

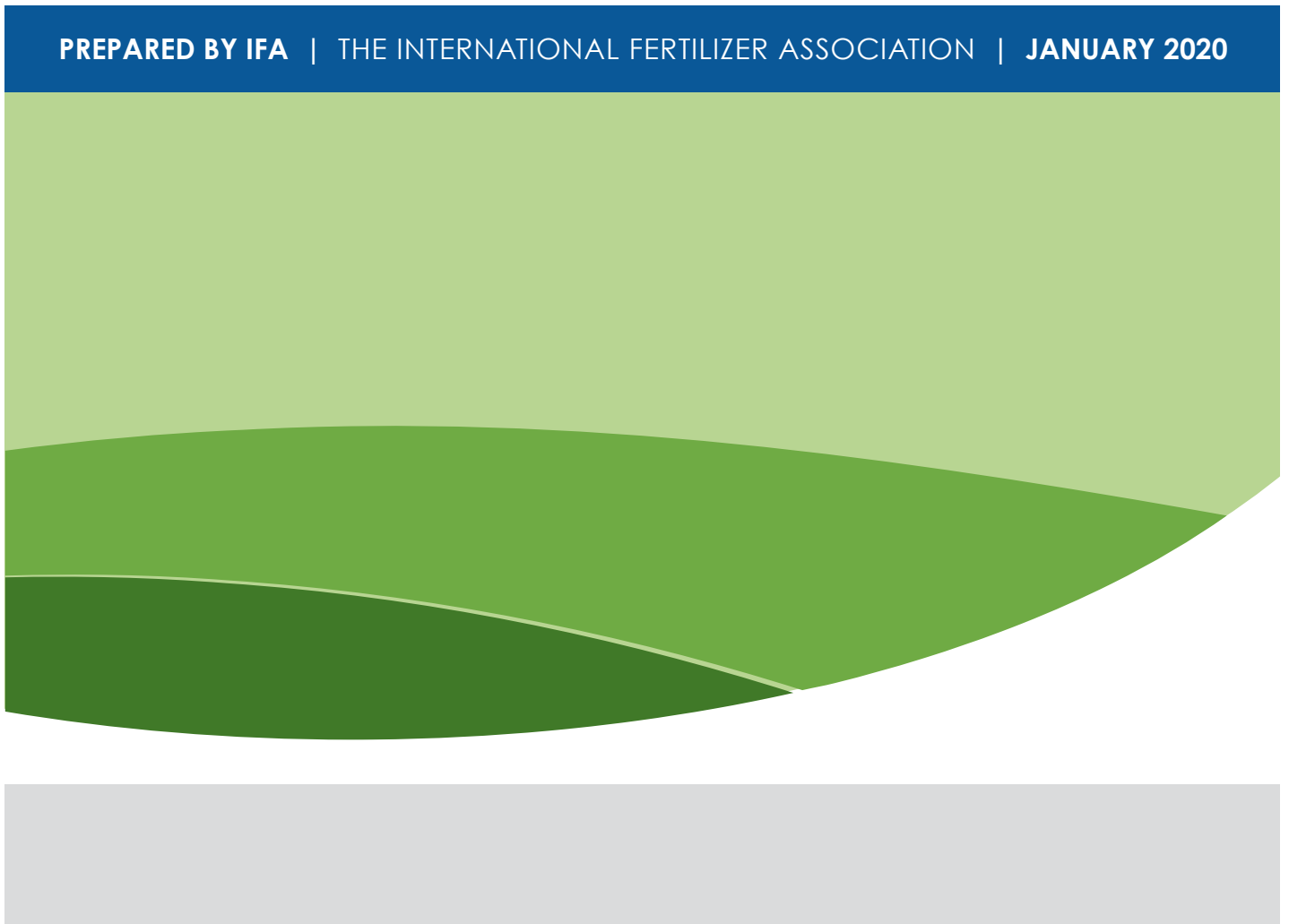


IFA TRADE CONTRACT TEMPLATE

- CIF DRY BULK -

USER GUIDELINES

PREPARED BY IFA | THE INTERNATIONAL FERTILIZER ASSOCIATION | JANUARY 2020



DISCLAIMER

The IFA Trade Contract Template (the “**Template**”) has been provided as a starting point for Parties looking to enter a contractual buy/sell relationship. IFA makes no claims, promises or guarantees about the accuracy, completeness, or adequacy of any information contained therein. The Template, or parts thereof, may be used or modified as appropriate by the Parties. By utilizing this Template, the Parties (i) assume full responsibility for any loss, damage, or liability resulting from the use of the Template and (ii) release IFA and the preparers of the Template from any known and unknown claims, demands and/or causes of action that

may arise, at any time, out of or relating to their use thereof. IFA cannot and will not provide any advice as it relates to any disputes between Parties that have incorporated any terms provided in a Template. Nothing herein constitutes legal advice or the establishment of an attorney-client relationship. The Parties may wish to obtain their own independent legal review prior to formalizing any agreement. Disputes between Parties utilizing the Template, or variant thereof, should be decided by the court/arbitration tribunal designated in their agreement.

CONTEXT

The IFA Trade Contract Template series offers a range of voluntary contract templates designed to help companies better manage their international trade business with clearly defined trade conditions related to fertilizer and raw materials.

The **IFA Trade Contract Templates** were developed by IFA as a service to the industry in order to provide a clear understanding by buyer and seller of their obligations and rights when entering into a contractual agreement.

Each template comprises two parts: Commercial Terms, into which Parties would insert negotiated commercial terms of trade; and Terms & Conditions which set out certain rights and responsibilities of each Party. The Terms & Conditions include commonly used terms and conditions in fertilizer sales agreements. The Parties are free to incorporate any revisions/amendments that may be applicable in their circumstances.

The templates are made available in Word format and in interactive .pdf form, allowing users to select from among the provided standard clauses. This offers flexibility to Parties to use the template as is, or select those clauses they would like to have, or as a starting point with the

option to include additional provisions. Parties involved in a transaction can jointly negotiate any Commercial Terms. These forms can be used by various players across the supply chain (e.g. Manufacturer > Trader and Trader > End User).

Each **contract Template** is accompanied by **User Guidelines**, which provide basic information on each section/clause of the Commercial Terms. The Guidelines are not prescriptive but offer additional precisions and explanations on the content of each section of the Commercial Terms.

The templates address sales terms and associated vessel/marine/ shipping terms. *This first series focuses on seaborne dry bulk shipments for FOB, CIF or CFR contracts.*

These templates are freely available to anyone who wishes to use them.

The IFA Secretariat welcomes any suggestions and comments to improve and update the IFA Trade Contract Templates and User Guidelines. Please contact the IFA Secretariat at ifa-tradecontracts@fertilizer.org

GUIDANCE ON THE USE OF THE IFA TRADE CONTRACT TEMPLATE

These User Guidelines were developed by IFA to facilitate the use of the IFA Trade Contract Template.

The Guidelines provide a description of each section in the Commercial Terms, and some guidance to fill in these sections appropriately, through the same sequence as in the Template. These Guidelines are not prescriptive but offer additional precisions and explanations on the content of each section of the Commercial Terms.

The Template can be adopted and amended freely, as no template contract will contemplate all possible commercial points that may be agreed in a given situation. To avoid any limitation on choice the IFA Trade Contract Template offers menus of choices rather than single terms. In any case the Parties can, of course, include the terms they want and amend any requirements to suit their particular needs. Therefore, sellers and buyers may collectively agree to vary the standard form provisions at any point as may be required.

IFA may review and update the IFA Trade Contract Template and User Guidelines from time to time, based on developments in trade practices and evolution of contractual formats.

The IFA Trade Contract Template and User Guidelines include references to Incoterms and definitions. IFA wishes to acknowledge the source: "Incoterms" is a trademark of the International Chamber of Commerce (ICC). ICC website. The full text of the 2020 edition of the Incoterms rules is available at store.iccwbo.org

USER GUIDELINES

Commercial Terms / Terms & Conditions

The Template has been set up to align with CIF INCOTERMS 2020.

The Template consists of Commercial Terms, together with Terms and Conditions, which together are intended to constitute the entire agreement between the Parties with respect to the matters set forth therein. It should be noted that the Parties are free to incorporate any revisions/amendments that may be applicable in their circumstances.

Contract Date

The contract date (the date the Parties intend to enter into a contractual obligation) should be clear without any doubt, vagueness or ambiguity. Therefore, it is recommended that the day/month/year be written in full, rather than simply using numbers. For example: 05.07.19, could lead to confusion on whether the contract date is 5th July 2019 or 7th May 2019.

Contract Reference

The Parties may wish to set out a contract reference number as between them or any applicable number(s) for internal purposes.

Seller / Buyer (Sections 1 & 2)

Seller/Buyer (collectively, the Parties) should be clearly identified. The full legal names should be used, as applicable.

Product (Section 3)

The Parties should clearly specify the nature of the goods (Product) being purchased/sold under the contract.

Quantity (Section 4)

- a) The Parties should clearly specify the quantity of the goods (Product) being purchased/sold under the contract, including the appropriate unit(s) of measurement (e.g. metric tonnes, short tons, or any other applicable unit of measurement).
- b) The Parties should clearly specify whether a tolerance (typically a minimum and maximum %) is allowed or whether the quantity of the product must be exact.
 - i. If it is determined that a tolerance is allowed, the Parties should not rely on generic words such as "about" or "around."
 - ii. If it is determined that a tolerance will be allowed, the Parties should determine whether the Buyer or Seller has the option to declare the tolerance. The price payable will correlate with the delivered quantity of the Product.

Specifications (Section 5)

The Parties should clearly specify the agreed upon specifications of the goods (Product) being purchased/sold under the contract. If needed, the Parties may determine that it would be appropriate to incorporate a specification sheet as an exhibit or annex to their contract setting out any further particulars.

Packing (Section 6)

The Template default is "In bulk."

Price (Section 7)

The Parties should clearly specify the agreed upon price as well as the currency to be used for payment of the goods (Product) being purchased/sold under the contract and whether this is in total or per unit of Product quantity. The Parties may also include any other agreed terms and/or conditions with respect to pricing.

Payment Terms (Section 8)

The Parties should clearly specify the agreed upon payment terms of the goods (Product) being purchased/sold under the contract.

For example, the Parties may agree upon advance payment, payment at sight, payment within (?) days, or the Seller making delivery in anticipation of payment and may deliver against:

- i. Cash on delivery
- ii. Open account credit
- iii. Documentary draft
- iv. Promissory notes
- v. Documentary letter of credit
- vi. Some hybrid of the foregoing
- vii. Other, as agreed by the Parties

Default Interest Rate (Section 9)

The Parties should clearly specify the agreed upon interest rate applicable for late payment for the goods (Product) being purchased/sold under the contract.

Shipment Period (Section 10)

The Parties should clearly specify the agreed upon Shipment Period including any options for the shipment (loading) of the goods (Product) being purchased/sold under the contract. This may be determined as of the date of the contract, or on a later date as may be agreed between the Parties.

Product Origin (Section 11)

The Parties may wish to specify the agreed upon origin(s) (e.g. country/mine/plant, etc.) of the goods (Product) being purchased/sold under the contract. This section may also be left blank at the discretion of the Parties.

Load Port / Terminal (Section 12)

The Parties may want the loading port/terminal to be specified (including any specific wharf within a port or terminal) that will be utilized for the shipment (loading) of the goods (Product) being purchased/sold under the contract.

Destination (Section 13)

The Parties should clearly specify the agreed upon destination(s), including the discharge port/terminal (including any specific wharf within a port or terminal) that will be utilized for the shipment (discharge) of the goods (Product) being purchased/sold under the contract.

Discharge Rate (Section 14)

The Parties should clearly specify the agreed upon discharge rate applicable for the discharge of the goods (Product). The Parties should clearly specify the applicable rates, units of measurement, and units of time (e.g. 500 MT/hour).

The Parties should also select the applicable chartering term by which Laytime should be calculated. If 'Other' is selected, the appropriate measurement should be clearly set out.

The chartering abbreviations are included in the Definitions of these Guidelines.

Demurrage / Despatch (Section 15)

The Parties should clearly specify the agreed upon demurrage rate applicable for the shipment of goods (Product). The Parties may agree to the rates set out in the applicable charter party, or may specify a negotiated demurrage rate. The Parties should also set the applicable currency for the demurrage rate. The despatch rate has been set at half the demurrage rate (as it is customary in the market), unless otherwise agreed between the Parties.

Notice of Readiness (Section 16)

The Parties should select one applicable chartering term by which notice of readiness to discharge should be provided. If 'Other' is selected, the appropriate notice period should be clearly set out.

The chartering abbreviations are included in the Definitions and Abbreviations section of these Guidelines.

Inspection (Section 17)

The Parties should clearly specify which inspection/s is/are required and which Party/Parties is/are responsible for the cost of that/those inspection/s (as applicable) for the shipment of goods (Product).

Documents (Section 18)

The Parties should clearly specify which documents are required, whether Seller and/or third party is responsible for producing those documents (as applicable), and number of originals and/or copies of such documents that are required for the shipment of goods (Product).

Insurance (Section 19)

The Seller is responsible for arranging marine cargo insurance and any other applicable insurance coverage sufficient to cover loss of or damage to the cargo.

The Parties should clearly specify the appropriate currency and limits of Protection and Indemnity Insurance.

Applicable Law and Dispute Resolution Location (Section 20)

The Parties should clearly specify the governing law and location for dispute resolution in respect of any disputes that may arise from the goods (Product) being purchased/sold under the contract. If the Parties desire to incorporate an alternative governing law and location for dispute resolution than the options listed in the Template, this should be clearly specified in the contract.

Dispute Resolution (Section 21)

The Parties should clearly specify whether one or three arbitrators should be appointed for an arbitration proceeding.

The Template provides a default of:

- i. ICC Mediation Rules,
- ii. Rules of Arbitration of the International Chamber of Commerce, and
- iii. all mediation and/or arbitration proceedings to be in English.

If the Parties wish to use a different set of rules and/or language for dispute resolution, this section should be amended accordingly.

Notice Parties (Section 22)

The Parties should clearly specify the names, addresses, and contact information (including email addresses) for the applicable person(s) that they wish to have contacted.

Additional Provisions (Section 23)

This section may be used by the Parties to include any additional provisions that they may choose to include in their contract. If any additional provisions are included, the Parties should clearly specify the terms of those provisions.

Signature Lines

The full legal name for each Party should be written in the signature box. The Parties should then execute the contract once all terms have been agreed.

DEFINITIONS AND ABBREVIATIONS

Abbreviations of Discharge Rates and Notice of Readiness

Section 14 - Discharge Rate

PWWD SSHEX UU: Per Weather Working Day Saturdays, Sundays, Holidays Excluded Unless Used

PWWD SHEX UU: Per Weather Working Day Sundays/Holidays Excluded Unless Used

PWWD SSHINC: Per Weather Working Day Saturdays, Sundays, Holidays Included

PWWD FHINC: Per Weather Working Day Fridays and Holidays Included

PWWD SSHEX EIU: Per Weather Working Day Saturdays, Sundays, Holidays Excluded Even If Used

PWWD SHEX EIU: Per Weather Working Day Sundays/Holidays Excluded Even If Used

PWWD FHEX EIU: Per Weather Working Day Fridays/Holidays Excluded Even If Used

PWWD FSHEX EIU: Per Weather Working Day Fridays/Saturdays/Holidays Excluded Even If Used

Section 16 - Notice of Readiness

SSHEX: Saturdays, Sundays, Holidays Excluded

SHEX: Sundays/Holidays Excluded

SSHINC: Saturdays, Sundays, Holidays Included

FHEX: Fridays/Holidays Excluded

FHINC: Fridays/Holidays Included

FSHEX: Fridays/Saturdays/Holidays Excluded

CIF Cost, Insurance and Freight

"Cost, Insurance and Freight" means that the Seller delivers the goods on board the vessel or procures the goods already so delivered. The risk of loss of or damage to the goods passes when the goods are on board the vessel. The Seller must contract for and pay the costs and freight necessary to bring the goods to the named port of destination.

ICC

ICC refers to International Chamber of Commerce.

INCOTERMS

The "Incoterms" or "International Commercial Terms" are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law.

The IFA Trade Contract Template has been developed on the basis of INCOTERMS 2020, the ninth version of Incoterms published in 2019.