

## TERMS OF REFERENCE

### Independent Investigation of the Complaint against S&G Biofuel Pte. Ltd.

#### I. Background

PT Inecda, a subsidiary of S&G Biofuel Pte. Ltd. (hereinafter referred to as “the Respondent”) is an RSPO member and is bound to comply with all its Key Documents. On 19 March 2021, a community represented by their lawyer and supported by local NGOs (“the Complainants”) filed a complaint against the Respondent on the allegations as follows: -

1. The Respondent is operating in the area owned by the Luak Talang Parit Community without obtaining prior consent from the community;
2. The Respondent did not develop the plasma plantations for the community; and
3. The Respondent did not have an internal grievance mechanism that the stakeholders can access.

For the purposes of determining this Complaint, the Complaints Panel has directed the Secretariat pursuant to section 7.1.4 of the Complaints and Appeals Procedures 2017 to engage an independent investigator/expert to conduct an independent investigation for the purposes of determining if the above mentioned allegations are true or otherwise.

#### II. Objectives

The objectives of the investigation are to:

1. Investigate the allegations listed in item (I) above and gather evidences from both the Complainant and the Respondent;
2. Determine if there is a breach of the following provisions of the RSPO Key Documents (including but not limited to):
  - a) **RSPO Principle & Criteria 2018 (P&C) - Criteria 2.1:** *There is compliance with all applicable local, national, and ratified international laws and regulations;*
  - b) **RSPO Principle & Criteria 2018 (P&C) - Criteria 4.2:** *There is a mutually agreed and documented system for dealing with complaints and grievances, which is implemented and accepted by all affected parties;*
  - c) **RSPO Principle & Criteria 2018 (P&C) - Criteria 4.4:** *Use of the land for oil palm does not diminish the legal, customary or user rights of other users without their Free, Prior and Informed Consent;*
  - d) **RSPO Principle & Criteria 2018 (P&C) - Criteria 4.6:** *Any negotiations concerning compensation for loss of legal, customary or user rights are dealt with through a documented system that enables indigenous peoples, local communities and other stakeholders to express their views through their own representative institutions;* and
  - e) **RSPO Principle & Criteria 2018 (P&C) - Criteria 4.8:** *The right to use the land is demonstrated and is not legitimately contested by local people who can demonstrate that they have legal, customary, or user rights.;* and

3. Should there be any breach of the provisions of the RSPO Key Documents listed above, the Independent Expert is to propose recommendations aimed at improving the conduct of the Respondent to ensure legal and operational compliance in accordance with the requirements of the RSPO Key documents.

### **III. Methodology**

The primary methodology for this independent review is onsite and desk research. It is designed to meet the above objectives.

The review will ensure that: -

1. The evidence gathered from both Complainant and Respondent as well as any other relevant information from the relevant stakeholder(s) and publicly available information from third parties on each of the allegations raised are reviewed;
2. At each allegation, an analysis and evaluation regarding the extent of compliance with the applicable laws and RSPO principles and standards will be conducted; and
3. If breaches are identified, recommendations will be provided to address the gaps in the Respondent's operational conduct in accordance with the requirements of the RSPO's Key documents. The recommendations provided are for the consideration of the Complaints Panel during deliberation.

### **IV. Expected outcomes**

Expected outcome of this exercise is a report from the independent investigator/expert addressing all the elements listed under the objective. The report is to be submitted in both the English and Bahasa Indonesia languages.

### **V. Terms of Engagement**

The terms of engagement are as follows:

- a. The Independent Investigator/Expert is expected to execute a Non-Disclosure Agreement and shall at all times adhere to the highest level of professionalism during the investigation process. This includes: -
  - i. Timeliness and adherence to the schedule and deadlines;
  - ii. Carrying out an independent investigation in an impartial manner, including being neutral and objective during the process;
  - iii. Ensuring all findings and analysis are supported with evidence gathered;
  - iv. Timely reporting to the Grievance Unit within the RSPO Secretariat; and
  - v. Maintaining the confidentiality of all information and supporting documents received and reviewed throughout this exercise.
- b. RSPO Secretariat will: -
  - i. Share all relevant information pertaining to the complaint including but not limited to the RSPO Key Documents and supporting documents relied on in the course of this complaint; and

- ii. Facilitate additional meetings to clarify instructions and direction of the review where and when required.

**VI. Independent Investigator/Expert**

RSPO proposes that the investigation is carried out by individuals/teams of strong investigative background. The Consultant should meet the following minimum criteria: -

1. Proven track record in doing similar study in palm oil sector and/or agriculture industry;
2. Fluent in English and Bahasa Indonesia - both written and spoken;
3. Does not have a conflict of interest with the Respondent, S&G Biofuel Pte. Ltd., the Complainants or members of the RSPO Secretariat;
4. Has sufficient knowledge of interpreting the RSPO Key Documents; and
5. Able to carry out an independent analysis of the data captured to meet the objectives in (II) above.

**VII. Schedule**

The timeline for this exercise is dependent on the availability of the independent investigator/expert. Parties to the Complaint will be updated on the agreed timeline of the investigation exercise upon consultation between the Secretariat and the independent investigator/expert and upon approval of the timeline by the Complaints Panel.

**VIII. Estimated Cost**

The RSPO has allocated a budget for this exercise. It will meet the reasonable cost of the independent investigator/expert.

For parties interested to undertake the above investigation, kindly submit your fee proposal along with the Curriculum Vitae to [complaints@rspo.org](mailto:complaints@rspo.org)

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