

## **IMPORTANT INFORMATION FOR BUYERS**

**PLEASE READ THE FOLLOWING CAREFULLY - IT WILL ASSIST YOU IN COMPLETING YOUR CONTRACT WITH THE SELLER WITH MINIMUM DELAY**

Many contracts between buyer and seller fail not because of price but because there is a fundamental misunderstanding of the seller's procedures.

Procedures are put in place not because the seller wishes to put obstacles in the buyer's way but more to assist the buyer to progress his prospect efficiently and with minimal delays. Take the time to read the procedures and understand exactly what they say.

Once you have read and understood the procedures - follow them to the letter and see how quickly both this and the seller's infrastructure respond to you and your requirement.

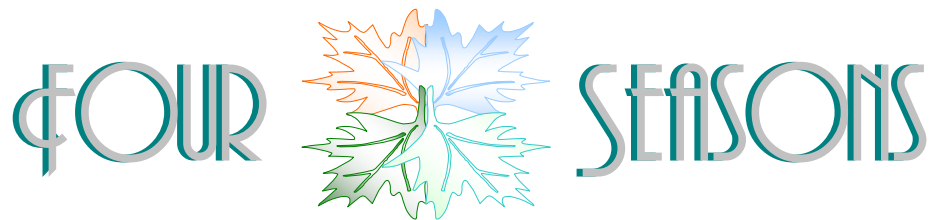
### **LOI/ICPO**

Either one of these are required to progress a prospect.

The LOI should be as per our template [see LOI in the main menu] or at worst should contain the same information. This is not because the seller wishes to avail himself of confidential information; this is because the seller's contract calls for this information. The LOI/ICPO save much time and frustration as they spell out the buyer's requirement and deliver information that will be required to complete the contract.

Upon receipt of the LOI the seller will issue an FCO - the FCO will verify the terms and price by which the seller will provide the produce. Sign and seal the FCO and with a Proof of Funding, return the FCO back to the seller direct or to this infrastructure.

The **ICPO** is very much in the same format as the **LOI** with the exception that it is an **IRREVOCABLE CORPORATE PURCHASE ORDER** - this should be supplied with your proof of funding attached. When the seller receives an acceptable **ICPO** and proof of funding, he will go straight to draft contract. At this stage there is no need for the issue of an FCO unless the buyer requests it.



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### **PROOF OF FUNDING**

This is a very important integral part of the documentation when first commencing a prospect. Due to much time wasting in the past, all sellers insist on PROOF OF FUNDING to give them a level of comfort that the prospective buyer is real and does have the funding to enter into a contract. Speak with your bankers first, establish and have ready a proof of funding [we leave the format of the proof of funding to you and your bank]. Make sure you have the funds available before making the approach - too many buyers will place themselves in a situation whereas they will negotiate a price and contract, then find out they cannot raise the funding to support their commitment. This does little less than frustrates all parties from buyer through to seller to introducing intermediary. Funding should always be available for the total face value of the financial instrument you have agreed.

### **CONTRACT VERBIAGE**

The seller will where appropriate supply verbiage of the Contract. Study this carefully and respond to the seller with any questions that you feel you may need answering. Please ensure that any issues you have with the contract are addressed and resolved at this stage and not after it has been signed.

### **PERFORMANCE BOND / POP**

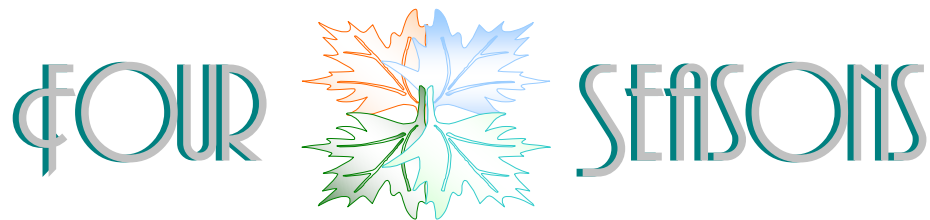
The seller may issue a PERFORMANCE BOND in some cases. A NON OPERATIVE PERFORMANCE BOND against the pre advised L/C with a POP. The PB will either be drawn on or confirmed by a Prime Western Bank. The activation of the L/C automatically activates the PB. A POP will only be supplied under these conditions - there is no point in requesting it under any other circumstances.

### **FINANCIAL INSTRUMENTS**

The seller will only accept the following Financial Instruments. BANK GUARANTEE - IRREVOCABLE, TRANSFERABLE, DOCUMENTARY CREDIT 100% at SIGHT - TRANSFERABLE STANDBY L/C. DEFERRED PAYMENT L/C's are not acceptable as a rule.

AN IRREVOCABLE, TRANSFERABLE, (or Non-T.\*) DOCUMENTARY CREDIT 100% at SIGHT permits the seller to liberate the L/C by the amount of the shipment value against production of shipping documents. ALL FINANCIAL INSTRUMENTS ARE IN CONFORMITY TO UCP500 – 2003 revised.

(\*need to add US\$12/MT)



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## **REFERENCES**

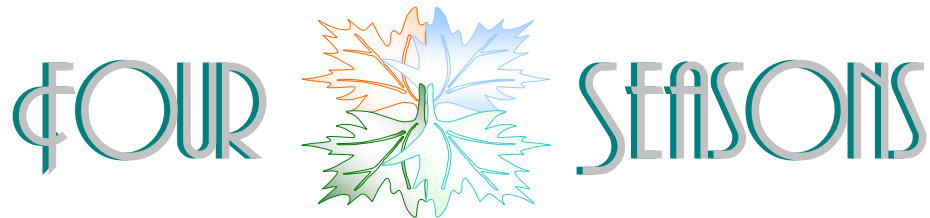
Some Intermediaries have asked that we provide them with references - the answer to this is an emphatic **NO**. References will only be provided by the seller's bank to the buyer's bank by way of a POP and this is conditional upon the buyer proving financial capability first and submitting the request for a reference in writing - there are no exceptions.

## **PROOF OF PRODUCT / SAMPLES**

POP will be supplied as defined under the topic of PB above. Samples cannot be supplied for a variety of reasons. A seller who agrees to deliver a sample to a buyer is entering into a contract to supply the final produce from the same batch as the supplied sample - this is not possible. There is no guarantee that the final produce arriving at the buyer's destination port will be from the sample-supplying factory let alone from the same batch. The buyer has the protection of the SGS inspection against the product specification as is in the contract. SGS will reject a shipment and not issue a conformity certificate if the produce is not of International Accepted Specification and Quality Standard. The buyer also has the ability by prior arrangement with the seller and at his own account, to be present at time of loading with the seller's representative.

## **CONTRACT**

Never sign a contract unless you are 100% sure that you can perform within the terms and conditions. It is too late if you have signed the contract to return to the seller and ask to have terms and conditions modified. As SOME contracts carry a 2% PB against the total face value of the contract, so will they carry a 2% contract failure breach clause against non-performance by the buyer. You the buyer would without hesitation collect the 2% PB in the event of the seller not performing according to the terms of the contract; you should not express surprise that the reverse is true of the seller. After all said and done, this is a legal document and must be respected as such. **DO NOT SIGN OR EVEN REQUEST A CONTRACT** until you are satisfied that you can progress the prospect to a final conclusion.



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### **INTERMEDIARY PARTICIPATION**

Unless specifically requested by the buyer and committed to in writing, the seller will deal direct with the end-buyer via it's own infrastructure and Mandate. Documents such as FCO, Contract etc are confidential to the buyer and seller and will not be shared with a third party. Should the buyer require the Introducing Intermediary to be involved at each stage of the process then a letter of authority under the buyers seal will need to be sent direct to the seller naming the third party. A copy template of the authority letter is available in the main menu - this should be copied and pasted onto the buyer's letterhead, signed and sealed.

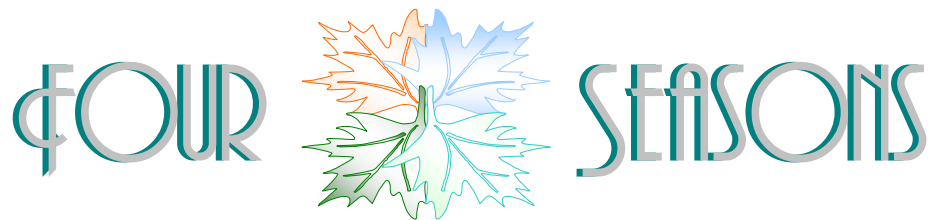
### **PRE-VERIFICATION**

This is one of the biggest problems suffered by sellers. Because the Commodities Market is so volatile and reliant on market forces, pre-verification often means that by the time the buyer has obtained funding, decided on volume, product origin etc., the market has moved on with prices having changed either for produce or packaging and the whole process has to begin again. Always insure that these issues are addressed before you request an FCO or Contract. To do this after the event will only lead to disappointment.

### **PROCEDURES**

Buyer submits **LOI / ICPO** on own letterhead not older than 2 days signed and stamped with official seal. The **LOI/ICPO** should contain the following information as a minimum and should follow the format of the attached **LOI template** where possible:

- Specification of Produce required.
- Volume of order.
- Bulk or Bags.
- Shipping Details Proposed Volumes.
- Discharge Rate on
- Destination Port
- Target price in USD/EURO/ INCOTERMS 2010
- Financial facilities as payment instrument,
- Full banking co-ordinates including account number, SWIFT Code, Contact name at Bank, And/or Confirming Bank Name and Address if not a prime bank which has to confirm DL/C,



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## PROCEDURES / 2

- Buyer's financial capability will be verified prior to issuing the draft contract.
- The seller will issue an **FCO** for the buyer's signature together with the verbiage of the contract.
- The buyer signs the **FCO** and provides **Proof of Funding** with verbiage of Proposed Financial Instrument.
- Upon receipt of the signed **FCO, Proof of Funding** and Verbiage of Financial Instrument, the Seller issues contract with full banking for signing and sealing.
- Buyer's bank sends pre-advised Agreed Financial Instrument for **non-operative 2% PB, POP** and Bank Guarantee of Product Availability.
- **POP** and **POF** will only be accepted Bank to **Bank via SWIFT** Banking Procedure.
- Financial Instrument and PB activated as per procedure in contract.
- Shipment will commence upon loading capability within 25 to 45 days from the date the Financial Instrument is activated.

Hong Kong 2011

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