

**DOMESTIC SALES CONTRACT FOR MALAYSIAN CRUDE UNBLEACHED PALM OIL IN  
BULK CIF DELIVERED WEIGHTS FOR SALES BETWEEN EAST AND  
PENINSULAR MALAYSIA**

Issued jointly by Malaysian Palm Oil Association (MPOA) and The Palm Oil Refiners Association of Malaysia (PORAM)

Revised and Effective  
1 February 2012

**6**

Sellers : .....

Buyers : .....

Brokers : .....

<b><u>Reference No.</u></b>
_____
_____
_____

The Sellers have agreed to sell and the Buyers have agreed to buy the following on terms and conditions as stipulated hereunder:-

Contract No :		Date :
Description of Oil :		
Quantity in MT	Shipment Period	Price PMT

Specifications	Destination	Special Conditions

The specifications shall be those established as standard by Malaysian Palm Oil Association (MPOA) and The Palm Oil Refiners Association of Malaysia (PORAM) as standard for the sale/purchase of Crude Palm Oil, in force at the date of contract and always provided they are not in contradiction with the above.

FFA as palmitic acid calculated on a molecular weight of 256.

Methods and Terms of Payment		
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**1. QUANTITY**

Sellers shall load the contract quantity with 5% more or less. Variance upto the first 2% of the contract quantity shall be settled at the contract price. The variance beyond 2% of the contract quantity shall be settled at the market price at the date of completion of discharge and that the Malaysian Palm Oil Board (MPOB) average price for the relevant region shall be the market price.

**2. QUALITY**

The oil shall be of good merchantable quality of the agreed description at time of discharge.

**3. SHIPMENT**

Shipment to be made to the port of destination from any East Malaysian port. For the purposes of this contract, the words vessel or vessels shall include any full-powered-engine driven vessel. However, any tanks, tank heating coils, lines, pumps or fittings which contain copper or copper alloy shall not be used for loading, carrying or discharging the oil. The tank/s shall be clean and shall not contain any leaded petroleum or other leaded products as the three previous cargoes.

Partial shipments are permitted. If the Bill of Lading is issued at a place other than the loading port, the name of the loading port and the date of loading shall be stated on the Bill of Lading; such date shall be considered the date of shipment.

In the event of partial shipments, each shipment is to be considered a separate contract.

Sellers to provided Buyers name of vessel (along the name of vessel's agent at discharge port) not less than 7 days prior to vessel's expected time of arrival at load port.

**4. INSURANCE**

Sellers shall cover the Marine Insurance with first class underwriters (but for whose solvency Sellers shall not be responsible) against all risks with the Institute/FOSFA Trade Clauses ( A ) including the risk of contamination irrespective of percentage of each tank or on the whole; including risks of war, strike, riots and civil commotion for 102% of the CIF contract value.

**5. HEATING INSTRUCTIONS**

Sellers shall endeavour to ensure that PORAM Heating Instructions are followed and shall instruct the carriers to record daily temperatures of the oil and to provide Buyers on request with a chart signed by the ship's Master or Chief Officer.

**6. DECLARATION OF SHIPMENT**

Notice stating the ship's name, date of Bill(s) of Lading and quantity shall be despatched by Sellers to Buyers within 2 business days from the date of the Bill(s) of Lading, communication permitted by facsimile/telex/cable. The date of the Bill(s) of Lading shall be considered proof of the date of shipment in the absence of conclusive evidence to the contrary. Any slight variation in the ship's name shall not invalidate the declaration.

## 7. EXTENSION OF SHIPMENT / CONTINUOUS LOADING

Where the contract shipment period does not exceed 31 days the period of shipment shall, at the request of Sellers, be extended by an additional period not exceeding 8 days provided notice is given to Buyers of their intention to invoke the continuous loading provisions or claim such extension not later than the first business day following the last day of the original contract shipment period. Successive Sellers must pass on this notification with due despatch. Sellers shall at the same time nominate the ship they intend to load and shall provide, together with shipping documents, satisfactory evidence that the ship was originally booked with laydays/cancelling within the original contract shipment period.

No reduction in price shall be made provide the ship commenced loading at :-

the first Sabah/Sarawak port in the case of oil  
from the States of Sabah and Sarawak

during the contract period and provided loading is completed within 5 days of the end of the original contract period. If loading did not so commence or, having commenced, did not complete within the said 5 days, Sellers shall reduce the price to their Buyers, on the quantity not loaded, to be deducted in the invoice from the contract price, as follows :-

1/2% for 1, 2, 3, or 4 days  
1% for 5 or 6 days  
1 1/2% for 7 or 8 days

If Sellers invoke the continuous loading provisions or claim an extension and fail to ship within the 8 days, the original contract shipment period shall be considered to have been extended by 8 days and the contract price reduced by 1 1/2%.

Should Sellers not claim the above extension and fail to ship within the contract period any penalty whether arrived at by amicable settlement or arbitration shall not be related to the penalty of this clause.

## 8. PAYMENT

Payment shall be made for 98% of the invoice value against a complete set of shipping documents not later than 2 days after presentation, failing which interest at the rate of 2% above Bank Negara's based lending rate per annum shall become payable.

- a) by irrevocable and confirmed letter of credit for unrestricted negotiation established in Sellers' favour through a recognised bank for 102% of the contract quantity. Unless otherwise agreed between the parties, such letter of credit shall be advised and made available to the Sellers not less than 15 business days prior to commencement of loading. Should the letter of credit be opened on terms of inconsistent with the contract, Sellers may demand amendments which shall be arranged by Buyers and notified to Sellers through the opening bank within 7 business days of the demand being received but in no case later than 3 business days prior to commencement of loading. The letter of credit shall provide for the negotiating bank to claim reimbursement by telex/cable from the opening bank upon confirmation that all documents conform to the credit requirements.

b) by cash against documents

If documents are presented by Buyers through the intermediary of a bank(s) then the bank charges incurred shall be for Sellers' account. If Buyers demand presentation through a bank of their choice, those bank charges shall be for Buyers' account.

Unless otherwise agreed shipping documents shall consist of the following in triplicate :-

1. provisional/final invoice;
2. full set of clean Bill(s) of Lading;
3. certificate of shipped weights ascertained at port of loading by a recognised independent surveyor;
4. survey report issued by a recognised independent surveyor, certifying fitness and cleanliness of ship's tanks and pipeline and particulars as to time and place of loading, sampling and establishment of the shipped weight;
5. certificate of analysis issued by an independent certified analyst based on samples drawn in accordance with the Sampling and Analysis Clause;
6. certificate of origin issued by any Chamber of Commerce or Malaysian Customs Authorities, if applicable;
7. Customs Movement Permit in the number of copies as required;
8. Malaysian Common Tariff Form No. 3 (MCT3) in the number of copies as required (a signed copy of MCT3 duly certified by Customs Authorities at port of discharge, should be returned to Sellers within 5 business days from the date of release of the same by Customs Authorities at port of discharge, failing which Buyers shall reimburse Sellers any costs incurred arising from the delay);
9. certificate of insurance;
10. a copy of the Heating Instructions issued to the ship's Master in accordance with Clause 5.

Buyers to accept photostatic and certified copies of items (3), (4), (5), (7) and (10) relating to the whole parcel(s). Should the documents be presented with incomplete set(s) of Bill of Lading, payment shall be made provided that delivery of such Bills of Lading be guaranteed by Sellers. Such guarantee to be endorsed, if required by Buyers, by a recognised bank. Acceptance of this guarantee shall not prejudice Buyers' rights under this contract.

## 9. **DISCHARGE**

The oil shall be delivered at the port of destination at a berth usual for discharge of edible oils or, if practicable and mutually agreed, at a special berth. Buyers shall take delivery with customary quick despatch immediately after proper notice has been given by the ship's Owners or his representatives that the ship is in all respects ready to deliver the oil. Otherwise Buyers are liable to pay demurrage.

Sellers are responsible for pumping out and all expenses to ship's rail, and for sweepings and/or puddling. Discharging expenses from ship's rail are for account of Buyers. Any residue remaining in the ship's tank(s) to be claimed by Buyers and to be delivered to them at Sellers' expense at the discharging berth in packages to be provided by Buyers.

A bank guarantee will be provided by Buyers to vessel Owners for discharge of cargo without submission of original Bills of Lading, with a condition that the related Bills of Lading will be submitted to Owners as soon as they are received from Sellers. In lieu, a Letter of Indemnity could be provided, if mutually agreed between Sellers and Buyers.

#### 10. WEIGHTS

Weights as ascertained from ullage drawn from calibrated shore tanks and/or Buyers' weighbridge at the time of discharge and duly certified by independent surveyors appointed by Buyers shall be final. Sellers have the right to be represented, at their own costs, at the time of discharge in which case weights shall be established conjointly.

#### 11. SAMPLING AND ANALYSIS

**At loading** : Representative samples of the oil shall be drawn in quadruplicate from each shore tank in accordance with the MPOA Guide Book for Surveying of Crude Palm Oil exports from Malaysia and sealed by recognised superintendent(s) for analysis. Two each of these samples shall be handed to the Master with instruction to hand them over to receivers at port of discharge. Tests to be made from a set of samples by independent certified analyst at the port of shipment who shall issue the appropriate certificate. The remaining set of samples to be retained by Sellers' superintendent at port of loading. The costs of analysis at time of shipment shall be for Sellers' account.

Buyers have the right to be represented at time of shipment at their expense and to draw and seal samples conjointly with Sellers' representatives. If Buyers are so represented only samples sealed conjointly shall be accepted as official contract samples for analysis purposes only.

**At discharge** : Representative samples of the oil shall be drawn from ship's tank in accordance with the MPOA Guide Book for Surveying of Crude Palm Oil exports from Malaysia. Buyers' and Sellers' superintendents shall draw and seal conjointly 5 sets of representative samples for analysis and/or arbitration purposes. Any unpumpable and/or off-quality oil discharged and stored separately shall be analysed separately. Buyers or their representatives shall retain 3 sets of sealed samples. The remaining 2 sets of sealed samples shall be retained by Sellers or their representatives.

If Buyers fails to send a set of samples for analysis by independent certified analyst Sellers have a right to submit a sample and the results of this analysis shall stand. Buyers shall pass on the analysis certificate to their Sellers with due despatch. Final receiver shall also instruct the analyst to forward a copy of the analysis certificate direct to shippers' superintendent.

In the event of a dispute on quality, analysis of a sample conjointly drawn and sealed shall be referred to MPOB no later than 10 business days from the date of drawing sample. MPOB analysis shall be final.

Should either party fail to appoint a superintendent then the samples drawn by the superintendent present shall be the valid samples for the purposes of analysis and/or arbitration.

## 12. **NOTICES**

Where the terms of the contract require notice to be given, such notice shall be despatched by cable, telegram, facsimile, telex, email or when the parties reside in the same town or when such notice is likely to be received within any specified time limit, the notice may be despatched by first class mail or delivered by hand. All notices shall be under reserve for errors in transmission. Any notice received after 1600 hours Malaysian time on a business day shall be deemed to have been received on the following business day.

## 13. **NON-BUSINESS DAY**

Should the time limit for doing any act or giving any notice expire on a Saturday, Sunday or any national gazetted public holiday in Malaysia, the time so limited shall be extended until the first business day thereafter. All business days shall be deemed to end 1600 hours Malaysian time, Monday to Friday inclusive. The shipment period shall not be affected by this clause.

## 14. **ODD DAYS**

In any month containing an odd number of days, the middle day shall be reckoned as belonging to both halves of the month.

## 15. **FORCE MAJEURE**

Should the performance of the contract be prevented by reason of fire, strikes, lockout, riots, civil commotion, and/or any cause comprehended in the term force majeure, the contract period shall be extended for a period equal to the duration of the disabling circumstances but not exceeding a period of 60 calendar days. If the force majeure events ends within 21 calendar days preceeding the end of the extended period, then a further 21 calendar days shall be allowed after the termination of the force majeure event.

Should fulfilment of the contract not be possible within the extended period, the contract or any unfulfilled part thereof so affected shall be deemed to be null and avoid at the end of such extended period.

## 16. **DEFAULT**

In default of fulfilment of this contract by either party, the other party at his discretion shall, after giving notice in writing or by cable, telegram, facsimile or telex, if they do not reside in the same town, have the right either to cancel the contract or the right to sell or purchase as the case may be, against the defaulter who shall on demand make good the loss, if any, on such sale or purchase. If the party liable to pay shall be dissatisfied with the price of such sale or purchase, or if neither of the above right is exercised, the damages if any, shall, failing amicable settlement be determined by arbitration. The damages awarded against the defaulter shall be limited to the differences between the contract price and the market price on the day of the default but if the Arbitrators consider the circumstances of the default justify it, they may at their absolute discretion, award additional damages.

## 17. **DOMICILE**

This contract shall be deemed to have been made in Malaysia and the construction, validity and performance thereof shall be governed in all respects by Malaysian law.

## 18. **BANKRUPTCY**

If before the fulfilment of this contract either party shall suspend payment, commit an act of bankruptcy, notify any of his creditors that he is unable to meet his debts or that he has suspended payment or that he is about to suspend payment of his debts, convene, call or hold a meeting either of his creditors or to pass a resolution to go into liquidation (except for a voluntary winding up of a solvent company for the purpose of reconstruction or amalgamation) or shall apply for an official moratorium, have a petition presented for winding up or shall have a Receiver appointed, he shall be deemed to be and shall be treated as being in default and the contract shall forthwith be closed, either at the market price then current for similar goods, or at the option of the other party, declarable by the end of the next business day, at a price to be ascertained by repurchase or resale on such next business day and the difference between the contract price and such closing - out price shall be the amount which the other party shall be entitled to claim or shall be liable to account for under this contract. Should either party be dissatisfied with the price, the matter shall be referred to arbitration. Where no such resale or repurchase takes place, the closing-out price shall be determined by a Price Settlement Committee appointed jointly by The Palm Oil Refiners Association of Malaysia and Malaysian Palm Oil Association.

## 19. **ARBITRATION**

Any dispute arising out of this contract, including any question of law arising in connection therewith, shall be referred to arbitration in Malaysia (at the PORAM Secretariat or elsewhere if so agreed), in accordance with the PORAM Rules for Arbitration and Appeal in force at the date of the initiation of the arbitration.

Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the Sole Arbitrator/Panel of Arbitrators/Appeal Board (as the case maybe), in accordance with the PORAM Rules for Arbitration and Appeal and it is hereby expressly agreed and declared that the obtaining of an award from the Sole Arbitrator/Panel of Arbitrators/Appeal Board (as the case may be), shall be a condition precedent to the right of either party hereto or of any person claiming under either of them to bring any action or other legal proceedings against the other of them in respect of such dispute.

As Sellers :

As Brokers :

As Buyers :