitrators in Kuala Lumpur in accordance with the provisions of Contract Term 21 are accompanied by an official document or official copy of an original document proving the date of such final release by customs.

### **3. Declaration of Port of Shipment**

The Seller shall have the option to :-

- (a) declare a definite port of shipment, or
- (b) exclude any particular port, or
- (c) make no declaration as to port of shipment whereby the Buyer's choice of port of shipment shall prevail.

Notwithstanding the nomination of a particular port by a seller or buyer, in cases where a steamer calls at more than one ocean port the Seller shall have the option of shipping from any port of call, provided the Buyer's interests are not thereby affected.

### **4. Instructions to Ship or Deliver to Warehouse**

- (a) Shipping or Delivery Instructions shall be given not later than the 15th day of each month (or if the 15th is not a business day, on the next business day). The Buyer shall give either Shipping or Delivery Instructions by sending such instructions in triplicate to the Corporation. Time limit for instructions
- (b) The Buyer shall issue shipping or delivery instructions for quantities not less than the contracted amount, provided that where instructions are given for shipment in containers, the Buyer, at his option, may require shipment of an increased quantity of rubber up to a maximum of 8% of the contracted amount, if this is necessary, to facilitate shipment by containers and the cost of any rubber so increased shall be based on the current month noon mean buyers' and sellers' price on the day following receipt of shipping instructions by the Corporation and notification thereof to the Seller.

- (c) In the case of rubber to be shipped by container/LASH vessel, instructions to deliver to container yard barge loading unit will not be acceptable unless vessel/mothership itself is scheduled to arrive during the month of shipment.
  - (d) If the Buyer gives shipping instructions requiring the Seller to ship the rubber to a designated port or ports in the People's Republic of China, the Seller shall cause such shipment to be effected on the Buyer's account provided that the Buyer pays a premium of 3 cents/kg. or such other sum as the Corporation may from time to time determine provided that a minimum of 3 months' notice shall be given for any such change.
  - (e) The Corporation shall be deemed to be the Seller's agent for the purpose of receiving Shipping or Delivery Instructions and shall forward one copy of the Instructions received to the Seller and in the event the Buyer opts for either delivery to his warehouse or delayed shipment one copy of the Instructions received shall be forwarded to the MDCH for it's further action, provided that in the case of delivery to warehouse, Delivery Instruction shall be only forwarded to Seller upon advice of the MDCH.
  - (f) If Shipping Instructions are given for a steamer which subsequently changes its loading date so that it does not permit loading within the contract period the Seller may deliver or ship to a warehouse in the declared Ocean Port provided that the Seller shall be liable to pay not more than the current arbitrary freight.
  - (g) If Delivery Instructions are given, the Seller shall deliver or ship to the warehouse, provided that the Seller shall be liable to pay not more than the current arbitrary freight to the declared Ocean Port if shipped from a port other than an Ocean Port.
  - (h) If Delivery Instructions are given for delivery to a warehouse in an Ocean Port other than the declared Ocean Port, the Seller shall deliver accordingly and freight on such delivery shall be for buyer's account except that if shipped from a port other than an Ocean Port, the Seller shall be liable to pay not more than the current arbitrary freight to the declared Ocean Port.
- Duties of Corporation on receiving Shipping Instructions
- If no available steamer Seller may deliver to warehouse
- Seller to comply with instructions to deliver to warehouse
- Seller not liable for freight if delivery required outside declared port

- (i) If a steamer by which the Seller is not entitled to refuse shipment is not available and the Seller does not deliver to a warehouse in accordance with the provisions of paragraph (g) hereof within the contract period the Seller shall notify the Corporation in accordance with Contract Term 18.

Seller to notify Corporation steamer not available within contract period

In this Contract Term and Contract Term 11 the expression "arbitrary freight" means the arbitrary freight of the Straits/New York Conference or the Far Eastern Freight Conference whichever is the higher.

Arbitrary freight defined

### **5. Time When Rubber to be Ready for Shipment or Delivery**

The rubber shall be ready for shipment or delivery not less than 4 business days from the date of registration of the Tender with the MDCH. The Buyer shall be entitled to require the Seller to ship or deliver by whichever date the rubber is first available during the contractual month and the Seller shall so effect shipment or delivery provided that there shall have been at least :-

- (i) in the case of conventional shipment, three business days between the date of receipt by the Seller from the Corporation of Shipping Instructions and the last day by which shipment or delivery is required in order to comply with the Buyer's instructions;
- (ii) in the case of container shipment, six calendar days between the date of receipt by the Seller from the Corporation of Shipping Instructions and the closing time for :-
  - (a) receiving container for FCL shipment; or
  - (b) receipt of cargo for stuffing into containers for LCL shipment.
- (iii) in the case of shipment under China Terms, six business days (irrespective of whether it is conventional or container shipment) between the date of receipt by the Seller from the Corporation of Shipping Instructions and the last day by which shipment is required in order to comply with the Buyer's instructions.

- (iv) in the case of delivery to Buyer's warehouse, three business days between the date of receipt by the Seller from the Corporation of Delivery Instructions and the last day by which delivery is required in order to comply with the Buyer's instructions.

## **6. Variation by Agreement**

Corporation to be notified (a) If the Buyer and the Seller agree to delay shipment or delivery or in any other manner to vary the procedure set out in Contract Terms 4, 5 or 9 they shall so notify the Corporation in the form (Form No: 2) provided for the purpose.

Corporation to advise MDCH and Corporation duties and liabilities cease thereafter (b) Upon receipt of such notification the Corporation shall advise the MDCH accordingly for its further action, and the Corporation shall thereafter have no further duties or liabilities in respect thereof.

Penalty for failure to notify Corporation (c) In the event of any such agreement being entered into for the variation in the dates :-  
(i) for lodging Shipping or Delivery Instructions;  
(ii) for shipment or delivery; or  
(iii) for the lodging of the final documents,

the Corporation shall be notified :-

- (1) by the due date for lodging such instruction;
- (2) by the business day next following the agreement; and
- (3) by the due date for lodging such documents or by the business day following the agreement if such be earlier,

and for failure to make such notification by the due date respectively specified the Management Committee may impose a fine not exceeding RM10,000 each on both the Buyer and the Seller. The disposal of all amounts collected under this Contract Term shall be at the discretion of the Management Committee.

## 7. Option for Warehouse Delivery

The Buyer shall have the option and the Seller shall agree to delivery of the rubber to the Buyer's warehouse and shall so notify the Corporation in the Delivery Instructions so required under Contract Term 4. The rubber so delivered shall be treated as having reached the final destination and the following additional terms shall apply :-

- (i) Sampling and weighing must be undertaken immediately upon delivery of the rubber at the Buyer's warehouse. The initial sampling shall be final. All expenses related to the sampling and weighing shall be borne by the Buyer. Initial Sampling final
- (ii) Loading, transportation and any other handling expenses up to the Buyer's warehouse shall be for the Seller's account provided that the total of such expenses shall not exceed the normal rate as if the rubber is to be transported to the declared ocean port. Unloading and all other handling expenses at the Buyer's warehouse shall be for the Buyer's account. Transportation and handling expenses
- (iii) Upon delivery of the rubber, the Buyer shall issue a Warehouse Receipt to the Seller against delivery on the rubber and this shall be without prejudice to claims arising from subsequent inspection, weighing and sampling. Warehouse receipt
- (iv) The rubber delivered to Buyer's warehouse shall, after satisfactory acceptance, be deemed for subsequent contractual and all other purposes to have been produced by the Buyer notwithstanding the retention of the symbols and marks of the original producer. Such producer shall be deemed as having discharged all liabilities in connection with the rubber in terms of its quality and its identity shall not be the basis for subsequent contractual commitments made by the Buyer. All documents of warranty shall be stamped: "Delivery to Warehouse on (date), producer's weight and quality warranty ceases in accordance with Contract Term 7(iv) of MRE Contract No 3". Original producer's liabilities end

## 8. Option for Delayed Shipment

The Buyer shall have the option and the Seller shall agree to delay shipment and the Buyer shall so notify the Corporation in the Shipping Instructions so required under Contract Term 4. The shipment shall only be delayed for a period of up to 14 days from the last day of the contract month and the following additional terms shall apply :-

Storage,  
insurance, etc.

- (i) The Seller shall store the rubber either in his own warehouse or in a warehouse in the declared port of shipment. Storage, insurance and any other incidental expenses incurred from the last day of the contract month up to the day of shipment shall be for the account of the Buyer, provided that the storage cost should not exceed the rate as charged by the port authorities in the declared port of shipment. In the case where the rubber is stored in a warehouse in the declared port of shipment, handling expenses from the warehouse to on board ship shall be for the Buyer's account.

Savings in  
export duty

- (ii) Any additional export duty or cess by reason of the delayed shipment shall be borne by the Buyer but the Buyer shall be permitted to only offset against expenses any savings in export duty or cess.

## 9. Documents and Payment

Final  
Documents to  
Corporation

- (a) The Seller shall within 8 business days from the date of the Bill of Lading or Warehouse Receipt or by the 25th business day after the registration of the Tender with the MDCH whichever is the earlier or within 8 business days from the date of Bill of Lading in the event the Buyer opts for delayed shipment :-
  - (i) send to the Buyer unsigned Bills of Lading made out in accordance with the Buyer's instructions or copy of Warehouse Receipt and other shipping documents and return any Currency Declaration Forms or Licence or both supplied by the Buyer; and

- (ii) send to the Corporation the final documents specifying the number of the contract. The sending of the final documents to the Corporation shall constitute notice that the Seller has effected delivery.
- (b) (i) The Seller shall notify the Corporation of the date of the Bill of Lading or Warehouse Receipt not later than the 7th business day from the date of such Bill of Lading or Warehouse Receipt and for the failure to make such notification the Management Committee may impose a fine not exceeding RM10,000 for each contract on the seller. The disposal of all amounts collected under this Contract Term shall be at the discretion of the Management Committee.
    - Seller to notify Corporation date of Bill of Lading
  - (ii) In the event of any failure by the Seller to make such notification, the 25th business day after the registration of the Tender with the MDCH shall be the due date on which such final documents shall be received notwithstanding it be afterwards discovered that the due date should have been earlier for the purpose of notification to the MDCH for any failure to present the final documents.
- (c) On receipt from the Seller of the final documents the Corporation shall immediately thereafter notify the MDCH that delivery has been effected in accordance with the Corporation's Rules and Bye-laws.
    - Corporation to notify MDCH that delivery has been effected
  - (d) By 1300 hours on the business day following the notification to the MDCH that delivery has been effected, the Corporation shall, unless otherwise advised by the MDCH, deliver the final documents to the Buyer or his appointed agent.
    - Corporation to deliver final document to Buyer

**10. Consequences of Failure to Perform Contract**

- (a) Failure to Supply Shipping or Delivery Instructions
  - Corporation to notify MDCH

If at the end of the last business day on which Shipping or Delivery Instructions should have been given by the Buyer the Corporation has not received such Instructions, the Corporation shall notify the MDCH for its further action.

Failure to ship  
Corporation to  
notify MDCH

(b) Failure to Ship

- (i) If at the end of the 25th business day after the date of registration of the Tender with the MDCH or of the 5th business day of the following month whichever is the earlier, the Seller has been given Instructions, and the Corporation has not received the final documents or notification of variation by agreement in accordance with Contract Term 6 or of a shut-out under Contract Term 18 the Corporation shall on the business day next following notify the MDCH for its further action.
- (ii) Notwithstanding the provisions of the preceding clause a Buyer who has given Shipping or Delivery Instructions in accordance with Contract Term 4 (a) may at any time lodge a complaint with the Corporation that the Seller has failed to comply with such Instructions and upon lodgement of such complaint shall forthwith forward a copy of the complaint to the Seller. The Corporation shall consider any reply received from the Seller and shall, on being satisfied that the Seller has failed to comply with such Instructions or if by the 3rd business day after the receipt of the complaint no reply has been received from the Seller, notify the MDCH accordingly for its further action.

Corporation to  
notify MDCH

(c) Failure to Present Final Documents.

If the Corporation has not received final documents by 1030 hours on the day on which such final documents should have been received, the Corporation shall immediately notify the MDCH accordingly for its further action.

### 11. Port of Shipment

Seller to  
declare port of  
shipment and  
pay arbitrary  
freight

The Seller may declare the port of shipment in accordance with Contract Term 3 and may ship from an Ocean Port or from any other port in Peninsular Malaysia. If the declared port is not an Ocean Port, the Seller shall also declare the Ocean Port at which the rubber is to be transhipped and shall be responsible for the cost of freight from

such port to the Ocean Port provided that he shall not be liable to pay more than the current arbitrary freight. In the event that the Seller does not declare the port of shipment he shall ship in accordance with the Buyer's instructions.

### **12. Freight**

The Seller may pay the freight from Ocean Port to destination on behalf of the Buyer and shall be entitled to be reimbursed by the Buyer immediately.

If ocean freight paid by Seller to be reimbursed

### **13. Excess Freight**

Any excess freight and/or any penalty for oversized bales imposed by any Freight Conference, shall be for account of the Seller.

For account of Seller

### **14. Export Duty and Cess**

Export duty and cess in whatever form on the date of shipment shall be borne by the Seller provided that if the Buyer and Seller have agreed to delay shipment in accordance with Contract Term 6 any additional export duty or cess by reason of the delayed shipment shall be borne by the Buyer.

Payable by Seller

### **15. Shipment Quantities**

Shipment shall be in lots of not less than 5 tonnes, unless the contract calls for a smaller quantity.

Minimum lots 5 tonnes

### **16. Shipping Documents**

Shipping Documents shall include the Bill of Lading or Warehouse Receipt, Quality and Weight Guarantee, Weight Notes and Certificate of Origin, if required. If a Certificate of Origin is required by the Buyer the cost of same shall be borne by the Buyer.

### **17. Proof of Date of Shipment**

(a) The date on the Bill of Lading shall be proof of the date of shipment in the absence of conclusive evidence to the contrary.

Date on Bill of Lading

Bill of Lading for month after contract may be good delivery

- (b) A Bill of Lading dated in the month immediately following the contract month of delivery shall be accepted as proof of good delivery provided it contains a warranty endorsed on the face of the Bill of Lading and signed by the Ship's Owners or on their behalf by their authorised agent to the effect that the ship commenced loading in the port of shipment in the contract month of delivery and has been continuously loading therein until the date of shipment.

### **18. Shut Out**

Corporation to notify MDCH of Shut out

If Shipping or Delivery Instructions have been given by the Buyer in accordance with Contract Term 4(a) and the rubber is shut out from shipment through no fault of the Seller, the Seller shall immediately inform the Buyer who shall nominate another steamer which permits loading within the time limits of such contract terms, or make other mutual arrangements, failing which the Corporation shall upon receipt of notification from the Seller of such shut out, notify the MDCH accordingly for its further action.

### **19. Contract Fees**

Every Ordinary and Associate Member who or on whose behalf a Guarantee Trader signs a contract shall for every time he so signs pay to the Corporation a fee at such rate as may from time to time be fixed by the Management Committee.

### **20. Loss in Weight**

Claim to be in accordance with Contract Term 2(d)

- (a) Any claim for loss in weight shall be lodged with the Seller or his representative in accordance with the provisions of Contract Term 2(d) or if in the case of container shipment to Europe by direct transit Full Container Load (FCL) to a factory which is recognised by the Corporation, at the factory.

Conditions of further contract apply

- (b) If the rubber is shipped under a further contract conditions of such further contract relating to loss in weight shall apply.

- (c) In all other cases the Seller shall be responsible for all the loss in weight during transit excluding theft and pilferage :- General Rules if no further contract
- (i) exceeding ½% for all grades of Ribbed Smoked Sheets; and
  - (ii) exceeding 1% for all other types and grades provided that if the loss exceeds ½% but no more than 1% the Seller shall be responsible only for the excess loss over ½%.

Any loss in weight shall be invoiced back at buyer's contract price. Claims shall be supported by Llyods Agents Weight Certificate or Sworn Weighers Certificate agreed by the Seller's representative. Weighing shall take place in a public warehouse unless otherwise stipulated in the contract or, if in Australia, at a factory or bonded warehouse.

### **21. Arbitration**

- (a) Any controversy or claim arising out of or relating to this contract, or the breach, thereof, shall be settled by arbitration in accordance with Bye-law 7, PART C. All disputes to be settled by Arbitration
- (b) Subject to Bye-law 7, PART C, Section 2(a) such disputes arising prior to shipment and disputes arising after shipment, other than a shipment made under a further contract or unless otherwise agreed, shall be arbitrated upon in Malaysia at such place as the arbitrator/s shall decide, in accordance with Bye-law 7, PART C. Disputes before shipment and after shipment to follow Bye-law 7, PART C

### **22. Payment of Approved Claims**

Claims approved by Seller's representative at destination shall be settled and shall bear interest in like manner and shall be paid at the rate of exchange as if it were an award in an arbitration and the party failing to pay within 3 business days of presentation of a debit note accompanied by a duly authenticated copy of the approved claim shall be dealt with under Rule 22.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 3  
FORM No. 1  
FOB ORDINARY (GUARANTEE) CONTRACT FOR RSS  
[Pursuant to Bye-law 8(c)]

.....  
(Date)

Contract No:

We have this day entered into the abovementioned contract for the following rubber (Hevea Braziliensis):

Quantity  
Type and Grade  
Price per kilo FOB  
Delivery Period  
Port of Shipment

Subject to the contract terms of the Malaysian Rubber Exchange FOB Ordinary (Guarantee) Contract for RSS.

.....  
(Seller's/appointed agent's  
signature)

.....  
(Buyer's/appointed agent's  
signature)

.....  
.....

.....  
.....

.....  
(Name and address of Seller)

.....  
(Name and address of Buyer)

.....  
.....  
.....

.....  
.....  
.....

(Name and address of Seller's  
Guarantee Trader)

(Name and address of Buyer's  
Guarantee Trader)

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 3  
FORM No. 2  
VARIATION BY AGREEMENT  
[Pursuant to Contract Term 6(a)]

.....  
(Date)

FOB Ordinary (Guarantee) Contract for RSS No .....

In accordance with Contract Term 6(a) of Contract No. 3 we  
..... and  
....., the  
Seller and Buyer on the above Contract, hereby notify you that we have  
agreed to delay shipment or delivery and to vary the procedure set out in the  
contract terms.

We understand that we, the Seller and Buyer, shall be jointly and  
severally responsible for performing our contract as agreed and that the  
Corporation shall have no further duties or liabilities in respect thereof.

.....  
(Signature)

.....  
(Signature)

Date : .....

Date : .....

.....  
(Signature)  
(Malaysian Rubber Exchange)

Members who enter into an arrangement covered by Contract Term 6  
must complete this form in triplicate and forward all copies to the  
Corporation.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 3  
FORM No. 3  
QUALITY AND WEIGHT GUARANTEE  
(Pursuant to Contract Term 16)

.....  
(Date)

Messrs. ....  
.....

Dear Sirs,

Quality and Weight\* Guarantee No:.....

We hereby guarantee the quality and weight of the undernoted shipment on arrival at port of destination, namely ..... in accordance with the terms and conditions of the Malaysian Rubber Exchange FOB Ordinary (Guarantee) Contract for RSS and subject to the following :-

- (1) this rubber is to be sampled separately from any other shipment under the same leading marks.
- (2) any claim under this guarantee must be submitted to our representatives ..... who reserve the right to refer the claim to arbitration.
- \* (3) we also guarantee the quality of the rubber to conform with the technical specifications of .....

Particulars of Shipment

Contract No: .....	Steamer : .....
Port of Shipment : .....	Bill of Lading Date : .....
Destination : .....	Quality : .....
Shipper's No: .....	Packer's No: .....
Marks & Nos : .....	Quantity: .....

Detailed Weight Note

Number of Packages	Number of bales/pallets*	Gross Weight		Tare Weight		Nett Weight	
		lbs.	kilos	lbs.	kilos	lbs.	kilos

Each bale/pallet\*

Gross Weight	lbs.	kilos
Tare Weight	lbs.	kilos
Nett Weight	lbs.	kilos

Yours faithfully,

.....

[\*Cancel where unnecessary]

**APPENDIX IV**

**MRE CONTRACT NO. 4  
FOB ORDINARY (GUARANTEE) FOR SMR**

January 1998

**MRE CONTRACT NO. 4  
FOB ORDINARY (GUARANTEE) FOR SMR**

**TERMS**

Subject to Bye-law 4(b), contracts for the sale and purchase of rubber in the form set out herein and subject to these contract terms may be made by an Ordinary or Associate Member with another Ordinary or Associate Member.

This contract is linked to the Kuala Lumpur Commodity Exchange (KLCE) futures contract for rubber for any SMR grade agreed upon, from time to time, between the Corporation and the KLCE

Linkage with  
KLCE rubber  
futures contract

Only the International Contract for Technically Specified Rubbers (TSRs) shall be a further contract to this contract. Wherever there is any conflict between the terms and conditions of this contract and the terms and conditions of the International Contract for TSRs current at the time of contract, those of the International Contract for TSRs shall prevail.

Further  
Contract

The Malaysian Derivatives Clearing House Berhad (MDCH) shall notify the Corporation not later than 1700 hours on the 3rd business day of the contracted delivery month of full particulars of such contracts entered into.

Contract  
notification day

**1. Shipping Marks**

Shipping Marks shall be as instructed by the Buyer in accordance with Malaysian Government regulations. No other marks shall appear without Buyer's consent but any slight variation in marks (other than quality marks) shall not avoid the contract.

**2. Quality**

Quality to conform to the latest published technical specification for SMR specified under the SMR Scheme at time of contract.

**3. Sampling**

In accordance with the provisions of the International Contract for TSRs as follows :-

- (a) The sample or samples drawn in support of a claim on the quality of the Rubber shall be cut with a clean knife through the entire block normal to the surface of largest area and unless the piece is to be tested immediately, it shall be placed in an air tight container, which shall be immediately sealed and kept sealed until it is tested. Such sample or samples may be drawn by a recognised sampler or jointly by Buyer's and Seller's representatives either at the Port of Destination or at the consumer's factory, or at a point otherwise mutually agreed upon between Buyer and Seller.
- (b) If the Seller has not named his representative, the labels of the samples shall be signed and sealed by Buyer in conjunction with an independent recognised sampler and shall be accepted by the Seller.

Where there are sub-marks, Seller shall be entitled by giving notice on the final declaration form to call for separate sampling, provided such sampling is possible, of each sub-mark. Additional expense in sampling, if any, to be for account of Seller.

- (c) Any shipment may be sampled for quality either in respect of individual blocks or for the whole Bill of Lading or container quantity.
  - (i) If sampling is in respect of individual blocks a sample of Rubber weighing between 600 grams and 1,000 grams shall be taken from the block.
  - (ii) (A) If sampling is in respect of the Bill of Lading or container quantity as a whole, and is in single blocks, then 10% of the total number of blocks, subject to a minimum of two blocks and a maximum of 20 blocks, shall be taken at random.
    - (B) For sampling of palletized units, the samples shall be taken at random from 10% of the units (to the next higher whole number if necessary) with a minimum of one block from each of two separate units. Not more than four (4) blocks may be taken from any one unit sampled.
    - (C) In each instance a piece weighing not less than 150 grams shall be taken from each sampled block as in (a) above. When testing for quality all such pieces shall be blended and homogenised together by the analyst agreed upon and tested in duplicate.

- (iii) In testing for volatile matter only, a sample weighing 150 grams may be taken as a continuous piece from any part of the bale and need not be sampled as specified under (a). For rejection of a palletized consignment a minimum of 4 samples, (weighing 150g each), from 4 separate blocks from at least 2 units should be drawn and tested individually. The average results of the testing on these samples for volatile matter shall be used to determine the acceptance of the consignment.

#### **4. Claims**

In accordance with the provisions of the International Contract for TSRs as follows :-

- (a) Claims in respect of the Technical Specification
  - (i) In the event of claim failing amicable settlement, samples shall be tested by an analyst agreed between Buyer and Seller. This analyst shall be one of the Regional Test Laboratories. If the analysis is to be final and binding on other parties then their agreement must also be obtained. In the case where this agreement is not possible then the Co-ordinating Test Laboratory shall perform the analysis.

In instances where the Buyer in the consuming country is unable to accept the results of the Co-ordinating Laboratory, the National Standards Laboratory of that country may undertake the analysis provided that the National Standards Laboratory considers itself equipped and experienced to undertake the analysis. Should the result from the National Standards Laboratory differ from the results arrived at by the Regional Laboratory and/or Co-ordinating Laboratory, the matter shall be referred to the Corporation.

For the purpose of this clause the Regional Test Laboratories and the Co-ordinating Test Laboratory are those currently appointed and recognised by the International Rubber Association.

- (ii) If the quality of any block, Bill of Lading or container quantity is below the Technical Specification, then that block, Bill of Lading or container quantity shall be deemed to be a non-bona fide shipment, and Buyers shall have the option to claim rejection of that block, Bill of Lading or container quantity as the case may be. This option is to be exercised within five business days after receipt of the analyst's report by the Buyer.

(b) Claims in respect of Packaging Condition

If any block, Bill of Lading or container quantity does not conform to the Packaging Specifications Clause of this Contract, such Rubber shall be surveyed by recognised surveyors as agreed between Buyers and Sellers or jointly between Buyer's and Seller's representatives. The Survey Report to include a Clause relating to external damage to packing.

Where the Report shows that condition is caused by factors not related to handling in transit then such Rubber shall be accepted and, failing an amicable settlement, an allowance shall be decided by arbitration at the Corporation or the appropriate Regional Centre of Arbitration, as the case may be, provided Arbitrators are of the opinion that the rubber as shipped was a bona fide fulfillment of the contract. If Arbitrators decide that any block, Bill of Lading or container quantity is a non-bona fide shipment in respect of packaging condition, Buyers shall have the option to claim rejection of that block, Bill of Lading or container quantity as the case may be. This option is to be exercised within five business days after receipt of the Award.

(c) Claims - General

(i) Each Bill of Lading shall be treated as a separate contract in respect of conventional/break bulk shipments. However, where shipment is effected in containers, each container load shall be treated as a separate contract.

(ii) Sample or samples in support of the claim must be produced by Buyer to the Seller or his authorised representative, within 75 days of the date of discharge at the port of destination named in the contract. This period may be extended by agreement between the parties or at the discretion of the Arbitrators, if the delay is due to circumstances over which the final Buyer has no control. The cost of sampling, supervision, analysis, despatch of samples promptly by air and all reasonable expenses and charges of Buyer's representative shall be paid by the Seller if a claim is sustained except in the case where such charges equal or exceed the amount of the Award when Arbitrators shall have the discretion to award these charges against either party.

- (iii) Final notice in writing of the claim, stating the grounds of the complaint must be given by Buyer to the Seller or his authorised representative within five business days of the expiry of the period stipulated above for the production of sample or samples. Any claim lodged prior to the production of sample or samples will, if not so finalised, become null and void.
- (iv) Factory in this Contract shall include premises used for storage occupied by the proprietor of the factory for the purpose of the factory whether or not the same shall be in the curtilage of the factory.
- (v) Seller further agrees that the destination for the purpose of inspecting the goods shall be deemed, if Buyer so wishes, to be the factory or factories instead of the ports named in the contract, provided always that the cost of transport and insurance from steamer to factory shall be for Buyer's account. While in the factory, the goods shall be at factory Buyer's risk.
- (vi) In the event of rejection the Seller shall, within ten business days of the receipt of the approved analyst's report or the Award, notify the Buyer by cablegram, naming the warehouse to which the Rubber is to be returned together with any instructions regarding sampling, weighing and insurance. The Buyer shall carry out such instructions without undue delay and also insure the goods in transit. Buyer shall be entitled to debit Seller with the cost of returning the goods to warehouse, including insurance in transit. The cost of receiving the Rubber into warehouse and of working and sampling shall be for Seller's account.

Where goods are delivered to a factory or factories without passing through a warehouse, or when part of the goods is delivered to warehouse and the remainder is delivered to a factory or factories without passing through a warehouse neither the onward movement of the goods from the port nor the breaking of bulk by distribution of one contract quantity between two or more factories shall be deemed an acceptance by the Buyer so as to cause the Buyer to lose thereby his right of claim or rejection.

- (d) A full detailed report of claims in respect of weight and all arbitrations should be submitted to the Corporation.

## 5. Packaging

Packaging shall be in Standard Pallets fit for export to all destinations as defined from time to time by the Corporation. Faulty and dirty packing is not permitted.

## 6. Declaration of Port of Shipment

The Seller shall have the option to :-

- (a) declare a definite port of shipment, or
- (b) exclude any particular port, or
- (c) make no declaration as to port of shipment whereby the Buyer's choice of port of shipment shall prevail.

Notwithstanding the nomination of a particular port by a Seller or Buyer, in cases where a steamer calls at more than one ocean port the Seller shall have the option of shipping from any port of call, provided the Buyer's interest are not thereby affected.

## 7. Instructions to Ship or Deliver to Warehouse

Time limit for instructions

- (a) Shipping or Delivery Instructions shall be given not later than the 15th day of each month (or if the 15th is not a business day, on the next business day). The Buyer shall give Shipping or Delivery Instructions by sending such instructions in triplicate to the Corporation.
- (b) In the case of rubber to be shipped by container/LASH vessel, instructions to deliver to container yard barge loading unit will not be acceptable unless vessel/mothership itself is scheduled to arrive during the month of shipment.

Duties of Corporation on receiving Shipping Instructions

- (c) The Corporation shall be deemed to be the Seller's agent for the purpose of receiving Shipping or Delivery Instructions and shall forward one copy of the Instructions received to the Seller and in the event the Buyer opts for either delivery to his warehouse or delayed shipment one copy of the instructions received shall be forwarded to the MDCH for its further action, provided that

in the case of delivery to warehouse Delivery Instructions shall only be forwarded to the Seller upon advice of the MDCH.

- |  |   |
|--|---|
| (d) If Shipping Instructions are given for a steamer which subsequently changes its loading date so that it does not permit loading within the contract period the Seller may deliver or ship to a warehouse in the declared Ocean Port. | If no available steamer Seller may deliver to warehouse                   |
| (e) If Shipping Instructions are given for shipment in an Ocean Port other than the declared Ocean Port, the Seller shall deliver accordingly. Freight and any other additional expenses shall be for Buyer's account.                   | Seller not liable for freight if shipment required outside declared Port  |
| (f) If a steamer by which the Seller is not entitled to refuse shipment is not available within the contract period the Seller shall notify the Corporation in accordance with Contract Term 21.   | Seller to notify Corporation steamer not available within contract period |

#### **8. Time When Rubber to be Ready for Shipment or Delivery**

The rubber shall be ready for shipment or delivery not less than 4 business days from the date of registration of the Tender with the MDCH. The Buyer shall be entitled to require the Seller to ship or deliver by whichever date the rubber is first available during the contractual month and the Seller shall so effect shipment provided that there shall have been at least :-

- (i) in the case of conventional shipment, three business days between the date of receipt by the Seller from the Corporation of Shipping Instructions and the last day by which shipment is required in order to comply with the Buyer's instructions;
- (ii) in the case of container shipment, six calendar days between the date of receipt by the Seller from the Corporation of Shipping Instructions and the closing time for :-
  - a. receiving container for FCL shipment; or
  - b. receipt of cargo for stuffing into containers for LCL Shipment.

- (iii) in the case of delivery to Buyer's warehouse, three business days between the date of receipt by the Seller from the Corporation of Delivery Instructions and the last day by which delivery is required in order to comply with the Buyer's instructions.

### **9. Variation by Agreement**

Corporation to be notified (a) If the Buyer and the Seller agree to delay shipment or in any other manner to vary the procedure set out in Contract Terms 7, 8, or 12 they shall so notify the Corporation in the form (Form No. 2) provided for the purpose.

Corporation to advise MDCH and Corporation duties and liabilities cease thereafter (b) Upon receipt of such notification the Corporation shall advise the MDCH accordingly for its further action, and the Corporation shall thereafter have no further duties or liabilities in respect thereof.

Penalty for failure to notify Corporation (c) In the event of any such agreement being entered into for the variation in the dates :-

- (i) for lodging Shipping Instructions;
- (ii) for shipment; or
- (iii) for the lodging of the final documents,

the Corporation shall be notified :-

- (1) by the due date for lodging such instruction;
- (2) by the business day next following the agreement; and
- (3) by the due date for lodging such documents or by the business day following the agreement if such be earlier,

and for failure to make such notification by the due date respectively specified the Management Committee may impose a fine not exceeding RM10,000 each on both the Buyer and the Seller. The disposal of all amounts collected under this Contract Term shall be at the discretion of the Management Committee.

## 10. Option for Warehouse Delivery

The Buyer shall have the option and the Seller shall agree to delivery of the rubber to the Buyer's warehouse and shall so notify the Corporation in the Delivery Instructions so required under Contract Term 7. The rubber so delivered shall be treated as having reached the final destination and the following additional terms shall apply :-

- |   |  |
|---|--|
| (i) Sampling and weighing must be undertaken immediately upon delivery of the rubber at the Buyer's warehouse. The initial sampling shall be final. All expenses related to the sampling and weighing shall be borne by the Buyer.  | Initial sampling<br>final                  |
| (ii) Loading, transportation and any other handling expenses up to the Buyer's warehouse shall be for the Seller's account provided that the total of such expenses shall not exceed the normal rate as if the rubber is to be transported to the declared Ocean Port. Unloading and all other handling expenses at the Buyer's warehouse shall be for the Buyer's account.   | Transportation<br>and handling<br>expenses |
| (iii) Upon delivery of the rubber, the Buyer shall issue a Warehouse Receipt to the Seller against delivery on the rubber and this shall be without prejudice to claims arising from subsequent inspection, weighing and sampling.  | Warehouse<br>receipt                       |
| (iv) The rubber delivered to Buyer's warehouse shall, after satisfactory acceptance, be deemed for subsequent contractual and all other purposes to have produced by the Buyer notwithstanding the retention of the symbols and marks of the original producer. Such producer shall be deemed as having discharged all liabilities in connection with the rubber in terms of technical specifications and its identity shall not be the basis for subsequent contractual commitments made by the Buyer. All test certificates and documents of warranty shall be stamped : "Delivered to Warehouse on <u>  (date)  </u> , producer's weight and quality warranty ceases in accordance with Contract Term 10 (iv) of MRE Contract No 4". | Original<br>producer's<br>liabilities end  |

## 11. Option for Delayed Shipment

The Buyer shall have the option and the Seller shall agree to delay shipment and the Buyer shall so notify the Corporation in the Shipping Instructions so required under Contract Term 7. The

shipment shall only be delayed for a period of up to 14 days from the last day of the contract month and the following additional terms shall apply :-

Storage,  
insurance, etc.

- (i) The Seller shall store the rubber either in his own warehouse or in a warehouse in the declared port of shipment. Storage, insurance and any other incidental expenses incurred from the last day of the contract month up to the day of shipment shall be for the account of the Buyer, provided that the storage cost should not exceed the rate as charged by the port authorities in the declared port of shipment. In the case where the rubber is stored in a warehouse in the declared port of shipment, handling expenses from the warehouse to on board ship shall be for the Buyer's account.

Savings in  
export duty

- (ii) Any additional export duty or cess by reason of the delayed shipment shall be borne by the Buyer but the Buyer shall be permitted to only offset against expenses any savings in export duty or cess.

## 12. Documents and Payment

Final  
Documents to  
Corporation

- (a) The Seller shall within 8 business days from the date of the Bill of Lading or Warehouse Receipt or by the 25th business day after the registration of the Tender with the MDCH whichever is the earlier or within 8 business days from the date of Bill of Lading in the event the Buyer opts for delayed shipment :-

- (i) send to the Buyer unsigned Bills of Lading made out in accordance with the Buyer's instructions or copy of Warehouse Receipt and other shipping documents and return any Currency Declaration Forms or Licence or both supplied by the Buyer; and
- (ii) send to the Corporation the final documents specifying the number of the contract. The sending of the final documents to the Corporation shall constitute notice that the Seller has effected delivery.

Seller to notify  
Corporation  
date of Bill of  
Lading

- (b) (i) The Seller shall notify the Corporation of the date of the Bill of Lading or Warehouse Receipt not later than the 7th business day from the date of such Bill of Lading or Warehouse Receipt and for failure to make such

notification the Management Committee may impose a fine not exceeding RM10,000 for each contract on the seller. The disposal of all amounts collected under this Contract Term shall be at the discretion of the Management Committee.

- (ii) In the event of any failure by the Seller to make such notification, the 25th business day after the registration of the Tender with the MDCH shall be the due date on which such final documents shall be received notwithstanding it be afterwards discovered that the due date should have been earlier for the purpose of notification to the MDCH for any failure to present the final documents.
- (c) On receipt from the Seller of the final documents the Corporation shall immediately thereafter notify the MDCH that delivery has been effected in accordance with the Corporation's Rules and Bye-laws. Corporation to notify MDCH that delivery has been effected
- (d) By 1300 hours on the business day following the notification to the MDCH that delivery has been effected, the Corporation shall, unless otherwise advised by the MDCH, deliver the final documents to the Buyer or his appointed agent. Corporation to deliver final documents to buyer

### **13. Consequences of Failure to Perform Contract**

- (a) Failure to Supply Shipping or Delivery Instructions  
If at the end of the last business day on which Shipping or Delivery Instructions should have been given by the Buyer the Corporation has not received such Instructions, the Corporation shall notify the MDCH for its further action. Corporation to notify MDCH
- (b) Failure to Ship
  - (i) If at the end of the 25th business day after the date of registration of the Tender with the MDCH or of the 5th business day of the following month whichever is the earlier, the Seller has been given Instructions, and the Corporation has not received the final documents or notification of variation by agreement in accordance with Contract Term 9 or of a shut-out under Contract Term 21 the Corporation shall on the business day next following notify the MDCH for its further action. Failure to ship Corp to notify MDCH

- (ii) Notwithstanding the provisions of the preceding clause a buyer who has given Shipping Instructions in accordance with Contract Term 7(a) may at any time lodge a complaint with the Corporation that the Seller has failed to comply with such Instructions and upon lodgement of such complaint shall forthwith forward a copy of the complaint to the Seller.

The Corporation shall consider any reply received from the Seller and shall, on being satisfied that the Seller has failed to comply with such Instructions or if by the 3rd business day after the receipt of the complaint no reply has been received from the Seller, notify the MDCH accordingly for its further action.

(c) Failure to Present Final Documents

Corporation to notify MDCH

If the Corporation has not received final documents by 1030 hours on the day on which such final documents should have been received, the Corporation shall immediately notify the MDCH accordingly for its further action.

**14. Port of Shipment**

Seller to declare port of shipment

The Seller may declare the port of shipment in accordance with Contract Term 6 and may ship from an Ocean Port or from any other port in Peninsular Malaysia. If the declared port is not an Ocean Port, the Seller shall also declare the Ocean Port at which the rubber is to be transhipped and shall be responsible for the cost of freight from such port to the Ocean Port. In the event that the Seller does not declare the port of shipment he shall ship in accordance with the Buyer's instructions.

**15. Freight**

If ocean freight paid by Seller to be reimbursed

The Seller may pay the freight from Ocean Port to destination on behalf of the Buyer and shall be entitled to be reimbursed by the Buyer immediately.

**16. Excess Freight**

For account of Seller

Any excess freight and/or any penalty for oversized pallets imposed by any Freight Conference, shall be for account of the Seller.

### **17. Export Duty and Cess**

Export duty and cess in whatever form on the date of shipment shall be borne by the Seller provided that if the Buyer and Seller have agreed to delay shipment in accordance with Contract Term 9 any additional export duty or cess by reason of the delayed shipment shall be borne by the Buyer.

Payable by  
Seller

### **18. Shipment Quantities**

Shipment shall be in lots of not less than 19.2 tonnes, unless the contract calls for a smaller quantity.

Minimum lots  
19.2 tonnes

### **19. Shipping Documents**

Shipping Documents shall include the Bill of Lading or Warehouse Receipt, Quality and Weight Guarantee, Weight Notes and Certificate of Origin, if required. If a Certificate of Origin is required by the Buyer the cost of same shall be borne by the Buyer.

### **20. Proof of Date of Shipment**

- (a) The date on the Bill of Lading shall be proof of the date of shipment in the absence of conclusive evidence to the contrary.
- (b) A Bill of Lading dated in the month immediately following the contract month of delivery shall be accepted as proof of good delivery provided it contains a warranty endorsed on the face of the Bill of Lading and signed by the Ship's Owners or on their behalf by their authorised agent to the effect that the ship commenced loading in the port of shipment in the contract month of delivery and has been continuously loading therein until the date of shipment.

Date on Bill of  
Lading

Bill of Lading  
for month after  
contract may  
be good  
delivery

### **21. Shut Out**

If Shipping Instructions have been given by the Buyer in accordance with Contract Term 7(a) and the rubber is shut out from shipment through no fault of the Seller, the Seller shall immediately inform the Buyer who shall nominate another steamer which permits loading within the time limits of such contract terms, or make other mutual arrangements, failing which the Corporation shall upon receipt of notification from the Seller of such shut out, notify the MDCH accordingly for its further action.

Corporation to  
notify MDCH  
of Shut Out

## **22. Contract Fees**

Every Ordinary and Associate Member who or on whose behalf a Guarantee Trader signs a contract shall for every time he so signs pay to the Corporation a fee at such rate as may from time to time be fixed by the Management Committee.

## **23. Weighing**

In accordance with the provisions of the International Contract for TSRs as follows :-

The Buyer shall have the option to weigh the Rubber at port of destination or in consumer's factory :-

- (a) Any difference so ascertained between shipped and landed weights (excluding theft, pilferage and damage in transit) shall be for Seller's account and be invoiced or invoiced back at contract price.

Landed weights, if taken, shall be certified by a sworn weigher, or similar authority (weights of samples to be included). These weights shall be furnished to the Seller within 75 days of date of discharge whether the Rubber is weighed at port of discharge or in factory.

- (b) For the purpose of ascertaining landed weights each Bill of Lading shall be treated as a separate contract in respect of conventional/break bulk shipments. However, where shipment is effected in containers, each container load shall be treated as a separate contract.

In the case of blocks shipped individually 10% of the blocks shall be weighed. Nett landed weights shall be obtained by weighing the blocks so taken after the tare has been removed.

In the case of shipments in palletized units 10% (to the nearest higher whole number) of the units shall be unpacked and the Rubber nett weighed after removal.

Weighing shall normally be in quantities of 200 kilogrammes (or 450 pounds) in any one weighing operation and weights are to be recorded to the nearest 200 grams or ½ (half) pound. Larger or smaller quantities may be weighed provided weights are recorded to the same proportionate degree of accuracy.

If a weight deficiency is found and it exceeds ½% of the invoiced weight the cost of weighing (and of reassembling the palletised units where necessary) shall be borne by the Seller, otherwise it shall be borne by the Buyer.

- (c) Any claims for loss in weight shall be lodged with the Seller or his representative in accordance with the provisions of Contract Term 4(c).

#### **24. Arbitration**

- (a) Any controversy or claim arising out of or relating to this contract, or the breach, thereof, shall be settled by arbitration in accordance with Bye-law 7, PART C. All dispute to be settled by Arbitration
- (b) Subject to Bye-law 7, PART C, Section 2(a) such disputes arising prior to shipment and disputes arising after shipment, other than a shipment made under a further contract or unless otherwise agreed, shall be arbitrated upon in Malaysia at such place as the arbitrator(s) shall decide, in accordance with Bye-law 7, PART C. Disputes before shipment and after shipment to follow Bye-law 7, PART C

#### **25. Payment of Approved Claims**

Claims approved by Seller's representative at destination shall be settled and shall bear interest in like manner and shall be paid at the rate of exchange as if it were an award in an arbitration and the party failing to pay within 3 business days of presentation of a debit note accompanied by a duly authenticated copy of the approved claim shall be dealt with under Rule 22.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 4  
FORM No. 1  
FOB ORDINARY (GUARANTEE) CONTRACT FOR SMR  
[Pursuant to Bye-law 8(d)]

.....  
(Date)

Contract No:

We have this day entered into the abovementioned contract for the following rubber (Hevea Braziliensis):

Quantity  
Type and Grade  
Price per kilo FOB  
Delivery Period  
Port of Shipment

Subject to the contract terms of the Malaysian Rubber Exchange FOB Ordinary (Guarantee) Contract for SMR.

.....  
(Seller's/appointed agent's  
signature)

.....  
(Buyer's/appointed agent's  
signature)

.....  
.....

.....  
.....

.....  
(Name and address of Seller)

.....  
(Name and address of Buyer)

.....  
.....

.....  
.....

.....  
(Name and address of Seller's  
Guarantee Trader)

.....  
(Name and address of Buyer's  
Guarantee Trader)

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 4  
FORM No. 2  
VARIATION BY AGREEMENT  
[Pursuant to Contract Term 9(a)]

.....  
(Date)

FOB Ordinary (Guarantee) Contract for SMR No .....

In accordance with Contract Term 9(a) of Contract No: 4 we  
..... and  
.....,  
the Seller and Buyer on the above Contract, hereby notify you that we have  
agreed to delay shipment and to vary the procedure set out in the contract  
terms.

We understand that we, the Seller and Buyer, shall be jointly and  
severally responsible for performing our contract as agreed and that the  
Corporation shall no further duties or liabilities in respect thereof.

.....  
(Signature)

.....  
(Signature)

Date : .....

Date : .....

.....  
(Signature)  
Malaysian Rubber Exchange

Members who enter into an arrangement covered by Contract Term 9  
must complete this form in quadruplicate and forward all copies to the  
Corporation.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 4  
FORM NO. 3  
QUALITY AND WEIGHT GUARANTEE  
(Pursuant to Contract Term 19)

.....  
(Date)

Messrs. ....  
.....

Dear Sirs,

Quality and Weight\* Guarantee No. ....

We hereby guarantee the quality and weight of the undernoted shipment on arrival at port of destination, namely ..... in accordance with the terms and conditions of the Malaysian Rubber Exchange FOB Ordinary (Guarantee) Contract for SMR and subject to the following :-

- (1) this rubber is to be sampled separately from any other shipment under the same leading marks.
- (2) any claim under this guarantee must be submitted to our representatives .....  
.....  
.....  
who reserve the right to refer the claim to arbitration.
- \*(3) we also guarantee the quality of the rubber to conform with the technical specifications of .....

Particulars of Shipment

Contract No : ..... Steamer : .....  
Port of Shipment : ..... Bill of Lading Date : .....  
Destination : ..... Quality : .....  
Shipper's No : ..... Packer's No: .....  
Marks & Nos : ..... Quantity: .....

Detailed Weight Note

Number of Packages	Number of bales/pallets*	Gross Weight		Tare Weight		Nett Weight	
		lbs.	kilos	lbs.	kilos	lbs.	kilos

Each bale/pallet\*

Gross Weight	lbs.	kilos
Tare Weight	lbs.	kilos
Nett Weight	lbs.	kilos

Yours faithfully,

.....

[\*Cancel where unnecessary]

**APPENDIX V**

**MRE CONTRACT NO. 5  
LOCAL DELIVERY FOR PRESERVED RUBBER LATEX**

July 1998

**MRE CONTRACT NO. 5**  
**LOCAL DELIVERY FOR PRESERVED RUBBER LATEX**

**TERMS**

Contracts for the sale and purchase of preserved rubber latex in the form set out therein and subject to these contract terms may be made between members or between members and non-members.

**1. Marking**

Marks where applicable shall be as instructed by the Buyer in accordance with Malaysian Government regulations. No other marks shall appear without Buyer's consent but any slight variation in marks (other than quality marks) shall not void the contract.

**2. Contract Quantity**

- (a) Contracts made under these contract terms shall be for specified quantities only and delivery quantities suitable for the transport of Latex in full drums or bulk. Disputes arising over variances between specified quantities and quantities actually delivered shall be settled between Buyer and Seller or, failing such agreement, subject to arbitration.
- (b) The word "ton" shall mean a metric ton or "tonne" of 1,000 kilogrammes wet weight.
- (c) (i) For deliveries in drums, no excess or deficiency between contracted and delivered weights shall be greater than ½% of the contract quantity or any portion of a contract. The excess or deficiency over ½% up to an including 2% shall be invoiced or invoiced back as the case may be, at the contract price. Should the excess or deficiency be greater than 2% the whole of the excess or deficiency over the contract quantity or any portion thereof calculated in round weights shall failing agreement between Buyer and Seller be invoiced or invoiced back as the case may be at a price fixed by arbitration.

- (ii) For deliveries in bulk, no excess or deficiency between contracted and delivered weights still be greater than 1% of the contract quantity or any portion of a contract. The excess or deficiency over 1% up to and including 2% or 5 wet tonnes whichever is the lower shall be invoiced or invoiced back as the case may be at the contract price. Should the excess or deficiency be greater than 2% or 5 wet tonnes whichever is the higher (except for single delivery load contracts where the excess or deficiency shall be on a 2% basis only) the whole of the excess or deficiency over the contract quantity or any portion thereof calculated in round weights shall failing agreement between Buyer and Seller be invoiced or invoiced back as the case may be at a price fixed by arbitration.

### **3. Weighing**

- (a) The Latex is to be invoiced at nett transported weights and weighing shall be on a per delivery load basis and :-
  - (i) for deliveries in drums, should the difference in transported and delivered weights (excluding theft, pilferage and damage in transit) exceed ½% but not over 2% this difference in weight in excess of ½% but not over 2% shall be invoiced or invoiced back as the case may be at the contract price. The nett delivered weights to be estimated by weighing gross 10% of the drums and deducting the marked tare. Weighing shall normally be on per drum basis in any one weighing operation and weights are to be recorded to the nearest 200 grammes.
  - (ii) for deliveries in bulk, should the difference in transported and delivered weights (excluding theft, pilferage and damage in transit) exceed 1% but not over 2% this difference in weight in excess of 1% but not over 2% shall be invoiced or invoiced back as the case may be at the contract price. Weights are to be recorded to the nearest kilogramme.

PROVIDED ALWAYS any difference exceeding 2% shall be invoiced or invoiced back as the case may be at a price to be mutually agreed between Buyer and Seller or failing which the price will be referred to Arbitration.

- (b) In the event of the Buyer claiming an adjustment by reason of the nett delivered weights differing from the nett transported weights, as provided for in the foregoing Contract Term 3(a), he shall so notify the Seller within forty-eight (48) hours of the receipt of the Latex and :-
  - (i) for deliveries in drums, provide within seven (7) calendar days of the receipt of the Latex, a copy of the nett delivered weights certified by both Buyer's and Seller's representatives.
  - (ii) for deliveries in bulk, provide within four (4) calendar days of the receipt of the Latex, a copy of the nett delivered weights certified by both Buyer's and Seller's representatives.
- (c) If a weight deficiency is found and it exceeds ½% or 1% as the case may be of the invoiced weight the cost of weighing shall be borne by the Seller, otherwise it shall be borne by the Buyer.
- (d) In the event of the Seller disputing the Buyer's claim for adjustment by reason of the nett delivered weights differing from the nett transported weights, as provided for in the foregoing Contract Terms 3(a) and (b):-
  - (i) the Seller shall within forty-eight (48) hours of the receipt of the Buyer's claim request the Latex be weighed by a third party to be mutually agreed between Buyer and Seller.
  - (ii) the latex shall be weighed by the third party so agreed in the presence of both Buyer's and Seller's representatives and the weights so recorded shall be final.
  - (iii) if a weight deficiency is ascertained to justify the Buyer's claim for adjustment the cost of weighing by the third party including any incidental expenses thereto shall be borne by the Seller. If no weight deficiency is found such cost and expenses shall be borne by the Buyer.

PROVIDED ALWAYS THAT the Latex for which the weights are under dispute remains untempered in the original container or containers as delivered.

#### **4. Insurance and Transportation**

Terms of insurance and transportation shall be as agreed between Buyer and Seller at the time of the contract.

#### **5. Cess**

- (a) All cesses which are due upon delivery shall be collected and paid by the Seller in accordance with the Cess Order.
- (b) In the event of any delay on delivery, any additional cess that may fall due by reason of the aforesaid delay, shall be paid by the party requesting for the aforesaid delay.

#### **6. Delivery**

- (a) Terms and schedule of delivery shall be as agreed between Buyer and Seller at the time of contract.
- (b) A copy of the Delivery Order shall accompany each lorry or vehicle together with a copy of the preliminary analysis report. A copy of the final analysis report shall be delivered to the Buyer.
- (c) For the purpose of delivery, the working hours per working day shall be 8.30 a.m. to 5.00 p.m. on weekdays and 8.30 a.m. to 1.00 p.m. on the day preceding a weekend. No delivery shall take place on weekends or Gazetted Public Holidays unless the parties so agree. In like manner, the parties may agree to extend or vary the working hours. Any demurrage incurred shall be for the account of the Buyer. Demurrage in this context shall mean to be for any detention of a lorry or vehicle beyond the normal time period for the discharge of the Latex.

#### **7. Packing**

Where the Latex is to be delivered in drums, it shall be in new DRUMS containing about 205/206 kilos, nett wet weight, each.

## 8. Quality

- (a) Technical specifications shall be in accordance with ISO 2004 or ASTM 1076 or as agreed at the time of the Contract.
- (b) The Dry Rubber Content to be 60 per cent by weight (unless otherwise agreed between Buyer and Seller and specifically stated herein) which figure shall be taken to mean that any excess over 60% shall not be charged to the Buyer and the Buyer shall have no claim against the Seller for any deficiency below 60 per cent and down to 59.8 per cent. In the case of Latex sold with a DRC other than 60% the Seller shall not be liable for a claim if the deficiency is proportionately no greater than that permitted for 60% DRC Latex.
- (c) If the DRC on a per delivery load basis is below 59.8% but not below 59% a percentage allowance shall be made by Seller to Buyer, which allowance shall be that proportion of the contract price equivalent to the amount by which the DRC falls short of the invoiced DRC. If the DRC is below 59% the Buyer shall have the option to be exercised only after analysis has been made as laid down in the subsequent paragraph, of rejecting the Latex and claiming default or of accepting it with an allowance, provided that the Latex has not been removed from the warehouse or factory called for in the contract. In the event of the Buyer deciding to accept the Latex with an allowance there shall be subtracted from the established DRC a figure which shall be the amount by which it falls short of 59% and this shall be regarded as the DRC for the purpose of calculating the percentage allowance to be given by Seller to Buyer.

This allowance shall be that proportion of the contract price equivalent to the amount by which the notional DRC, as arrived at above, falls short of the invoiced DRC, expressed as a percentage of the invoiced DRC.

- (d) The DRC to be ascertained to the nearest 0.01% by the Latex Coagulation Method of the ISO by an approved independent analyst mutually agreed by Seller and Buyer.
- (e) The Latex to be completely fluid, free from putrefactive odour, reasonably white in colour and commercially free from extraneous matter. In the event of a claim arising, from any cause whatsoever, failing an amicable settlement, it shall be referred to arbitration.

## 9. Sampling

- (a) Such sample or samples shall be drawn by an approved sampler or jointly by Buyer's and Seller's representatives at a point as agreed in the Contract. If the Seller has not named his representative, the labels of the samples shall be signed and sealed by Buyer in conjunction with an independent recognised sampler and shall be accepted by the Seller.
- (b) Where delivery is in drums :
  - (i) Drums representing 10 per cent of the delivery subject to a minimum of one, shall be selected at random.
  - (ii) Latex in individually selected drums to be adequately blended/homogenised in accordance with the latest ISO method or the ASTM method, as agreed at the time of contract.
  - (iii) One half litre shall be drawn from each of these drums and bulked.
  - (iv) From the quantity so bulked, five samples, each of not less than one half litre shall be drawn into separate bottles (of non-absorbent inner surface chemically resistant to Latex). Each bottle shall be filled full, sealed air-tight and labelled, stating the distinctive numbers of the drums opened. (In the event of sampled drums being less than five in number, adequate Latex shall be taken to provide five samples).
- (c) Where delivery is in bulk :
  - (i) Separate sampling shall be undertaken for every individual container.
  - (ii) Samples shall be drawn in accordance with the latest ISO method or ASTM method, as agreed at the time of contract.
  - (iii) From the composite sample so combined and blended, five samples, each not less than one half litre shall be drawn into separate bottles (of non-absorbent inner surface chemically resistant to Latex). Each bottle shall be filled full, sealed air-tight and labelled, stating the distinctive numbers and/or marks of the container(s).

- (d) Two samples shall be retained by Buyer's representative and three samples shall be retained by Seller's representative, each to send one sample to an approved Independent Analyst, mutually agreed by Seller and Buyer, or the Rubber Research Institute of Malaysia, the remaining to be kept for use in the event of arbitration and/or appeal against arbitration award.

## **10. Claims**

- (a) In the event of a claim, other than a claim for rejection, failing amicable settlement, samples shall be tested by an approved Independent Analyst, as mutually agreed by Buyer and Seller, or The Rubber Research Institute of Malaysia. If this analysis is to be final and binding on other parties then their agreement must also be obtained.
- (b) If the quality is not in accordance with the contractual specification as confirmed by an approved Independent Analyst or The Rubber Research Institute of Malaysia, then Buyer shall accept the Latex with a fair allowance to be decided upon by arbitration, provided Arbitrator(s) are of the opinion that the Latex as delivered was bona fide fulfillment of the Contract. Should Arbitrator(s) decide that the Latex as delivered was non-bonafide, they shall fix an allowance and Buyer, if he has so claimed, shall have the option, to be exercised within seven (7) calendar days from the issue of the Award, of rejecting the Latex and claiming default or accepting it with the allowance as the Arbitrator(s) shall so award.
- (c) Sealed sample or samples in support of the claim must be produced by Buyer to the Seller or his authorised representative within fourteen (14) calendar days of the date of delivery. The cost of sampling, supervision, analysis, despatch of samples promptly and all reasonable expenses and charges of Buyer shall be paid by the Seller if a claim is sustained except in the case where such charges equal or exceed the amount of the Award when Arbitrator(s) shall have the discretion to award those charges against either party.
- (d) Final notice in writing of the claim, stating the grounds of the complaint must be given by Buyer to the Seller or his authorised representative within seven (7) calendar days of the expiry of the period stipulated above for the production of sample or samples. Any claim

lodged prior to the production of sample or samples will, if not so finalised become null and void. If a claim still remains in dispute at the end of a period of six (6) weeks from the date of delivery, it shall be the responsibility of the Buyer to submit it to arbitration for settlement. Failure to take this step within fourteen (14) calendar days of the expiry of this period shall render the claim null and void.

- (e) The Seller further agrees that the destination for the purpose of inspecting the goods shall be deemed to be the place of delivery named in the Contract. While in the place of delivery, the goods shall be at Buyer's risk.
- (f) Place of delivery in this Contract shall mean factory and include premises used for storage occupied by the proprietor of the factory for the purpose of the factory whether or not the same shall be the cartilage of the factory.
- (g) For deliveries in drum only, in the event of the Buyer claiming rejection the Seller may within seven (7) calendar days request that a second sample or samples be taken in the presence of Buyer's and Seller's representatives, as per Contract Term 8, and shall be tested by the Rubber Research Institute Malaysia. Should Seller not name his representative at the time of requesting the second samples, then the labels of the samples shall be signed and sealed by Buyer in conjunction with an independent recognised sampler and shall be accepted by the Seller. This result shall be final and binding on all parties.

The cost of second sampling, supervision, analysis, discharge of samples promptly and all reasonable expenses and charges of Buyer shall be paid by the Seller if a claim for rejection is sustained.

- (h) In the event of final rejection the Seller shall within seven (7) calendar days of the receipt of the approved analyst's report or the Award, notify the Buyer by cablegram/telex/fax naming the warehouse to which the Latex is to be returned together with any instructions regarding sampling, weighing and insurance. The Buyer shall carry out such instructions without undue delay and also insure the Latex in transit. Buyer shall be entitled to debit Seller with the cost of returning the

drums to warehouse, including insurance in transit. The cost of receiving the Latex into warehouse and of working and sampling shall be for Seller's account.

- (i) Where the Latex is delivered to a factory or factories without passing through a warehouse, or when part of the consignment is delivered to warehouse and remainder is delivered to a factory or factories without passing through a warehouse neither the onward movement of the goods nor the breaking of quantity by distribution of one contract quantity between two or more factories shall be deemed an acceptance by the Buyer so as to cause the Buyer to lose thereby his right of claim or rejection.

### **11. Frustration of Contract**

Should Seller be prevented from fulfilling his obligations hereunder during the period stipulated herein by reason of act of God, act of sovereign, government or parliament, consequences of hostilities or warlike operations, blockade, political or civil disturbances or insurrections, riots, strikes, lock-outs, combination of workmen or any other cause beyond his control which he could not reasonably have been expected to anticipate and such cause or causes continue for a period of twelve calendar months from the commencement thereof, any obligations hereunder relating to deliveries the fulfillment of which is thus prevented and payment therefore shall be cancelled and no claim shall lie by either party against the other in respect of loss or damage arising out of such cancellation.

Should such cause or causes continue for a period of less than twelve calendar months any outstanding obligations hereunder shall be fulfilled as soon as possible after such cause(s) cease(s) to operate but in no event later than six calendar months after such cessation.

### **12. Arbitration**

Any controversy or claim arising out of or relating to this contract, or the breach, thereof, shall be settled by arbitration in accordance with Bye-law 7, PART C.

## GLOSSARY

The word "**container**" used in reference to delivery in bulk shall mean tanks, tank cars, lorry tanks, railway tanks or flexi-bags.

A "**recognised sampler**" is one which is included in the List of Recognised Samplers maintained by the Secretariat of the International Rubber Association.

An "**approved independent analyst**" is one which is included in the List of Approved Independent Analysts maintained by the Secretariat of the International Rubber Association.

MALAYSIAN RUBBER EXCHANGE  
CONTRACT No. 5  
FORM No. 1  
LOCAL DELIVERY CONTRACT FOR PRESERVED RUBBER LATEX  
[Pursuant to Bye-law 8(e)]

.....  
(Date)

Messrs. ....  
.....

Contract No : .....

We have this day sold to you/bought from you\* subject to the terms of the Rules, Bye-laws and Contract Terms of the Malaysian Rubber Exchange the undermentioned Latex.

Type of Latex  
Quality  
Quantity  
Delivery Period  
Price  
Packing  
Place of Delivery  
Terms of Payment

Other terms and conditions :

.....  
Signature and Name of Company

We hereby confirm the above Contract.

.....  
Signature and Name of Company

\*Delete where applicable.