

DFA OF CALIFORNIA
ARBITRATION PROCEDURES

Pursuant to Article VI of the Bylaws of DFA of California (“the Association”), the Board of Directors has adopted the following procedures:

Article I

Duty to Arbitrate

Section 1. Every member of the Association agrees as a condition of membership to submit to arbitration in accordance with these procedures all disputes that may arise out of the dried fruit or tree nut business between themselves and any other member if either should so request. A member shall also submit to arbitration in accordance with these procedures in all disputes that may arise between themselves and any non-member concerning a sale or purchase or alleged sale or purchase of dried fruits, tree nuts, or kindred products if the non-member so requests. Every contract by a member for either sale or purchase of dried fruits, tree nuts, or kindred products (other than a contract between a grower cooperative and any of its members) shall contain a clause which references the member’s duty to arbitrate at the request of the other party.

Article II

Procedure to Initiate Arbitration

Section 1. The parties submitting any controversy to arbitration by the Association shall execute and deliver to the President of the Association a “Request for Arbitration”, which shall be in substantially the form of Attachment A to these procedures, and which shall include but not be limited to the following:

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

Section 2. The President shall make a finding as to whether the controversy and the parties are properly subject to arbitration by the Association. If the President finds that the controversy and/or the parties are not properly subject to a request for arbitration, he shall so notify the Applicant and the matter shall be deemed closed. An Applicant who believes that the President has incorrectly denied an arbitration may appeal the President's decision to the Association's board of directors by sending a letter to the Secretary of the Association within thirty (30) days of notification outlining the reasons why the request for an arbitration should be reconsidered. The board will consider and vote on the appeal at its next regularly scheduled meeting, or as soon as is practicable.

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

Section 3. A member of the Association who refuses to consent to arbitration or who fails to respond to the notice may be subject to suspension or expulsion proceedings pursuant to Sections 2.09 and 2.10 of the Association's Bylaws, and the arbitration will proceed and a judgment will be issued. If a non-member who has signed an agreement with a member to arbitrate disputes pursuant to the Association's procedures fails to respond or refuses to consent to the arbitration, he arbitration will proceed and a judgment will be issued.

Article III

Selection of Arbitrators

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

Article IV

Evidence and Procedure

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

Section 2. The arbitrators, in cooperation with the President, shall set the date, time, and place for any meeting of the arbitrators or, if necessary, any hearing involving the parties. Parties to the arbitration shall be provided at least ten (10) days notice of any hearing at which their appearance is requested.

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

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

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

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

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

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

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

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

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

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

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

Article V

Award

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

Article VI

Enforcement and Fees

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

Section 2. The fee in any arbitration pursuant to these procedures shall be set by the President based on the cost of arbitration. Except as otherwise provided below, the President shall require this sum to be deposited by each party before the arbitration is held. The arbitrators may in their award assess the costs of the arbitration against either party, in any proportion, in which case one or both parties may be refunded some or all of their deposit. However, in any arbitration involving a California grower, the grower shall not be required to deposit or pay more than fifty percent (50%) of the arbitration fee, even though the award be against the grower, and the remainder of the arbitration fee shall in such case be paid by the other party. Each arbitrator shall receive, from the fee, an amount set by the President for their services.

Article VII

No Liability

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

**ATTACHMENT A
FORM "REQUEST FOR ARBITRATION"**

Send to:

Office of the President
DFA of California
710 Striker Avenue
Sacramento, California 95834

This is to request arbitration pursuant to DFA of California's Arbitration Procedures. I am [am not] a member of DFA of California. I am currently involved in a dispute with _____ (name of company), who is [is not] a member of DFA of California. My contact at the above company is _____.

Address _____

Telephone _____ Email _____

The general nature of the dispute is as follows:

Signature of Applicant Date: _____

Typed or printed name of applicant

Applicant – Do not write below this line

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

TO THE RESPONDING PARTY: Please sign and date one of the following and return to the President of DFA of California at the above address:

I consent to the requested arbitration:

I do not consent to the requested arbitration: ¹

Date: _____

Date: _____

Signature of responding party

Signature of responding party

Type or print name of responding party

Type or print name of responding party

¹ If you do not consent to the requested arbitration, please attach an explanation.