

# **Commercial Dispute Resolution (Essentials for Practice)**

## **Formative assessment**

### **ADVANCE RELEASE MATERIALS**

**From:** Laura Menzes <lauramenzes@brierleykhan.com>  
**To:** You <you@brierleykhan.com>  
**Subject:** Fw: AimFruits

Happy Friday

See below. Good case. I'll need your help. Contract and further details to follow.

BW

Laura

**From:** Jolly Burton <jollyburton@grandmawho.com>  
**To:** Laura Menzes <lauramenzes@brierleykhan.com>  
**Subject:** AimFruits

Dear Laura

GrandmaWho Limited has been dealing with AimFruits SA for approximately 12 months now. It supplies frozen fruits which are used in GrandmaWho's fresh and frozen desserts. AimFruits SA is based and incorporated in Spain.

The parties have a detailed contract (I'll ask Paul to send it over). The broad outline is that we place orders with AimFruits monthly, and they supply the goods ordered the following month. The prices are set out in the contract. The contract is for 36 months. It also provides that we will order a minimum amount each month, and that AimFruits will commit to meet any orders up to a certain stated maximum amount in relation each of various product types – so, up to those limits, we are supposed to have certainty of supply.

Over recent months, AimFruits has not met GrandmaWho's orders on time, even in relation to the amounts which it committed to supply in the contract.

We have challenged AimFruits about this. They say that the guaranteed supply figures were varied 2 months after the signing of the contract in one of the monthly meetings between our finance and technical team and their sales team at our Southampton site. The figures were certainly discussed then, but we didn't agree to change anything in the contract.

AimFruits' failures in supply have cost us sales – we think leading to approximately £540,000 lost profit. We have found alternative suppliers. We won't be meeting the minimum order with AimFruits next month. We've told them that. They aren't happy because we are a good revenue stream for them. Our board is going to back legal

action on this, unless there are compelling reasons not to, because they are all angry (as am I) that this has gone wrong so early in the parties' relationship and our losses (which we want to recover) are already huge.

I'll give you a call tomorrow about this – we need to get next steps clear in our heads before the next (and probably last) monthly directors' meeting with them.

Many thanks

Jolly  
Lead Counsel  
GrandmaWho Limited