

Contractual Agreement of fruits: Harvesting year of \_\_\_/\_\_\_

Fruit: Orange

Brazil

NUMBER:.....

Through this PURCHASER - SELLER agreement for the purchase of fruits, Mr. or Messrs. \_\_\_\_\_, as supplier(s) and SELLER(S), and Mr. or Messrs. ....as PURCHASER(S), truthfully establish the following arrangements:

1. FIRST CLAUSE: THE OBJECTIVE OF THE AGREEMENT

1.1 The supplier(s) and SELLER(S) declare to be the legal owner(s), without any kind of ownership limitations, of the orchards described below, which are situated in the rural property denominated ....., located at ....., registered with the number ....., also legally owned by them, having the following number of fruit trees and respective production forecast:

CODE	VARIETY	PRODUCING TREES	TOTAL PRODUCTION (estimated in 40,8 Kg boxes)
01	Pear variety “___” or “___”	.....	.....
02	Orange variety ___	.....	.....
...	.....	.....	.....
51	Clementine variety ___	.....	.....
52	Etc.	.....	.....
		total: Estimates	.....

1.2 The estimated production above is made in a provisory basis, for the purposes of calculation of the first payment installment of the provisional price, as per terms of the THIRD CLAUSE of this agreement.

1.3 The aim of this agreement is to define the sale and supply, to the PURCHASER, of ....% (... per cent) of each of the fruit varieties above produced in the contracted orchard(s) during the harvest year of \_\_\_/\_\_\_, in the condition designated as “unharvested”, comprising either fruits with normal ripening, here designated as “timely”, or the ones with a late ripeness, also known as “delayed”, all adequate to processing and/or market sale.

2. SECOND CLAUSE: THE CONDITIONS OF SALE AND SUPPLY

2.1 The harvest of fruits with normal ripeness shall be executed by the PURCHASER until (date), and the harvest of the delayed fruits shall be executed until (date). The SELLER(s) commit(s) to monitor the execution of the referred harvest operations, as well as to allow the entrance of vehicles and harvest crews into the property. The SELLER(s), also commit(s) to keep the internal paths in normal usage conditions and to maintain the access plots to the harvest and/or transportation areas clean and cleared during the time of harvest works.

2.2 From the present date on, the fruits become the property of the PURCHASER, being the SELLER(S) a reliable entruster (depository) of them. As depository, the SELLER(s) is/are responsible for any losses or damages that might arise due to

his/their fault or omission, and is/are in charge of protecting the orchard(s) against theft or robbery. The sale or cession of any fruit quantity to third parties is forbidden, under the penalties of criminal liability laws.

2.3 THE SELLER(S) commits to spray the fruits against mites and flies with the proper amount and adequate type of product. Fruits that are infected by \_\_\_\_\_ or \_\_\_\_\_ will be discarded if harvested, along with the ones that are improper for juice production and/or direct sale, without any indemnity.

2.4 If the fruits are found to be attacked by flies or mites, or if they are infected with \_\_\_\_\_, the PURCHASER can refuse to harvest them or, if harvested and considered improper for juice production and/or direct sale, they will be discarded without any indemnity.

2.5 The risks of fruit spoilage due to natural factors, including hailstorm, fruit fall or precocious and/or irregular ripeness are borne by the SELLER(S). The same holds in the case of *force majeure*, in which the PURCHASER may choose to either cancel the present contract or to proceed with the execution of the present agreement in respect of the non-damaged fruits.

**Paragraph 1.** In case of hailstorm, the PURCHASER will compensate the SELLER(S) for the remaining suitable fruits. Additionally, compensation will be provided for 80% (eighty per cent) of the volume of the last harvest estimate or re-estimate prior to the hail occurrence, deducting from this amount the quantity of fruits already harvested. The fruits that are compensated in this manner will be freely available to the PURCHASER.

**Paragraph 2.** The warranty for Paragraph 1 above, will only be valid for the orchards entirely acquired by the PURCHASER and in the following periods:

a) for the oranges of the type “Pera”, “Natal”, and “Valencia”, in the period between the first of [date] and the contractual end of the harvest.

b) for the other types of orange, in the period between [date] of the “caput” of item 2.5 above, the parties also considering as *force majeure* the standstill of harvesting and/or transport services (strikes or similar acts), as well as illicit acts that can prevent the normal functioning of PURCHASER’s establishments.

2.7 The PURCHASER commits to pay only the fruits that are proper for juice extraction and/or resale. For this purpose the SELLER(S) is allowed to follow the process of fruit selection, which shall always be made in the PURCHASER’s establishments and in the case of disagreement, the SELLER(S) shall manifest its intention on the spot, under the penalty of resignation of any complaint previously expressed.

**Sole Paragraph** - If the amount of fruits rejected by this selection exceeds 1% (one per cent) of the total amount of fruits provided by the SELLER(S), the excess of this percentage will be compensated with the corresponding price of apt fruits, along with the payment of the “price’s final balance” due to the SELLER(S), as prescribed in item 4.9 of FOURTH CLAUSE of this agreement.

2.8 In fulfillment of [...] sanitary legislation, the harvested and delivered fruits which are not considered proper for juice extraction and/or resale will be rendered useless

for this aim, and the SELLER(S) will not receive any type of indemnity nor burden for this service.

2.9 The weighting receipts will be available to the SELLER(S) in the PURCHASER's establishments in the day immediately following the delivery in these establishments. The weighing can be monitored by the SELLER(S).

2.10 Since the fruit harvest and delivery duties are charged from the PURCHASER, they are exclusively accounted for the risks of road accident in the route from the orchard(s) to their industrial establishments.

2.11 The fruits supplied by the SELLER(S) will be predominantly used in the production of frozen orange juice concentrate and its derivatives.

2.12 The PURCHASER is properly equipped for this aim, and is exclusively responsible for the harvesting, industrialization, storage, commercialization, and export of these products.

### 3 THIRD CLAUSE: THE PROVISIONAL PRICE, ITS ESTIMATION AND PAYMENT TYPE

3.1 The "provisional price", agreed among the parties, aimed at the volume of the fruits as prescribed in the FIRST CLAUSE, item 1.3, and acquired in the form of SECOND CLAUSE item 2.2 of this agreement, still having as unity the standard harvesting box of 40,8 kilograms, is the sum of the values, in [currency], of the portions described below, which will be paid in the following dates:

a) in the act of signature of the present agreement, the SELLER will be paid [amount] in [currency] per box, based on the initial and temporary estimation of the production, disclosed in the FIRST CLAUSE, item 1.1, of this present agreement;

b) on [date] following the PURCHASER's recalculation of the initial estimation of production, which will be done by [date], the SELLER will be paid [amount] in [currency] per box, based on this new re-estimate, making the eventual necessary adjustments with the previous payment.

c) on [date], the SELLER will be paid [amount] in [currency] per box, based on the re-estimation of production, referred in part "b" above, making the eventual necessary adjustments with the previous payments.

d) on [date] the SELLER will be paid [amount] in [currency] per box, based on the re-estimation of production proceeded until [date] performed by the PURCHASER, making in the same manner, the eventual necessary adjustments with the previous payments.

e) Finally, on [date] the SELLER will be paid [amount] per box, based on the new re-estimation of production, referred in the part d above, or based on the number of boxes effectively received, if the harvest has already been resumed, making in the same manner eventual necessary adjustments with the previous payments.

**Sole Paragraph** - The values of the portions referred in letters "a" to "l", reported above in [foreign currency] will be converted to [local currency] by using the average exchange rate of purchase operations of the local currency, valid for operations of exportation, disclosed by the Central Bank of Brazil, and referred to the last business day immediately prior to the payment dates agreed therein. Such values will be

available to the SELLER(S) in the PURCHASER's establishments, in the respective payment dates, and the ones not claimed will not be subject to neither interest nor any kind of monetary or exchange correction.

3.2 All the estimates of production and the ones referred on item 3.1, above mentioned, in letters "a", "b", "d", and "e", will be provisional and will solely and exclusively serve to calculate the installments of the "provisional price" and its eventual adjustments, as being this same "provisional price", under any circumstances and must correspond to the total number of boxes effectively harvested until [date].

#### 4 FOURTH CLAUSE: THE PRICE'S FINAL BALANCE AND ITS CALCULATION FORM

4.1 Having considered that the "final price" of the box of oranges, object of this agreement, will be determined based on [exchange rate] quotes of industrialized juice in [currency], the parties will rigorously observe, in this determination, and with loyalty and good faith, the basic principles detailed below, discussed and expressly agreed among them.

4.2 The "exportation-year" is defined, for the purpose of this agreement, as the period between [date].

4.3 The "juice's sale price" is defined, for the purpose of this agreement, as the arithmetic average of the daily [exchange rate] quotes of frozen orange juice concentrate, for delivery in warehouses licensed in [place], using as usual, the present month during the "exportation-year", adopting the conversion parameter of pound-weight of solids, measure in which the cited quote is reported, to the metric ton of juice with 65° brix concentration, that is, 1,433 pound-weight of solids is equivalent to one metric ton of juice with 65° brix concentration.

4.4 The "fruit yield", is defined, for the purpose of this agreement, as the number of boxes of oranges weighing 40,8 kilograms, necessary to the production of one metric ton of juice with 65° brix concentration, which is 270 boxes, as set and agreed herein, by the parties.

4.5 The "production and commercialization remuneration", for the purpose of this agreement, is defined as all the direct and indirect expenses, of administrative, industrial, commercial, export, tributary, and financial nature, incurred from the harvest, industrialization, storage, commercialization, and exportation of the orange juice concentrate (Brazilian Merchandise Nomenclature n. 20 09 01 00) to the reception of the final price of sale overseas, as well as, the capital remuneration of the PURCHASER, all in accordance with ANNEX A of the present agreement, and to which the parties defined, herein, as the value of [amount and currency] (amount in words), for each metric ton produced, commercialized and exported, except for the variations foreknowledge ahead in the FIFTH CLAUSE.

4.6 "Sale result" is defined, for the purpose of this agreement, as the positive or negative difference found in each metric ton between the "juice's sale price" and the "production and commercialization remuneration", described above, divided by the "fruit yield".

4.7 The "price's final balance" owed and to be paid to the SELLER(S), shall be:

a) for the oranges of type “Pera”, “Natal”, and “Valencia”, represented by the difference between the “sale result” and the “provisional price” already received by the SELLER(S), as prescribed in the THIRD CLAUSE.

b) for the other oranges with hard skin (‘Hamlin’, ‘Barão’, ‘Westin’, ‘Rubi’, ‘Baia’, ‘Baianinha’, ‘Lima’, ‘Piralima’, and ‘Murcot’), represented by the value corresponding to 85% (eighty five per cent) of the “sale result”, minus the “provisional price” already received by the SELLER(S), as foreknowned in the THIRD CLAUSE.

4.8 The “price final balance” owed to the SELLER(S) will be examined on [date], as per CLAUSES THIRD, FOURTH, and, FIFTH, and all items of the present agreement. If positive, it shall be paid to the SELLER(S) until the tenth day of the same month, such value being available in the PURCHASER’s establishments. If the balance is negative, owed by the SELLER(S), it shall be paid in cash, properly corrected by the effective official index and added with delinquent interest or, by discount, until final payment, in this same date, of the values to be received by the PURCHASER from the SELLER(S) based on the “provisional price” or, according to the case, in advance of the price of the standard-agreement of fruits’ supply, which the PURCHASER is using for the acquisition of orange in the harvest of [year] and to which the SELLER(S) is committed, henceforth, to settle with the PURCHASER.

**Sole Paragraph.** The “price’s final balance” reported in [foreign currency], will be converted to [local currency] using the average rate of purchase operations of the local currency, valid for the export operations, disclosed by the Central Bank of [country], and referred to [date]. Such value, if positive and not claimed, and similarly to the portions of the “provisional price”, will not be subject to neither interest nor any kind of monetary or exchange correction.

## 5 FIFTH CLAUSE: THE VARIATION IN THE PRODUCTION AND COMMERCIALIZATION REMUNERATION

5.1 It is fully agreed and understood by the parties that the composition of the factor “production and commercialization remuneration”, defined above in item 4.5 of the FIFTH CLAUSE as [amount and currency] (amount and currency in words) for each metric ton produced, includes the following tributary, custom, and commercial duties, which are, by their nature, totally independent of their voluntary control:

a) customs fee, charged by [importing country], of [amount and currency] per pound-weight of solids;

b) equalization fee, charged by [place], of [amount and currency] per pound-weight of solids;

c) additional exportation tax, collected by [place], of 3.51% over each metric ton exported to [country], resulted from agreement with the same country, therein calculated as [currency and amount] per metric ton;

d) exportation tax, owed to [authority], of 1% per metric ton exported, therein calculated over the value of [amount and currency] per metric ton;

e) ICMS (sales tax), charged by [local authority], of 13% per metric ton exported, calculated over 65% of the value of the metric ton, therein calculated as [amount and currency] per metric ton;

f) ICMS (sales tax) over the fruit, charged by [local authority], of xxx % per metric ton of exported juice, therein calculated as [amount and currency] per metric ton;

g) Agent's commission of 4% over the weighed average F.O.B.'s price;

5.2 Any legal amendments that may result in the creation of new duties or contributions, or any other addition or reduction in the duties or contributions, that may occur or become effective during the "exportation-year", will be added or deducted from the factor "production and commercialization remuneration", in the same amount relative to its effective incidence in the period.

**Sole Paragraph.** Considering that, likewise, in the definition of this same factor "production and commercialization remuneration", the value of [amount and currency] per metric ton exported (amount and currency in words) was provisionally used, the parties agree that the base value of the same exported metric ton, to be considered for calculation of the factor "production and commercialization remuneration", shall correspond to the weighed average price, FOB Santos, per metric ton of Brazilian exportations of orange juice (NBM n. 20 09 11 01 00), in accordance with the records from the "Exportation Guide", noted by the "Office of the Coordinator of Commercial Exchange of the Ministry of Economy, Revenue, and Planning", during the "exportation-year".

5.3 Having yet considered, that the systematic calculation of the price of the box of oranges, agreed on CLAUSES THIRD, FOURTH, and FIFTH, of the present agreement, has, as basic presuppositions, the inexistence of any contingency and/or restriction in the volume of exportation, by Brazilian authorities as much as by importing countries, as well as the inexistence of minimum purchase prices of raw material and/or record of exportation or, still, exchange confiscation or similar measure, any imposition of this nature that may reflect and/or aggravate the exportation of juice concentrate and/or its cost, of any kind or degree of intensity of law or fact, shall result for the parties the following consequences:

a) regarding the fruits already delivered, the "exportation-year" shall be considered finished, by anticipation, on the date of this event, setting the final price of these fruits in the form established in CLAUSES THIRD, FOURTH, and FIFTH of this agreement.

b) regarding the volume of fruits yet not delivered, it is granted to the PURCHASER the ability to consider rescinded the present agreement, without any burden for itself, of any nature or kind, sufficing to notify the fact to the SELLER(S) by any means, judicial or extra-judicial.

5.4 Finally, having considered that the implementation of the free exchange market in the [Country] has decoupled, from the exchange variation, the variation of the value of the internal expenses, defined in [foreign currency], on items 10, 12, and 14 of "ANNEX A" of the present agreement, and comprising of, respectively, freight to Santos, storage, insurance, dispatch in Santos, harvesting, transport, purchases' administration, oversight in the field, and costs of industrialization, minus the sub-products' values, such expenses' values shall be corrected, for more or less, according with the form of adjustment contained in "ANNEX B" of the present agreement.

## 6 SIXTH CLAUSE: THE PRICE OF THE BOX OF ORANGE

6.1 The “price of the box of orange”, for the purpose of this agreement, and which shall be paid to the SELLER(S) , shall result from the sum, in national currency, of the values in cruzeiros of the portions of the “provisional price” paid in this currency to the SELLER(S), in the form of the THIRD CLAUSE, and the value in cruzeiros, of the “price’s final balance”, set and paid to the SELLER(S), in the form of CLAUSES FOURTH AND FIFTH of this agreement.

7 SEVENTH CLAUSE: THE GENERAL CONDITIONS OF THE AGREEMENT

7.1 The SELLER(s) and the PURCHASER will cover, each one, the due contributions to FUNDECITRUS (Citriculture Protection Fund), allocated to CANECC (National Campaign for the Eradication of the Citric Cancer), with value in cruzeiros equivalent to [amount and currency] (amount and currency in words) per processed box. The duties of FUNRURAL will be supported by the SELLER(S) and collected by the PURCHASER to the competent bodies.

**Sole Paragraph.** The PURCHASER shall constitute, in its own expenses, a reserve fund of value in cruzeiros equivalent to [currency and amount] (currency and amount in words) per box of processed orange, dedicated to the defense and improvement of Brazilian citriculture, and is committed to use the amount in cruzeiros equivalent to [currency and amount] (currency and amount in words) per box of processed orange, in the improvement of the orange harvesters’ public transportation.

7.2 Any tolerance among the parties, relative to the fulfillment of the obligations assumed in this instrument, shall not result in contractual innovation or alteration, tacit or expressed, nor shall inhibit the requirement of other rights originating from this agreement.

7.3 The present agreement is irrevocable and not retractable and obliges not only the parties as well as its successors, of universal or individual title, obliging the SELLER(S), in case of sale of the property, to notify the acquirer of the existence of the obligations herein assumed.

7.4 The PURCHASER is authorized to transfer this agreement to third parties, independently of SELLER(S)’ consent, notwithstanding, being solely responsible for the payments treated herein.

7.5 The venue of the judicial district of .....(.....) is elected, excluding any other, even if endowed with greater privilege, in order to settle any pending matter originating from this agreement.

And, having freely agreed on, this agreement is signed in two copies of equal value, for the purpose of one sole effect in front of the two witnesses below:

Bebedouro (SP),

TESTIMONIES

\_\_\_\_\_

\_\_\_\_\_ PURCHASER

\_\_\_\_\_

\_\_\_\_\_ PRODUCER

1) Annex

DEMONSTRATION OF THE PRODUCTION  
AND COMMERCIALIZATION REMUNERATION

EXTERNAL EXPENSES	Per metric ton
<hr/>	
1- Custom fee from the .....	
2- Authority's equalization fee.....	
3- Sales Expenses (4% over the weighted average F.O.B.).....	
4- Maritime freight to [final destination].....	
5- Maritime insurance.....	
6- Mandatory inspection by Authority.....	
7- Port expenses in [ports where produces go].....	
8- Fridge entrance/exit fee plus stocking in refrigerating chamber in destiny .....	
9- Land freight (average) from the port of [place] to the factories... Subtotal.....	
INTERNAL EXPENSES	
<hr/>	
10- Freight for Santos, storage, insurance, and dispatch expenses in ... Santos.....	
Exportation taxes, additional exportation fee (1% + 3.51%) over [amount and currency].....ICMS (sales tax) over exportation (13% over 65% of [amount and currency]).....	
11- Harvesting, transportation, purchases administration, field oversight.....	
12- ICMS (sales tax) over the fruit (0.00% over the provisional F.O.B. value of [amount and currency]).....	
13- Industrialization cost, minus the sub products' value..... Subtotal.....	
15- Remuneration of capital..... Total.....	

\* Items 11 and 13 depend on legal rules.



2) Annex

ADDITIONAL AGREEMENT TERM

By this particular instrument of additional term to the orange purchase and sale's agreement number....., harvest of [year], agreed between....., as the PURCHASER, and ..... as the SELLER(S), it is duly agreed that the initial portion of the "provisional price", prescribed in CLAUSE THIRD, item 3.1, letter "a", may be received by the SELLER(S) until [date], calculated by the average rate of operations of the last business day disclosed by the Central Bank of Brazil. The referred portion, if not claimed, shall be available to the SELLER(S) in the PURCHASER's establishments, and there shall not be any kind of monetary, and, or, exchange correction, or interest.

And, by having agreed on, they signed the present Additional Term in the presence of the two witnesses below:

.....(Place),.....,19 ...(month day, year).

SELLER(S)	PURCHASER
_____	_____
_____	1 <sup>st</sup> Testimony
	2 <sup>nd</sup> Testimony

### 3) Annex

The present appendix defines the form of the readjustment of the internal expenses' values, contained on items 10, 12, and 14 of "ANNEX A", comprising of, respectively, freight to Santos, storage, insurance, dispatch expenses in Santos, harvesting, transportation, purchases' administration, oversight in the industrialization field, minus the sub products' value.

#### READJUSTMENT FORM

The values mentioned above shall be readjusted for more or for less, through the application of the following calculation:

$$P = \frac{P_o \times TC_o}{12 \times IGP_o} \times \left( \frac{IGP_1}{TC_1} + \dots + \frac{IGP_n}{TC_n} \right)$$

where;

P = Sum of the internal expenses duly readjusted, using north-American dollars;

P<sub>o</sub> = Sum of the internal expenses in [foreign currency], contained in items 10, 12, and 14 of "ANNEX A";

IGP<sub>n</sub> = General Price Index - Internally available, disclosed by the Economic Conjuncture magazine, of the Getulio Vargas Foundation's Brazilian Institute for Economy, relative to the month ending in "n";

TC<sub>n</sub> = Exchange Rate of average purchase valid for the exportation operations, and disclosed by the Central Bank of Brazil, valid for "n";

n = dates (month/day/year) according to the chart below:

0 = date	7 = date
1 = date	8 = date
2 = date	9 = date
3 = date	10 = date
4 = date	11 = date
5 = date	12 = date
6 = date	