

**SCTC CONTRACT TERMS AND CONDITIONS
FOR
DRIED FRUIT, TREE NUTS AND KINDRED PRODUCTS**

Unless otherwise stated on the face of the contract, the following definitions and interpretations apply.

DEFINITIONS AND INTERPRETATION:

1. “DFN” means Dried Fruit and Tree Nuts and also includes Kindred Products.
2. “Documentary Collection Terms” means that Seller shall forward its draft and accompanying documents to Buyer’s Bank for collection, the documents to be delivered to Buyer against payment or acceptance of the draft, as agreed by Seller. The draft shall be payable upon presentation.
3. “Letter of Credit Terms” means that Buyer shall establish and maintain an irrevocable documentary letter of credit, payable against sight draft or time draft as agreed. Each letter of credit will be in favor of and acceptable to Seller, will be maintained in sufficient amount and for the period necessary to meet all payment obligations, will be irrevocable, issued, and/or confirmed, by a bank satisfactory to Seller.
4. “Remittance Prior to Shipment Terms” means that cash in the invoice amount, shall be received by Seller at an agreed upon number of days prior to scheduled shipment.
5. “Unit Price” means the price for a box or container of DFN of a standard weight or count as defined on the front of the contract.
6. Sale or trade terms used herein (FAS, FOB, CIF, CFR, etc.) shall be interpreted in accordance with the latest Incoterms as published by the International Chamber of Commerce. The current list of Incoterms rules can be found at the web site of the International Chamber of Commerce at www.iccwbo.org.

PRICE:

7. With respect to any purchase of DFN hereunder, Buyer shall pay Seller (a) the Unit Price for DFN for the number of units of DFN ordered by Buyer, plus (b) the costs, if any, incurred by Seller for the account and expense of Buyer pursuant to Paragraphs 8, 10, 11, 12, 16 and 26.

PAYMENT:

8. Payment of the purchase price shall be made without offset or other deduction and shall be made in United States currency unless otherwise specifically provided. All bank or similar charges, including letter of credit bank confirmation charges, shall be for Buyer’s account and expense, [except draft collection charges.]

SHIPMENT:

9. Seller may ship at any time it chooses within the Shipment Period. Shipment on any route, whether all water or by landbridge, may be by one or more carriers, direct or indirect, with or without transshipment. The date of shipment shall be deemed to be the "received for shipment" date of the bill of lading (including if issued by a Non-Vessel Operating Common Carrier (NVOCC) from any U.S.A. landbridge port or inland point of shipment.

10. Any request by Buyer for shipment by specific vessel or for change or deviation from the specific routing selected by Seller shall be subject to Seller's approval. Any differential in freight, insurance or other costs occasioned by any such request, change or deviation shall be for Buyer's account and expense.

MARINE AND WAR RISK INSURANCE:

11. On CIF sales, and if requested by Buyer in advance on non-CIF sales, Seller shall procure a policy of marine insurance against the risks of carriage involved in the contract. The insurance shall be contracted for on F.P.A.E.C. (Free of Particular Average English Conditions) terms but with risk cover, if obtainable. Additional risks requested by Buyer will, if obtainable, also be covered and Buyer will be notified if any such additional risks are unobtainable. Said policy of marine insurance will cover the CIF or contract price, as the case may be, plus ten percent (10%). For non-CIF sales, and if not otherwise requested by Buyer, Seller may nevertheless, in its sole discretion, elect to procure a policy of marine insurance as above for Buyer's account and expense, unless Buyer shall furnish Seller, prior to shipment, with a certificate of such insurance or other valid proof of the writing of a policy of marine insurance covering the contract satisfactory to Seller.

12. Buyer may request war risk insurance in addition to regular marine insurance, in which case Seller shall endeavor to procure such insurance in the United States market for Buyer's account and expense. If war risk insurance is unobtainable in that market, Seller shall so notify Buyer. If in its judgment the situation so warrants, Seller may obtain war risk insurance for Buyer's account and expense in any available market.

TITLE AND RISK:

13. Title to DFN shall be accordance with the most current Incoterms, or as specified in the contract and risk of loss and/or damage to DFN, shall pass from Seller to Buyer at the time that Seller is deemed to have delivered DFN to Buyer as hereinafter described.

DELIVERY:

14. Delivery to Buyer of DFN pursuant to a FOB, CIF or CFR sale shall be deemed to have been made by Seller to Buyer as the DFN crosses the ship's rail at the port of loading. Delivery to Buyer of DFN pursuant to a FAS sale shall be deemed to have been made by Seller to Buyer as the DFN is delivered to the vessel carrier, or its agent, at the port of loading.

15. Delivery to Buyer of DFN pursuant to the following trading terms -- Free Carrier (named point); Carriage Paid To (named point of destination); or Carriage and Insurance Paid (named point of destination) -- shall be deemed to have been made by Seller to Buyer at the point that the DFN was delivered into the custody of the sole carrier or the first carrier, as the case may be, as specified in the latest Incoterms as published by the International Chamber of Commerce.

TRANSPORTATION COSTS:

16. Buyer shall be responsible for all transportation and other costs incurred beyond the point of delivery of the DFN, which, without limitation, shall include all storage, loading, unloading, handling and other charges.

QUALITY, GRADE, SIZE AND CONDITION:

17. DFN at the time of shipment shall be of the size, and shall be equal to or better than, the quality or grade, specified in the contract. DFN sold on a sample basis shall average equal to, or better than, sample.

18. If a Quality Certificate is issued by DFA of California and either attached to the payment documents or otherwise furnished to Buyer prior to arrival of the DFN at the port of discharge, such Quality Certificate shall be final as to quality, grade, size and condition. If such a Quality Certificate is not furnished, Buyer shall nevertheless accept and pay for the DFN, and settlement of any dispute as to quality, grade, size or condition at the time of shipment shall be determined by arbitration as set forth below.

WEIGHTS:

19. Pounds avoirdupois shall be converted to kilograms at the rate of 2.2046 pounds per kilogram *or as per the specific prevailing industry norm*. CWT, or hundredweight, shall mean 100 pounds avoirdupois. Bulk DFN in bags, except edible tree nuts, are sold gross for net. Edible tree nuts are sold on a net weight basis.

20. If a sworn Weight Certificate or public weightmaster's Certificate of Weight at the packing or shipping point is attached to the payment documents or otherwise furnished to Buyer prior to arrival of the DFN at the port of discharge, such Certificate shall be final as to weight. If such a Certificate is not furnished, Seller shall reimburse Buyer for any shortage in invoice weight in excess of one percent (1%) as determined by a governmental or officially authorized weighing agency at the port of discharge; provided, that claim therefor is made by Buyer within thirty (30) calendar days from the date of discharge [of not less than eighty-five percent (85%) of the parcel.]

QUANTITIES:

21. Seller may ship, and Buyer must accept, a variation in quantity of up to five percent (5%) more or less than the quantities named for each item of DFN sold.

22. Each contract for the purchase of DFN shall be deemed separable as to all DFN sold thereunder and Buyer shall not refuse to receive any lot or portion because of non-delivery or delay in delivery of any other lot or portion or the failure of any lot or portion to conform to contract requirements. Seller may ship the goods in one or more installments within the Shipment Period but shall not, following shipment of ninety-five percent (95%) of the total contracted quantity, ship additional quantities unless such previous shipment has been noted as "partial delivery."

CLAIMS:

23. Buyer's receipt of any DFN delivered pursuant to these terms and conditions shall be an unqualified acceptance of, and a waiver by Buyer of any and all claims with respect to, such DFN,

unless Buyer gives Seller notice of claim within seven (7) calendar days after Seller has tendered delivery of the DFN, or, in the case of non-arrival, within seven (7) calendar days after a reasonable time for delivery has elapsed. A full statement in writing of the claim and of the basis therefore shall be filed with Seller within twenty (20) calendar days after Seller has tendered delivery of the DFN, or, in the case of non-arrival, within twenty (20) calendar days after a reasonable time for delivery has elapsed. In cases where the product has been used by the buyer, the buyer shall be deemed to have accepted the product quality and may not file a claim for quality against the seller.

24. Notwithstanding the pendency of any claim with respect to a shipment of DFN, or with respect to any other shipment of DFN, Buyer shall pay Seller the full amount of the invoice for such shipment without offset, discount or other deduction. Acceptance by Buyer of any payment tendered by Seller in settlement of any claim shall constitute a full and complete satisfaction and discharge of such claim. No allowance of any claim shall constitute a precedent for the allowance of any other claim.

FORCE MAJEURE AND LIABILITY:

25. In the event that Buyer or Seller is unable to perform its obligations with respect to any sale to which these terms and conditions apply due to events of force majeure, including but not limited to crop disease, destruction, shortage, damage or loss, acts of God, governmental action, fires, floods, explosions, strikes, slowdowns or other concerted acts of workers, war or hostilities, insurrections, rebellions, riots or any other civil disorder, embargoes, wrecks or delays in transportation, inability to obtain necessary materials or equipment, criminal conduct of third parties, or any failure of the other party to act as required but specifically excluding a party's lowered profit, cost of financing or other business considerations, then in that event, and then only to the extent so justified, the party unable to perform shall, upon written notice to the other party, be relieved of its obligations, but only to the extent of the effects of force majeure and only for so long as the event of force majeure continues. The party unable to perform shall use its best efforts to remedy the effects of force majeure. Seller shall not be obligated, by reason of force majeure circumstances, to purchase DFN from others in order to enable it to deliver DFN to Buyer.

26. In no event shall Seller be liable for a delay in shipment of the DFN or for non-delivery, short delivery, or loss or damage to the DFN caused or contributed to by the withdrawal of, postponement of, departure of, or the leaving of the DFN by the carrier otherwise scheduled to depart within the Shipment Period on which Seller has engaged space. In the case of a delay in shipment for any cause, if Seller shall notify Buyer before expiration of the Shipment Period, or within eight (8) calendar days thereafter, of the fact and cause of delay, the Shipment Period shall be extended for the period during which such cause shall operate, unless Buyer shall, within ten (10) calendar days of the effective date of Seller's notice, instruct Seller to ship the DFN by an alternate route, in which case Seller shall, if practicable, ship by said route. All additional costs for such alternative routing shall be for Buyer's account and expense.

27. For all contracts entered into on or after May 1 of a particular year and pertaining to crops to be harvested during that year, if the Secretary of the California Department of Food and Agriculture or any governmental body exercising control over or regulating production of the crop sold shall determine that there has been a substantial reduction in or damage to that portion of the crop of which the DFN sold thereunder is a part, Seller shall may prorate deliveries in any reasonable manner among all its customers (including Buyer) in accordance with the percentage of loss or damage so determined.

SUBSTITUTION:

28. If Seller is unable to furnish the full quantity of any item of DFN specified in a contract by reason of force majeure, or any other cause or condition whatsoever beyond Seller's control, Buyer shall be notified in writing and given the privilege of selecting and substituting other items of DFN then available, the price to be paid for such substituted item to be the contract price for the original item plus or minus the differential between such items as set forth on Seller's price list existing as of the contract date or, if such price list does not include both the original and substituted items, the differential between such items on Seller's most recent price list which does contain a price for both such items. The sale of such substituted item of DFN shall otherwise be subject to all the terms and conditions of the original contract. Buyer's selection shall be made and notified to Seller within three (3) calendar days from the effective date of Seller's notice, failing which Seller shall be relieved from the obligation of delivering the substitute items. If Seller cannot fill all orders for DFN from its customers by reason of any such cause specified above, Seller may prorate deliveries in any reasonable manner among all its customers (including Buyer). Any other substitutions mutually agreed to by Seller and Buyer shall be priced in the manner set forth above and shall otherwise be subject to all the terms and conditions of the original contract.

GOVERNING LAW:

29. The validity, interpretation and performance of any sale to which these terms and conditions apply shall be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods (the "Convention"). To the extent that the Convention does not expressly settle the rights and obligations of the parties, such matters shall be governed by the domestic law of the State of California, U.S.A.

ARBITRATION:

30. All disputes arising under the agreement between Buyer and Seller, including disputes arising out of these terms and conditions, shall be determined by final and binding arbitration pursuant to the SCTC Arbitration Procedures in effect at the time of the dispute. A copy of the current SCTC Arbitration Procedures may be viewed at www.shipsctc.org. Both parties shall review and familiarize themselves with the contents of the SCTC Arbitration Procedures and agree to be bound by them. The parties shall submit to arbitration conducted pursuant to the joint arbitration procedures established by Specialty Crop Trade Council. Provided however, that even when one or both parties are members of SCTC, SCTC reserves the right to refuse to arbitrate any dispute if SCTC believes, in its sole discretion, that acting as the arbitrator is not in the best interest of SCTC or the parties. If at least one of the parties is a member of SCTC, and one of the parties is a European-based company, SCTC may, in its sole discretion, either conduct the arbitration or alternatively, require the parties to submit to arbitration by Waren-Verein pursuant to that organization's arbitration procedures (the Waren-Verein procedures can be viewed on the internet at www.warenverein.com). If neither of the parties is a member of SCTC, but at least one of the parties is a European-based company, the parties shall be required to submit to arbitration by Waren-Verein. If neither of the parties to the dispute is a member of SCTC or a European-based company, SCTC has no obligation to conduct the arbitration and the parties will be required to utilize another organization qualified to conduct a commercial arbitration.

Notwithstanding the foregoing, the parties understand and agree that if one or both of the parties is a member of SCTC, neither SCTC or Waren-Verein will arbitrate "weight" issues where the

commodity received a “Weight Certificate” from the State of California prior to arrival of DFN at the port of discharge.

The parties shall bear the costs of arbitration, including administrative expenses and arbitrators’ fees, in equal proportions or as otherwise ordered by the arbitration panel.

MISCELLANEOUS:

31. These terms and conditions shall be binding upon and inure to the benefit of the respective successors and assigns of Buyer and Seller. Neither Buyer nor Seller may assign its respective rights and obligations with respect to any sale governed by these terms and conditions without the prior written consent of the other party.

32. The terms and conditions are severable, and the holding of any provision hereof void or unenforceable shall not affect the validity or enforceability of any other provision.

33. Every order given to or for Seller shall be governed by these terms and conditions which, with the accompanying terms and conditions on the face of any contract subject to this Agreement, shall constitute the entire agreement between Buyer and Seller. No modification or waiver of these terms and conditions shall be binding upon Seller unless approved in writing by an authorized representative. Any term or condition in any order, confirmation or other document furnished by Buyer which is in any way inconsistent with or in addition to the terms and conditions hereof is hereby expressly rejected, and Seller’s acceptance of any offer or order of Buyer is hereby expressly made in reliance on Buyer’s assent to all of these terms and conditions. Individual contracts of purchase and sale of DFN may be executed in any number of counterparts, each of which may be deemed an original, but all of which shall constitute one and the same instrument.

34. Any notices to be given by either party to the other shall be given in writing. Notices given by mail shall be deemed effective on the fifth (5th) business day after mailing and notices given by facsimile or electronic mail shall be deemed effective on the day of delivery confirmation.