

CORN SEED SETTLEMENT PROGRAM CLAIMS PROCESSING PROCEDURE			
Number	CPP-3	Effective Date	8/13/18
Subject	Appeals Process		

1. *Defined Terms.* All capitalized terms used and not expressly defined in this Claims Processing Procedure (“CPP”) shall have the meanings attributed to them in the Agrisure Viptera/Duracade Class Settlement Agreement, executed on February 26th, 2018 (“Settlement Agreement”).

2. *Purpose of this CPP.* Section 3.7.3 of the Settlement Agreement establishes the authority for Class Members to appeal final claim determinations by the Claims Administrator (“Appeal”). This CPP establishes: (1) the allowable reasons for an Appeal; (2) the deadline to file an Appeal; (3) the method to submit Appeals to the Special Masters through the Claims Administrator; (4) the process by which the Special Masters shall review and decide Appeals; (5) how the Claims Administrator shall report decisions to the Parties; and (6) the method by which the Claims Administrator shall communicate decisions of the Special Masters to Class Members.

3. *Final Decisions by the Special Masters.* All Appeals will be reviewed and decided by the Special Masters. Section 3.7.3 of the Settlement Agreement states that decisions of the Special Masters “shall be final, non-appealable, and not subject to further review.” Accordingly, the Special Masters’ decision on an Appeal is final and binding on the Class Member and the Claims Administrator and it is not subject to additional appeal or review by the Court.

4. *Deadline to File Appeal.* Class Members will have 30 days from the date of the Notice of Determination or Notice of Final Rejection to request an Appeal. The Appeal deadline will be clearly stated in the Notice of Determination or Notice of Final Rejection. For Class Members who use the secure online Corn Seed Settlement Program Portal (“Portal”), the Appeal must be received by the Claims Administrator by 11:59 p.m. on the date of the deadline shown on the notice. For Class Members who do not use the Portal, the Appeal must be postmarked or placed with a courier by 11:59 p.m. on the date of the deadline shown on the notice. Any Appeal received after the response deadline on the notice will be considered untimely.

5. *Good Cause Extension to Appeal Deadline.* The Special Masters will consider requests from Class Members for extensions to the Appeal deadline for good cause. All decisions on response deadline extension requests are in the sole discretion of the Special Masters.

6. *What May Be Appealed.* A Class Member may appeal only on the following factual grounds:

- (a) The accuracy of the Claims Administrator’s calculation of the Class Member’s Compensable Recovery Quantity; or

- (b) The factual correctness of the denial reasons cited in the Class Member's Final Notice of Rejection.

Any Request for Appeal Form that does not include one of these reasons or includes an attempt by the Class Member to appeal for a reason not cited above shall be denied. No appeal challenging the calculation methodology, as set forth in the Settlement Agreement and the implementing CPPs, is permitted.

7. *Requesting Appeal.*

- (a) A Class Member can request an Appeal, by either: (1) completing and submitting a Request for Appeal Form through the Portal; or (2) sending a completed and signed Request for Appeal Form by United States Mail or delivery by courier.
- (b) A Class Member must indicate on the Request for Appeal Form the specific factual mistake and the reason that the Class Member believes the review result is incorrect. If necessary, a Class Member may attach two additional pages of text to the Request for Appeal Form to describe the reasons why the Class Member believes that the review result is incorrect. The Special Masters will not consider any information exceeding this limit.
- (c) A Class Member may provide documents that constitute factual support for the reasons for Appeal as indicated in the Request for Appeal Form. The Class Member may upload the documents through the Portal or send the documents by United States Mail or delivery by courier. Class Members must not re-submit any documents that are already included as part of the Class Member's record in the Settlement Program.
- (d) Class Members are not permitted to send any materials directly to the Special Masters.
- (e) The Special Masters will review and determine only issues properly raised in the Appeal.
- (f) Syngenta may not request an Appeal under any circumstances. At the request of the Special Masters, Syngenta may provide information related to an Appeal.
- (g) Settlement Class Counsel may provide information related to an Appeal filed by a Class Member.
- (h) If, prior to the resolution of all Appeals by the Special Masters, the Special Masters, the Parties or the Claims Administrator discover an issue that affects any Class Members (including any Class Members who did not appeal), the Special Masters will notify the Parties and the Claims Administrator. The Claims Administrator will work with the Special Masters to correct the issue for all affected Class Members. Class Members will not be required to request an Appeal to have their claims corrected.

8. ***Appeal Fee.*** Class Members requesting an Appeal must pay a \$500 fee at the time that they submit a Request for Appeal Form, using the method made available by the Claims Administrator (“Appeal Fee”). The Appeal will not proceed without payment of this Appeal Fee. The Appeal Fee will be refunded to a Class Member unless the Special Masters determine, within their sole discretion, that the appeal is improperly filed or baseless. The Claims Administrator will refund Appeal Fees at the time of the Class Member distributions. Appeal Fees which are not refunded will be used to offset the costs of the administration of the Appeals.

9. ***Waiver of Appeal Fee.*** The Special Masters will consider granting a good cause waiver of the Appeal Fee to Class Members who reasonably demonstrate a financial hardship that prevents the Class Member from paying the Appeal Fee. The Class Member must provide financial information to support the request to waive the Appeal Fee. All decisions on Appeal Fee waiver requests will be in the sole discretion of the Special Masters.

10. ***Processing of Appeals.***

(a) ***Intake.*** The Claims Administrator shall place the electronic images of all Request for Appeal Forms and supporting documents in the Special Master Portal.

(b) ***Analysis of Appeals.*** The Claims Administrator shall review all information provided in Request for Appeal Forms and supporting documents and provide an analysis of the Appeal to the Special Masters.

(c) ***Claims Administrator’s Report on Analyses.*** The Claims Administrator shall circulate reports of its analyses to the Special Masters on a weekly basis (or some other schedule if requested by the Special Masters).

(d) ***Special Masters.*** The Special Masters will access all Appeals and enter decisions on them using the Special Master Portal.

11. ***Record and Evidence Considered on Appeal.*** The Record on Appeal consists of:

- (a) The Settlement Agreement;
- (b) Claims Processing Procedures;
- (c) Claim Forms submitted by the Class Member;
- (d) Data received by the Claims Administrator from the FSA or RMA;
- (e) Responses to Requests for Additional Information;
- (f) Notices of Determination;
- (g) Notices of Rejection and Responses to these Notices;
- (h) Notices of Final Rejection;
- (i) The Request for Appeal Form; and
- (j) Supporting documents submitted by the Class Member.

12. ***Standard of Review on Appeal.*** The Special Masters will decide issues on Appeal based on their determination of whether the Class Member has shown that the Claims Administrator’s factual determination is clearly erroneous.

13. *Decision by the Special Master.* The Special Masters will issue to the Claims Administrator decisions on all Appeals. In the decision, the Special Masters may affirm or reverse the determination of the Claims Administrator and direct such other relief allowable under the Settlement Agreement and the implementing CPPs as the Special Masters deem appropriate. The Special Masters will provide an explanation of the grounds of their decisions for the Claims Administrator to provide to Class Members in notices.

14. *Notice of Appeal Decision.* The Claims Administrator will issue a Notice of Appeal Decision to Class Members. The Claims Administrator will post these notices on the Portal or mail the decision to Class Members who do not use the Portal. The Notice of Appeal Decision will contain the Special Master's decision on the Class Member's Appeal and the Special Master's explanation of the grounds for the decision.

15. *Withdrawal of Appeal.* A Class Member may withdraw a Request for Appeal by submitting written notice to the Program at any time prior to the Special Master's decision or as directed by the Special Masters. After withdrawing an Appeal, the Class Member may not request a new Appeal, and the Notice of Determination or Final Notice of Rejection shall become final. The Appeal Fee will not be refunded to the Class Member. The Special Masters may consider refunding the Appeal Fee for Class Members who demonstrate good cause for why the Appeal Fee should be refunded. All decisions on Appeal Fee refund requests related to withdrawn Appeals will be in the sole discretion of the Special Masters.

16. *Communicating with Class Members.*

- (a) If a Class Member or a Class Member's attorney calls the Settlement Program Communication Center inquiring about the status of a Request for Appeal, the Claims Administrator may share only the following information:
 - (1) Whether the Claims Administrator has received a Request for Appeal Form and/or supporting documents from the Class Member;
 - (2) The requirements of a complete Request for Appeal Form; and
 - (3) The decision of the Special Masters, if available.
- (b) The Claims Administrator will not provide substantive guidance to Class Members regarding the merits or status of their Appeals.

17. *No Oral Argument.* No oral argument will be held on any Appeal.

18. *Reporting.* The Claims Administrator shall present a final appeals report, showing all Claims Administrator determinations and Special Masters' decisions, to the Parties and the Court after all Appeals have been resolved.

19. *Duration of this CPP.* This CPP shall apply to all Class Members and may be modified, overruled, replaced or terminated by Order of the United States District Court for the District of Kansas.