

RSPO Complaints and Appeals Procedure

Final Draft – October 2016

[Note from the RSPO Secretariat: *Please take note that the Integrated Complaints System Version 1.1 and the Independent Appeals Mechanism Version 1.2, post the public consultation exercise were subjected to an extensive review by Solicitors appointed by the RSPO. The following draft is the result of their review process. Substantive amendments were deemed necessary to the earlier versions. We urge all stakeholders particularly those who have reviewed and commented on the previous versions of these document to read a 'Rationale and Justification' document prepared by the said Solicitors. This is to assist towards understanding the reasoning behind key changes that were made to the earlier draft versions.]*

1. PURPOSE AND SCOPE

1.1. The purpose of this Procedure for Complaints and related Appeals is:

- 1.1.1. to provide the procedure for dealing with complaints arising from a breach of the RSPO Scheme Documents as stipulated in section 4.2 and appeals against the decision of the Complaints Panel in relation to such Complaints;
- 1.1.2. to ensure that any alleged breaches of the standards and procedures in the RSPO Scheme Documents as prescribed in Section 4 of this document are handled and resolved in a fair, impartial and transparent manner; and
- 1.1.3. the procedures set forth in relation to complaints and appeals are guided by the principles relating to accessibility, efficiency, impartiality, accountability, and independence.

1.2. This procedure shall apply to all complaints first received by RSPO on or after 1st _____ 2016. Complaints received by the RSPO Secretariat prior to this date shall be dealt with under the RSPO complaints procedure that was previously in effect.

2. DEFINITION OF KEY TERMS

2.1. **Appeal:** formal application for the review of a Complaints Decision by a party to a Complaint who is dissatisfied with it;

2.2. **Appeals Panel:** a panel consisting of RSPO members and/or non-members that is constituted under section 13.3 to review an appeal filed by an Appellant;

2.3. **Appellant:** the party to the Complaint who lodges a Notice of Appeal pursuant to section 13.2

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- 2.4. **Bilateral Engagement**: is a general descriptor for any process by which the parties to a complaint attempt to resolve their differences through direct discussions (i.e. without involving a third party as mediator). Bilateral engagement may involve, but is not limited to, accessing a company's own complaints handling procedures as a means of attempting to resolve the complaint.
- 2.5. **Case Tracker**: an RSPO database for tracking complaints, which provides a public interface via the RSPO website
- 2.6. **Complainant**: person, organization, or their representative filing a complaint.
- 2.7. **Complaint**: formal allegation (other than in an appeal) of a breach of one or more of the RSPO Scheme documents as defined in section 4.2
- 2.8. **Complaints Decision**: a final decision made by the RSPO Complaints Panel in relation to a complaint received under the RSPO Complaints System.
- 2.9. **Complaints Panel**: a panel comprising of RSPO members constituted to hear complaints as stipulated in section 6.
- 2.10. **Conflict of interest (COI)**: Situation in which, because of other activities or relationships, impartiality in performing a function or investigation is or could be compromised.
- 2.11. **Consensus**: lack of sustained objection.
- 2.12. **Dispute Settlement Facility (DSF)**: a mechanism within RSPO that facilitates mediation between mutually consenting parties to resolve disputes.
- 2.13. **Impartiality**: actual and perceived presence of objectivity. Element made up of several components such as objectivity, independence and identification and management Conflict of Interest
- 2.14. **Independence**: being free of bias and conflict of interest.
- 2.15. **Interim Measure**: a temporary instruction issued by the RSPO Secretariat at the direction of the Complaints Panel to a member as part of an initial response to an urgent issue raised in a complaint. May include a cease and desist order (where strictly applicable) or a 'stop work' order.
- 2.16. **Respondent**: in the case of a Complaint, the party against whom the Complaint is made and in the case of an appeal against the Complaints Decision the party in whose favor the Complaints Decision is made.

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2.17. **Sanction:** a punitive measure issued by the RSPO Secretariat at the direction of the Complaints Panel or the Appeals Panel as the case may be against the Respondent.

3. **GENERAL ROLE OF THE RSPO SECRETARIAT IN RELATION TO COMPLAINTS & APPEALS**

3.1. The RSPO Secretariat is responsible for coordination, administration, and communications of all aspects of the RSPO scheme. With respect to the RSPO Complaints and Appeals Procedure, the Secretariat's responsibilities are to:

- 3.1.1. Receive, acknowledge, and initiate the procedures set out in this document upon receipt of a complaint or appeal;
- 3.1.2. Facilitate the process of dealing with complaints according to the procedures set out in this document including facilitating the appointment of Complaints Panel Members, Appeals Panel Members and investigators;
- 3.1.3. Monitor progress towards complaint resolution according to procedures set out in this document;
- 3.1.4. Ensure timely and appropriate communications about complaint handling.
- 3.1.5. Regularly review and evaluate the efficacy of the RSPO Complaints and Appeals Procedure; and
- 3.1.6. To facilitate interpretation and the translation services if required

3.2. **Accessibility to the Complaints System and these Procedures**

- 3.2.1. The RSPO Complaints and Appeals Procedure is accessible to any stakeholder with an interest in sustainable palm oil production and to any person aggrieved by actions that tantamount to a breach of the Scheme Documents as stipulated in section 4.2.
- 3.2.2. RSPO Secretariat shall ensure that all stakeholders and complainants have fair and reasonable access to information about the RSPO Complaints and Appeals Procedure and guidance on how to submit complaints publicly accessible via the RSPO website.
- 3.2.3. The RSPO Secretariat shall render reasonable assistance to the parties to a Complaint that encounter an access barrier to the RSPO Complaints and Appeals Procedure (e.g. due to language or literacy). In this regard, the Parties to the Complaint may contact the RSPO Secretariat for further assistance.

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3.3. Communications by the RSPO Secretariat

- 3.3.1. The Secretariat periodically makes public announcements about Complaints and Appeals on the RSPO's website and shall regularly update the status of the Complaint or Appeal as the case may be.
- 3.3.2. RSPO Secretariat shall take all reasonable steps to ensure that information relating to Complaints and Appeals are always presented in a neutral way, without prejudice towards any of the parties involved.
- 3.3.3. In all communications, the RSPO Secretariat will be respectful about the need to maintain some information as confidential (e.g. in order to protect a complainant who is fearful of repercussions).
- 3.3.4. The RSPO Secretariat shall make announcements of the following events on its case tracker within five (5) working days of the information becoming available to it.
 - 3.3.4.1. resolution of a complaint whether determined by the Complaints Panel , mediated by the DSF or through bilateral engagement
 - 3.3.4.2. the Complaints Decision by the Complaints Panel;
 - 3.3.4.3. the Appeals Decision by the Appeals Panel;
 - 3.3.4.4. a change in the status of an RSPO member as a result of any sanctions imposed
 - 3.3.4.5. a change in the accreditation status of a certification body as a result of any sanction imposed
 - 3.3.4.6. pertinent information as to the change in the status of the Accreditation Body.

4. **GROUNDS FOR COMPLAINT**

- 4.1. The grounds for a complaint rests upon an assertion of facts relating to the activities and or conduct of the Respondent that gives rise to the inference that the Respondent is in breach of one or more of the provisions of the RSPO scheme Documents as defined in Section 4.2.
- 4.2. The grounds for all complaints shall be in relation to a breach of the provisions of one or more of the provisions of the RSPO scheme documents namely, :
 - 4.2.1. RSPO Statutes and By-laws;

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- 4.2.2. RSPO Principles & Criteria for Sustainable Palm Oil Production (P&C), including all guidance, indicators associated with the adoption and implementation of the P&C;
- 4.2.3. RSPO accepted or endorsed National Interpretation of the P&C (where applicable);
- 4.2.4. RSPO Code of Conduct;
- 4.2.5. RSPO New Plantings Procedure;
- 4.2.6. RSPO Certification Systems;
- 4.2.7. RSPO Rules established for Trade and Traceability and for Communication and Claims; and
- 4.2.8. any other documents that the Board of Governors of RSPO may from time to time direct be added to this list.

5. **COMPLAINT SUBMISSION AND RECEIPT THEREOF**

5.1. **Submission of Complaints to the Secretariat**

- 5.1.1. Complaints shall be submitted to the Secretariat, who serves as the sole entry point for the submission of complaints, using the RSPO complaints submission form. To be deemed complete the submission shall contain the following information:
 - 5.1.1.1. Name and contact details of the party submitting the complaint and whether the complaint is made in a representative capacity for any other person or community.
 - 5.1.1.2. as to whether confidentiality is required as to the identity of the Complainant;
 - 5.1.1.3. Party against whom the complaint is being raised;
 - 5.1.1.4. A clear and concise summary of the key facts and chronology of events of the alleged breach
 - 5.1.1.5. Evidence in support of the Complaint including where available documentation, correspondence with Respondent or other relevant person, photos, maps, coordinates and other relevant material
 - 5.1.1.6. contain an agreement to adhere to the terms and provisions of this procedure;
 - 5.1.1.7. identify the preferred working language.
- 5.1.2. Where possible Complainants are to state, the remedies that they seek including any specific corrective actions that they wish the Respondent to take.

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5.1.3. Where the Secretariat rejects a Complaint because it is incomplete, the Secretariat shall inform the Complainant of the reasons for rejection.

5.1.4. Complainants are not precluded from re-submitting complete Complaints.

5.1.5. The Secretariat shall acknowledge receipt of complaints within five (5) working days of submission.

5.2.Initial Diagnosis

5.2.1. If the Complaint is complete the Secretariat shall make an initial diagnosis of the Complaint by determining whether the allegations of fact made by the Complainant in the complaint if proven to be true will constitute a breach of one or more of the provisions of the RSPO Scheme Documents. An initial diagnosis by the Secretariat is not to be regarded as a determination of the Complaint itself.

5.2.2. If the Secretariat requires further information or clarification in order to make an initial diagnosis, the Secretariat may request the information or clarification from the Complainant in writing and provide a time limit for a response. In the event the Complainant fails to respond to the Secretariat's request the Secretariat shall make a second request in writing specifying a time limit for the Complainant to respond.

5.2.3. The Secretariat shall in the following circumstances reject the submission of the complaint :-

5.2.3.1. If the allegations of facts stated in the complaint, even if proven, would not constitute a breach of the provisions of the RSPO Scheme Documents;

5.2.3.2. If the Complainant fails to respond to the Secretariat's request for information or clarification in accordance with Clause 6.2.2;

5.2.3.3. When the Secretariat rejects a submission because it is incomplete or fails in the initial diagnosis, the Secretariat may recommend to the aggrieved party that they contact a qualified representative to assist them with their complaint submission.

5.3.Acceptance and Secretariat's Duties Upon Acceptance

5.3.1. Once it has been determined that a submission fulfills the criteria set forth above (Section 5.2.1), the Secretariat shall proceed to formally accept the complaint.

5.3.2. Within 5 days of its decision to accept the Complaint , the Secretariat shall:

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- 5.3.2.1. notify the Respondent that a complaint has been lodged against it;
 - 5.3.2.2. the notification shall include a request from the Secretariat for a response to the allegations made in the Complaint from the Respondent within 14 working days;
 - 5.3.2.3. notify the Complainant of the formal acceptance by the Secretariat
 - 5.3.2.4. provide both the Complainant and Respondent with information about this Procedure and outline the next steps in the process; and
 - 5.3.2.5. log the complaint in the Case Tracker.
- 5.4. The Complainant may notify the Secretariat of the Complainant's intention to withdraw their complaint at any time. When a complaint is withdrawn, the Secretariat shall notify the Respondent of such withdrawal, record the case as 'closed' and update the case tracker accordingly.
- 5.5. The Secretariat shall as soon as practicable and in any event within thirty (30) days of formally accepting the Complaint cause a Complaints Panel to be constituted in accordance with the procedures set out in section 6.
- 5.6. The Secretariat shall consult with the parties to the complaint and confirm the working language before appointing the Complaints Panel.
- 5.7. Secretariat shall upon acceptance of the Complaint formally advise the parties that a Complaints Panel will be constituted to hear the complaint; but nevertheless shall advise the parties that the Complaint may be resolved and or brought to a conclusion anytime by :-
 - 5.7.1.bilateral engagement between the Parties; and
 - 5.7.2.where applicable, mediation through DSF;
- 5.8. In cases where the parties indicate to the Secretariat that they choose to attempt to resolve the complaint through bilateral engagement or mediation, the Secretariat shall duly inform the Complaints Panel of the same in order to enable the Complaints Panel to make a decision whether to proceed or adjourn the hearing of the Complaint.
- 5.9. In addition to executing its responsibilities specified above the Secretariat shall, in the following circumstances, also refer the Complaint to the relevant Certification Body and Accreditation Body to be dealt with in accordance with the provisions of the RSPO Certification Systems:-

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- 5.9.1. where the Complaint is against an RSPO member in relation to a breach of the provisions of the RSPO Scheme Documents by a certified facility and the Complaint is within the competence of the Certification Body to deal with in accordance with the provisions of the RSPO Certification Systems the Complaint shall be referred to the Certification Body; and
 - 5.9.2. where the Complaint is against a Certification Body in relation to a breach of the provisions of the RSPO Scheme Documents and the Complaint is within the competence of the relevant Accreditation Body to deal with in accordance with the provisions of the RSPO Certification Systems the Complaint shall be referred to the Accreditation Body.
- 5.10. In cases where the Secretariat has referred the Complaint to the Certification Body or the Accreditation Body as provided for in 5.9 the Secretariat shall inform the Parties of the following;
- 5.10.1. That the Complaint has been referred to the Certification Body or Accreditation Body;
 - 5.10.2. that notwithstanding referral as provided for in section 5.9.1, the Complaints Panel shall have the power to proceed with its investigations; and
 - 5.10.3. that in relation to Complaints referred to in section 5.9.1 the Complaints Panel may, if it finds in favor of the complainant, issue sanctions as it is empowered to do under this procedure in addition to any sanction imposed by the Certification Body against the Respondent.

6. CONSTITUTING THE COMPLAINTS PANEL

- 6.1. The members of the Complaints Panel shall be constituted from the list of potential panel members maintained by the Secretariat.
- 6.2. The Secretariat shall endeavor to ensure that the list of potential Panel members consist of stakeholders who are RSPO members from various categories and sectors who have knowledge, expertise and/or experience in the following areas:-
 - 6.2.1. natural resource management and environmental issues;
 - 6.2.2. human rights and labor issues;
 - 6.2.3. the RSPO scheme and its associated documents; and
 - 6.2.4. environmental auditing and eco-labelling schemes.

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- 6.3. The Complaints Panel membership criteria and responsibilities are defined in the document Terms of Reference for the RSPO Complaints Panel.
- 6.4. The Secretariat shall take all practicable steps to ensure that the Complaints Panel members have the relevant expertise and experience in the issues arising in the Complaint.
- 6.5. Prior to accepting appointment, each prospective panel member shall make written declarations as may from time to time be required by the Secretariat, but in any case must make the following declarations:-
 - 6.5.1. that he does not have any professional, financial or personal relationship with the parties or their subsidiaries or their personnel that would result in bias or prejudice or otherwise impact his judgment as a Panel member; and
 - 6.5.2. that should a conflict arise in the course of serving as a member of the Complaints Panel he shall immediately declare it to the Secretariat;
- 6.6. Prior to accepting appointment, each prospective Panel member shall enter into a non-disclosure agreement with the RSPO Secretariat.
- 6.7. The quorum of the Complaints Panel shall be in the odd number consisting of either three or five members lead by the Chairperson.
- 6.8. Unless otherwise decided by the Complaints Panel, in a unanimous vote, the identities of the Panel members shall be confidential.

7. POWERS OF THE COMPLAINTS PANEL

7.1. The Complaints Panel shall have the following powers:-

- 7.1.1. to manage the conduct of the investigations and determine the most suitable way to hear arguments from the parties to the Complaint, including but not limited to oral hearings, private meetings, conference calls, or requests for written statements and in this regard issue such procedural directives as are necessary to bring about a fair and expeditious conclusion of the Complaint. In this regard the Complaints Panel shall have the power to delegate to the Secretariat any or all of its powers to make and give procedural directives to the parties;
- 7.1.2. to reject the Complaint if the Complainant fails to comply with its directions;
- 7.1.3. to direct the Secretariat to appoint independent investigators or experts in any relevant field and to consider their reports;

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- 7.1.4. to determine the terms of reference of the independent investigators and or experts;
- 7.1.5. to conduct site visits;
- 7.1.6. to interview relevant persons and witnesses and to direct that the Secretariat not disclose the identity of these persons and witnesses where anonymity is requested;
- 7.1.7. to direct the Secretariat to take urgent action and issue interim measures as prescribed in section 9.
- 7.1.8. to adjourn investigations into the Complaint on such terms as it deems fit;
- 7.1.9. to consider any information from or decision of the Certification Body and or the Accreditation Body in respect of Complaints referred to them;
- 7.1.10. to proceed with its investigations notwithstanding any decision made by the Certification Body and or the Accreditation Body in respect of Complaints referred to them.
- 7.1.11. to make adverse inferences against any Party that impedes the investigations or unreasonably refuses to cooperate with it;
- 7.1.12. to declare the investigations closed before beginning deliberations;
- 7.1.13. to reopen closed investigations where fresh evidence that would impact its decision has emerged. Provided that this power shall not be exercised after the Complaints Panel has delivered its final decision;
- 7.1.14. to direct the Secretariat to impose any one or more of the following sanctions on the Respondent found to be in breach of the provisions of the RSPO Scheme Documents :-
 - 7.1.14.1. the issuance of a warning;
 - 7.1.14.2. a direction to execute corrective actions within a specified time, seize, desist (where applicable) and stop work orders;
 - 7.1.14.3. suspension of RSPO membership either for a specified period or until corrective actions are taken;
 - 7.1.14.4. confirm any sanction issued by the Certification Body pursuant to its powers under the RSPO Certification Systems as appropriate sanction against the Respondent and consequently declare that no further sanction need be issued;

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7.1.14.5. termination of RSP0 membership;

7.1.14.6. where appropriate specify the consequences of the Respondents failure to comply with the sanctions imposed; and

7.1.15. to stay the implementation or enforcement of the sanctions pending an appeal to the Appeals Panel.

8. DUTIES OF THE SECRETARIAT IN RELATION TO THE COMPLAINTS PANEL & INVESTIGATIONS

8.1. In addition to the duties specified elsewhere in this document the Secretariat shall be responsible to carry out the duties specified in this section.

8.2. The Secretariat shall act as the Secretary to the Complaints Panel.

8.3. The Secretariat shall compile all information received relating to the complaint and appraise the Complaints Panel of the same, including, but not limited to:

8.3.1. All information contained in the original complaint submission (i.e. complaints form, associated communications) and any additional evidence or clarification that was received from the Complainant

8.3.2. The response from the Respondent including any evidence that was submitted to rebut the allegations of the Complainant;

8.3.3. Any information arising from processes associated with the evaluation of the Certification Body or the Accreditation Body in respect of Complaints referred to them pursuant to section 5.9

8.3.4. Relevant RSP0 standards, certification requirements, statutes, by-laws, codes of conduct, other relevant documents, and any other RSP0 scheme documents which pertain to the complaint;

8.3.5. The Secretariat shall keep the Complainant and the Respondent informed of the progress of the Complaints process and the timeframes within which they are expected to comply with any directions.

8.3.6. The Secretariat shall where required provide translation and interpretation services to the Parties and the witnesses.

8.4. The Secretariat shall facilitate:-

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- 8.4.1. the appointment of any independent investigators and experts that may be required by the Complaints Panel and cause them to enter into non-disclosure agreements and declare that they are not in conflict as condition of their appointment ; and
 - 8.4.2. interviews with witnesses, authorities and any other persons.
- 8.5. The Secretariat shall, upon the investigation phase being declared closed by the Complaints Panel, as soon as practicable prepare a Complaints Record containing the following:-
 - 8.5.1. the original Complaint
 - 8.5.2. the response from the Respondent;
 - 8.5.3. all written submissions made by the Parties containing their arguments;
 - 8.5.4. transcriptions of interviews with all witnesses;
 - 8.5.5. reports of independent investigators and experts;
 - 8.5.6. all other documentary evidence including photographs, video recordings and maps;
 - 8.5.7. where applicable any information from and decision of the CB or AB;
 - 8.5.8. where applicable the grounds of decision to issue an interim measure; and
 - 8.5.9. relevant RSP0 standards, certification requirements, statutes, by-laws, codes of conduct, other normative documents, and any other RSP0 scheme documents which pertain to the complaint
- 8.6. The Secretariat shall deliver a copy of the Complaints Record to each member of the Panel and to the Parties before the Complaints Panel begin deliberations.

9. URGENT ACTION AND INTERIM MEASURES

- 9.1. If, after considering the assertions made by the Complainant in the Complaint, the assertions of the Respondent in its response, the evidence submitted by the parties and any independent expert reports the Complaints Panel forms the view that the circumstances stated in section 9.2 are present and the balance lies in favor of it, the Complaints Panel may direct that the Secretariat take urgent action.

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- 9.2. Subject to the evaluation as stated in Section 9.1, the Complaints Panel shall direct urgent action be taken by the Secretariat in the following circumstances:
 - 9.2.1. cases where there is evidence of violence or human rights abuses;
 - 9.2.2. cases where there is risk of damage, destruction and/or clearance of HCV areas ;
 - 9.2.3. any other issue which represents a clear threat to RSPO's credibility.
- 9.3. Where the Complaints Panel directs that urgent action should be taken it shall direct that the Secretariat issues an interim measure by way of a written notification to the Respondent which shall include :-
 - 9.3.1. the specific actions to be taken by the Respondent which may include cease and desist orders, stop work orders and information requests;
 - 9.3.2. timeframe for implementation;
 - 9.3.3. duration or period of validity of interim measures;
 - 9.3.4. instructions for the Respondent regarding any mandatory notifications to be made (e.g. to certification body and supply chain participants) as applicable; and
 - 9.3.5. any requirements for reporting back to the Secretariat .
- 9.4. Interim measure is a temporary direction to be implemented while the complaint is being dealt with according to the procedures set out in this document. Interim measures remain valid until the Complaints Panel rescinds those measures.
- 9.5. Failure to comply with an interim measure may constitute grounds for immediate suspension of membership.
- 9.6. Interim measures shall be implemented by the Respondent in the period specified in the notification from the Secretariat.
- 9.7. Where the Complaints Panel issues an interim measure it shall also prepare the grounds of its decision.

10. THE INVESTIGATION PHASE

- 10.1. The Complaints Panel shall conduct or direct the investigations into the Complaint in accordance with the procedures that the Panel has determined to be necessary to

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begin deliberations and make a decision. The Complaints Panel shall stipulate a reasonable time within which its investigations or directions in relation to investigations are to be completed.

- 10.2. If the Complaints Panel is satisfied that it has received all necessary evidence, written submissions and information to make a decision in respect of the Complaint it shall declare the investigation phase as closed.

11. THE DECISION OF THE COMPLAINTS PANEL

- 11.1. The Complaints Panel shall restrict their deliberations to the facts of the case and the documents contained in the Complaints Record.
- 11.2. The Complaints Panel shall strive to reach a decision by consensus among panel members failing which the majority decision shall prevail.
- 11.3. The Complaints Panel shall deliberate and deliver its decision within 60 days of the close of the investigation phase. It shall submit to the Secretariat its grounds for decision which shall include the following :-
- 11.3.1. Statement as to whether it has found entirely or in part in favor of the Complainant or the Respondent and the reasons for the decision.
- 11.3.2. Analysis of all evidence (including reports from independent investigators and experts) and submissions from the parties to the complaint.
- 11.3.3. Which of the provisions of the RSP0 Scheme Documents is the Respondent in breach of;
- 11.3.4. Sanctions determined by the Complaints Panel which may include the suspension or termination of the Respondent's RSP0 membership;
- 11.3.5. Corrective actions determined by the Complaints Panel to remedy the breach including a time frame for implementation of those actions;
- 11.3.6. Where relevant a summary of lessons learnt and opportunities for RSP0 Complaints and Appeals Procedure improvement.
- 11.4. The Secretariat shall provide the Grounds for the Decision to the Complainant and Respondent within 5 working days of receipt and notify them of their right to lodge an appeal against the decision of the Complaints Panel in accordance with section 13.
- 11.5. The Complaints Panel shall return all confidential materials to the Secretariat after evaluating and deciding on a complaint. These materials, together with other records

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of the Panel's proceedings, shall be kept by the Secretariat for at least seven (7) years.

- 11.6. The Secretariat shall update the case tracker to reflect the decision of the Complaints Panel.
- 11.7. The Secretariat shall be responsible for implementing the Complaints Decision in respect of any decision to suspend or terminate the Respondent's RSP0 membership and oversee and monitor the putting into effect all corrective actions determined by the Complaints Panel.
- 11.8. In its function to oversee and monitor the implementation of the Complaint Panel's decision, the Secretariat shall maintain a record of compliance by the Respondent and update the case tracker accordingly.
- 11.9. In cases where a sanction for non-compliance is stipulated by the Complaints Panel the Secretariat shall be responsible for enforcing those sanctions. In cases where no sanction is stipulated for non-compliance, the Secretariat shall seek directions from the Complaints Panel on the sanctions, if any, to be imposed.

12. RESOLUTION OF COMPLAINTS THROUGH BILATERAL ENGAGEMENT OR MEDIATION THROUGH DSF

- 12.1. If the Parties are successful in resolving the Complaint through Bilateral Engagement or where applicable, through Mediation by utilizing the DSF mechanism the Parties shall inform the Secretariat of the resolution and the terms thereof.
- 12.2. Upon receipt of information as to the resolution of the Complaint and the terms thereof the Secretariat shall convey the fact of resolution and the terms thereof to the Complaints Panel.
- 12.3. The Complaints Panel shall upon receipt thereof, direct the Secretariat to record the Complaint as closed and update the case tracker accordingly.

13. APPEALS

- 13.1. A party to a complaint who is dissatisfied with the Complaints Decision shall have a right of appeal to the Appeals Panel.

13.2. Giving Notice of Appeal

- 13.2.1. Any party to a complaint who wishes to appeal against the Complaints Decision:

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13.2.1.1. Shall, within thirty (30) days of receipt of the Complaints Decision lodge a Notice of Appeal with the Secretariat. The Notice of Appeal shall be in the form provided by the Secretariat and shall contain:-

13.2.1.1.1. The date of the Complaints Decision;

13.2.1.1.2. the name of the Respondent in the Appeal;

13.2.1.1.3. the Grounds of Appeal; and

13.2.1.1.4. where relevant a description of the relief sought from the Appeals Panel.

13.2.2. The Grounds of Appeal shall consist of the following:-

13.2.2.1. The circumstances out of which the appeal arises;

13.2.2.2. The issues arising in the appeal; and

13.2.2.3. The contentions and arguments that the Appellant intends to raise and the reasons for those contentions and arguments.

13.3. The Appeals Panel

13.3.1. The Appeals Panel shall be appointed from the list of appeals panel members maintained by the RSPO Secretariat but in any event not include any member that formed part of the Complaints Panel against whose decision the Appeal has been lodged.

13.3.2. The quorum of the Appeals Panel shall be in the odd number and in any case shall not exceed five (5) members.

13.4. Duties of the Secretariat in relation to an Appeal

13.4.1. The Secretariat shall function as the Secretary to the Appeals Panel.

13.4.2. The Secretariat shall determine if the notice of appeal complies with sections 13.2.1.1 to 13.2.1.4. In the event of non-compliance, the Secretariat shall notify the Appellant that the notice of appeal is incomplete and request the Appellant to lodge a complete notice of appeal within two (2) weeks of such notification. In the event that the Appellant fails to submit a complete notice of appeal within the said period of two (2) weeks the Secretariat shall reject the notice of appeal.

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- 13.4.3. The Secretariat shall formally accept a complete notice of appeal within five (5) days of its submission and notify the Appellant of the acceptance.
- 13.4.4. The Secretariat shall maintain a list of persons who are prepared to serve as Appeals Panel members.
- 13.4.5. The Secretariat shall appoint the Appeals Panel from the list of appeal panel members maintained by it and cause them to make similar declarations as those made by the Complaints Panel under section 6.5 above. The Secretariat shall, having regard to the issues arising in the appeal, take all reasonable steps to ensure that the members of the Appeals Panel have the necessary competence to review the Complaints Decision.
- 13.4.6. The Secretariat shall within seven (7) days of formally accepting the Notice of Appeal deliver a copy of the same to the Respondent in the appeal.
- 13.4.7. The Secretariat shall within twenty one (21) days of the formation of the Appeals Panel deliver the following to each of its members:-
- 13.4.7.1. A copy of the Notice of Appeal;
 - 13.4.7.2. A copy of the Complaints Record; and
 - 13.4.7.3. A copy of the Complaints Decision.
- 13.4.8. The Secretariat shall in consultation with the parties to the appeal, determine the working language of the appeal.
- 13.4.9. The Secretariat shall, where required, facilitate the provision of translation and interpretation services.
- 13.4.10. The Secretariat shall at the direction of the Appeals Panel, appoint such experts as are required for the determination of the appeal. Where experts are appointed, the Secretariat shall cause the experts to enter into non-disclosure agreements.
- 13.4.11. The Secretariat shall in consultation with the Appeals Panel or where such powers have been delegated to it, issue directions to the parties to the appeal on the conduct of the appeal, including directions for the delivery of written submissions in support of and in response to the appeal. Where such directions are issued, the Secretariat shall notify the parties of the time limit within which they are to be complied with.
- 13.4.12. The Secretariat shall communicate the decision of the Appeals Panel to the parties to the appeal.
- 13.4.13. It shall be the duty of the Secretariat implement and monitor compliance of any sanction, including corrective actions, issued by the Appeals Panel in replacement of that issued by the Complaints Panel.

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13.5. Conduct of the Appeal

13.5.1. The Appeals Panel shall elect a Chairperson from amongst its members.

13.5.2. Subject to the power of the Appeals Panel to direct otherwise, the parties to the Appeal shall be bound by and confined to evidence and documents contained in the Complaints Record.

13.5.3. Subject to the power of the Appeals Panel to receive additional grounds, the Appellant shall not raise a ground of appeal not set out in the Notice of Appeal.

13.6. Powers of the Appeals Panel

13.6.1. The Appeals Panel shall have the following powers:-

- 13.6.1.1. to allow an appeal;
- 13.6.1.2. to dismiss an appeal;
- 13.6.1.3. to make any ruling or substitute any finding or decision of the Complaints Panel as it deems fit including enhancing or reducing the sanctions imposed by the Complaints Panel;
- 13.6.1.4. to remit the matter back to the Complaints Panel for further investigations and for review of its decision and to direct where it deems appropriate that the complaint be re-investigated *de novo* by a Complaints Panel composed of different members;
- 13.6.1.5. to consider further evidence or receive additional documents on such terms and conditions as it deems appropriate;
- 13.6.1.6. to seek clarification from the parties on any matter relevant to the Appeal;
- 13.6.1.7. to adjourn its deliberation on such terms and conditions as it deems fit;
- 13.6.1.8. to manage the conduct of the appeal and determine the most suitable way to hear arguments from the parties to the Appeal, including but not limited to oral hearings, private meetings, conference calls, or requests for written statements and in this regard issue such procedural directives as are necessary to bring about a fair and expeditious conclusion of the Appeal. In this regard

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the Appeals Panel shall have the power to delegate to the Secretariat any or all the powers to make and give procedural directives to the parties to the Appeal;

- 13.6.1.9. to dismiss the appeal in the event that the Appellant fails to comply with its directions or the directions of the Secretariat issued in consultation with or at the behest of the Appeals Panel;
- 13.6.1.10. to direct that the Secretariat appoints any expert whose report in its view is relevant for the determination of the Appeal.
- 13.6.1.11. to permit the Appellant to raise additional grounds on such terms and conditions as the Appeals Panel deems appropriate;
- 13.6.1.12. to permit the Appellant to withdraw the appeal upon receipt notification from the Appellant.

13.7. Decision of the Appeals Panel

- 13.7.1. The Appeals Panel shall deliver its decision within forty five (45) days of its formation.
- 13.7.2. The Appeals Panel shall strive to reach a unanimous decision failing the majority decision shall prevail.
- 13.7.3. The decision of the Appeals Panel shall contain its reasons for arriving at its decision including any dissenting decision.
- 13.7.4. The decision of the Appeals Panel shall be final.

14. LIABILITY

- 14.1. The Complaints Panel, the Appeals Panel, RSPO, the Secretariat and all officials and authorized personnel shall in no way be held liable to any person for any loss or damage arising, whether directly or indirectly, from any act or lawful exercise of their powers or duties under these Rules, including all things done in the bona fide belief of the existence of such powers or duties.

END OF FINAL DRAFT