

THE NUT AND DRIED FRUIT TRADE ASSOCIATION

TERMS AND CONDITIONS

1ST NOVEMBER 2020

1. Where a seller, broker and/or agent, does not disclose the name of his principal on the face of a contract, he shall be responsible as a principal for the fulfilment of that contract.
2. Contracts wherever made or to be performed, and whatever the nationality or residence of the parties, shall be construed and governed by English Law.
3. Any dispute arising out of a contract subject to these terms and conditions, including any question of law arising in connection therewith, shall be referred to arbitration in London, or elsewhere if so agreed. Such arbitration to be carried out in accordance with Association Terms and Conditions and the Arbitration Act 1996, or any statutory modification or re-enactment thereof for the time being in force.

4. **Non-Business Days**

Saturday, Sundays and all days observed in England and Wales as Bank or General Holidays, or any other day that the Association may declare to be a non-business day.

The business day shall be deemed to end at 16.00 hours UK time.

5. **Weights**

Where the quantity or weight of goods contracted is qualified by the word "about", it shall be construed as meaning within five per cent (5%) of the contracted quantity and weight.

Where tenders or deliveries are within this tolerance, buyers may at their discretion accept the deficiency or excess at contract price or market price at the time of delivery whichever they choose. Sellers shall thus multiply the deficient/excess quantity by the difference between contract price and market price at the time of tender or delivery and deduct or add this sum, as appropriate, to their invoice(s) for the goods so tendered or delivered.

With regards to weights, if the contract is an instalment contract requiring delivery/shipment in separate time periods, then each instalment shall be considered as a separate contract.

Where tenders or deliveries are not within this tolerance, the buyer shall not reject the whole parcel but shall deal with the differences as follows:

- a) **Excess Weight/Quantity.** The buyer shall have the option of rejecting any excess weight/quantity over 5%, or he may accept such excess at the contract price or the market price ruling on the day of tendering or delivering, whichever is the lower.
- b) **Deficient Weight/Quantity.** Whenever the tender or delivery is deficient in excess of the 5% tolerance, the buyer may claim from the seller on such deficient weight/quantity the difference in price between the contract price and the market price ruling on the day of tendering or delivering.

In either case the buyer must give notice to the seller of his intention within 5 business days of receiving the shipping advice or documents. On ex store or delivered terms short delivered and torn/damaged/ullaged packages to be calculated at the average weight of the sound portion.

Any dispute as to the adjustment in prices to be settled by arbitration.

6. **Notices**

Where the terms of a contract under these rules require notice to be given, such notice shall be transmitted by any means of rapid written communication. All such notices shall be sent under reserve for errors in transmission. A notice received after 16.00 hours UK time shall be deemed to have been received on the following business day.

Notice from a broker shall be a valid notice under this contract.

7. **Circle Clause**

- a) Where a seller re-purchases from his buyer, or from any subsequent buyer, the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased and the provisions of the Default Clause shall not apply.
- b) If the goods are not declared or, having been declared, documents are not presented as a result of a circle having been established, invoices based on the mean contract quantity shall be settled between each buyer and his seller in the circle by payment by each buyer to his seller of the excess of the seller's invoice amount over the lowest invoice amount in the circle.
- c) Such settlement should be made not later than 14 consecutive days after the last day of the shipment/delivery period or, should the circle not be established before the expiry of this time, then settlement shall be made immediately.
- d) All sellers and buyers shall give every assistance to the establishment of the circle and when a circle shall have been established, same shall be binding on all parties to the circle. Should any party in the circle commit, prior to the due date for payment, any act comprehended to be within the general meaning of the terms "Bankrupt", or in the event of a claim under the Force Majeure Clause, this Circle Clause is not applicable.