



APPROVED AIC CONTRACT NOTE FOR UK PRODUCED/PROCESSED FEED MATERIALS
Issued by a Member of the Agricultural Industries Confederation Limited

Date:

Buyer's Ref:.....Seller's Ref:Broker's Ref:

The Seller:

Intervening as Brokers:

The Buyer:

have this day entered into a contract on the following terms and conditions:

1. Description of Goods:

.....
.....

2. Contract Quantity: About* tonnes OR between and tonnes*. Where the word 'about' is used in reference to quantity the Seller shall have the option of delivering 5% or 15 tonnes (whichever is the lesser quantity) more or less than the contract quantity at the contract price. This variation of 5% or 15 tonnes is hereinafter referred to as 'the tolerance'. Any quantity delivered in excess of the upper tolerance shall be deemed a breach of contract and entitle the Buyer to reject the excess if they so wish. If they choose not to reject, the price of any quantity in excess of the contract quantity shall be settled by mutual agreement or otherwise by arbitration. If the Seller delivers less than the minimum quantity permitted by the tolerance they shall be deemed to be in default and shall compensate the other party in accordance with the Default clause herein and calculation of damages shall be against the contract quantity.

Gross weight bags included*/Net weight bags*/On chargeable pallets*
In Bulk* - Tipped*/Blown*

3. Contract Price:per tonne ex-mill*/ex-store*/ex-works*/delivered to*

4. Movement Period:

5. Contract Quality:
.....
.....

The goods must be sound and of good merchantable quality and suitable for use in animal feeds.

6. Sampling: Sampling shall take place at the premises of the Buyer*/Seller*.

7. Payment Terms:

8. Special Terms:
.....
.....

9. Weights: Payment to be made against the Buyer's*/the Seller's* weights.

10. **Brokerage:** Brokerage, if appropriate, to be paid by the Seller.

THIS CONTRACT IS SUBJECT TO THE TERMS AND CONDITIONS ON THE FOLLOWING PAGES SO FAR AS THEY ARE CONSISTENT WITH THE TERMS SET OUT ABOVE.

* Delete words which do not apply

11. **Pesticide Residues:** The Seller guarantees that the goods on delivery shall where appropriate comply with the provisions of the Agriculture Act 1970, the Food and Environment Protection Act 1985 or any amendment thereof, the Plant Protection Products Regulations 2011 or any amendment thereof and legislation pertaining to permitted pesticide maximum residue limits applicable for the region of the UK in which the goods have been grown. The Seller must notify the Buyer in writing if any chemical treatment has been applied to the goods prior to collection/delivery.

12. **Salmonella:**

- a. As the goods to which this contract refers may be used for incorporation into animal feedingstuffs the Seller must observe the Defra published Code of Practice for the control of Salmonella during the Production, Storage and Transport of Compound Feeds, Premixtures, Feed Materials and Feed Additives, or any amendment thereof.
- b. The goods shall be available for delivery/collection as agreed during the movement period irrespective of salmonella sampling/monitoring/testing.
- c. In the event that a Statutory Order is issued preventing the movement of the contractual goods prior to the expiry of the movement period, the Force Majeure clause will apply. In the event that payment has been made for all or part of the goods, and the goods are then subject to the provisions of the Order preventing the movement of the contractual goods during the movement period, then any monies paid for goods shall be returned to the Buyer for that part of the contract so cancelled. Any monies due under this clause shall be repaid within seven consecutive days of notification that the contract or any part of the contract has been cancelled.

The Buyer shall have no claim against the Seller for delay or non-fulfilment under this clause provided that the Seller supplies to the Buyer, if required, satisfactory evidence justifying the delay.

13. **Analysis:** Samples shall be analysed in accordance with the requirements laid down in The Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations 2010 or any amendments thereof.

14. **Delivery & Weights:** Delivery dates must be confirmed between the parties. Deliveries must be evenly spread throughout the movement period unless otherwise mutually agreed. Any ex-store collections shall be made at the Buyer's call unless otherwise agreed. The Buyer or Seller as appropriate, shall if required produce proof of weight received.

15. **Consignment:** Each delivery or consignment shall meet all contract terms.

16. **Demurrage:** In cases of unreasonable delay in the arrival, loading or discharge of vehicles collecting or delivering goods howsoever caused (including delays resulting from the non-provision of essential documentation) the Seller or the Buyer, whoever is responsible, shall be liable for the additional haulage costs that result from that delay.

17. **Ownership and Risk:**

- a. Ownership passes when the goods are paid for by the Buyer.
- b. Risk passes to the Buyer on delivery of the goods.

18. **Force Majeure:** Neither the Buyer nor the Seller shall be responsible for delay in delivery of goods or any part thereof occasioned by any Act of God, action by any government, strike (including dock and/or shipping strikes within the United Kingdom), lock-out, combination of workmen, breakdown of machinery, power failure or fire, provided that the party invoking this clause despatches written notice to the other party within 5 business days of the occurrence, or not later than five business days after the beginning of the movement period, whichever is the later. In cases of resale such information shall be passed on without delay, unless otherwise mutually agreed, the party invoking Force Majeure is entitled to an extension (the first extension) of not more than 30 consecutive days from the end of the movement period. If delivery under this clause is still prevented at the end of the first extension period, the party not invoking this clause shall have the option of cancelling the contract or any unfulfilled part thereof or mutually agreeing to one further extension period (the second extension) of not more than 30 days. If at the conclusion of the second extension period delivery is still prevented, the contract or any unfulfilled part thereof shall be cancelled. Neither party shall have a claim against the other for delays or non-fulfilment under this clause provided that the party invoking this clause shall have supplied, if so requested, evidence justifying the delay or non-fulfilment.

19. **Claims:**

- a. Claims based on defects of quantity or condition which shall be apparent upon reasonable inspection must be confirmed by the Buyer by fax, e-mail or other electronic means or by letter sent by first class

post, within two business days from arrival at their ultimate destination in the United Kingdom. In the event of this contract being one of a series of contracts, all claims shall be passed on without delay after receipt and if so passed on shall be deemed to be proper claims from Buyer to Seller as required by the provision of this clause whether within two business days or not.

- b. All claims other than those under (a) above must be notified so as to be received by the Seller within 90 consecutive days from the last day of the contract period with the same proviso as to series of contracts as in (a) above.

20. Notices:

- a. All notices required to be served or information passed on under this contract shall be communicated without delay by telephone or by rapid written communication. Notices which are served or passed on by telephone shall be confirmed by rapid written communication within one business day. Methods of rapid written communication for the purposes of this clause shall be defined as either fax, e-mail, or other electronic means, or by letter sent by first class post no later than the subsequent business day. If receipt is contested, the burden of proof shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration clause, that notice was actually transmitted to the addressee.
- b. Notices received after 1600 hours on any business day shall be deemed to have been received on the next business day.
- c. A notice to a broker named in this contract is a notice to a principal.

21. Default:

In the event of default of fulfilment of contract by either party, the other at their discretion shall, after giving prior written notice, have the right to sell or purchase, as the case may be, against the defaulter and the defaulter shall make good the loss, if any, on such purchase or sale on demand. If any party liable to pay be dissatisfied with the price of such sale or purchase or if the above right is not exercised and damages cannot be mutually agreed, any damages payable by the party in default shall be settled by arbitration. In the event of default by either party entitling the other party to damages, such damages shall be based upon the actual or estimated value of the goods on the date of default, to be mutually agreed or settled by arbitration, but nothing contained in or implied under this contract shall entitle Buyer/Seller to recover any damages in respect of loss of profit upon any sub-contracts made by themselves or others. In the event of default, damages, if any, shall be computed upon the contract quantity. The date of default shall be the first business day following the expiry of the movement period. When an extension of collection/delivery has been claimed under the Force Majeure clause or agreed otherwise, the date of default shall be the first business day following the expiry of the extension period.

22. Arbitration: Any dispute (other than a claim for an unpaid debt and as provided under (b) below) arising out of this Contract shall be referred to arbitration as follows:

- a. Unless otherwise agreed the dispute shall be referred to arbitration in accordance with the Arbitration Rules of the Agricultural Industries Confederation Limited, (obtainable from the registered office of the Confederation and /or <https://www.agindustries.org.uk/legal/arbitration>), and all parties shall by making this contract be deemed to have knowledge of such Rules and to have elected to be bound thereby. In the event of any dispute in a string of which this contract forms part, the parties to this contract must provide such information as may be required by the arbitrators.
- b. If a dispute involves legal or technical problems of great complexity which are beyond the knowledge and competence of arbitrators to resolve or if a dispute of necessity involves a third party who is not subject to arbitration, either party before the time for commencing arbitration proceedings has lapsed can, in writing, request the other party to consent to the arbitration proceedings being waived and for the dispute to be referred to ordinary litigation in the Courts. Should such consent be unreasonably withheld or no answer received within 28 days, the party making the request shall be at liberty to commence court proceedings leaving it to the other party, if the other party so wishes, to apply for a stay of proceedings invoking the arbitration clause. The Court will then decide whether the arbitration or the Court proceedings should continue. Time for commencing arbitration proceedings shall not run (or if started, not continue to run) from the date of such request until the Court has given a final ruling (this including any appeals) as to the proper venue for the dispute to be heard, providing Court proceedings are commenced within 28 days of the receipt of any refusal or 56 days from the date of the request if no answer to it is received.

23. Time Limits for Claiming Arbitration: Arbitration shall be claimed within the following time limits: (i) in relation to any aspect of the consignment quantity, quality or condition of the goods that is discoverable by the exercise of reasonable diligence upon delivery of the goods, arbitration shall be claimed within 28 consecutive days after the date of arrival of the goods at their ultimate destination in the United Kingdom or from when risk passes in accordance with clause 17 b) and (ii) in relation to other claims including without limitation, claims for quantity, quality or condition not discoverable by the exercise of reasonable diligence upon delivery of the goods, arbitration shall be claimed within 90 consecutive days after the last day of the movement period. Where the contract giving rise to the arbitration is one of a series of contracts a reasonable extension of time to commence arbitration proceedings will be allowed to those in the 'string'. In the case of disagreement as to what constitutes 'a reasonable extension' this will be referred to the arbitrator/s as a preliminary issue. Subject to paragraph 22 (b): i) the making of an award should be a condition precedent to any Court action, excepting that which is expressly referred to in Clause 44(3) of the Arbitration Act 1986 (or any amendment thereof) by either party or any person claiming under either of them and ii) in the event that arbitration is not claimed within the

time limits prescribed above all courses of action relating to the claim, whether by way of arbitration or in any Courts of Law, are deemed waived and shall be barred absolutely unless the Arbitration Tribunal shall in its absolute discretion determine otherwise.

- 24. Non-Payment:** The Seller reserves the right to withhold deliveries under this contract until all and any outstanding payments under this or any other contract with them by the Buyer have been received and reserves a lien upon - and the right to sell or otherwise dispose of - all goods the subject of this Contract whether appropriated to it or not in respect of any such payments.
- 25. Insolvency:** If either party to this Contract ("the Affected Party"):
has a Receiver, Administrative Receiver or Administrator appointed in respect of any of its property or business undertakings;
or announces that it has ceased, or intends to cease to trade (except where such announcement is due to a forthcoming retirement whilst honouring all existing contracts);
or suspends or is about to suspend, payment of its debts or fails to pay, or is unable to pay or admits or states its inability to pay its debts as they fall due;
or disposes of or threatens to dispose of all or a material part of its assets whether by one or a series of transactions (other than for the sole purpose of and followed by reconstruction or amalgamation made known to and approved by the other party);
or convenes, calls or holds a meeting of its creditors or makes or proposes any arrangement or composition with its creditors;
or states an intention to make or give notice of a voluntary arrangement under Part 1 of the Insolvency Act 1986; or has a resolution or petition (other than for the sole purpose of and followed by reconstruction or amalgamation of one party of which notice has been given to the other party who has approved it) passed for the winding up or voluntary winding up or liquidation;
or is dissolved, or applies for an Interim Order under Part VIII of the Insolvency Act 1986;
or a Bankruptcy Petition or a Statutory Demand in bankruptcy is presented or served; or suffers to the levy or enforcement of any execution, distress, sequestration, detention or other process on any of its property or premises;
or if a party being a partnership, any of the above events occurs with respect to the partnership or to any partner therein (hereafter called "Act of Insolvency")
then, notwithstanding any previous arrangement between the parties for deferred payments, the full or full remaining price for any goods delivered shall become immediately due and payable by the party committing an Act of Insolvency.
- The party not committing an Act of Insolvency ("the Innocent Party") shall have the right, upon giving written notice to the other party, without prejudice to any other rights and remedies available to the Innocent party, to cancel and/or suspend and/or to refuse to make or accept any further deliveries and to close out and settle the Contract as detailed below.
- The Affected Party shall serve written notice of the relevant Act of Insolvency by fax, e-mail or other electronic means or by letter sent by means of a recorded delivery to the Innocent Party. Where proof is available that such notice was served within two business days of the occurrence of the Act of Insolvency, the Innocent Party shall have the right to close out the Contract which shall be settled at the market price on the first business day following the occurrence of the Act of Insolvency.
- In all other circumstances, the Innocent Party, upon learning of the occurrence of the Act of Insolvency shall have the right to close out and settle the Contract at either:
- (a) the market price on the first business day following the Innocent Party becoming aware of the Act of Insolvency, or
 - (b) at the market price on the first business day following the occurrence of the Act of Insolvency.
- 26. Statutory Charges:** The price of the goods is subject to alteration by reason of the imposition of or alteration by the European Union or the United Kingdom Government in the rates and/or manner of collection of any tax, duty, levy or any other statutory charge upon goods of this description, whether at the time of or if the change is retrospective at any time after the date of this contract provided that the change is applicable to the date of delivery.
- 27. Business/Non-Business Day:** A business day is the period between 0900 hours and 1600 hours inclusive on any day other than a non-business day. Saturdays, Sundays and officially recognised national holidays applicable throughout the United Kingdom and any days which the Agricultural Industries Confederation Limited may declare as non-business days for specific purposes shall be deemed Non-Business Days for the purposes of passing notices and claims.
- 28. Contracts (Rights of Third Parties) Act 1999:** Pursuant to S.1(1)(a) of the Contracts (Rights of Third Parties) Act 1999, the parties intend that no term of the contract may be enforced by a third party.
- 29. Domicile:** This contract shall be deemed to have been made in England, and the construction, validity and performance thereof shall be governed in all respects by English Law.