



**APPROVED AIC CONTRACT NOTE FOR FINISHED FEEDINGSTUFFS**

**This Contract is valid only when Issued by a Member or Licencee of the Agricultural Industries Confederation Limited**

Buyer's Ref/ Contract No: .....

Date:.....

Seller's Ref: .....

**The Seller:** .....

**The Buyer:** .....

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

**1. Description of Goods**

**2. Contract Quantity**

.....

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

**3. Movement Period:**.....

**4. Delivery Details**

Month	Monthly Tonnage*	Load Size (min/max*)	Price	Other Details
August				
September				
October				
November				
December				
January				
February				
March				
April				
May				
June				
July				

**5. Payment Terms:** .....

**6. Special Terms:** .....

.....

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. Where there is a conflict the above terms will prevail.

\*Delete words which do not apply  
+ Give tonnage as single figure or monthly range

Signed on behalf of Buyer\*/Seller\* .....

**7. Ownership and risk.**

- a. Ownership shall pass when the goods are paid for by the Buyer.
- b. Risk shall pass to the Buyer on either collection or delivery of the goods

**8. Payment.**

- a. The price agreed under this contract is based on the (nutritional) specification agreed at the time of entering the contract. The Seller reserves the right to amend this price on the basis of any subsequent amendment to this specification agreed by the parties.
- b. In the event of a change in the credit rating or worthiness of the Buyer, the Seller reserves the right to withdraw or amend any credit facilities offered at his sole discretion.

**9. Tolerance.** Both buyer and seller responsible for ordering and delivering each month with a tolerance of 5% or 15 tonnes (whichever is the lesser quantity) more or less than the agreed monthly tonnage detailed in clause 4. Unless otherwise agreed between the parties, any quantity collected/delivered in excess of the upper tolerance shall be settled by mutual agreement or otherwise by arbitration. If the Seller delivers less than the minimum quantity permitted by the tolerance he 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. Where the buyer cannot take delivery of the agreed contracted tonnage, the Seller has the option of rolling over the tonnage either within or following completion of the movement period or placing the Buyer in default, the Buyer then to compensate the Seller in accordance with the Default clause herein and calculation of damages shall be against the contract quantity.

**10. Claims.**

- a. Claims based on defects of quantity, quality or condition which shall be apparent upon reasonable inspection must be advised as soon as possible and confirmed by fax, e-mail or other electronic means or by letter sent by first class post within two business days of either delivery or from when risk passes in accordance with clause 7 (b). 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 the two business days period or not.
- b. All claims other than those in (a) above must be notified so as to be received by the Seller within 90 consecutive days from the last day of the movement period with the same proviso as to series of contracts as in (a) above.

**11. Liability.** Whenever a product is ordered by the Buyer under a brand name and is delivered to them by the Seller in the manufacturer's original packaging then under no circumstances whatsoever does the Seller accept any greater liability for any injury damage and/or loss that the product may cause to the Buyer than is accepted by the manufacturers of the said product themselves. Without prejudice to the generality of the above disclaimer of liability the Buyer should note that manufacturers of goods do not normally accept any liability for injury damage and/or loss arising from the use of goods manufactured by them if the use to which the goods are put is not one of those set out on their own label or in the technical instructions delivered with the said goods nor will they do so if the Buyer has failed to observe the instructions for use supplied with the goods.

Save for liability for death or personal injury caused by the negligence of the Seller and/or such servants or agents of the Seller for whom they are deemed in law to be responsible, or under the provisions of the Consumer Protection Act 1987 (or any successor thereto) and/or any liability for defective goods under any United Kingdom Statute or Regulations made thereunder which imposes specific conditions and/or warranties and provides that these cannot be excluded by the parties to the contract, the Seller shall not be under any liability to the Buyer nor to any third party claiming through them in respect of defects in goods delivered whether patent or latent, nor for any injury damage and/or loss resulting directly or indirectly from such defects howsoever caused and except as provided above no warranty or condition whether express or implied by law statute or custom of trade as to the quality or fitness for any particular purpose or merchantability of such goods is given. The Buyer holds himself out as entering into this contract in the course of business.

The Seller when supplying goods under a brand name (whether such goods are manufactured by the Seller or by a third party) warrant only that such goods will be merchantable under their original description and will be fit for any particular purpose for which they have at any time been held out to be fit under that brand name. It is neither a condition nor a warranty of this contract that goods sold under the said brand name will at all times consist of the same ingredients and/or the same proportion of ingredients. The Seller accepts no liability whatsoever for any injury damage and/or loss of whatever description and whether direct or consequential which such change may cause to the Buyer.

Without prejudice to the generality of the disclaimer of liability above the Seller at their sole discretion undertakes to replace allegedly defective goods or to refund to the Buyer up to the invoice price of such goods where the Seller is satisfied that they are responsible. Under no circumstances whatsoever shall the Seller's liability under this clause exceed the invoice price of any allegedly defective goods. Save as already elsewhere

provided and for such replacement and/or refund the Seller shall not under any circumstances whatsoever be liable to the Buyer for any loss and/or damage whether direct or consequential.

12. **Advice.** Unless otherwise agreed between the parties, advice by the Seller to the Buyer shall not form part of the contract. The Seller accepts no responsibility for any advice given to the Buyer by their employees, servants or agents and accept no liability for any injury, loss and/or damage resulting directly and/or indirectly from any such advice. Without prejudice to the above if goods the subject of this contract are manufactured by a Third Party and are delivered with the manufacturer's recommendations for the use of the goods in question and the advice so given differs from other advice received by the Buyer from whatsoever source the Buyer must either follow the manufacturer's instructions or, if in any doubt, apply to the manufacturers for further advice. Failure to do so may lose for the Buyer any protection from warranties given by the manufacturers to all recipients of the said goods and the Seller accepts no liability whatsoever for any injury, damage and/or loss suffered by the Buyer who has failed to follow the manufacturer's recommendations.
13. **Delivery.** Delivery dates must be confirmed between the parties. In the case of monthly deliveries involving more than one load, the deliveries of each monthly tonnage must be spread evenly across the relevant month unless otherwise mutually agreed.
14. **Consignment.** Each delivery or consignment shall meet all contract terms.
15. **Demurrage.** In the case of unreasonable delay in the arrival, loading or discharge of vehicles collecting or delivering the 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.
16. **Statutory Charges.** The price of the goods is subject to alteration by reason of the imposition of or alteration by the European Union or by 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.
17. **Salmonella.**
  - a. 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 required 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 provision of the Order preventing the movement of the contractual goods during the movement period, then any monies paid for the 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 portion 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 shall have supplied to the Buyer, if required, satisfactory evidence justifying the delay.

In case of resales all notices shall be passed on without delay by the Sellers to their respective Buyers.

18. **Non-Availability.** The agreed contract price of the compound feed which is the subject of this contract depends upon the necessary ingredients continuing to be available to the Seller. Should "force majeure" be invoked against the Seller by any of his own suppliers and the ingredient in question not be replaceable at a similar price, the Seller will immediately inform the buyer and offer him either replacement of the ingredient in question from a different source but at a contract price adjustment to be agreed or reformulation of the compound feed maintaining the original price. If the ingredient is not replaceable at all and the Buyer will not accept reformulation, the Seller can himself invoke the Force Majeure clause in this contract as also if the parties are unable to agree a new price prior to manufacture of the compound feed to which this contract refers.
19. **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 5 business days after the beginning of the movement period, whichever is the later. For the avoidance of doubt, neither party shall have the right to rely on, as Force Majeure, any strike which is limited to the employees of that party or its subcontractors, or any delay or default of that party's subcontractors in the performance of their obligations. In the case of resales 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 the 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 by the other, satisfactory evidence justifying the delay or non-fulfilment.

- 20. Default.** In the event of default of fulfilment of contract by either party, the other party at his discretion shall, after giving 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 the 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 either 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.
- 21. Arbitration.** Any dispute (other than a claim for an unpaid debt or as provided under (c) 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 all parties shall by making this contract be deemed to have knowledge of such rules and to have elected to be bound thereby.
  - b. Where a dispute as to quality arises regarding goods which are the subject of two or more contracts identical in terms except as to date and price, then any arbitration may, with the consent of all parties concerned, be held as between the first Seller and the last Buyer in the series of transactions as if they were the only contracting parties and any award then made shall, subject to the rights of appeal as provided in the relevant rules, be binding on all intermediate parties in the series of transactions and may be enforced by any such intermediate party against his intermediate contracting party as if a separate award had been made under each separate contract. All such intermediate contracts shall be made available to the Arbitrators.
  - c. 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 may, in writing, request the other 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 twenty eight 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.
- 22. Time Limits for Claiming Arbitration.** Arbitration shall be claimed in relation to quantity, quality or condition within 28 days from the date of the arrival of the goods at their ultimate destination in the United Kingdom or from when risk passes in accordance with clause 7(b) and in relation to other claims within 90 consecutive days of 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 arbitrators as a preliminary issue. Subject to any special conditions relating to leave being granted to institute court proceedings contained in the arbitration rules of the Agricultural Industries Confederation Limited, the making of an award shall be a condition precedent to any right of action by either party for any person claiming under either of them, so that if arbitration proceedings regarding any claims are not instituted within the time limit prescribed all courses of action relating to that claim, whether by way of arbitration or in any Courts of Law, are deemed time barred and waived.

**23. 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 him 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.

**24. Insolvency.**

a. 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.

**25. Business Days/Non-Business Days.** 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 may declare as non-business days for specific purposes shall be deemed non-business days for the purpose of passing of notices and claims.

**26. 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.

**27. Assignment.** Neither buyer nor seller may assign or transfer this contract to any third party, whether in whole or in part, or any of its rights or obligations under this contract, without the prior written consent of the other party.

**28. Domicile.** This contract shall be deemed to have been made in England, and the construction, validity and performance thereof shall be governed in all aspects by English Law.