

# AFFCO TERMS AND CONDITIONS OF INTERNATIONAL & NEW ZEALAND TRADE

Dated 01/01/2026



1. **General Conditions**  
All Goods sold by the Seller are sold subject to the Terms and Conditions of Contract.
2. **Definitions**  
"Buyer" means the purchaser or intending purchaser under any contract for the purchase of any Goods from the Seller (and if more than one Buyer, jointly and severally);  
"Document" includes any message sent by electronic transmission including attachments to any electronic transmission and all such documents shall be deemed to be "in writing";  
"Electronic Transmission" includes any form of electronic transmission through the internet and/or World Wide Web of written messages and documents;  
"Goods" means any products supplied by the Seller including but not limited to meat, offals, meals, tallow, casings, blood, hides and skins;  
"Price" means the total sum payable, as notified by the Seller to the Buyer for the Goods supplied pursuant to the Terms and Conditions of Contract;  
"Sales Order Confirmation" means a document or documents directed by the Seller to the Buyer confirming:  
(a) in any case in which the Buyer offers to buy Goods from the Seller, that the Buyer's offer has been accepted by the Seller; or  
(b) in any case in which the Seller has offered to sell Goods to the Buyer, that any Buyer's acceptance has been approved by the Seller; and  
AND may contain additional terms and conditions of the sale (e.g. price, quantity, type of Goods, method and terms of payment, contract type, port of discharge and expected dates of sailing and discharge).  
"Seller" means AFFCO New Zealand Limited or, as applicable in any case, any related company that has contracted to supply Goods to the Buyer;  
"Terms and Conditions of Contract" means:  
(a) the terms and conditions herein set out ("the Standard Terms"); together with  
(b) any applicable terms and conditions set out in:  
a. The client account application form; and/or  
b. The Sales Order Confirmation; and/or  
c. In the case of the sale of hides and skins only, the International Contract No. 6 – Hides and Skins published by the International Council of Hides, Skins & Leather Traders Associations provided however that Clauses 10.3 and 23 of that Contract shall not apply (subject however to Clause 6 at all times).
3. **Communications between the parties**  
3.1 Communication between the parties may be conducted by letter or electronic transmission.  
3.2 Subject to proof to the contrary, communications sent by electronic transmission shall be deemed to have been received by the other party on the next business day after sending provided that the sending party can produce a transmission report showing successful transmission without error.  
3.3 Execution of electronic copy of a document and transmission from one party by electronic transmission to the other or their representative is intended to bind the first party and will constitute a binding offer and or acceptance and satisfy the requirements of the Contract and Commercial Law Act 2017.
4. **Formation of Contract**  
4.1 A contract for the supply of Goods shall not be formed until the Seller has sent to the Buyer a Sales Order Confirmation and the Buyer has acknowledged receipt (which may be either by a Document or by an act, such as payment of a deposit).  
4.2 Any Document sent by the Seller or any agent of the Seller to the Buyer prior to the Sales Order Confirmation shall not be binding on the Seller.  
4.3 Where the Sales Order Confirmation specifies a delivery date or dates, this is an estimate only. Time is not of the essence unless expressly stated in the Sales Order Confirmation.  
4.4 The Buyer acknowledges that any reference to terms of trade other than those Standard Terms (e.g. reference to a Buyer's order to its own terms of trade) shall not be binding on the Seller and shall not form part of the contract of sale, which instead shall be under the Terms and Conditions of Contract unless such other terms or any part of them are expressly acknowledged to apply by explicit reference to such other terms in the Sales Order Confirmation (subject however to Clause 6 at all times).
5. **Variation**  
No instruction, stipulation, condition or variation to the Terms and Conditions of Contract shall have any force or effect unless agreed to in writing by the Seller and the Buyer.
6. **Conflicting Terms**  
Where any conflict exists between the Standard Terms and or terms and conditions in the client account application form and or in the Sales Order Confirmation and or in the International Contract No. 6 – Hides and Skins and/or in the Buyer's terms of trade provided that the Seller has agreed to such terms in accordance with Clause 4.4)  
6.1 The terms and conditions in the Sales Order Confirmation shall prevail over any other conflicting terms and conditions but only in respect of the order to which it relates;  
6.2 The terms and conditions in the client account application form shall prevail over any other conflicting terms and conditions in the Standard Terms or in the International Contract No. 6 – Hides and Skins or in the Buyer's terms of trade; and  
6.3 The Standard Terms shall prevail over any other conflicting terms and conditions, including any conflicting terms and conditions in the International Contract No. 6 – Hides and Skins and/or any terms and conditions in the Buyer's terms of trade.
7. **Basis of Sale**  
Goods may be sold free on board ("FOB"); costs, insurance and freight ("CIF"); cost and freight ("CFR"), each as defined in Incoterms 2020 edition or on any other terms defined in Incoterms; or on such other basis, as may be agreed between the Seller and the Buyer at the time of formation of the contract for the supply of Goods.
8. **Price**  
Unless otherwise stated in the Sales Order Confirmation or implied by the Basis of Sale, the price does not include any applicable taxes, duties, freight and insurance.
9. **Payment**  
9.1 Payment of the Price will be made in accordance with agreed payment terms as noted on the client account application form signed by the Buyer and sent to the Buyer.  
9.2 The Buyer shall not, for any reason, withhold payment nor make any deduction or set off.  
9.3 If no other payment terms are agreed then payment of 100% of the invoice value must be made by the Buyer prior to dispatch to the load port.  
9.4 Unless otherwise agreed in writing, all payments are to be by wire / SWIFT transfer in cleared funds to the Seller's nominated account and are not deemed to have been made until the Seller has received notice of receipt from their Bank.
10. **Installment shipments**  
Goods may be shipped in installments on separate vessels, and in any such case each such shipment shall be regarded as a separate contract and payment made accordingly. The failure to make any shipments shall not vitiate any contract as to other shipments. If the Buyer fails to pay for any one or more of the said installments of deliveries of the goods, the Seller may, at its option, be entitled to suspend without notice to the Buyer further deliveries of the Goods pending payment by the Buyer and/or treat the Contract/s as repudiated by the Buyer.
11. **Regulatory compliance**  
Goods shall as at the date of shipment have been manufactured, processed and packed to the standard notified to the Seller as required by the health and agriculture authorities in the country to which the Goods are to be discharged from the vessel shipping the same.
12. **Samples and quantity**  
12.1 The Seller will use reasonable endeavours to supply the quantity of goods specified in the Sales Order Confirmation however the quantity in the Sales Order Confirmation is an estimate and the actual quantity shipped may vary due to supply and production issues or actual final weights of processed Goods. The Seller shall have no liability to the Buyer arising from any shortfall in such quantity.  
12.2 Notwithstanding the prior submission of samples by the Seller to the Buyer or the Sales Order Confirmation, Goods are supplied solely as described in the Seller's invoice, and the bill of lading or airway bill shall be conclusive evidence as to the date of shipment of the weight or quantity of the Goods.
13. **Title**  
No property in the Goods shall pass to the Buyer until payment in full is made to the Seller. The Seller reserves all rights and remedies it may have under applicable law to recover the Goods sold and or delivered to the Buyer if the Buyer does not pay for such Goods by the payment due date. This includes the right to divert Goods on the water, or to enter upon the Buyer or other's premises and remove such Goods at the Buyer's cost. Such rights are cumulative and not in substitution for any other rights that the Buyer may have in the circumstances.
14. **Risk and liability**  
14.1 Risk transfers in accordance with the applicable Incoterms (being on loading at port of shipment or earlier unless sold on a DAP, DPU or DDP basis).  
14.2 Unless the Incoterms basis applicable is DPU or DPP, the Buyer shall be solely liable for all costs including import and other regulatory costs and requirements relating to the Goods in the destination country, including any demurrage detention or storage charges howsoever arising.  
14.3 The Buyer indemnifies the Seller and agrees to keep the Seller indemnified against all claims, suits, actions, demands, losses, liability, costs, expenses (including legal expenses on a full indemnity basis) to the extent that such (directly or indirectly) is caused by or arises from a risk or liability that is the Buyer's responsibility pursuant to the Terms and Conditions of Contract.  
14.4 The Seller shall not be liable for any act or omissions in, tort, contract or otherwise and whether by reason of negligence, breach of the Terms and Conditions of Contract or other reason unless such breach is notified by the Buyer to the Seller in accordance with the Seller's claims procedure and the Seller's liability including but not limited to consequential, special, incidental or aggravated loss or loss of profits or exemplary damages shall not in any event whatsoever exceed the price actually paid by the Buyer to the Seller for the specific Goods in respect of which the breach is notified.  
14.5 Where any competent court or other comparable body holds that the Seller's liability extends beyond that specified in Clauses 14 and or 16.4 then the parties agree that such court or comparable body should amend the applicable clause/s to the minimum extent necessary and in a manner that otherwise limits the Seller's liability to the maximum extent allowed at law.
15. **Default by Buyer**  
15.1 Should the Buyer, fail to tender due and punctual payment of the Price, or advise the Seller that the Buyer is unable or unlikely to be able to make due and punctual payment of the Price by the due date, or advise the Seller that the Buyer does not intend to tender due and punctual payment of the Price, the Seller may forthwith, and without prejudice to any other rights and remedies it may have, exercise any one or more of the following rights. The Seller may:  
(a) retain any documents of title to the Goods, and for avoidance of doubt it is agreed that the Seller shall not be required to release documents of title to the Goods until such time as payment in full of the Price has been made;  
(b) give the Buyer notice in writing terminating the contract and claim damages from the Buyer for all losses suffered by and costs incurred by the Seller as a result of the termination including, without limitation, packaging and re-packaging costs, storage and or demurrage costs, export or other taxes and duties, freight costs, financing costs, loss of profits, recovery costs (including legal and disbursements) and any diminution in the value of the Goods due to price movements;  
(c) re-sell the Goods;  
(d) divert the Goods (at sea or on shore);  
(e) enter upon the premises where the Goods or any part thereof are situated and take possession and remove the same without being responsible for any damage caused thereby and recover from the Buyer all costs of doing so.  
15.2 If the Buyer commits any act of bankruptcy or, being an incorporated company, passes a resolution for winding up (except for the purposes of reconstruction), or a court makes a winding up order or a petition is filed in any court for insolvency or winding up the Buyer, or the Buyer enters into any compromise or arrangement with creditors, the Seller shall have the right to cancel the contract in whole or in part without liability on the part of the Seller, and to claim in the bankruptcy or liquidation for costs and expenses incurred in any loss of resale.  
15.3 If the event that the Seller is eligible to exercise any remedy pursuant to this clause in respect of any contract between the Seller and the Buyer then the Seller shall be able to exercise the same remedies in respect of any other uncompleted contract then in existence between the Seller and the Buyer.
16. **Claims**  
16.1 In the event of any claims by the Buyer alleging breach of the Terms and Conditions of Contract in respect of quality or quantity of the Goods, or other pre-shipment obligations (whether in tort, contract or otherwise) on the part of the Seller, the Buyer shall:  
(a) Notify the Seller by email of the claim and all details known to the Buyer relevant to the claim as soon as is reasonably practicable and not later than 48 hours following it becoming aware of the issue matter or thing giving rise to the claim; the obligation to provide relevant information as soon as is reasonably practicable shall be ongoing and continuing in respect of later receipt of information relevant to the claim;  
(b) Take all reasonable steps to preserve the Goods and any other evidence relevant to the claim;  
(c) Allow the Seller and or a nominated independent testing agency access to the Goods the subject of the claim and the ability to take samples of such Goods for the purposes of testing;  
(d) Co-operate with the Seller in the Seller's investigation of the claim;  
(e) Allow the Seller the opportunity, where the Seller considers the same practicable, to remedy the claim through provision of replacement Goods or where the issue is a labelling issue with provision of replacement labels and a reasonable sum to cover the cost of relabelling;  
(f) Take all reasonable steps to minimise any losses.  
16.2 The Seller shall act with reasonable promptness in reviewing and considering any claim but acceptance of any claim is at its absolute discretion.  
16.3 Where the contract for supply of Goods is a contract for the supply of boneless beef to a Buyer in the United States of America or Canada, fat claims will be settled in accordance with the Meat Importers Council of America Inc's current guidelines for the settlement of fat claims.  
16.4 Where all or part of a shipment of Goods to a Buyer is rejected at the port of entry by that Country's relevant customs or other regulatory authority subsequent or a valid claim exists that the Goods supplied or part thereof were supplied in breach of the Seller's obligations to the payment by the Buyer to the Seller of the Price, ("Rejected Goods") and the Seller is satisfied that such rejection arises from a breach of Clause 11 or from some other fault on the part of the Seller, the Seller on receipt of the rejection certificate or other satisfactory evidence from the regulatory authority of rejection or acceptance of the claim as applicable, shall either refund to the Buyer the Price, or part thereof, in respect of the Rejected Goods or, where permitted by law and at the Seller's option, forward the Buyer replacement Goods equal in type and quantity to the Rejected Goods and such payment shall be paid or replacement Goods shall be supplied and accepted as a full and final settlement of any liability the Seller has to the Buyer provided however that:  
(a) The Seller shall not be obliged to make such replacement or payment where the Rejected Goods have been used by the Buyer; or  
(b) Where the Goods have not been kept at the Seller's recommended temperature; and  
(c) Where the Buyer already has the documents of title to the Rejected Goods, and the Seller elects to take back property in the Rejected Goods and on such election may require:  
(i) The documents of title to the Rejected Goods as a precondition to payment; and  
(ii) Confirmation from the person or entity holding the Rejected Goods that they shall be released to the Seller without charge (other than any incurred post-election) as a precondition to payment.  
Where the Seller elects to take back property in the Rejected Goods, property and risk in the Goods shall revert to the Seller on the earlier of the refund of the Price or the date the Buyer ships replacement Goods.
17. **Credit Limits**  
If the Buyer's account in respect of Goods ordered from the Seller exceeds the credit limit set solely at the discretion of the Seller, the Seller shall have the right as its option to cancel the contract in whole or in part without liability on the part of the Seller.
18. **Force Majeure**  
18.1 Notwithstanding any agreement as to the date of shipment, it is agreed that shipment may be delayed or suspended in whole or in part from time to time in case of fire, accident, earthquake, flood, drought, crime, war, blockade, civil commotion, epidemic/pandemic, government action, strike, lockout or labour dispute (whether or not as the Seller's works), shortage of fuel, power or raw material, inability to procure stock, inability to obtain transport, rejection by regulatory authorities in country of destination, or any other event beyond the control of the Seller ("Force Majeure Event"), and such suspension shall not entitle the Buyer to cancel shipments under the Conditions of Contract. If shipment is delayed as a result of a Force Majeure Event for more than 30 days, the Seller may at its option by notice to the Buyer rescind the contract, in whole or part, in which case the Buyer shall have no claim of any nature or kind against the Seller, provided however where the Buyer has made a payment to the Seller for Goods which will no longer be supplied as a result of the Seller's rescission, the Seller shall refund to the Buyer an amount equal to such payment less any unrecoverable costs or liability incurred by the Seller in performance of the Contract prior to rescission.  
18.2 Notwithstanding Clause 18.1, where the time of delivery has been expressly stated in the contract as of the essence and:  
(a) It becomes known to the Seller (either directly or via written notice from the Buyer) that delivery within the stated time will be impossible or reasonably unlikely as a result of a Force Majeure Event; and  
(b) such knowledge occurs prior to risk passing to the Buyer under the applicable Incoterms the Buyer may rescind the Contract by giving written notice to the Seller provided that such notice is given prior to risk passing; and  
(c) in the event of such rescission, neither party shall have any liability to the other under the Contract except that:  
(i) The Seller shall be entitled to charge the Buyer and the Buyer shall pay the Seller any unrecovered expenses that the Seller has incurred or become liable for towards performance of the Contract or which the Seller incurs as a result of rescission of the Contract (e.g. freight costs or re-packaging costs);  
(ii) where the Buyer has made a payment to the Seller for Goods which will no longer be supplied as a result of the Buyer's rescission, the Seller shall refund to the Buyer an amount equal to such payment less any amount to which the Seller is entitled pursuant to Clause 18.2(c); and  
(iii) Clauses 14.2 and 14.3 shall continue to apply.
- 18.3 Notwithstanding Clause 18.1, and in circumstances where Clause 18.2 does not apply, where as a result of a Force Majeure Event of a similar event suffered by the Buyer, that occurs prior to risk passing to the Buyer under the applicable Incoterms, delivery is delayed or reasonably unlikely to occur for a period exceeding six (6) months, the Buyer may rescind the Contract by giving written notice to the Seller provided that such notice is given prior to risk passing and in the event of such rescission neither party shall have any liability to the other under the Contract, except that:  
(a) The Seller shall be entitled to charge the Buyer and the Buyer shall pay the Seller any unrecovered expenses that the Seller has incurred or become liable for towards performance of the Contract or which the Seller incurs as a result of the rescission of the Contract (e.g. freight costs or re-packaging costs);  
(b) Where the Buyer has made a payment to the Seller for Goods which will no longer be supplied as a result of the Buyer's rescission, the Seller shall refund to the Buyer an amount equal to such payment less any amount to which the Seller is entitled pursuant to Clause 18.3(a); and  
(c) Clauses 14.2 and 14.3 shall continue to apply.
- 18.4 If an event similar to a Force Majeure Event is suffered by the Buyer after risk passing to the Buyer under the applicable Incoterms, that makes it unreasonably burdensome for the Buyer to perform the Contract, the Seller shall not unreasonably refuse to offer the Buyer relief provided however that:  
(a) The Seller shall not be required to suffer any loss as a result (and without limitation), may require the Buyer to reimburse the Seller for any unrecovered expenses that the Seller has incurred or become liable for towards performance of the Contract or which the Seller may incur as a result of granting relief (freight costs or re-packaging costs);  
(b) The Seller may take into account any applicable insurance policy in favour of the Buyer; and  
(c) The Seller may also take into account its ability to re-sell the Goods affected and the price it receives or is likely to receive for such goods.
- 18.5 Subject to Clause 18.1, 18.2(c)(ii) and 18.3(b), the Seller has no liability to the Buyer for any costs, losses, expenses or damages suffered by the Buyer as a result of the Force Majeure Event, including without limitation, those arising from delay in performance.
19. **Waiver**  
19.1 No failure by the Seller to insist upon strict performance of the contract, including any of the Terms and Conditions of Contract, or any delay in exercising any of its rights or remedies, constitutes a waiver or variation unless expressly agreed to in writing by the Seller.  
19.2 Any written waiver or variation agreed to by the Seller shall apply only to the specific contract to which it relates, shall apply strictly in accordance with its terms, and shall not give rise to any other implied waiver or variation or expectation of other waiver or variation.
20. **Assignment**  
Any assignment of the Buyer's rights and obligations under any contract between the Buyer and the Seller shall not release the Buyer from its obligations under the contract, the Buyer remaining personally liable to perform the same, unless the Seller has consented in writing to the assignment; there being no obligation to give such consent.
21. **Applicable law**  
This contract shall be construed and take effect according to the laws of New Zealand and, subject to clause 24, and the parties submit to the sole and exclusive jurisdiction of New Zealand Courts and of Arbitrators acting within New Zealand provided however such exclusive jurisdiction does not limit the jurisdiction of a Court to make any order as provided for under the Arbitration Act 1996 or to enforce any Award issued by the arbitrators.
22. **Exclusion of Vienna convention**  
The parties agree that notwithstanding the domicile of the Seller and or the Buyer and or the applicable laws applying to the contract the Buyer and the Seller expressly agree that the United Nations Convention on Contracts for the International Sale of Goods (1980) ("the Vienna Convention") shall not apply and no terms or conditions shall be implied into the contract by virtue of the Vienna Convention.
23. **Consumer Guarantees Act**  
The Buyer represents that it is acquiring the Goods for the purposes of a business and accordingly the Consumer Guarantees Act 1993 shall not apply.
24. **Arbitration**  
Although New Zealand Courts shall have jurisdiction, the parties agree that, at the option of the Seller, all differences which may arise between the parties arising out of or in relation to this contract or its performance may be referred to arbitration in Hamilton, New Zealand, unless the parties otherwise agree in writing to a different location. The appointment of arbitrators and process of arbitration shall be conducted in accordance with the Arbitration Act 1996 (including the provisions of both Schedules 1 and 2) or any amendments thereof.
25. **Validity**  
In the event that any clause of the Terms and Conditions of Contract is invalid or unenforceable under the laws of the relevant jurisdiction, that clause will be amended, but only to the extent necessary to make it valid and enforceable under those laws. If amendment is not possible, that clause will be stricken from the Terms and Conditions of Contract, however the balance of the Terms and Conditions of Contract will continue in full force and effects.
26. **Variation of Standard Terms**  
The Seller reserves the right to change any of the Standard Terms. The Seller will notify the Buyer of any such changes and the Buyer agrees that notification that there has been a change to the Standard Terms may be undertaken by notifying the Buyer of the fact of change and that the amended Standard Terms may be viewed on the Seller's website. The Buyer agrees that upon notification of a change the Buyer shall be deemed to have read and agreed to the amended Standard Terms in respect of any subsequent contract entered into between the parties.