



Gafta

CONTRACTS

Effective 1st January 2003

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THE GRAIN AND FEED TRADE ASSOCIATION

LIST OF CONTRACTS AND RULES

CONTRACTS:

1.	General Feedingstuffs	Bags		CIF	TQ
2.	Chinese Goods	Bags	Parcels	CIF	TQ
4.	UK Produced Cakes/Meal				
8.	Locust Beans	Bulk/Bags		CIF	TQ
9.	Imported Feeding Meat Meal/Meat & Bone Meal	Bags		CIF	TQ
10.	Fish meal	Bags		CIF	TQ
12.	Australian Grain	Bulk	Cargoes	CIF	TQ
13.	Australian Offals	Bags	Parcels	CIF	TQ
14.	Australian Grain	Bulk	Parcels	CIF	TQ
14A.	Australian & New Zealand Peas	Bags	Parcels	CIF	TQ
15.	Imported Feedingstuffs	Bags		CIF	TQ
16.	Australian Seed	Bags	Parcels	CIF	TQ
17.	General Short form			CIF	
21.	Intra-Asia Feedingstuffs	Bulk/Bags		CIF, C&F	TQ
23.	Pulses for Human Consumption	Bulk/Bags		FOB	
23A.	FAS Addendum			FAS	
24.	Pulses for Human Consumption	Bulk/Bags		CIF, C&F	TQ
25.	Pulses for Feed	Bulk		CIF	TQ
27.	Canadian & USA Grain	Bulk	Cargoes	CIF	TQ
30.	Canadian & USA Grain	Bulk	Parcels	CIF	TQ
31.	Canadian Pacific Coast	Bulk	Parcels	CIF	TQ
32.	La Plata Grain	Bulk/Bags	Cargoes	CIF	RT
35.	La Plata Grain	Bulk/Bags	Parcels	CIF	TQ
36.	La Plata Grain	Bulk/Bags	Parcels	CIF	RT
41.	La Plata Grain	Bulk	Parcels	CIF	RT
43.	South American Offals	Bulk	Parcels	CIF	RT
48.	Central & Eastern Europe	Bulk	Parcels/Cargoes	CIF	TQ
49.	Central & Eastern Europe	Bulk/Bags		FOB	
54A.	Baltic Grain	Bulk/Bags	Parcels/Cargoes	CIF	RT
59.	South African Grain	Bulk	Cargoes	CIF	TQ
60.	South African Grain	Bulk	Parcels	CIF	TQ
61.	Mediterranean & Moroccan	Bulk/Bags	Cargoes	CIF	TQ
62.	Mediterranean & Moroccan	Bulk/Bags	Parcels	CIF	TQ
64.	General Grain	Bulk		FOB	
76.	Addendum-Malting Barley				
78.	Goods by Rail	Bulk			RT
79.	UK & Ireland Grain	Bulk		CIF	RT
79A.	UK & Ireland Grain	Bulk		FOB	
79B.	UK & Ireland Grain		Delivery/Collection		
80.	EU Grain	Bulk	Parcels/Cargoes	CIF	RT
80A.	EU Grain	Bulk	Parcels/Cargoes	CIF	TQ
81.	General – goods			CIF	
82.	General – goods			FOB	
83.	Grain, Transshipment/re-shipment	Bulk	Parcels/Cargoes	CIF	TQ
84.	Short form				
85.	Addendum for Transshipment				
86.	Grain – Containers		FCL		

86A.	Grain - Short form – Containers		FCL		
93.	Addendum – European Quality Terms for Feedingstuffs				
94.	Arrival terms for Grain	Bulk			RT
94A.	Arrival terms for Grain	Bulk			TQ
95.	Arrival terms for Feedingstuffs	Bulk			TQ
96.	Tapioca, Manioc & Cassava	Bulk		CIF	TQ
97.	North American Soyabean Meal/Pellets	Bulk		CIF	TQ
98.	North American Soyabean Meal/Pellets	Bulk		CIF	TQ
99.	HIPRO Soyabean Meal/Pellets	Bulk		CIF	TQ
100.	Feedingstuffs	Bulk		CIF	TQ
100A.	Feedingstuffs in Full Lash barges			CIF	
101.	Feedingstuffs	Bulk		CIF	RT
102.	Feedingstuffs –transhipment to UK	Bulk	Parcels/Cargoes	CIFFO	TQ
103.	Feedingstuffs- to the UK	Bulk		CIF	TQ
104.	Feeding Fishmeal	Bulk		CIF	TQ
107.	Feedingstuffs – Containers	Bulk/Bags	FCL		
108.	Feedingstuffs – Short form – Containers	Bulk/Bags	FCL		
109.	Feedingstuffs – Ex store/silo	Bulk			
110.	Grain – Ex store/silo	Bulk			
111.	General – Delivered at Destination				
112.	Feedingstuffs, Free Out Alongside Buyers Berth, Denmark	Bulk			TQ
113.	UK Produced Marine & Animal Origin Feedingstuffs	Bulk/Bags	Delivery		
114.	Fertiliser	Bulk/Bags		CIF/CIFFO	TQ
115.	Molasses			FOB	
117.	Model Computer Contract form				
118.	Feeding Fishmeal	Bulk/Bags		FOB	
119.	Feedingstuffs – General	Bulk/Bags		FOB	
120.	Thai Rice	Bulk/Bags		FOB	
122.	Rice	Bags		CIF	
200.	General Euro-supply terms	Bulk/Bags	Delivery/Despatch/Collection		

No.1 GAFTA CHARTER PARTY TERMS – Parts 1,2,3,

RULES:

- 72. Insurance terms
- 123. Weighing Rules
- 124. Sampling Rules – Rules for Sampling, Analysis Instructions and Analysis Certification.
- 125. Arbitration Rules
- 126. Simple Dispute Arbitration Rules & Agreement
- 127. Arbitration Rules for Charter Parties
- 128. Mediation Rules & Agreement
- 129. UK Loading Port Terms
- 130. Register of Analysis Methods

OPTIONAL CLAUSES:

- 131. Standing – in clauses
Charter Party Agreement
EU Directive 96/25/EC as amended

GUIDELINES:

- Appropriation
- Arbitration
- Letters of Credit
- Insurance terms.

Effective 1st January 2003

Gafta No.1

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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FOR FEEDINGSTUFFS IN BAGS TALE QUALE - CIF TERMS

**delete/specify as applicable*

Date

- 1 **SELLERS**
- 2
- 3 **INTERVENING AS BROKERS**
- 4
- 5 **BUYERS**
- 6 have this day entered into a contract on the following terms and conditions.
- 7
- 8 **1. GOODS-**
- 9 in new and/or secondhand bags of suitable strength to withstand ordinary wear and tear to port of destination. Such bags to be
- 10 taken and paid for as goods. Broken cakes and/or meal to be taken and paid for as cakes.
- 11
- 12 **2. QUANTITY-**
- 13 Sellers have the option of shipping up to 5% more or less. In the event of more than one shipment being made, each shipment
- 14 shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.
- 15
- 16 **3. PRICE AND DESTINATION- At**
- 17 *per tonne of 1000 kilograms }
18 } gross weight, cost, insurance and freight to
- 19 *per ton of 1016 kilograms or 2240 lbs. }
20
- 21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
- 22 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
- 23 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
- 24 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.
- 25
- 26 **5. QUALITY-**
- 27 **Condition-** Shipment shall be made in good condition.
- 28
- 29 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
- 30 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
- 31 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
- 32 as being in both halves of the month.
- 33
- 34 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
- 35 (a) Position of vessel is mutually agreed between Buyers and Sellers:
- 36 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause:
- 37 (c) Appropriation Clause cancelled if sold "shipped".
- 38
- 39 **8. SHIPMENT AND CLASSIFICATION-** Shipment from.....
- 40 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
- 41 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in
- 42 force at the time of shipment.
- 43
- 44 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
- 45 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following
- 46 the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
- 47 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
- 48 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 49 1 to 4 additional days, 0.50%;
- 50 5 or 6 additional days, 1%;
- 51 7 or 8 additional days 1.50% of the gross contract price.

52 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
53 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
54 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall
55 be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of
56 such reduced price.

57
58 **10. APPROPRIATION -**

59 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
60 bill of lading.

61 (b) The notice of appropriation shall withinconsecutive days from the date of the bill(s) of lading be served by or
62 on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
63 Clause shall not apply.

64 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
65 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers
66 on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
67 deemed to be in time if served: -

68 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

69
70 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

71 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
72 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
73 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
74 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

75 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
76 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

77 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
78 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

79 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
80 borne by Sellers.

81 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

82 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
83 for sampling, analysis and lighterage incurred thereby at port of discharge.

84
85 **11. PAYMENT-**

86 (a) **Payment** % of invoice amount by cash in
87 in exchange for and on presentation of shipping documents.

88 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
89 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
90 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
91 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
92 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
93 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

94 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
95 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
96 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
97 are eventually available.

98 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
99 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
100 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
101 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
102 shipping documents are eventually available.

103 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
104 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
105 countersigned, if required by Buyers, by a recognised bank.

106 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
107 that event any additional collection costs shall be borne by Buyers.

108 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
109 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
110 guarantee in respect thereto.

111 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
112 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
113 Rules.

114 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
115 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
116 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
117 clause do not override the parties' contractual obligation under sub-clause (a).

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- 12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
- 13. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers' account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby
- 14. WEIGHING** - the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
- 15. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price
- 16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
- 17. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No. 72, viz.:-
- (a) Risks Covered: -
 - Cargo Clauses (W.A.), with average payable, with 3% franchise or better terms - Section 2 of Form 72
 - War Clauses (Cargo) - Section 4 of Form 72
 - Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
 - (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.
 - (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.
 - (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the c.i.f. value plus 2% were insured from the time of shipment.
 - (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
 - (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
 - (g) Currency of Claims - Claims to be paid in the currency of the contract.
 - (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailings whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.
 - (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.
- 18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfillment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

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- 19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

- 20. NOTICES-**All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

- 21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

- 22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
- (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
 - (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
 - (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
 - (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
 - (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
 - (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for the service of the appropriation, or if notice of appropriation has not been served by the 4th business day after the last day for appropriation laid down in the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.

- 23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in the currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the

circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and contract price.

24. INSOLVENCY- If before the fulfillment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

25. DOMICILE- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

26. ARBITRATION -

(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.

(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

27. INTERNATIONAL CONVENTIONS -

The following shall not apply to this contract: -

(a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;

(b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

(c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.

(d) Incoterms.

(e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers.....

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GAFTA
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GAFTA No.2

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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FOR CHINESE GOODS IN BAGS-PARCELS TALE QUALE - CIF TERMS

*delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 in new and/or secondhand bags of suitable strength to withstand ordinary wear and tear to port of destination. Such bags to be taken
10 and paid for as goods.

11
12 **2. QUANTITY-** 2% more or less.

13 Sellers have the option of shipping a further 3% more or less than contract quantity, excess or deficiency over the above 2% be settled
14 at the CIF price on the date of the bill of lading, and on the quantity thereof; value to be fixed by arbitration, unless mutually agreed.
15 In the event of more than one shipment being made each shipment to be considered a separate contract, but the margin on the mean
16 quantity sold not to be affected thereby.

17
18 **3. PRICE AND DESTINATION - At**

19 * per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight to.....
21 * per ton of 1016 kilograms or 2240 lbs. }

22
23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

24 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
25 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
26 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27
28 **5. QUALITY-**

29 * **Warranted to contain-** at time and place of discharge.

30
31 * **Official** certificate of inspection or certificate of inspection of.....
32 at time and place of loading into the ocean carrying vessel, shall be final as to quality.

33 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
34 comparison with GAFTA F.A.Q. standard of the month during the bill of lading is dated. In the event of no F.A.Q. Standard
35 being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality. An
36 average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper and
37 the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
38 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid half
39 by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports
40 adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q.
41 Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall be entitled
42 to the full difference in value.

43 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

44
45 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

46 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
47 referred to in the Arbitration Rules specified in the Arbitration Clause.

48 * **Admixture** Any admixture of dirt and/or other foreign substance over 3% and up to 5% to be allowed for by Sellers at contract

49
50 price, but any excess over 5% to be allowed for at double contract price. Any grain other than

51 to be reckoned as foreign substances at half their quantities. The percentage of admixture to be determined by the Analysts
52 appointed by GAFTA. The costs of analysis to be borne by Buyers if the admixture of dirt and/or other foreign substances is 3%
53 or less, and by Sellers if in excess of 3%.

54 **Condition** - Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
55 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
56 improper shipment.

57
58 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
59 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
60 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
61 as being in both halves of the month.

62
63 **7. PORTS OF SHIPMENT-** From a port or ports on the Yang-tze Kiang river between Hankow and Shanghai, both inclusive, and/or
64 Changsha, and/or Shasi, and/or port or ports in the China Seas, and/or Dalny and/or Vladivostock via the Suez Canal and/or Cape of
65 Good Hope, and/or Panama Canal.

66
67 **8. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:
68 (a) Position of vessel is mutually agreed between Buyers and Sellers;
69 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
70 (c) Appropriation Clause to be cancelled if sold shipped.

71 **9. SHIP'S CLASSIFICATION-** Shipment direct or indirect, with or without transshipment, by first class mechanically self-propelled
72 vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International
73 Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register
74 or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

75
76 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
77 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
78 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
79 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
80 which the originally stipulated period is exceeded, in accordance with the following scale: -
81 1 to 4 additional days, 0.50%;
82 5 or 6 additional days, 1%;
83 7 or 8 additional days 1.50% of the gross contract price.

84 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
85 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
86 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
87 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

88
89 **11. APPROPRIATION-**

90 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
91 bill of lading.

92 (b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on behalf of
93 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not
94 apply.

95 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
96 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
97 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
98 deemed to be in time if served: -

- 99 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
100
101 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

102 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
103 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
104 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
105 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

106 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
107 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

108 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not
109 responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

110 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
111 borne by Sellers.

112 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

113 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
114 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

115
116 **12. PAYMENT-**

117 (a) **Payment** % of invoice amount by cash in
118

119 in exchange for and on presentation of shipping documents, on or
120 before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 90 days from
121 the date of the bill of lading, payment, unless already made, to be made after the 90th day from the bill of lading date when
122 required by Sellers.

123 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
124 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
125 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
126 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
127 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
128 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

129 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
130 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
131 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
132 are eventually available.

133 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
134 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
135 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
136 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
137 shipping documents are eventually available.

138 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
139 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
140 countersigned, if required by Buyers, by a recognised bank.

141 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
142 that event any additional collection costs shall be borne by Buyers.

143 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
144 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
145 respect thereto.

146 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
147 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
148 Rules.

149 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
150 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
151 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
152 clause do not override the parties' contractual obligation under sub-clause (a).

153
154 **13. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
155 GAFTA Insurance Terms No. 72, viz.:-

156 (a) Risks Covered: -

157 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

158 War Clauses (Cargo) - Section 4 of Form 72

159 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

160 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
161 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
162 process in London, but for whose solvency Sellers shall not be responsible.

163 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
164 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
165 Buyers.

166 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
167 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
168 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
169 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
170 if the c.i.f. value plus 2% were insured from the time of shipment.

171 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract (duly
172 stamped if applicable), for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
173 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
174 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
175 recognised bank, or by any other guarantor who is acceptable to Buyers.

176 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
177 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
178 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

179 (g) Currency of Claims - Claims to be paid in the currency of the contract.

180 (h) War and Strike Risks/Premiums - Any premium in excess of .50% to be for account of Buyers. The rate of such insurance not to
181 exceed the rate ruling in London at time of shipment or date of vessel's sailing, whichever may be adopted by underwriters. Such
182 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
183 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
184 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable, Sellers' obligation to provide War Risk
185 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

186 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms (and which

risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

14. **DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
15. **DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at time of contract.
16. **WEIGHING**- the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
17. **DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
18. **SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
19. **PROHIBITION**- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
20. **FORCE MAJEURE, STRIKES, ETC.**- Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
- If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
- If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
21. **PRO RATA**-
- (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.
- (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.
- (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these final invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those receivers who did not receive their full invoiced quantity.
- (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market

255 price by invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without
256 taking into consideration the above pro-rata apportionment between Receivers.

257 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess
258 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
259 resulting from this settlement.

260 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
261 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
262 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
263 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
264 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

265 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
266 of destination, such price to be fixed by arbitration unless mutually agreed.

267 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
268 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
269 weight.

270 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
271 where applicable, take precedence over sub-clauses (b) to (h) above.

272 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
273 than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
274 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
275 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of
276 the market prices on the last day of discharge in the respective ports.

277

278 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
279 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
280 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
281 of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during
282 the same period of shipment). Different currencies shall not invalidate the circle.

283 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
284 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
285 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
286 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
287 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

288 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
289 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
290 payment of the differences between the market price and the relative contract price in the currency of the contract.

291 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
292 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
293 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
294 of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the circle shall be
295 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
296 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
297 make payment to their Buyers of the difference between the closing out price and the contract price.

298

299 **23. NOTICES** - All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
300 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
301 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
302 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
303 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
304 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
305 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
306 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

307

308 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
309 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
310 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
311 thereafter. The period of shipment shall not be affected by this clause.

312

313 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

314 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, as the case may be,
315 against the defaulter, and such sale or purchase shall establish the default price.

316 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
317 agreed, then the assessment of damages shall be settled by arbitration.

318 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
319 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

320 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
321 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole absolute discretion think fit.

322 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the

323 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
324 mean contract quantity.

325 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
326 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
327 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
328 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first
329 business day thereafter.
330

331 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
332 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
333 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
334 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
335 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
336 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall serve a notice of the
337 occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the
338 Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus
339 served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on
340 the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the
341 occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first
342 business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the
343 first business day after the date when the Act of Insolvency occurred.

344 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
345 re-purchase or resale, and the difference between the contract price and the repurchase or resale price shall be the amount payable or
346 receivable under this contract.
347

348 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
349 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
350 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
351 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
352 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
353 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
354 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England,
355 (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself
356 to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
357 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
358 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
359 service, any rule of law or equity to the contrary notwithstanding.
360

361 **28. ARBITRATION-**

362 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
363 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
364 shall be deemed to be cognisant.

365 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
366 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
367 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
368 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
369 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
370 any such dispute.
371

372 **29. INTERNATIONAL CONVENTIONS-**

373 The following shall not apply to this contract-

374 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
375 Sales Act 1967;

376 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

377 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
378 of 1980.

379 (d). Incoterms.

380 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
381 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.4

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR UK PRODUCED CAKES AND/OR MEAL

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-**.....per tonne of 1000 kilograms

11
12 **3. PRICE-**

13
14 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
15 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
16 the Force Majeure, Strikes Clause. Brokerage shall be due on the last day of the period of delivery.

17
18 **5. QUALITY-**..... of satisfactory quality.
19 Notwithstanding the particulars of the Statutory Declaration provided in accordance with the Feedingstuffs Regulations for the
20 time being in force, any contractual analysis allowances shall be in accordance with the terms of the Quality Clause of the
21 contract. The goods are not intended for sale nor sold as being suitable for straight feedingstuffs, but are only suitable as raw
22 materials for further processing and mixture with other materials as to which no warranty is given or to be implied as to the
23 percentage of these goods to be used in any such operations which are at Buyers' sole risk.

24
25 **6. WEIGHING-**

26
27 **7. PERIOD OF DELIVERY-**

28 Buyers shall accept delivery and Sellers shall deliver within the period specified in the contract. Should Buyers through no fault
29 of Sellers fail to collect or refuse delivery of the whole or part by the end of the delivery period, Buyers shall pay the purchase
30 price in accordance with the payment terms as though delivery had been made. Sellers may at their option and after notification
31 in writing of their intentions, deliver the quantity due for collection or delivery either in whole or in part to a third party
32 store/warehouse at Buyers' risk with all charges for Buyers' account. Should Sellers, through no fault of Buyers not have
33 completed delivery within the specified period of the contract for proved failure of delivery by the supplying mill, not due to
34 reasons covered by the Force Majeure, Strikes Clause, Sellers shall make Buyers an allowance in accordance with the following
35 scale:-

36	1 - 14 days inclusive,	0.50% off the contract price
37	15 - 28 days inclusive,	a further 1% off the contract price
38	29 - 42 days inclusive,	a further 1% off the contract price

39 after which time the Sellers shall be deemed to be in default and the contract price shall be deemed to be the original contract
40 price, less the 2.50% allowance and any other contractual differences shall be settled on the basis of such reduced price.

41
42 **8. PART DELIVERIES-** Each delivery shall be considered a separate contract.

43
44 **9. PAYMENT-**

45 (a) **Payment**

46 (b) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the
47 other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance
48 with the Arbitration Rules.

49 (c) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
50 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
51 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this

52 clause do not override the parties' contractual obligation under sub-clause (a).

53
54 **10. FORCE MAJEURE, STRIKES ETC.-** Should the execution of this contract or any unfulfilled portion thereof be prevented by
55 strikes, breakdown of machinery, including the late arrival of the raw material caused by force majeure, or by any cause
56 comprehended in the term "Force Majeure", provided that notice has been served by Sellers within 7 consecutive days from the
57 occurrence, or not later than 30 consecutive days before the commencement of the delivery period, whichever is later, the time
58 for delivery shall be extended for a period of 30 consecutive days. After the additional period of 30 consecutive days, the
59 contract shall be void for the unfulfilled portion so prevented. Buyers shall have no claim against Sellers for delay or non-
60 fulfilment under this clause, provided that Sellers shall have supplied to Buyers if required, satisfactory evidence to justify the
61 delay or non-fulfilment.
62

63 **11. CIRCLE -** Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle
64 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
65 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
66 origin, of the same quality, of the same delivery period and, where applicable, of the same analysis warranty). Different
67 currencies shall not invalidate the circle.

68 Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered, invoices based of the mean contract
69 quantity (or if the goods have been delivered, on the invoiced quantity) shall be settled by all Buyers and their Sellers in the
70 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
71 the circle. Payment shall be due not later than 15 consecutive days after the last day for delivery, or, should the circle not be
72 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
73 ascertained.

74 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
75 price on the first day for the contractual delivery and invoices shall be settled between each buyer and his seller in the circle by
76 payment of the differences between the market price and the relative contract price in the currency of the contract.

77 All Seller and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
78 accordance with this clause same shall be binding on all parties to the circle. Should any party in the circle prior to the due date
79 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
80 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead
81 of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective
82 Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.
83

84 **12. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
85 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
86 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
87 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
88 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
89 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
90 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have
91 been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
92

93 **13. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
94 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
95 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
96 business day thereafter. The period of delivery shall not be affected by this clause.
97

98 **14. TAX/DUTY-** Any variation in tax or duty or any tax or duty hereafter imposed and assessed by the EC/EU or any member
99 national government thereof upon the import, production, processing, sale, delivery, or use of the goods which are the subject of
100 this contract or the raw materials from which the said goods are processed shall be for the account of the Buyers.
101

102 **15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
103 124 are deemed incorporated into this contract. The parties shall appoint superintendents, for the purposes of supervision and
104 sampling of goods, from the GAFTA Register of Superintendents. For quality certificates, unless otherwise agreed, analysts
105 shall be appointed from the GAFTA Register of Analysts.
106

107 **16. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-

108 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or
109 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

110 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
111 mutually agreed, then the assessment of damages shall be settled by arbitration.

112 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the
113 default price established under (a) above or upon the actual or estimated value of the goods, on the date of default,
114 established under (b) above.

115 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally
116 result in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on
117 any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to
118 special circumstances, shall in his/their sole and absolute discretion think fit.

119 (e) Damages, if any, shall be computed on the mean contract quantity.

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17. INSOLVENCY- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice.

If such notice has not been served then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.

In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

18. DOMICILE - This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

19. ARBITRATION-

(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No.125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.

(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

20. INTERNATIONAL CONVENTIONS- The following shall not apply to this contract: -

(a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;

(b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

(c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.

(d) Incoterms.

(e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it. .

Sellers Buyers

**Printed in England and issued by
GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH**

Gafta No.8

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR LOCUST BEANS IN BAGS OR BULK TALE QUALE - CIF TERMS

*delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 * in bulk

10 * in new and/or second-hand bags of suitable strength to withstand ordinary wear and tear to port of destination. Such bags to be taken
11 and paid for as goods.

12
13 **2. QUANTITY-**

14 Sellers have the option of shipping up to 5% more or less. In the event of more than one shipment being made, each shipment shall be
15 considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

16
17 **3. PRICE AND DESTINATION - At**

18 * per tonne of 1000 kilograms }
19 } gross weight, cost, insurance and freight to
20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

23 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
24 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
25 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**

28 * **Warranted to contain** -at time and place of discharge.

29
30 * **Official** certificate of inspection or certificate of inspection of
31 at time and place of loading into the ocean carrying vessel, shall be final as to quality.

32 **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
33 comparison with the GAFTA F.A.Q. standard of the month during the bill of lading is dated. In the event of no F.A.Q. Standard
34 being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality. An
35 average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper and
36 the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
37 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid
38 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports
39 adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q.
40 Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall be entitled
41 to the full difference in value.

42 ***Sample**, at time and place of shipment about as per sealed sample marked in possession of

43
44 , the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

45
46 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
47 referred to in the Arbitration Rules specified in the Arbitration Clause.

49 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due allowance shall be made for the
50 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
51 improper shipment.
52

53 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
54 the bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
55 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
56 as being in both halves of the month.
57

58 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
59 (a) Position of vessel is mutually agreed between Buyers and Sellers:
60 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause:
61 (c) Appropriation Clause cancelled if sold "shipped".
62

63 **8. SHIPMENT AND CLASSIFICATION-** Shipment from
64 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
65 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force
66 at the time of shipment.
67

68 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period
69 of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last
70 day of the originally stipulated period. The notice need not state the number of additional days claimed.
71 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
72 which the originally stipulated period is exceeded, in accordance with the following scale: -

73 1 to 4 additional days, 0.50%;

74 5 or 6 additional days, 1%;

75 7 or 8 additional days 1.50% of the gross contract price.

76 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
77 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
78 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
79 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
80

81 **10. APPROPRIATION-**

82 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
83 bill of lading.

84 (b) The notice of appropriation shall withinconsecutive days from the date of the bill(s) of lading be served
85 by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business
86 Days Clause shall not apply.

87 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
88 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
89 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
90 deemed to be in time if served: -

91
92 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

93
94 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

95 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
96 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
97 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
98 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

99 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
100 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

101 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
102 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

103 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
104 borne by Sellers.

105 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

106 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
107 for sampling, analysis and lighterage incurred thereby at port of discharge
108

109 **11. PAYMENT-**

110 (a) **Payment** % of invoice amount by cash in

111 * In exchange for and on presentation of shipping documents.

112 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option.

113 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
114 consecutive days from the date of the bill(s) of lading.
115

116 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
117 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
118 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
119 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
120 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
121 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

122 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
123 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
124 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
125 are eventually available.

126 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
127 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
128 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
129 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
130 shipping documents are eventually available.

131 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
132 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
133 countersigned, if required by Buyers, by a recognised bank.

134 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
135 event any additional collection costs shall be borne by Buyers.

136 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
137 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
138 respect thereto.

139 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
140 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

141 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
142 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
143 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
144 clause do not override the parties' contractual obligation under sub-clause (a).

145
146 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
147 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

148
149 **13. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
150 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
151 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
152 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
153 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
154 which case the Deficiency Clause will not apply).

155
156 **14. DEFICIENCY**- any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
157 shall be paid for by Buyers at contract price.

158
159 **15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124,
160 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
161 ship or quay unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of
162 loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
163 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

164
165 **16. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
166 GAFTA Insurance Terms No.72 viz.:-

167 (a) Risks Covered: -

168 Cargo Clauses (W.A.), with average payable, with 3% franchise or better terms -Section 2 of Form 72

169 War Clauses (Cargo) -Section 4 of Form 72

170 Strikes, Riots and Civil Commotions Clauses (Cargo) -Section 5 of Form 72

171 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
172 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
173 process in London, but for whose solvency Sellers shall not be responsible.

174 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
175 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
176 Buyers.

177 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
178 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
179 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that
180 their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if
181 the C.I.F. value plus 2% were insured from the time of shipment.

182 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
183 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
184 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
185 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
186 recognised bank, or by any other guarantor who is acceptable to Buyers.

187 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
188 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
189 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

190 (g) Currency of Claims - Claims to be paid in the currency of the contract.

191 (h) War and Strike Risks/Premiums - Any premium excess of 0.50% to be for account of Buyers. The rate of such insurance not to
192 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
193 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case, later than the date of
194 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
195 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
196 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

197 (j) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
198 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
199 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
200 in respect of such matters.
201

202 **17. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
203 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
204 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
205 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
206 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
207 therefor and, if required, Sellers must produce proof to justify the cancellation.
208

209 **18. FORCE MAJEURE, STRIKES ETC.-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
210 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or any
211 cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall
212 serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of
213 the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
214

215 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2
216 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
217 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated. If shipment
218 be delayed for more than 30 consecutive days. Buyers shall have the option of cancelling the delayed portion of the contract, such
219 option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30
220 consecutive days.
221

222 If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days.
223 If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void.
224 Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to
225 Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
226

227 **19. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
228 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
229 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if
230 receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,
231 establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was
232 actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their
233 respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received
234 on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
235

236 **20. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
237 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
238 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
239 thereafter. The period of shipment shall not be affected by this clause.
240

241 **21. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-

242 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
243 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

244 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
245 agreed, then the assessment of damages shall be settled by arbitration.

246 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
247 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

248 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the

249 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

250 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
251 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
252 mean contract quantity.

253 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
254 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
255 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
256 day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service of the
257 appropriation, or if notice of appropriation is not served by the 4th business day after the last day for appropriation laid down in the
258 contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers shall be deemed to
259 be in default, and the default date shall then be the first business day thereafter.
260

- 261 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
262 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
263 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
264 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
265 shipment). Different currencies shall not invalidate the circle.

266 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
267 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
268 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
269 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
270 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

271 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on
272 the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
273 differences between market price and the relative contract price in currency of the contract. All Sellers and Buyers shall give every
274 assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on
275 all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall
276 not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended
277 in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided
278 for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this
279 event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
280 between the closing out price and the contract price.
281

- 282 **23. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
283 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting
284 of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver
285 or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation)
286 become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against
287 him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall
288 forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the
289 other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of
290 Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be
291 closed out at the market price ruling on the business day following the giving of the notice. If such notice has not been served, then
292 the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at
293 either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of
294 Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases
295 the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-
296 purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable
297 or receivable under this contract.
298

- 299 **24. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
300 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
301 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
302 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
303 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
304 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
305 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England,
306 (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself
307 to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
308 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
309 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
310 any rule of law or equity to the contrary notwithstanding.
311

- 312 **25. ARBITRATION-**
313 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules
314 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
315 shall be deemed to be cognisant.

316 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
317 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
318 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
319 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
320 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
321 any such dispute.
322

323 **26. INTERNATIONAL CONVENTIONS –**

324 The following shall not apply to this contract: -

325 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
326 Sales Act 1967;

327 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

328 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the
329 amending Protocol of 1980.

330 (d) Incoterms

331 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
332 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.9

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR IMPORTED FEEDING MEAT MEAL AND MEAT AND BONE MEAL IN BAGS TALE QUALE - CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 in new and/or second-hand bags of suitable strength to withstand ordinary wear and tear to port of destination. Such bags to be taken
10 and paid for as goods.

11
12 **2. QUANTITY-** Sellers have the option of shipping up to 5% more or less

13 In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean
14 quantity sold shall not be affected thereby.

15
16 **3. PRICE AND DESTINATION - At**

17 * per tonne of 1000 kilograms)

18) gross weight, cost, insurance and freight to

19 * per ton of 1016 kilograms or 2240 lbs.)

20
21 **4. BROKERAGE-**per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

22 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
23 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
24 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25
26 **5. QUALITY-**

27 * (a) **Warranted to contain :** -

28 Not less than % of Protein.

29 Not less than % of Phosphoric Acid equal to

30 Not less than % of Bone Phosphate of Lime.

31 Not more than % of Fat.

32
33
34
35
36 * (b) **Sample,** about equal to sample marked in possession of

37
38 **6. ALLOWANCES FOR DEFICIENCY AND/OR EXCESS-**

39 **Protein** - The allowance to Buyers shall be at the rate of 1% of the contract price for each unit of deficiency up to 3% and
40 proportionately for any fraction thereof.

41 **Bone phosphate of lime** - The allowance to Buyers for deficiency shall be at the rate of 1% of the contract price for each unit of
42 deficiency up to 4% and proportionately for any fraction thereof.

43 **Fat** - where goods are sold on the basis of: -

44 not more than 3% fat an excess of 1% fat may be delivered.

45 Over 3% and not more than 5% fat, an excess of 1.50% fat may be delivered.

46 Over 5% and not more than 8% fat, an excess of 2% fat may be delivered.

47 Over 8% fat an excess of 3% fat may be delivered.

48 The allowance to Buyers for excess over the contract warranty shall be at the rate of 1% of the contract price for each unit of excess or
49 proportionately for any fraction thereof.

50 Right of rejection - Should the analysis show deficiency and/or excess beyond the limits specified above, Buyers shall be entitled to

rejection but should Buyers decide to retain the goods they shall be entitled to further allowance or allowances to be settled by agreement or arbitration.

Condition-Shipment shall be made in good condition.

7. PERIOD OF SHIPMENT- as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the Bill(s) of Lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

8. SALES BY NAMED VESSELS- For all sales by named vessels, the following shall apply: -
(a) Position of vessel is mutually agreed between Buyers and Sellers;
(b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
(c) Appropriation Clause cancelled if sold "shipped".

9. SHIPMENT AND CLASSIFICATION- Shipment, direct or indirect, with or without transshipment from
by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

10. EXTENSION OF SHIPMENT- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -

- 1 to 4 additional days, 0.50%;
- 5 or 6 additional days, 1%;
- 7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

11. APPROPRIATION-

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.
(b) The notice of appropriation shall within consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

- (1) On the same calendar day, if received not later than 1600 hours on any business day, or
- (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge

12. PAYMENT-

(a) **Payment**% of invoice amount by cash in

* In exchange for and on presentation of shipping documents;

* In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

consecutive days from the date of the bill(s) of lading.

(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.

(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.

(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

(h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

13. **DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
14. **WEIGHING** - the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
15. **DEFICIENCY**- any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price
16. **SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
17. **INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No. 72, viz.: -
- (a) Risks Covered: -
- | | |
|---|------------------------|
| Cargo Clauses (W.A.), with average payable, with 3% franchise or better terms | - Section 2 of Form 72 |
| War Clauses (Cargo) | - Section 4 of Form 72 |
| Strikes, Riots and Civil Commotions Clauses (Cargo) | - Section 5 of Form 72 |
- (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.
- (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.
- (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake

185 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
186 if the C.I.F. value plus 2% were insured from the time of shipment.

187 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
188 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
189 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
190 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
191 recognised bank, or by any other guarantor who is acceptable to Buyers.

192 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
193 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
194 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

195 (g) Currency of Claims - Claims to be paid in the currency of the contract.

196 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
197 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
198 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
199 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
200 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
201 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

202 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
203 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
204 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
205 in respect of such matters.

206
207 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
208 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
209 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
210 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
211 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
212 therefor and, if required, Sellers must produce proof to justify the cancellation.

213
214 **19. FORCE MAJEURE, STRIKES ETC.-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
215 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or
216 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
217 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
218 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

219
220 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2
221 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
222 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

223
224 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
225 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
226 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
227 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
228 contract shall be considered void. Buyers shall have no claim against sellers for delay or non-shipment under this clause, provided that
229 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

230
231 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
232 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
233 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt
234 of any notice is contested by the addressee, the burden of proof of transmission shall be on the sender who shall, in the case of a
235 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration clause, that the notice
236 was actually transmitted. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or
237 vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day
238 following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

239
240 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
241 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
242 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
243 thereafter. The period of shipment shall not be affected by this clause.

244
245 **22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

246 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase,
247 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

248 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
249 agreed, then the assessment of damages shall be settled by arbitration.

250 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
251 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

252 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
253 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

254 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
255 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
256 mean contract quantity.

257 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
258 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
259 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
260 day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service of the
261 appropriation, or if notice of appropriation has not been served by the 4th business day after the last day for appropriation laid down in
262 the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers shall be deemed
263 to be in default, and the default date shall then be the first business day thereafter.
264

- 265 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
266 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
267 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
268 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
269 shipment). Different currencies shall not invalidate the circle.

270 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
271 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
272 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

273 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
274 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

275 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
276 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
277 differences between market price and the relative contract price in currency of the contract.

278 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
279 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
280 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
281 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
282 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
283 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
284 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
285 price.
286

- 287 **24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
288 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
289 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
290 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
291 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
292 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
293 notice of the occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the
294 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
295 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
296 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
297 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
298 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
299 ruling on the first business day after the date when the Act of Insolvency occurred.

300 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
301 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
302 receivable under this contract.
303

- 304 **25. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
305 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose
306 of enforcing any award made in pursuance of the Arbitration clause of this contract, the Courts of England shall have exclusive
307 jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration
308 proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the
309 Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to
310 be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England, (GAFTA) and any
311 party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or
312 if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of
313 proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the
314 posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the
315 contrary notwithstanding.
316

- 317 **26. ARBITRATION-**

318 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,

319 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
320 shall be deemed to be cognisant.
321 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
322 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
323 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
324 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
325 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
326 any such dispute.

327

328 **27. INTERNATIONAL CONVENTIONS-**

329 The following shall not apply to this contract: -

330 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
331 Sales Act 1967;

332 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

333 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
334 of 1980.

335 (d) Incoterms.

336 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
337 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers..... Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.10

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FEEDING FISH MEAL IN BAGS TALE QUALE - CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**..... in new and/or second-hand bags of suitable strength to
9 withstand ordinary wear and tear to port of destination. Bags of each mark shall be of uniform weight and shall be properly marked. If
10 in bulk, Buyers may call for up to 15% in stowage bags, such bags to be taken and paid for as Goods. Bags shall not at any time have
11 contained asbestos or any other potentially injurious material.

12
13 **2. QUANTITY-** Sellers have the option of shipping up to 5% more or less. In
14 the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean
15 quantity sold shall not be affected thereby.

16
17 **3. PRICE AND DESTINATION - At**

18 * per tonne of 1000 kilograms	}	
19	}	gross weight, cost, insurance and freight to
20 * per ton of 1016 kilograms or 2240 lbs.	}	

21
22 **4. BROKERAGE-** per tonne,
23 to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-
24 fulfilment is due to the cancellation of the contract under the terms of the Prohibition or Force Majeure Clause. Brokerage shall
25 be due on the day shipping documents are exchanged or, if the goods are not appropriated then brokerage shall be due on the 30th
26 consecutive day after the last day for appropriation.

27
28 **5. QUALITY-**
29 * **Warranted to contain:**
30
31% of moisture
32
33% of protein
34
35% of fat/oil
36
37% of salt
38
39% of sand and/or silica

40
41 * **Official**.....certificate of inspection, or certificate of inspection ofat time and place of loading
42 into the ocean carrying vessel, shall be final as to quality.

43
44 * **Sample**, at time and place of shipment about equal as per sealed sample marked

45
46 in possession of; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract
47 price. Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
48 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

49 **Condition-** Shipment shall be made in good condition.
50

- 51 **6. ALLOWANCES FOR EXCESS AND DEFICIENCY-** Any deficiency in protein below the warranty stated herein shall be allowed
52
53 at the rate of per unit of protein with a proportional allowance for each
54 fraction of a unit if not sold on a "price per unit of protein basis", for this purpose the value of a unit of protein shall be determined by
55 dividing the contract price by the warranted percentage of protein. Any excess of salt, sand, oil or moisture above the warranties
56 stated herein shall be allowed at the rate of 1% of the contract price for each unit in excess, with a proportional allowance for each
57 fraction of 1%.
- 58
- 59 **7. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
60 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
61 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
62 as being in both halves of the month.
- 63
- 64 **8. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
65 (a) Position of vessel is mutually agreed between Buyers and Sellers;
66 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
67 (c) Appropriation Clause cancelled if sold "shipped".
- 68
- 69 **9. SHIPMENT AND CLASSIFICATION-** Shipment from
70 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
71 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force
72 at the time of shipment.
- 73
- 74 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
75 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
76 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
77 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
78 which the originally stipulated period is exceeded, in accordance with the following scale: -
79 1 to 4 additional days, 0.50%;
80 5 or 6 additional days, 1%;
81 7 or 8 additional days 1.50% of the gross contract price.
82 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
83 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
84 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
85 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
- 86
- 87 **11. APPROPRIATION-**
88 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
89 bill of lading.
90 (b) The notice of appropriation shall within consecutive days from the date of the bill(s) of lading be served by
91 or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business
92 Days Clause shall not apply.
93 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
94 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers
95 on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
96 deemed to be in time if served: -
97
98 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
99
100 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
101 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
102 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
103 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
104 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
105 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
106 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
107 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
108 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
109 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
110 borne by Sellers.
111 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
112 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
113 for sampling, analysis and lighterage incurred thereby at port of discharge.
- 114
- 115 **12. PAYMENT-** (a) **Payment**% of invoice amount by cash in
116 * In exchange for and on presentation of shipping documents;
117 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

118 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
119 consecutive days from the date of the bill(s) of lading.
120

121 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)
122 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be
123 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of
124 Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4.
125 Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation
126 Clause and/or other recognised official War Risk Clause.
127 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers
128 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in
129 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
130 available.
131 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may
132 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra
133 expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents,
134 shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
135 available.
136 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
137 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
138 by Buyers, by a recognised bank.
139 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event
140 any additional collection costs shall be borne by Buyers.
141 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all
142 loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.
143 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
144 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
145 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
146 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
147 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause
148 do not override the parties' obligation under sub-clause (a).
149

150 **13. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
151 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
152

153 **14. WEIGHING** - the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
154 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
155 Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
156 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
157 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
158 which case the Deficiency Clause will not apply).
159

160 **15. DEFICIENCY**- any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
161 shall be paid for by Buyers at contract price.
162

163 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124,
164 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
165 ship or quay, unless the parties agree that quality at loading applies, in which event samples shall be taken at time and place of
166 loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
167 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
168

169 **17. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
170 GAFTA Insurance Terms No.72 viz.:-
171 (a) Risks Covered: -
172 Cargo Clauses (All Risks) - Section 1 of Form 72
173 War Clauses (Cargo) - Section 4 of Form 72
174 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
175 Spontaneous Combustion - Section 7 of Form 72
176 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
177 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
178 process in London, but for whose solvency Sellers shall not be responsible.
179 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
180 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
181 Buyers.
182 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
183 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
184 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake

185 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
186 if the C.I.F. value plus 2% were insured from the time of shipment.

187 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
188 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
189 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
190 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
191 recognised bank, or by any other guarantor who is acceptable to Buyers.

192 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
193 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
194 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

195 (g) Currency of Claims - Claims to be paid in the currency of the contract.

196 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
197 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
198 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
199 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
200 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
201 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

202 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
203 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
204 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
205 in respect of such matters.

206
207 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
208 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
209 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
210 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
211 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
212 therefor and, if required, Sellers must produce proof to justify the cancellation.

213
214 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
215 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
216 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
217 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
218 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

219
220 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2
221 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
222 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

223
224 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
225 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
226 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
227 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
228 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
229 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

230
231 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
232 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
233 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
234 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
235 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
236 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
237 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
238 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

239
240 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
241 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
242 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
243 thereafter. The period of shipment shall not be affected by this clause.

244
245 **22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-

246 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
247 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

248 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
249 agreed, then the assessment of damages shall be settled by arbitration.

250 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
251 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

252 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the

253 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
254 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
255 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
256 mean contract quantity.
257 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
258 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
259 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
260 day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service of the
261 appropriation, or if notice of appropriation has not been served by the 4th business day after the last day for appropriation laid down in
262 the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers shall be deemed
263 to be in default, and the default date shall then be the first business day thereafter.
264

265 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
266 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
267 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
268 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
269 shipment). Different currencies shall not invalidate the circle.

270 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
271 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
272 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
273 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
274 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

275 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
276 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
277 differences between the market price and the relative contract price in currency of the contract. All Sellers and Buyers shall give every
278 assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on
279 all parties to the circle.

280 As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a
281 breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency
282 Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the
283 Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event
284 respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
285 between the closing out price and the contract price.
286

287 **24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
288 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
289 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
290 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
291 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
292 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
293 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
294 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
295 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
296 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
297 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
298 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
299 ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall
300 have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference
301 between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
302

303 **25. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
304 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
305 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
306 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
307 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
308 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
309 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England,
310 (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself
311 to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
312 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
313 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
314 service, any rule of law or equity to the contrary notwithstanding.
315

316 **26. ARBITRATION-**

317 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
318 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
319 shall be deemed to be cognisant.

320 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
321 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
322 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
323 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
324 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
325 any such dispute.
326

327 **27. INTERNATIONAL CONVENTIONS-**

328 The following shall not apply to this contract: -

329 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
330 Sales Act 1967;

331 (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and

332 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
333 of 1980.

334 (d) Incoterms.

335 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
336 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR AUSTRALIAN GRAIN IN BULK CARGOES TALE QUALE - CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-** a cargo of

9 Buyers agree to accept any quantity shipped in bags for safe stowage or as required by the Master, such bags (other than ship's
10 bags, which remain the property of the owners) are to be weighed and paid for as goods.

11
12 **2. QUANTITY-** 2% more or less

13 Sellers have the option of shipping a further 8% more or less on contract quantity, excess or deficiency over the above 2% to be
14 settled at the CIF price on the date of the last bill of lading, and on the quantity thereof; value to be fixed by Arbitration, unless
15 mutually agreed.

16
17 **3. PRICE AND DESTINATION - At**

18 * per tonne of 1000 kilograms }

19 } gross weight, cost, insurance and freight to

20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE-**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

23 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
24 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
25 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**

28 * **Warranted to contain** at time and place of discharge.

29
30 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
31 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade
32 of grain of the same colour and description.

33 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
34 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no
35 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair
36 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the
37 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall
38 be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such
39 sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract shall
40 be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If the
41 difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for
42 quality shall be due; otherwise the Buyers shall be entitled to the full difference in value.

43
44 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

45 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
46 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
47 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

48 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
49 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
50 of an improper shipment.

51
52 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

53 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
54 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
55 shall be accepted as being in both halves of the month.

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7. **SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:-
 (a) Position of vessel is mutually agreed between Buyers and Sellers;
 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
 (c) Appropriation Clause cancelled if sold "shipped".
8. **SHIP'S CLASSIFICATION** - Shipment from
 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
9. **EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed. Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -
 1 to 4 additional days, 0.50%;
 5 or 6 additional days, 1%;
 7 or 8 additional days 1.50% of the gross contract price.
 If however having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
10. **APPROPRIATION**-
 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the last bill of lading.
 (b) The notice of appropriation shall within 10 consecutive days from the date of the last bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be deemed to be in time if served: -
 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.
 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
11. **PAYMENT**-
 (a) **Payment** % of invoice amount by cash in
 in exchange for and on presentation of shipping documents, on or before arrival of the ship at first port of discharge, at Buyers' option, but if the ship shall not have arrived within 60 days from the date of the bill of lading, payment, unless already made, to be made after the 60th day from the bill of lading date when required by Sellers.
 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept

124 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
125 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
126 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
127 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
128 contract when shipping documents are eventually available.
129 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
130 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
131 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
132 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
133 contract when shipping documents are eventually available.
134 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
135 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
136 countersigned, if required by Buyers, by a recognised bank.
137 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
138 in that event any additional collection costs shall be borne by Buyers.
139 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
140 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
141 guarantee in respect thereto.
142 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
143 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
144 Arbitration Rules.
145 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
146 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
147 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
148 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

149
150 **12. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
151 in GAFTA Insurance Terms No.72 viz.: -

152 (a) Risks Covered: -

153 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
154 War Clauses (Cargo) - Section 4 of Form 72
155 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
156 Australian, Canadian, South African and United States of America Acts - Section 6 of Form 72

157 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
158 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
159 address for service of process in London, but for whose solvency Sellers shall not be responsible.

160 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
161 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
162 payable by Buyers.

163 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
164 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
165 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
166 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
167 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

168 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
169 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
170 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
171 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall
172 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

173 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
174 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
175 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

176 (g) Currency of Claims - Claims to be paid in the currency of the contract.

177 (h) War and Strike Risks/Premiums - Any premium excess of 0.50% to be for account of Buyers. The rate of such insurance
178 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
179 Underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
180 case, later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with Underwriters,
181 whichever may be the later, otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable.
182 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
183 London at time of shipment.

184 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
185 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
186 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
187 against the Insurers in respect of such matters.

188
189 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
190 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

191
192 **14. BILL OF LADING-** Sellers have the right of tendering the "Austwheat" or "Austral" bill of lading under this Contract.
193

- 194 **15. DISCHARGE-** Port(s) of discharge to be declared by Buyers to Sellers. Ship to discharge as per Charter Party. Ship to discharge
195 afloat.
196
- 197 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
198 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
199 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
200 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
201 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
202 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
203
- 204 **17. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
205 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
206
- 207 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS** – the terms and conditions of GAFTA Sampling Rules
208 No. 124 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
209 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
210 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
211 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
212 GAFTA Register of Analysts.
213
- 214 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
215 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
216 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
217 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
218 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
219 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
220
- 221 **20. LOADING STRIKE-**
222 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
223 shipment, or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
224 port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be
225 entitled at the termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port
226 or ports as was left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the
227 time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event
228 of further riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by
229 reason of the operation of the provisions of the foregoing paragraph the additional extension allowed shall be limited to the actual
230 duration of such further riots, strikes or lock-outs. In the event of non-shipment after the Shipper shall have claimed an
231 extension under this clause, the date of default shall be similarly deferred.
232 (b) Should the movement of any vessel in which freight has been actually engaged to fulfil all or part of this contract, be
233 impeded at any time during the stipulated period of shipment by riot, strike or lock-out or civil commotion, in the State where
234 loading is intended or in any other State, the Sellers shall be entitled at the termination of such riot, strike, lock-out or civil
235 commotion to claim a similar extension of time for shipment at such port or ports as that provided in paragraph (a) of this
236 clause.
237 (c) If the Shipper desires to claim an extension of time for shipment under this clause he shall, within 7 days of the termination
238 of the riot, strike, lock-out or civil commotion, but in no case later than 2 business days after the expiration of the stipulated
239 period of shipment, serve a notice on his Buyers, naming the port or ports at which he intends to ship, and any shipment after
240 the expiration of the stipulated period shall be limited to the port or ports so named. All such notices shall be served by
241 respective sellers on their buyers.
242 (d) Any Shipper serving a notice under this clause shall forthwith apply to the Chamber of Commerce of the State in which
243 shipment is to be made or in which the movement of any vessel or vessels shall have been impeded within the meaning of
244 paragraph (b) of this clause, and request them to notify immediately GAFTA, confirming the existence of such riot, strike, lock-
245 out or civil commotion, and in due course the dates of commencement and termination thereof. The Shipper further agrees to
246 comply with all requirements of the Chamber of Commerce to ensure such notice is sent.
247 (e) The certificate of the Chamber of Commerce certifying the existence and duration of any such riot, strike, lock-out or civil
248 commotion and certifying that, in respect of the contract goods, the said riot, strike, lock-out or civil commotion has caused
249 delay in the shipment or forwarding (as provided for in paragraph (a)) or impeded the movement of vessels in which freight had
250 been engaged (as provided for in paragraph (b)) shall be attached to the shipping documents and be accepted as final. If a
251 certificate is issued too late to be attached to the shipping documents, then a notice from the Chamber of Commerce to GAFTA,
252 that such certificate has been issued, shall be deemed equivalent to a certificate attached to shipping documents, always provided
253 that such notification shall have been received by GAFTA, not later than the date of arrival of the documents.
254
- 255 **21. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
256 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
257 apply. (For the purpose of this Clause the same goods shall mean goods of the same description, from the same country of
258 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
259 during the same period of shipment). Different currencies shall not invalidate the circle.
260 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
261 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
262 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
263 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
264 be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
265 ascertained.
266 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market

267 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
268 payment of the differences between market price and the relative contract price in the currency of the contract.
269 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
270 accordance with this Clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
271 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
272 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
273 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
274 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
275 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
276 contract price.
277

278 **22. NOTICES-** All Notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
279 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex,
280 or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the
281 proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the
282 case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
283 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
284 without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day
285 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
286 notice under this contract.
287

288 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
289 any days, which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time
290 limit for doing any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first
291 business day thereafter. The period of shipment shall not be affected by this clause.
292

293 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
294 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or
295 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
296 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
297 mutually agreed, then the assessment of damages shall be settled by arbitration.
298 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
299 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
300 above.
301 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
302 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
303 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
304 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
305 of the mean contract quantity.
306 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
307 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
308 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
309 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be
310 the first business day thereafter.
311

312 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
313 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
314 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
315 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
316 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
317 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
318 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency to the other party to the contract and upon
319 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
320 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
321 Insolvency, the contract shall be closed out at the market price ruling on the business day following the giving of the Notice. If
322 such Notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
323 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
324 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
325 Act of Insolvency occurred.
326 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
327 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
328 amount payable or receivable under this contract.
329

330 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
331 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
332 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
333 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
334 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
335 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
336 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and
337 Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to have
338 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction
339 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same

340 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
341 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

342

343 **27. ARBITRATION-**

344 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
345 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
346 parties hereto shall be deemed to be cognisant.

347 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
348 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
349 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
350 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
351 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
352 the other of them in respect of any such dispute.

353

354 **28. INTERNATIONAL CONVENTIONS-**

355 The following shall not apply to this contract: -

356 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
357 International Sales Act 1967;

358 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

359 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
360 Protocol of 1980.

361 (d) Incoterms.

362 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
363 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.13

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THE GRAIN AND FEED TRADE ASSOCIATION
CONTRACT FOR AUSTRALIAN OFFALS
IN BAGS - PARCELS
TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 shipped in merchantable bags (which bags may include a number of second-hand and dry-stained), bags to be taken and paid for as
10 goods.

11
12 **2. QUANTITY-** 2% more or less

13 Sellers have the option of shipping a further 3% more or less on contract quantity, excess or deficiency over the above 2% to be
14 settled at CIF price on date of the bill of lading, and on the quantity thereof; value to be fixed by Arbitration, unless mutually
15 agreed. In the event of more than one shipment being made each shipment to be considered a separate contract, but the margin on
16 the mean quantity sold not to be affected thereby.

17
18 **3. PRICE AND DESTINATION-** At

19
20 * per tonne of 1000 kilograms }
21 } gross weight, insurance and freight, to
22 * per ton of 1016 kilograms or 2240 lbs. }

23
24 **4. BROKERAGE** –.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

25 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
26 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
27 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

28
29 **5. QUALITY-**

30 * **Warranted to contain** at time and place of discharge.

31
32 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
33 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade
34 of grain of the same colour and description.

35 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and
36 by comparison with GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
37 Standard being established by GAFTA, the arbitrator(s) shall in his/their discretion decide what is the fair average quality. An
38 average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
39 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to
40 GAFTA for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid
41 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of
42 ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the
43 F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers
44 shall be entitled to the full difference in value.

45
46 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

47
48; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

49 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
50 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

51 **Condition-** Shipment shall be made in good condition.

52
53 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

54 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of

shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

7. **PORTS OF SHIPMENT-** from a port or ports in Australia.

8. **SALES BY NAMED VESSELS-** For all sales by named vessel, the following shall apply: -

- (a) Position of vessel is mutually agreed between Buyers and Sellers;
- (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
- (c) Appropriation Clause cancelled if sold "shipped".

9. **SHIP'S CLASSIFICATION-** Shipment direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels

10. **BILL OF LADING-** Sellers have the right of tendering the "Austwheat" or "Austral" bill of lading under this Contract. In the event of the "Austwheat" or "Austral" bill of lading being tendered, then Sellers to be responsible to Buyers for waiting time and demurrage provided discharge takes place in accordance with the terms of this contract.

11. **EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed. Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -

- 1 to 4 additional days, 0.50%;
- 5 or 6 additional days, 1%;
- 7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

12. **APPROPRIATION-**

- (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.
- (b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
- (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

(1) On the same calendar day, if received not later than 1600 hours on any business day, or

(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

13. **DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

14. **PAYMENT-**

(a) **Payment** % of invoice amount by cash in

..... in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 60 days from the date of the bill of lading, payment, unless already made, to be made after the 60th day from the bill of lading date when required by Sellers.

128 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
129 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
130 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
131 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
132 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
133 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

134 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
135 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
136 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
137 are eventually available.

138 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
139 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
140 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
141 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
142 shipping documents are eventually available.

143 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
144 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
145 countersigned, if required by Buyers, by a recognised bank.

146 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
147 that event any additional collection costs shall be borne by Buyers.

148 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
149 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
150 respect thereto.

151 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
152 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
153 Rules.

154 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
155 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
156 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
157 clause do not override the parties' contractual obligation under sub-clause (a).

158
159 **15. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
160 GAFTA Insurance Terms No.72 viz.: -

161 (a) Risks Covered: -

162 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

163 War Clauses (Cargo) - Section 4 of Form 72

164 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

165 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
166 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
167 address for service of process in London, but for whose solvency Sellers shall not be responsible.

168 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable
169 on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable
170 by Buyers.

171 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
172 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
173 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
174 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in
175 the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

176 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
177 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
178 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
179 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall be
180 guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

181 (f) Total loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
182 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
183 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

184 (g) Currency of Claims - Claims to be paid in the currency of the contract.

185 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
186 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by Underwriters.
187 Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case, later than
188 the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with Underwriters, whichever may
189 be the later, otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to
190 provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of
191 shipment.

192 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
193 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
194 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
195 against the Insurers in respect of such matters.

196
197 **16. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
198 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
199 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
200 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary

201 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted
202 unless specifically excluded at time of contract.
203

204 **17. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Unless
205 otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers'
206 expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents
207 for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and
208 place of loading as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency
209 Clause will not apply).
210

211 **18. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
212 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies)
213

214 **19. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS** - the terms and conditions of GAFTA Sampling Rules
215 No.124 are deemed to be incorporated into this contract. Samples shall be taken at time and place of discharge on or before
216 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken
217 at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods,
218 from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of
219 Analysts.
220

221 **20. PRO RATA-**

222 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags
223 of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or
224 distinction shall be necessary.

225 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
226 receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this
227 not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
228 other(s) on a pro-rata basis in cash at the market price and each receiver shall bear his proportion of the depreciation in market
229 value. The pro-rata statement shall be established by the Sellers or their representatives in conjunction with the receivers or their
230 representatives.

231 (c) The above pro-rata apportionment between receivers shall have no bearing on the establishment of final invoices with Sellers
232 and for the purpose of these final invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded
233 as delivered to those receivers who did not receive their full invoiced quantity.

234 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
235 market price by final invoices to be rendered by receivers, who have received more or less than that paid for, to their immediate
236 Sellers without taking into consideration the above pro-rata apportionment between receivers.

237 (e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more receiver, the
238 excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for
239 any balance resulting from this settlement.

240 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
241 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
242 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
243 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
244 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

245 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
246 port of destination, such price to be fixed by arbitration unless mutually agreed.

247 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
248 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
249 pro-rata weight.

250 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
251 shall, where applicable, take precedence over sub-clauses (b) to (h) above.

252 (j) In the event that Clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
253 more than one shipper and destined for one or more ports of discharge then, after the adjustment between receivers under the
254 terms of this clause, the shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
255 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall
256 be the average of the market prices on the last day of discharge in the respective ports.
257

258 **21. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
259 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
260 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
261 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
262 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
263 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
264

265 **22. LOADING STRIKE-**

266 (a). Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
267 shipment, or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
268 port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be
269 entitled at the termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port
270 or ports as was left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the
271 time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of
272 further riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason
273 of the operation of the provisions of the foregoing paragraph the additional extension allowed shall be limited to the actual

274 duration of such further riots, strikes or lock-outs. In the event of non-shipment after the Shipper shall have claimed an extension
275 under this clause, the date of default shall be similarly deferred.

276 (b). Should the movement of any vessel in which freight has been actually engaged to fulfil all or part of this contract, be
277 impeded at any time during the stipulated period of shipment by riot, strike, lock-out or civil commotion, in the State where
278 loading is intended or in any other State, the Sellers shall be entitled at the termination of such riot, strike, lock-out or civil
279 commotion to claim a similar extension of time for shipment at such port or ports as that provided in paragraph (a) of this clause.

280 (c) If the Shipper desires to claim an extension of time for shipment under this clause he shall, within 7 days of the termination of
281 the riot, strike, lock-out or civil commotion, but in no case later than 2 business days after the expiration of the stipulated period
282 of shipment, serve a notice on his Buyers, naming the port or ports at which he intends to ship, and any shipment after the
283 expiration of the stipulated period shall be limited to the port or ports so named.

284 (d) Any shipper serving a notice under this clause shall forthwith apply to the Chamber of Commerce of the State in which
285 shipment is to be made or in which the movement of any vessel or vessels shall have been impeded within the meaning of
286 paragraph (b) of this clause, and request them to notify immediately to GAFTA, confirming the existence of such riot, strike,
287 lock-out or civil commotion, and in due course to notify the dates of commencement and termination thereof. The Shipper further
288 agrees to comply with all requirements of the said Chamber of Commerce to ensure such notice is sent.

289 (e). The certificate of the said Chamber of Commerce certifying the existence and duration of any such riot, strike, lock-out or
290 civil commotion and certifying that, in respect of the contract goods, the said riot, strike, lock-out or civil commotion has caused
291 delay in the shipment or forwarding (as provided for in paragraph (a)) or impeded the movement of vessels in which freight had
292 been engaged (as provided for in paragraph (b)) shall be attached to the shipping documents and be accepted as final. If a
293 certificate is issued too late to be attached to the shipping documents, then a notice by the Chamber of Commerce to the GAFTA,
294 that such certificate has been issued, shall be deemed equivalent to a certificate attached to shipping documents, always provided
295 that such notice shall have been received by GAFTA, not later than the date of arrival of the documents.

- 296
297 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
298 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
299 apply. (For the purpose of this Clause the same goods shall mean goods of the same description, from the same country of origin,
300 of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during
301 the same period of shipment). Different currencies shall not invalidate the circle.

302 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
303 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
304 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
305 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
306 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
307 ascertained.

308 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
309 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
310 payment of the differences between market price and the relative contract price in currency of the contract.

311 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
312 accordance with this Clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
313 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
314 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
315 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
316 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
317 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
318 price.

- 319
320 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
321 any days, which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time
322 limit for doing any act serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first
323 Business Day thereafter. The period of shipment shall not be affected by this clause.

- 324
325 **25. NOTICES** - All Notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
326 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
327 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
328 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
329 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
330 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
331 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
332 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

- 333
334 **26. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-

335 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or
336 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

337 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
338 mutually agreed, then the assessment of damages shall be settled by arbitration.

339 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
340 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

341 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
342 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

343 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
344 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
345 of the mean contract quantity.

346 (e) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first

347 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
348 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
349 last day of appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be
350 the first business day thereafter.

351
352 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
353 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting
354 of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver
355 or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation)
356 become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented
357 against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency
358 shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
359 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing
360 the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the
361 contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has
362 not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the
363 contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence
364 of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
365 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
366 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
367 amount payable or receivable under this contract.

368
369 **28. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
370 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
371 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
372 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
373 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
374 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
375 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
376 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
377 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
378 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
379 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
380 service, any rule of law or equity to the contrary notwithstanding.

381
382 **29. ARBITRATION -**
383 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
384 Rules No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties
385 hereto shall be deemed to be cognisant.
386 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
387 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
388 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the
389 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of
390 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other
391 of them in respect of any such dispute.

392
393 **30. INTERNATIONAL CONVENTIONS-**
394 The following shall not apply to this contract: -
395 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
396 Sales Act 1967;
397 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
398 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
399 Protocol of 1980.
400 (d) Incoterms.
401 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
402 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR AUSTRALIAN GRAIN IN BULK - PARCELS TALE QUALE - CIF TERMS

*delete/specify as applicable.

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 Sellers have the option of shipping up to 10 % in bags for safe stowage, such bags to be taken and paid for as goods.

10
11 **2. QUANTITY-** 2% more or less.

12 Sellers have the option of shipping a further 3% more or less on contract quantity; excess or deficiency over the above 2% to be
13 settled at the CIF price on the date of the bill of lading, and on the quantity thereof; value to be fixed by Arbitration, unless mutually
14 agreed. In the event of more than one shipment being made each shipment to be considered a separate contract, but the margin on the
15 mean quantity sold not to be affected thereby.

16
17 **3. PRICE AND DESTINATION -** At the price of

18
19 * per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight to
21 * per ton of 1016 kilograms or 2240 lbs. }

22
23 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost
24 or not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
25 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
26 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27
28 **5. QUALITY -**
29 * **Warranted to contain** at time and place of discharge.

30
31 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
32 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of
33 grain of the same colour and description.

34 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
35 comparison with GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
36 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.
37 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
38 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to
39 GAFTA for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid half
40 by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports
41 adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q.
42 Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall be entitled
43 to the full difference in value.

44
45 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of ;
46 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
47 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
48 referred to in the Arbitration Rules specified in the Arbitration Clause.

49 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
50 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
51 improper shipment.

52
53 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
54 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
55 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted

56 as being in both halves of the month.

57
58 **7. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply: -

- 59 (a) Position of vessel is mutually agreed between Buyers and Sellers;
60 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
61 (c) Appropriation Clause cancelled if sold "shipped".

62
63 **8. SHIPMENT AND CLASSIFICATION**- Shipment direct or indirect, from
64 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the
65 Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and
66 vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

67
68 **9. BILL OF LADING**- Sellers have the right of tendering the "Austwheat" or "Austral" bill of lading under this Contract. In the event
69 of the "Austwheat" or "Austral" bill of lading being tendered, then Sellers to be responsible to Buyers for waiting time and demurrage
70 provided discharge takes place in accordance with the terms of this contract.

71
72 **10. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional
73 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
74 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

75 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
76 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 77 1 to 4 additional days, 0.50%;
78 5 or 6 additional days, 1%;
79 7 or 8 additional days 1.50% of the gross contract price.

80 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
81 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
82 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
83 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

84
85 **11. APPROPRIATION**-

86 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
87 bill of lading.

88 (b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on behalf of
89 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
90 not apply.

91 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on
92 their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent
93 Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation
94 shall be deemed to be in time if served: -

- 95 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
96
97 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

98 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
99 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
100 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
101 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

102 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
103 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

104 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
105 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

106 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall
107 be borne by Sellers.

108 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

109 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
110 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

111
112 **12. PAYMENT**-

113 (a) **Payment** % of invoice amount by cash in
114 in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers'
115 option, but if the ship shall not have arrived within 60 days from the date of the bill of lading, payment, unless already made, to
116 be made after the 60th day from the bill of lading date when required by Sellers.

117 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
118 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
119 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
120 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
121 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
122 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

123 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers
124 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in

125 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
126 available.

127 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may
128 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable
129 extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such
130 documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
131 are eventually available.

132 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
133 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
134 by Buyers, by a recognised bank.

135 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
136 event any additional collection costs shall be borne by Buyers.

137 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
138 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
139 thereto.

140 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
141 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

142 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
143 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
144 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
145 override the parties' contractual obligation under sub-clause (a).

146

147 **13. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
148 GAFTA Insurance Terms No.72 viz.:-

149 (a) Risks Covered: -

150 Cargo Clauses (WA), with average payable, with 3% franchise or better terms	- Section 2 of Form 72
151 War Clauses (Cargo)	- Section 4 of Form 72
152 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72
153 Australian, Canadian, South African and United States of America Acts	- Section 6 of Form 72

154 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
155 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
156 process in London, but for whose solvency Sellers shall not be responsible.

157 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
158 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
159 Buyers.

160 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
161 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
162 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
163 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
164 if the C.I.F. value plus 2% were insured from the time of shipment.

165 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
166 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
167 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
168 certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall be guaranteed by a
169 recognised bank, or by any other guarantor who is acceptable to Buyers.

170 (f) Total loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured
171 amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall
172 collect the amount of insurance and shall thereupon settle with the other party on that basis.

173 (g) Currency of Claims - Claims to be paid in the currency of the contract.

174 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
175 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by Underwriters. Such
176 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
177 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with Underwriters, whichever may be the later,
178 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
179 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

180 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
181 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
182 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
183 against the Insurers in respect of such matters.

184

185 **14. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
186 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

187

188 **15. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
189 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
190 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
191 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary
192 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted
193 unless specifically excluded at time of contract.

194

195 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.

196 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
197 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
198 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
199 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
200 which case the Deficiency Clause will not apply).
201

202 **17. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
203 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
204

205 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124,
206 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
207 ship or quay, unless the parties agree that the quality final at loading applies, in which event samples shall be taken at time and
208 place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the
209 GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
210

211 **19. PRO RATA-**

212 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
213 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
214 shall be necessary.

215 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
216 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
217 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
218 pro-rata basis in cash at the market price and each receiver shall bear his proportion of the depreciation in market value. The pro-rata
219 statement shall be established by the Sellers or their representatives in conjunction with the Receivers or their representatives.

220 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
221 for the purpose of these final invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
222 delivered to those Receivers who did not receive their full invoiced quantity.

223 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
224 price by invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without
225 taking into consideration the above pro-rata apportionment between Receivers.

226 (e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more receiver, the excess
227 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
228 resulting from this settlement.

229 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
230 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
231 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
232 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
233 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

234 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
235 of destination, such price to be fixed by arbitration unless mutually agreed.

236 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
237 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
238 weight.

239 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
240 where applicable, take precedence over sub-clauses (b) to (h) above.

241 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
242 than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
243 clause, the shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
244 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
245 market prices on the last day of discharge in the respective ports.
246

247 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
248 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
249 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
250 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
251 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
252 therefor and, if required, Sellers must produce proof to justify the cancellation.
253

254 **21. LOADING STRIKE-**

255 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment,
256 or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at port or ports of
257 loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination
258 of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports as was left for
259 shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left for shipment under
260 the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes or lock-outs
261 occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of
262 the foregoing paragraph the additional extension allowed shall be limited to the actual duration of such further riots, strikes or lock-
263 outs. In the event of non-shipment after the Shipper shall have claimed an extension under this clause, the date of default shall be
264 similarly deferred.

265 (b) Should the movement of any vessel in which freight has been actually engaged to fulfil all or part of this contract, be impeded at
266 any time during the stipulated period of shipment by riot, strike or lock-out or civil commotion, in the State where loading is intended
267 or in any other State, the Sellers shall be entitled at the termination of such riot, strike, lock-out or civil commotion to claim a similar

268 extension of time for shipment at such port or ports as that provided in paragraph (a) of this clause.

269 (c) If the Shipper desires to claim an extension of time for shipment under this clause he shall, within 7 days of the termination of the
270 riot, strike, lock-out or civil commotion, but in no case later than 2 business days after the expiration of the stipulated period of
271 shipment, serve a notice on his Buyers, naming the port or ports at which he intends to ship, and any shipment after the expiration of
272 the stipulated period shall be limited to the port or ports so named.

273 (d) Any shipper serving a notice under this clause shall forthwith apply to the Chamber of Commerce of the State in which shipment is
274 to be made or in which the movement of any vessel or vessels shall have been impeded within the meaning of paragraph (b) of this
275 clause, and request them to serve a notice immediately to GAFTA confirming the existence of such riot, strike, lock-out or civil
276 commotion, and in due course to the dates of commencement and termination thereof. The Shipper further agrees to comply with all
277 requirements of the said Chamber of Commerce to ensure such notice is sent.

278 (e) The certificate of the said Chamber of Commerce certifying the existence and duration of any such riot, strike, lock-out or civil
279 commotion and certifying that, in respect of the contract goods, the said riot, strike, lock-out or civil commotion has caused delay in
280 the shipment or forwarding (as provided for in paragraph (a)) or impeded the movement of vessels in which freight had been engaged
281 (as provided for in paragraph (b)) shall be attached to the shipping documents and be accepted as final. If a certificate is issued too late
282 to be attached to the shipping documents, then a notice from the said Chamber of Commerce to GAFTA, that such certificate has been
283 issued, shall be deemed equivalent to a certificate attached to shipping documents, always provided that such notice shall have been
284 received by GAFTA, not later than the date of arrival of the documents.

- 285
286 **22. CIRCLE-** Where Sellers repurchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
287 considered to exist as regards the particular goods so repurchased, and the provisions of the Default Clause shall not apply. (For the
288 purpose of this Clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
289 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
290 shipment). Different currencies shall not invalidate the circle.

291 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
292 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
293 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
294 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
295 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

296 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
297 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
298 differences between the market price and the relative contract price in currency of the contract.

299 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
300 with this Clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
301 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
302 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
303 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
304 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
305 make payment to their Buyers of the difference between the closing out price and the contract price.

- 306
307 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
308 days, which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time limit for
309 doing any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first business day
310 thereafter. The period of shipment shall not be affected by this clause.

- 311
312 **24. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible
313 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
314 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
315 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
316 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
317 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
318 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
319 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract

- 320
321 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-
322 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
323 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
324 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
325 agreed, then the assessment of damages shall be settled by arbitration.
326 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
327 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
328 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
329 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
330 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
331 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
332 mean contract quantity.
333 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
334 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
335 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
336 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
337 business day thereafter.

- 338
339 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
340 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of

341 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
342 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
343 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any
344 of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
345 notice of the occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the
346 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
347 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the
348 market price ruling on the business day following the serving of the Notice. If such notice has not been served, then the other party,
349 on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market
350 price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market
351 price ruling on the first business day after the date when the Act of Insolvency occurred.
352 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
353 repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
354 receivable under this contract.

355
356 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
357 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
358 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
359 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
360 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of
361 appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party
362 shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association,
363 (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction
364 against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the
365 decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain
366 and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be
367 deemed good service, any rule of law or equity to the contrary notwithstanding.

368
369 **28. ARBITRATION-**
370 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
371 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
372 shall be deemed to be cognisant.
373 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
374 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
375 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
376 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
377 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
378 any such dispute.

379
380 **29. INTERNATIONAL CONVENTIONS-**
381 The following shall not apply to this contract: -
382 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
383 Sales Act 1967;
384 (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and
385 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
386 Protocol of 1980.
387 (d) Incoterms.
388 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
389 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR AUSTRALIAN AND NEW ZEALAND PEAS IN BAGS -PARCELS TALE QUALE - CIF TERMS

*delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 in new and/or second-hand bags of suitable strength to withstand ordinary wear and tear to port of destination, which may include

10 a
11 number of second hand and dry-stained bags. Such bags to be taken and paid for as goods.

12
13 **2. QUANTITY-** 2% more or less.

14 Sellers have the option of shipping a further 3% more or less on contract quantity; excess or deficiency over the above 2% to be
15 settled at the CIF price on the date of the bill of lading, and on the quantity thereof; value to be fixed by arbitration, unless mutually
16 agreed. In the event of more than one shipment being made each shipment to be considered a separate contract, but the margin on the
17 mean quantity sold not to be affected thereby.

18
19 **3. PRICE AND DESTINATION** - At the price of

20
21 * per tonne of 1000 kilograms }
22 } gross weight, cost, insurance, freight to

23 * per ton of 1016 kilograms or 2240 lbs. }
24

25 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
26 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
27 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
28 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

29
30 **5. QUALITY-**

31 * **Warranted to contain** at time and place of discharge.

32
33 * **Official** certificate of inspection, or certification of inspection of, at time and place of loading into
34 the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain
35 of the same colour and description.

36
37 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
38 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
39 Standard being established by the Association, the Arbitrator(s) shall in his/their discretion decide what is the fair average quality.
40 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
41 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
42 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid
43 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of
44 ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the
45 F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall be
46 entitled to the full difference in value.

47
48 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of; the
49 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

50 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
51 referred to in the Arbitration Rules specified in the Arbitration Clause.

52 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
53 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
54 improper shipment.

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- 6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.
- 7. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply: -
(a) Position of vessel is mutually agreed between Buyers and Sellers;
(b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
(c) Appropriation Clause cancelled if sold "shipped".
- 8. SHIPMENT AND CLASSIFICATION** -Shipment from direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
- 9. BILL OF LADING** - Sellers have the right of tendering the "Austwheat" or "Austral" bill of lading under this Contract. In the event of the "Austwheat" or "Austral" bill of lading being tendered, then Sellers to be responsible to Buyers for waiting time and demurrage provided discharge takes place in accordance with the terms of this contract.
- 10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -
1 to 4 additional days, 0.50%;
5 or 6 additional days, 1%;
7 or 8 additional days 1.50% of the gross contract price.
If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
- 11. APPROPRIATION-**
(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.
(b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -
(1) On the same calendar day, if received not later than 1600 hours on any business day, or
(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.
(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
- 12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
- 13. PAYMENT**
(a) **Payment** % of invoice amount by cash in in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 60 days from the date of the bill of lading, payment, unless already made, to be made after the 60th day from the bill of lading date when required by Sellers.

124 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
125 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
126 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy(ies) and/or Insurance Certificate(s) and/or
127 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
128 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
129 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

130 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
131 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
132 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
133 are eventually available.

134 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
135 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
136 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
137 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
138 shipping documents are eventually available.

139 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
140 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
141 countersigned, if required by Buyers, by a recognised bank.

142 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
143 that event any additional collection costs shall be borne by Buyers.

144 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
145 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
146 respect thereto.

147 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
148 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
149 Rules.

150 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
151 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
152 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
153 clause do not override the parties' contractual obligation under sub-clause (a).

154
155 **14. INSURANCE** - Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
156 GAFTA Insurance Terms No. 72 viz.: -

157 (a) Risks Covered: -

158 Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
159 War Clauses (Cargo)	- Section 4 of Form 72
160 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72
161 Australian, Canadian, South African and United States of America Acts	- Section 6 of Form 72

162 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
163 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
164 process in London, but for whose solvency Sellers shall not be responsible.

165 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
166 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
167 Buyers.

168 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
169 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
170 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
171 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
172 if the C.I.F. value plus 2% were insured from the time of shipment.

173 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
174 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
175 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
176 certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall be guaranteed by a
177 recognised bank, or by any other guarantor who is acceptable to Buyers.

178 (f) Total loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured
179 amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy(ies) shall collect
180 the amount of insurance and shall thereupon settle with the other party on that basis.

181 (g) Currency of Claims - Claims to be paid in the currency of the contract.

182 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
183 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by Underwriters. Such
184 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
185 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with Underwriters, whichever may be the later,
186 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
187 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

188 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
189 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
190 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
191 in respect of such matters.

192
193 **15. DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
194 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms

195 of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for
196 Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations,
197 Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless
198 specifically excluded at time of contract.
199

- 200 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123, are deemed to be incorporated into this contract.
201 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
202 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
203 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
204 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
205 which case the Deficiency Clause will not apply).
206
- 207 **17. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
208 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
209
- 210 **18. SAMPLING, ANALYSIS AND CERTIFICATE OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No. 124,
211 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
212 ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place
213 of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
214 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
215
- 216 **19. PRO RATA-**
217 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
218 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
219 shall be necessary.
220 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
221 receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
222 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
223 pro-rata basis in cash at the market price and each receiver shall bear his proportion of the depreciation in market value. The pro-rata
224 statement shall be established by the Sellers or their representatives in conjunction with the receivers or their representatives.
225 (c) The above pro-rata apportionment between receivers shall have no bearing on the establishment of final invoices with Sellers and
226 for the purpose of these final invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
227 delivered to those receivers who did not receive their full invoiced quantity.
228 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
229 price by invoices to be rendered by receivers, who have received more or less than that paid for, to their immediate Sellers without
230 taking into consideration the above pro-rata apportionment between receivers.
231 (e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more receiver, the excess
232 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
233 resulting from this settlement.
234 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
235 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
236 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
237 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
238 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
239 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
240 of destination, such price to be fixed by arbitration unless mutually agreed.
241 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
242 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
243 weight.
244 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge, the method published by GAFTA shall,
245 where applicable, take precedence over sub-clauses (b) to (h) above.
246 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
247 than one shipper and destined for one or more ports of discharge then, after the adjustment between receivers under the terms of this
248 clause, the shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
249 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
250 market prices on the last day of discharge in the respective ports.
251
- 252 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
253 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
254 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
255 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
256 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
257 therefor and, if required, Sellers must produce proof to justify the cancellation.
258
- 259 **21. LOADING STRIKE-**
260 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment,
261 or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes, lock-outs or civil commotions
262 at port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled
263 at the termination of such riots, strikes, lock-outs or civil commotions to as much time, not exceeding 28 days, for shipment from such
264 port or ports as was left for shipment under the contract prior to the outbreak of the riots, strikes, lock-outs or civil commotions, and
265 in the event of the time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed.
266 In the event of further riots, strikes, lock-outs or civil commotions occurring during the time by which the guaranteed time of shipment
267 has been extended by reason of the operation of the provisions of the foregoing the additional extension allowed shall be limited to the

268 actual duration of such further riots, strikes, lock-outs or civil commotions. In the event of non-shipment after the Shipper shall have
269 claimed an extension under this clause, the date of default shall be similarly deferred.

270 (b) Should the movement of any vessel in which freight has been actually engaged to fulfil all or part of this contract, be impeded at any
271 time during the stipulated period of shipment by riot, strike, lock-out or civil commotion, in the State where loading is intended or in
272 any other State, the Sellers shall be entitled at the termination of such riot, strike, lock-out or civil commotion to claim a similar
273 extension of time for shipment at such port or ports as that provided in paragraph (a) of this clause.

274 (c) If the Shipper desires to claim an extension of time for shipment under this clause he shall, within 7 days of the termination of the
275 riot, strike, lock-out or civil commotion, but in no case later than 2 business days after the expiration of the stipulated period of
276 shipment, serve a notice on his Buyers, naming the port or ports at which he intends to ship, and any shipment after the expiration of
277 the stipulated period shall be limited to the port or ports so named.

278 (d) Any shipper serving a notice under this clause shall forthwith apply to the Chamber of Commerce of the State in which shipment is
279 to be made or in which the movement of any vessel or vessels shall have been impeded within the meaning of paragraph (b) of this
280 clause, and request them to notify immediately to GAFTA, confirming the existence of such riot, strike, lock-out or civil commotion,
281 and in due course the dates of commencement and termination thereof. The Shipper further agrees to comply with all requirements of
282 the said Chamber of Commerce to ensure such notice is sent.

283 (e) The certificate of the said Chamber of Commerce certifying the existence and duration of any such riot, strike, lock-out or civil
284 commotion and certifying that, in respect of the contract goods, the said riot, strike, lock-out or civil commotion has caused delay in
285 the shipment or forwarding (as provided for in paragraph (a)) or impeded the movement of vessels in which freight had been engaged
286 (as provided for in paragraph (b)) shall be attached to the shipping documents and be accepted as final. If a certificate is issued too late
287 to be attached to the shipping documents, then a notice from the said Chamber of Commerce to GAFTA, that such certificate has been
288 issued, shall be deemed equivalent to a certificate attached to shipping documents, always provided that such notice shall have been
289 received by GAFTA, not later than the date of arrival of the documents.

- 290
291 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
292 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
293 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
294 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
295 shipment). Different currencies shall not invalidate the circle.

296 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
297 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
298 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
299 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
300 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

301 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
302 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
303 differences between the market price and the relative contract price in currency of the contract.

304 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
305 with this Clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
306 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
307 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
308 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
309 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
310 make payment to their Buyers of the difference between the closing out price and the contract price.

- 311
312 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
313 days, which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time limit for
314 doing any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first business day
315 thereafter. The period of shipment shall not be affected by this clause.

- 316
317 **24. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
318 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
319 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
320 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
321 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
322 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
323 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
324 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

- 325
326 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-
327 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
328 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
329 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
330 agreed, then the assessment of damages shall be settled by arbitration.
331 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
332 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
333 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
334 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
335 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
336 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
337 mean contract quantity.
338 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
339 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
340 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
341 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first

342 business day thereafter.

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- 26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the Notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
- 27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
- 28. ARBITRATION-**
- (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.
 - (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.
- 29. INTERNATIONAL CONVENTIONS-**
- The following shall not apply to this contract: -
- (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;
 - (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
 - (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1998.
 - (d) Incoterms.
 - (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR IMPORTED FEEDINGSTUFFS IN BAGS TALE QUALE - CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean goods
7 of the contractual description.

8
9 **1. GOODS-**
10 in new and/or second-hand bags of suitable strength to withstand ordinary wear and tear to port of destination. Such bags to be taken
11 and paid for as goods. Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of
12 handling, to be taken and paid for as cakes.

13
14 **2. QUANTITY-** 2% more or less.
15 Sellers have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the deficiency
16 below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port
17 of destination; the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5%
18 more, the excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the
19 market price calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more
20 than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall
21 not be affected thereby.

22
23 **3. PRICE AND DESTINATION - At**
24 * per tonne of 1000 kilograms }
25 } gross weight, cost, insurance and freight to
26 * per ton of 1016 kilograms or 2240 lbs. }

27
28 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
29 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
30 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
31 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

32
33 **5. QUALITY-**
34 *Official certificate of inspection, at time of loading into the ocean carrying vessel, shall be
35 final as to quality.

36
37 *Sample, at time and place of shipment about as per sealed sample marked in possession of
38 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival sample.

39
40 **Warranted to contain** not less than % of oil and protein combined and not more than 2.50% of
41 sand and/or silica. Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be
42 agreed or settled by arbitration as provided for below, except that for any deficiency of oil and protein there shall be allowances to
43 Buyers at the following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted percentage;
44 2% of the contract price for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and proportionately for any
45 fraction thereof. When the combined content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance
46 shall be made if the analysis ascertained as herein provided be not below the minimum; but if the analysis be below the minimum
47 warranted the allowance for deficiency shall be computed from the mean of the warranted contents. For any excess of sand and/or
48 silica there shall be an allowance of 1% of the contract price of each unit of excess and proportionately for any fraction thereof.

49 Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to reject the goods, in which case the contract shall
50 be null and void, for such quantity rejected.

51 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not exceeding
52 0.005%, Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75% of contract price
53 if up to 0.001%, 1% if over 0.001% and up to 0.002%, and 1.50% if over 0.002% and up to 0.005%.

54 Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be final but in the event of
55 the first analysis showing castor seed husk to be present a second sample may be analysed at the request of either party and the mean
56 of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of 0.005% Buyers shall be entitled to
57 reject the parcel, in which case the contract shall be null and void for such quantity rejected. Nevertheless, should Buyers elect to
58 retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of castor seed husk, to be settled by
59 agreement or arbitration.

60 For the purpose of sampling and analysis each mark shall stand as a separate shipment. The right of rejection provided by this clause
61 shall be limited to the mark or marks found to be defective.

62 **Condition,** Shipment shall be made in good condition.

63
64 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
65 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
66 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be
67 accepted as being in both halves of the month.
68

69 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

70 (a) Position of vessel is mutually agreed between Buyers and Sellers:

71 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause:

72 (c) Appropriation Clause cancelled if sold "shipped".
73

74 **8. SHIPMENT AND CLASSIFICATION-** Shipment, direct or indirect, with or without transshipment from.....
75 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, in accordance with the Institute
76 Classification Clause of the International Underwriting Association in force at the time of shipment.
77

78 **9. EXTENSION OF SHIPMENT-**The contract period for shipment, if such be 31 days or less, shall be extended by an additional
79 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
80 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

81 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
82 which the originally stipulated period is exceeded, in accordance with the following scale: -

83 1 to 4 additional days, 0.50%;

84 5 or 6 additional days, 1%;

85 7 or 8 additional days 1.50% of the gross contract price.

86 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
87 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
88 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
89 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
90

91 **10. APPROPRIATION-**

92 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
93 bill of lading.

94 (b) The notice of appropriation shall withinconsecutive days from the date of the bill(s) of lading be
95 served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-
96 Business Days Clause shall not apply.

97 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
98 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers
99 on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
100 deemed to be in time if served: -

101 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

102 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
103

104 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
105 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
106 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
107 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

108 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
109 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

110 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
111 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

112 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
113 borne by Sellers.

114 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

115 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses

for sampling, analysis and lighterage incurred thereby at port of discharge.

11. PAYMENT-

(a) **Payment** % of invoice amount by cash in

* In exchange for and on presentation of shipping documents;

* In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after consecutive days from the date of the bill(s) of lading.

(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.

(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.

(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

(h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

12. DUTIES, TAXES, LEVIES, ETC.- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

13. INSURANCE- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No. 72, viz.: -

(a) Risks Covered: -

Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

War Clauses (Cargo) - Section 4 of Form 72

Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

(b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.

(c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.

(d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)

182 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

183 (g) Currency of Claims - Claims to be paid in the currency of the contract.

184 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
185 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
186 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
187 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
188 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
189 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

190 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
191 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
192 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
193 in respect of such matters.

194
195 **14. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
196 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the
197 bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
198 account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be
199 responsible to Buyers for all extra expenses incurred thereby.
200

201 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
202 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
203 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
204 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
205 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
206 which case the Deficiency Clause will not apply).
207

208 **16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
209 shall be paid for by Buyers at contract price.
210

211 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124,
212 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or
213 quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading.
214 The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of
215 Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
216

217 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
218 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
219 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
220 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
221 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
222 therefor and, if required, Sellers must produce proof to justify the cancellation.
223

224 **19. FORCE MAJEURE, STRIKES ETC.-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
225 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or
226 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
227 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
228 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
229

230 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve further notice not later than 2
231 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
232 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
233

234 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
235 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
236 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
237 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
238 contract shall be considered void. Buyers shall have no claim against sellers for delay or non-shipment under this clause, provided that
239 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
240

241 **20. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall
242 be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For
243 the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same
244 quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period
245 of shipment). Different currencies shall not invalidate the circle.

246 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
247 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
248 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

249 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
250 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

251 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
252 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
253 differences between the market price and the relative contract price in currency of the contract.

254 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
255 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
256 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
257 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
258 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
259 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
260 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
261 price.

262
263 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
264 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
265 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
266 thereafter. The period of shipment shall not be affected by this clause.

267
268 **22. NOTICES-**All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
269 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
270 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of
271 any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the
272 satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration clause, that the notice was actually transmitted
273 to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice
274 versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following.
275 A notice to the Brokers or Agent shall be deemed a notice under this contract.

276
277 **23. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
278 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
279 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
280 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
281 agreed, then the assessment of damages shall be settled by arbitration.
282 (c) The damages payable shall be based on the difference between the contract price and either the default price established under (a)
283 above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
284 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
285 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
286 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
287 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
288 mean contract quantity.
289 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
290 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
291 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
292 last day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service o the
293 appropriation, or if notice of appropriation has not been served by the 4th business day after the last day for appropriation laid
294 down in the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers
295 shall be deemed to be in default, and the default date shall then be the first business day thereafter.

296
297 **24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
298 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
299 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
300 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
301 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
302 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
303 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
304 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
305 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
306 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
307 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
308 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
309 ruling on the first business day after the date when the Act of Insolvency occurred.
310 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
311 repurchase or re-sale, and the difference between the contract price and the re-purchase

312
313 **25. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
314 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose
315 of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive

316 jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration
317 proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the
318 Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to
319 be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any
320 party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or
321 if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of
322 proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting
323 of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
324 notwithstanding
325

326 **26. ARBITRATION-**

327 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
328 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
329 shall be deemed to be cognisant.

330 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
331 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
332 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
333 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
334 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
335 any such dispute.
336

337 **27. INTERNATIONAL CONVENTIONS-**

338 The following shall not apply to this contract: -

339 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
340 Sales Act 1967;

341 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

342 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
343 of 1980.

344 (d) Incoterms

345 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract
346 has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.16

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION
CONTRACT FOR AUSTRALIAN SEED
IN BAGS - PARCELS
TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-** of machine-dressed 3%,
9 shipped in single new jute bags, which are to be weighed, taken and paid for as goods.

10
11 **2. QUANTITY-** 2% more or less.
12 Sellers have the option of shipping a further 3% more or less on contract quantity, excess or deficiency over the above 2% to be
13 settled at CIF price on the date of the bill of lading, and on the quantity thereof; value to be fixed by Arbitration, unless mutually
14 agreed. In the event of more than one shipment being made each shipment to be considered a separate contract, but the margin on the
15 mean quantity sold not to be affected thereby.

16
17 **3. PRICE AND DESTINATION - At**
18 * per tonne of 1000 kilograms }
19 } gross weight, cost, insurance and freight to
20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
23 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
24 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
25 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**
28 * **Warranted to contain**at time and place of discharge.

29
30 * **Official** certificate of inspection, or certification of inspection of, at time and place of loading into
31 the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain
32 of the same colour and description.

33 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
34 comparison with GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
35 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.
36 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
37 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
38 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid
39 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of
40 ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the
41 F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be
42 entitled to the full difference in value.

43
44 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of;
45 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

46 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
47 referred to in the Arbitration Rules specified in the Arbitration Clause.

48 **Admixture-** Any admixture of dirt and/or other foreign substance, including broken seed, over 3%, but not exceeding 5%, to be
49 allowed for by Sellers at double contract price. Seed containing admixture in excess of 5% shall not be tenderable against this
50 contract.

51 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
52 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
53 improper shipment.

54
55 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

7. **PORT OF SHIPMENT**- from a port or ports in Australia

8. **SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:-

- (a) Position of vessel is mutually agreed between Buyers and Sellers;
- (b) The word "now" to be inserted between the word "classed" in the Ship's Classification Clause;
- (c) Appropriation Clause cancelled if sold "shipped".

9. **SHIP'S CLASSIFICATION** - Shipment direct or indirect, with or without transshipment, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

10. **BILL OF LADING**- Sellers have the right of tendering the "Austwheat" or "Austral" bill of lading under this Contract. In the event of the "Austwheat" or "Austral" bill of lading being tendered, then Sellers to be responsible to Buyers for waiting time and demurrage, provided discharge takes place in accordance with the terms of this contract.

11. **EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -

- 1 to 4 additional days, 0.50%;
- 5 or 6 additional days, 1%;
- 7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

12. **APPROPRIATION**-

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.

(b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.

(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

(1) On the same calendar day, if received not later than 1600 hours on any business day, or

(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

13. **DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

14. **PAYMENT**-

(a) **Payment** % of invoice amount by cash in in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 60 days from the date of the bill of lading, payment, unless already made, to be made after the 60th day from the bill of lading date when required by Sellers.

(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,

126 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
127 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by
128 Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
129 Shipping War Deviation Clause and/or other recognised official War Risk Clause.
130 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
131 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
132 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
133 are eventually available.
134 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
135 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
136 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
137 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
138 shipping documents are eventually available.
139 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
140 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
141 countersigned, if required by Buyers, by a recognised bank.
142 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
143 event any additional collection costs shall be borne by Buyers.
144 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
145 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
146 respect thereto.
147 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
148 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
149 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
150 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
151 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
152 clause do not override the parties' contractual obligation under sub-clause (a).

153
154 **15. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
155 GAFTA No. 72 viz.: -

156 (a) Risks Covered: -

157 Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
158 War Clauses (Cargo)	- Section 4 of Form 72
159 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72
160 Australian, Canadian, South African and United States of America Acts	- Section 6 of Form 72

161 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
162 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
163 process in London, but for whose solvency Sellers shall not be responsible.

164 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
165 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
166 Buyers.

167 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
168 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
169 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
170 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
171 if the C.I.F. value plus 2% were insured from the time of shipment.

172 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
173 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
174 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
175 certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall be guaranteed by a
176 recognised Bank, or by any other guarantor who is acceptable to Buyers.

177 (f) Total loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured
178 amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall
179 collect the amount of insurance and shall thereupon settle with the other party on that basis.

180 (g) Currency of Claims - Claims to be paid in the currency of the contract.

181 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
182 exceed the rate ruling in London at time of shipment or date of vessel's sailing, whichever may be adopted by Underwriters. Such
183 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case, later than the date of
184 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with Underwriters, whichever may be the later,
185 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
186 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

187 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
188 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
189 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
190 in respect of such matters.

191
192 **16. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
193 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of
194 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
195 account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be
196 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
197 time of contract.

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- 17. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
- 18. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
- 19. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
- 20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
- 21. LOADING STRIKE-**
- (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment, or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes, lock-outs or civil commotions at port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination of such riots, strikes, lock-outs or civil commotions to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the riots, strikes, lock-outs or civil commotions, and in the event of the time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes, lock-outs or civil commotions occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of the foregoing the additional extension allowed shall be limited to the actual duration of such further riots, strikes, lock-outs or civil commotions. In the event of non-shipment after the Shipper shall have claimed an extension under this clause, the date of default shall be similarly deferred.
- (b) Should the movement of any vessel in which freight has been actually engaged to fulfil all or part of this contract, be impeded at any time during the stipulated period of shipment by riot, strike, lock-out or civil commotion, in the State where loading is intended or in any other State, the Sellers shall be entitled at the termination of such riot, strike, lock-out or civil commotion to claim a similar extension of time for shipment at such port or ports as that provided in paragraph (a) of this clause.
- (c) If the Shipper desires to claim an extension of time for shipment under this clause he shall, within 7 days of the termination of the riot, strike, lock-out or civil commotion, but in no case later than 2 business days after the expiration of the stipulated period of shipment, serve a notice direct on his Buyers, naming the port or ports at which he intends to ship, and any shipment after the expiration of the stipulated period shall be limited to the port or ports so named.
- (d) Any shipper serving a notice under this clause shall forthwith apply to the Chamber of Commerce of the State in which shipment is to be made or in which the movement of any vessel or vessels shall have been impeded within the meaning of paragraph (b) of this clause, and request them to notify immediately to GAFTA, confirming the existence of such riot, strike, lock-out or civil commotion, and in due course to cable the dates of commencement and termination thereof. The Shipper further agrees to comply with all requirements of the Chamber of Commerce to ensure such notice is sent.
- (e) The certificate of the said Chamber of Commerce certifying the existence and duration of any such riot, strike, lock-out or civil commotion and certifying that, in respect of the contract goods, the said riot, strike, lock-out or civil commotion has caused delay in the shipment or forwarding (as provided for in paragraph (a)) or impeded the movement of vessels in which freight had been engaged (as provided for in paragraph (b)) shall be attached to the shipping documents and be accepted as final. If a certificate is issued too late to be attached to the shipping documents, then a notice from the said Chamber of Commerce to GAFTA, that such certificate has been issued, shall be deemed equivalent to a certificate attached to shipping documents, always provided that such notice shall have been received by GAFTA not later than the date of arrival of the documents.
- 22. PRO RATA-**
- (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.
- (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their representatives in conjunction with the receivers or their representatives.
- (c) The above pro-rata apportionment between receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those receivers who did not receive their full invoiced quantity.
- (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by receivers, who have received more or less than that paid for, to their immediate Sellers

269 without taking into consideration the above pro-rata apportionment between receivers.
270 (e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more receiver, the excess
271 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
272 resulting from this settlement.
273 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
274 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
275 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
276 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
277 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
278 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
279 of destination, such price to be fixed by arbitration unless mutually agreed.
280 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
281 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
282 weight.
283 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge, the method published by GAFTA shall,
284 where applicable, take precedence over sub-clauses (b) to (h) above.
285 (j) In the event that Sub-Clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
286 more than one shipper and destined for one or more ports of discharge then, after the adjustment between receivers under the terms of
287 this clause, the shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall
288 be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
289 market prices on the last day of discharge in the respective ports.

290

291 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
292 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
293 purpose of this Clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
294 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
295 shipment). Different currencies shall not invalidate the circle.
296 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
297 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
298 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
299 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
300 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
301 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
302 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
303 differences between the market price and the relative contract price in currency of the contract.
304 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
305 accordance with this Clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
306 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
307 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
308 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
309 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
310 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
311 price.
312

313 **24. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
314 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
315 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
316 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
317 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
318 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
319 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
320 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
321

322 **25. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
323 days, which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time limit for
324 doing any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first business day
325 thereafter. The period of shipment shall not be affected by this clause.
326

327 **26. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
328 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
329 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
330 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
331 agreed, then the assessment of damages shall be settled by arbitration.
332 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
333 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
334 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
335 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
336 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
337 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
338 mean contract quantity.
339 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
340 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
341 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last

342 day of appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first
343 business day thereafter.

344
345 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
346 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
347 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
348 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
349 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
350 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
351 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
352 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
353 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
354 price ruling on the business day following the serving of the Notice. If such Notice has not been served then the other party, on
355 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
356 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
357 ruling on the first business day after the date when the Act of Insolvency occurred.
358 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
359 repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
360 receivable under this contract.

361
362 **28. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
363 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
364 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
365 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
366 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
367 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
368 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
369 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
370 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
371 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
372 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
373 any rule of law or equity to the contrary notwithstanding.

374
375 **29. ARBITRATION -**
376 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
377 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
378 shall be deemed to be cognisant.
379 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
380 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
381 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
382 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
383 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
384 any such dispute.

385
386 **30. INTERNATIONAL CONVENTIONS-**
387 The following shall not apply to this contract: -
388 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
389 Sales Act 1967;
390 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
391 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
392 of 1980.
393 (d) Incoterms.
394 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
395 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by
GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.17

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL SHORT FORM CONTRACT CIF TERMS

Date

1 bought from
2 We herewith confirm having ----- you this day
3 sold to

4
5 The terms, conditions and rules contained in GAFTA Contract No:
6 of which the parties admit that they have knowledge and notice, apply to this transaction, and the details above given shall be taken as
7 having been written into such form in their appropriate places.

8
9 **1. GOODS-**

10 **2. QUANTITY-**

11 **3. PRICE-** per tonne of 1000 kilograms

12
13
14 cost, insurance and freight to

15
16
17 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
18 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
19 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the
20 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

21
22 **5. SHIPMENT-** By first class mechanically self-propelled vessel(s) from

23
24 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

25 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
26 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
27 shall be accepted as being in both halves of the month.

28
29 **7. QUALITY-**.....

30 The warranty in respect of oil and protein combined is%, and the warranty in respect of sand and/or

31 silica is%.

32
33
34 **8. APPROPRIATION-**

35
36 **9. PAYMENT-**

37
38
39 **10. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
40 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either
41 telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to
42 the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in
43 the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
44 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
45 without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day
46 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
47 notice under this contract.

48
49 **11. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
50 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
51 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England

52 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
53 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
54 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
55 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and
56 Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to have
57 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction
58 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same
59 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
60 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
61

62 **12. ARBITRATION -**

63 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
64 Rules No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
65 parties hereto shall be deemed to be cognisant.

66 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
67 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
68 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
69 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
70 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
71 the other of them in respect of any such dispute.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.21

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THE GRAIN AND FEED TRADE ASSOCIATION

INTRA-ASIA SUPPLY TERMS FOR FEEDINGSTUFFS IN BAGS OR BULK TALE QUALE C&F or CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the words "cakes" is used this is deemed to
7 mean goods of the contractual description.

8
9 **1. GOODS**

10 Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of handling, to be taken
11 and paid for as cakes. Goods in bulk but Buyers agree to accept up to 15% in stowage bags, such bags to be taken and paid for
12 as cakes and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or part of the quantity in excess
13 of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be responsible for cutting the
14 excess bags which remain their property.

15 Or,

16 **GOODS**

17 in bags suitable for export and able to withstand ordinary wear and tear to port of destination. Such bags to be taken and paid for
18 as goods.

19
20 **2. QUANTITY-**

21 5% more or less, at Sellers' option at contract price. In the event of more than one shipment being made, each shipment shall
22 be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

23
24 **3. PRICE AND DESTINATION** - At

25 *per tonne of 1000 kilograms }
26 } gross weight, cost, insurance and freight to
27 *per ton of 1016 kilograms or 2240 lbs. }

28
29 **4. BROKERAGE**per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
30 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
31 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the
32 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

33
34 **5. QUALITY-**

35 final at time and place of shipment, to be certified by

36 **Condition-**Shipment shall be made in good condition.

37
38
39 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

40 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
41 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
42 shall be accepted as being in both halves of the month.

43
44 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply:-

- 45 (a) Position of vessel is mutually agreed between Buyers and Sellers;
- 46 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
- 47 (c) Appropriation Clause is cancelled if sold "shipped".

48
49 **8. SHIPMENT AND CLASSIFICATION-**Shipment from

50 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
51 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in
52 force at the time of shipment.

54 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
55 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
56 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
57 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
58 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 59 1 to 4 additional days, 0.50%;
- 60 5 or 6 additional days, 1%;
- 61 7 or 8 additional days 1.50% of the gross contract price.

62 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
63 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
64 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
65 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
66 basis of such reduced price.

67
68 **10. APPROPRIATION-**

69 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
70 of the bill of lading.

71 (b) The notice of appropriation shall within 7 consecutive days from the date of the bill(s) of lading be served by or on behalf
72 of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
73 Clause shall not apply.

74 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
75 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
76 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
77 appropriation shall be deemed to be in time if served: -

78 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

79
80 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

81 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
82 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
83 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
84 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
85 Brokers.

86 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
87 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
88 prevail.

89 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
90 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

91 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
92 shall be borne by Sellers.

93 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

94 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
95 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

96
97 **11. PAYMENT-**

98 * (a)

99
100 * (b) Unless the terms are otherwise agreed payment by irrevocable, confirmed, letter of credit payable at sight for the contract
101 value, including the quantity tolerance. Letter of credit is to be opened and advised to Sellers no later than 15 consecutive days
102 prior to the commencement of the shipment period. Third party documents acceptable. Charter party bills of lading shall be
103 acceptable unless the contract is concluded on liner terms. Letter of credit to allow telegraphic transfer reimbursement. Each
104 party to bear their own bank charges. The expiry date in the letter of credit shall be 30 consecutive days after the last shipment
105 date allowed in the contract. The last shipment date will include the provisions of the Extension clause, if applicable. If Sellers
106 invoke the Force Majeure clause, Buyers shall automatically extend the letter of credit for 60 consecutive days, but Sellers shall
107 not be deemed thereby to have justified their claim for extension under the Force Majeure clause.

108
109 * (c) **Payment by** %of invoice amount by cash in in exchange for and on
110 presentation of shipping documents.

111 (d) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
112 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
113 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
114 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
115 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
116 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

117 (e) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
118 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
119 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
120 contract when shipping documents are eventually available.

121 (f) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
122 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.

123 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
124 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
125 contract when shipping documents are eventually available.

126 (g) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
127 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
128 countersigned, if required by Buyers, by a recognised bank.

129 (h) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
130 that event any additional collection costs shall be borne by Buyers.

131 (i) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
132 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
133 guarantee in respect thereto.

134 (j) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
135 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
136 Rules.

137 (k) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
138 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
139 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration.
140 The terms of this clause do not override the parties' contractual obligation under sub-clauses (a), (b) or (c).

141

142 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
143 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

144

145 **13. DISCHARGE -**

146 *Vessel to be discharged at the rate of per
147 Demurrage/Despatch rate as per charter party unless otherwise agreed.

148 *If liner terms apply, discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the
149 event of shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with
150 the terms of the bill(s) of lading. If documents are tendered which do not provide for discharging as above or contain contrary
151 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be
152 permitted unless specifically excluded at time of contract. If shipment is effected by lash barge, then the last day of discharge
153 shall be the day of discharging the last lash barge at the port of destination.

154

155 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
156 contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
157 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
158 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
159 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
160 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).

161

162 **15. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
163 weight shall be paid for by Buyers at contract price.

164

165 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS -** the terms and conditions of GAFTA Sampling Rules
166 No. 124 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
167 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
168 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling
169 of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
170 GAFTA Register of Analysts.

171

172 **17. INSURANCE-** the goods shall be insured on terms not less favourable than those set out hereunder and as set out in detail in
173 GAFTA Insurance Terms No. 72. Where the sale is on CIF terms Sellers shall provide insurance. Where the sale is on C&F
174 terms Buyers shall provide insurance for their own account and give Sellers confirmation prior to the commencement of the
175 shipment period. If Buyers fail to provide this confirmation, Sellers shall have the right to place such insurance at Buyers' risk
176 and expense.

177 (a) Risks Covered: -

178 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
179 War Clauses (Cargo) - Section 4 of Form 72
180 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

181 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
182 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
183 address for service of process in London, but for whose solvency Sellers shall not be responsible.

184 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
185 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
186 payable by Buyers.

187 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
188 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
189 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
190 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
191 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

192 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,

(duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

In the above for C & F terms for "Sellers" read "Buyers".

18. **PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

19. **FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

20. **NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

21. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

22. **DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In no case shall damage include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.

(g) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first

265 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
266 provisions stated in the appropriation clause) if notice of appropriation has not been served by the 10th consecutive day after the
267 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then
268 be the first business day thereafter.
269

270 **23. CIRCLE** – Where Sellers re-purchase from their Buyers or from any subsequent buyers the same goods or part thereof, a circle
271 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
272 apply. (For the purpose of this clause goods shall mean goods of the same description, from the same country of origin, of the
273 same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the
274 same period of shipment). Different currencies shall not invalidate the circle.

275 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
276 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
277 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
278 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
279 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
280 ascertained. Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by
281 the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the
282 circle by payment of the differences between the market price and the relative contract price in the currency of the contract.

283 All Sellers and Buyers shall give every assistance to ascertain the circle and when the circle shall have been ascertained in
284 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
285 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
286 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all
287 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
288 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
289 their Seller or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
290 contract price.
291

292 **24. INSOLVENCY**- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
293 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
294 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
295 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
296 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
297 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
298 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency to the other party to the contract and upon
299 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
300 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
301 Insolvency, the contract shall be closed out at the market price ruling on the business day following the giving of the notice. If
302 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
303 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
304 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
305 Act of Insolvency occurred.

306 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
307 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
308 amount payable or receivable under this contract.
309

310 **25. DOMICILE**-This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
311 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
312 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
313 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
314 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
315 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
316 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
317 and Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to
318 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
319 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
320 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
321 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
322 notwithstanding.
323

324 **26. ARBITRATION**-

325 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
326 Rules, No. 125 in the edition current at the date of this contract, such Rules forming part of this contract and of which both
327 parties hereto shall be deemed to be cognisant.

328 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
329 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
330 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
331 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
332 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
333 the other of them in respect of any such dispute.
334

335 **27. INTERNATIONAL CONVENTIONS**-

336 The following shall not apply to this contract:-

- 337 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
338 International Sales Act 1967:
339 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
340 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and amending
341 Protocol of 1980.
342 (d) Incoterms.
343 (e) Unless the contract contains any statement expressly to the contrary, a person rights under the Contract (Rights of Third
344 Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR PULSES FOR HUMAN CONSUMPTION IN BULK OR BAGS FOB TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. PACKING** - If in bags, in new and/or second-hand bags of suitable strength to withstand with ordinary wear and tear to port of
11 destination. Bags of each mark shall be of uniform weight and shall be properly marked. If in bulk, Sellers shall have the option of
12 shipping up to 10% in bags for safe stowage. Such bags to be taken and paid for as goods.

13
14 **3. QUANTITY**

15 5% more or less at Buyers' option. In the event of the quantity contracted for being for a full and complete cargo and/or cargoes the
16 margin of contract quantity shall be 10% more or less, excess or deficiency over 5% shall be settled at the FOB price on date of last
17 bill of lading; value shall be fixed by arbitration unless mutually agreed. In the event of more than one delivery being made each
18 delivery shall be considered a separate contract, but the margin on the mean quantity sold shall not be affected thereby.

19
20 **4. PRICE-** at per tonne of 1000 kilograms
21 delivered Free on Board Buyers' Vessel(s) at

22
23
24 **5. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
25 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
26 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the goods are not delivered then
27 the brokerage shall be due on the 30th consecutive day after the last day for delivery.

28
29 **6. QUALITY-**
30 * **Specifications**

31 Any excess or deficiency as the case may be, shall be allowed for by Sellers at contract price.

32
33 * **Certificate**to be certified by an independent
34 internationally recognised body at origin. Should Sellers fail to provide a certificate which is independent; (e.g. those based upon
35 samples not independently drawn, or those which fail to identify the goods shipped with the goods inspected), Buyers have the option
36 to instruct their representatives to draw and seal delivery samples within 10 days of arrival, for the purposes of re-grading and/or
37 analysis. Sellers' representatives to be in attendance at sampling when duly appointed immediately after receipt of notice from Buyers
38 of their intention to sample. In such case Buyers and Sellers agree to accept the result of regrading/analysis. Charges for sampling, re-
39 grading and/or analysis to be borne half by Buyers and half by Sellers.

40
41 * **F.A.Q.** (fair average quality) of the season's shipments at time and place of loading, to be assessed upon the basis of, and by
42 comparison with the GAFTA F.A.Q. Standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
43 Standard being established by the Association, the Arbitrator(s) shall in his/their discretion decide what is the fair average quality. An
44 average sample of the delivery shall be taken and sealed jointly at port of loading by the Representatives of the Shipper and the
45 Representatives of the Buyers and shall be forwarded immediately to the Association for the purpose of establishing the F.A.Q.
46 Standard. The expenses of such sampling and forwarding shall be paid half by the Sellers and half by the Buyers. Place of loading
47 under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the
48 Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance
49 for quality shall be due; otherwise the Buyers shall be entitled to the full difference in value.

50
51 * **Sample** at time and place of shipment about as per sealed sample marked

52
53 in possession of the word "about" when referring to quality shall mean the equivalent
54 of 0.50% on contract price.

55 The goods are not warranted free from defect, rendering the same unmerchantable, which would not be apparent on reasonable

56 examination, any statute or rule of law to the contrary notwithstanding.

57 **Condition**-Goods must be sound, uniform, free from live, and practically free from dead insect infestation. Delivery shall be
58 made in good condition.

59
60 **7. PERIOD OF DELIVERY**

61 **Delivery during**- at Buyers' call.

62
63 **Nomination of Vessel**- Buyers shall serve not less thanconsecutive days notice of the name and
64 probable readiness date of the vessel and the estimated tonnage required.

65 Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension shall not
66 be affected thereby. Provided the vessel is presented at the loading port in readiness to load within the delivery period, Sellers
67 shall if necessary complete loading after the delivery period and carrying charges shall not apply. In case of re-sales a provisional
68 notice shall be passed on without delay, where possible, by telephone and confirmed on the same day in accordance with the
69 Notices Clause.

70
71 **8. LOADING** - Vessel(s) to load in accordance with the custom of the port of loading unless otherwise stipulated. Bill of lading
72 shall be considered proof of delivery in the absence of evidence to the contrary.

73
74 **9. SHIP'S CLASSIFICATION**- Shipment to be made by:-

75 (a) Ocean Vessels, first class mechanically, self-propelled vessel(s) suitable for the carriage of the contract goods, classed in
76 accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment,
77 excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil"
78 vessels.

79 (b) Coaster(s), mechanically self-propelled vessel(s), suitable for the carriage of the contract goods, excluding tankers and vessels
80 which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" Vessels.

81 Buyers to ensure that the vessel(s) hold(s) are clean, easily accessible and if necessary, cargo duly protected.

82
83 **10. EXTENSION OF DELIVERY**- The contract period of delivery shall be extended by an additional period of not more than 30
84 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of
85 the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and
86 other such normal carrying expenses shall be for Buyers' account, unless the vessel presents in readiness to load.

87
88 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying
89 during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the
90 amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.

91
92 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring Buyers
93 to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less current FOB
94 charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete delivery of the contract
95 on the part of Sellers.

96
97 **11. EXPORT LICENCE**- if required, to be obtained by Sellers.

98
99 **12. PAYMENT**-

100 (a) By cash in

101 *(i) in exchange for and on presentation of shipping documents.

102 *(ii) by irrevocable Letter of Credit to be made available to Sellers by

103 (b) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
104 all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved guarantee in
105 respect thereto.

106 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
107 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

108 (d) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.

109 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
110 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
111 clause do not override the parties' contractual obligation under sub-clause (a).

112
113 **13. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin or of the territory
114 where the port or ports of shipment named herein is/are situate, shall be for Sellers' account.

115
116 **14. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
117 Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and expense. Buyers
118 have the right to attend at loading.

119
120 **15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No. 124
121 are deemed to be incorporated into this contract. Samples shall be taken at time and place of loading. The parties shall appoint
122 superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless
123 otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

124
125 **16. INSURANCE**- On terms not less favourable than those set out hereunder and in detail in GAFTA Insurance Terms No. 72: -

- 126 (a) Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72
127 (b) War Clauses (Cargo) - Section 4 of Form 72
128 (c) Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

129 To be effected by Buyers with first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation
130 thereof at least 5 consecutive days prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation, Sellers shall
131 have the right to place such insurance at Buyers' risk and expense.
132

133 **17. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
134 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
135 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
136 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
137 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
138 therefor and, if required, Sellers must produce proof to justify the cancellation.
139

140 **18. LOADING STRIKES-**

141 (a) Should delivery of the goods or any part thereof be prevented at any time during the last 28 days of the guaranteed time of
142 delivery, or at any time during the guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
143 port(s) of loading or elsewhere preventing the forwarding of the goods to such port(s), then Sellers shall be entitled at the termination
144 of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for delivery at such port(s) as was left for delivery under the
145 contract prior to the outbreak of the riots, strikes or lockouts, and in the event of the time left for delivery under the contract, being 14
146 days or less, a minimum extension of 14 days shall be allowed.

147 (b) In the event of further riots, strikes or lock-outs occurring during the time by which the guaranteed time of delivery has been
148 extended by reason of the operation of the provisions of paragraph (a), the additional extension shall be limited to the actual duration of
149 such further riots, strikes or lock-outs. In case of non-delivery under the above circumstances the date of default shall be similarly
150 deferred.

151 (c) Sellers shall serve a notice naming the port(s) not later than 3 business days after the last day of guaranteed time for delivery if they
152 intend to claim an extension of time for delivery, such notice shall limit the port(s) for delivery after expiry of contract period to those
153 for which an extension is claimed.

154 (d) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.
155

156 **19. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
157 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
158 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
159 and, where applicable, of the same analysis warranty, for delivery from the same port(s) of delivery during the same period of
160 delivery). Different currencies shall not invalidate the circle.

161 Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered invoices based on the mean contract
162 quantity, or if the goods have been delivered invoices based on the delivered quantity, shall be settled by all Buyers and their Sellers in
163 the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
164 circle. Payment shall be due not later than 15 consecutive days after the last day for delivery, or, should the circle not be ascertained
165 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

166 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
167 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
168 differences between the market price and the relative contract price in currency of the contract.

169 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
170 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
171 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
172 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
173 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
174 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
175 make payment to their Buyers of the difference between the closing out price and the contract price.
176

177 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
178 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
179 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
180 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of
181 dispute, establish, to the satisfaction of the arbitrators(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
182 notice was actually transmitted to the addressee. In the case of resales/repurchases all notices shall be served without delay by
183 sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to
184 have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
185

186 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
187 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
188 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
189 thereafter. The period of delivery shall not be affected by this clause.
190

191 **22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

192 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
193 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

194 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
195 agreed, then the assessment of damages shall be settled by arbitration.

196 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
197 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

198 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the

199 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
200 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
201 his/their sole and absolute discretion think fit.
202 (e) Damages, if any, shall be computed on the quantity called for, but if no such quantity has been declared then on the mean contract
203 quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract
204 quantity.
205

206 **23. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
207 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
208 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
209 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
210 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
211 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
212 notice of the occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the
213 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
214 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
215 price ruling on the business day following the serving of the notice. If such notice has not been served then the other party, on learning
216 of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the
217 first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on
218 the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the
219 option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the
220 contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
221

222 **24. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
223 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
224 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
225 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
226 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
227 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
228 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
229 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
230 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
231 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
232 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
233 service, any rule of law or equity to the contrary notwithstanding.
234

235 **25. ARBITRATION-**
236 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
237 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
238 shall be deemed to be cognisant.
239 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
240 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
241 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
242 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
243 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
244 any such dispute.
245

246 **26. INTERNATIONAL CONVENTIONS-**
247 The following shall not apply to this contract: -
248 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
249 Sales Act 1967;
250 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
251 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
252 of 1980.
253 (d) Incoterms.
254 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
255 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.23A

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION

ADDENDUM FOR F.A.S. TERMS (Free Along Side)

**delete/specify as applicable*

Date

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These terms are an addendum to and forming part of contract dated No:

Delete: The Quantity, Price, Delivery and Extension of Delivery Clauses in the appropriate F.O.B. contract and replace by the following:-

***QUANTITY-** 5% more or less, or 10% more or less at Buyers' option.

Excess or deficiency over 5% shall be settled at the FAS price on date of delivery; value shall be fixed by arbitration unless mutually agreed.

PRICE- at per tonne of 1000 kilograms, free along side.

***DELIVERY-** Buyers shall tender vessel(s) in readiness to load between both dates inclusive.

*Sellers shall be entitled to receive at least consecutive days notice of probable readiness of vessel and of the estimated tonnage required. Bill of lading shall be considered proof of delivery in the absence of evidence to the contrary. In case of re-sales, a provisional notice shall be passed on without delay, where possible, by telephone, e-mail or facsimile and confirmed by telex or telegram on the same day

EXTENSION OF DELIVERY- The contract period of delivery shall be extended by an additional period of not more than 21 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and other such normal carrying expenses shall be for Buyers' account.

Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.

Should Buyers not have taken delivery by the end of this extension period, Sellers shall have the option of declaring Buyers to be in default or shall be entitled to demand payment at contract price plus such charges as stated above, less current F.A.S. charges, against warehouse warrants or certificate of entitlement and the tender of such warehouse warrants or certificate of entitlement shall be considered complete delivery of the contract on the part of the Sellers.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.24

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR PULSES FOR HUMAN CONSUMPTION IN BULK OR BAGS TALE QUALE CIF AND C&F TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9

10 **2. PACKING-** if in bags, in new and/or second-hand bags of suitable strength to withstand ordinary wear and tear to port of destination.

11 Bags of each mark shall be of uniform weight and shall be properly marked. If in bulk, Sellers shall have the option of shipping up to

12 10% in bags for safe stowage. Such bags to be taken and paid for as goods.

13

14 **3. QUANTITY-**

15 Sellers have the option of shipping 5% more or less at contract price. In the event of more than one shipment being made, each

16 shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

17

18 **4. PRICE AND DESTINATION** – At per tonne of 1000 kilograms,

19 cost, insurance and freight direct or indirect to with or without transhipment

20

21 **5. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

22 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the

23 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated

24 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25

26 **6. QUALITY-**

27 * **Specifications**

28 Any excess or deficiency as the case may be, shall be allowed for by Sellers at contract price

29

30 * **Certificate** to be certified by an independent

31 internationally recognised body at origin. Should Sellers fail to provide a certificate which is independent; (e.g. those based upon

32 samples not independently drawn, or those which fail to identify the goods shipped with the goods inspected), Buyers have the

33 option to instruct their representatives to draw and seal delivery samples within 10 days of arrival, for the purposes of re-grading

34 and/or analysis. Sellers' representatives to be in attendance at sampling when duly appointed immediately after receipt of notice

35 for sampling, re-grading and/or analysis to be borne half by Buyers and half by Sellers.

36 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of shipment, to be assessed upon the basis of, and by

37 comparison with GAFTA F.A.Q. Standard of the month during which the bill of lading is dated. In the event of no F.A.Q.

38 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.

39 An average sample of the delivery shall be taken and sealed jointly at port of discharge by the Representatives of the Shipper and

40 the Representatives of the Holders of the bill of lading or Shipper's delivery order, and shall be forwarded immediately to the

41 Association for the purpose of establishing the F.A.Q. Standard. The expenses of such sampling and forwarding shall be paid half

42 by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports

43 adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q.

44 Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be entitled

45 to the full difference in value.

46

47 ***Sample** at time and place of shipment about as per sealed sample marked in possession of

48

49

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51

Where specifications are to be determined at discharge analysis to be determined by GAFTA or it's duly appointed analysts. Difference in quality shall not entitle Buyers to reject, except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause. The goods are not warranted free from defect, rendering the same unmerchantable, which would not be apparent on reasonable examination, any statute or rule of law to the contrary notwithstanding.

Condition-Goods must be sound, uniform, free from live, and practically free from dead insect infestation. Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the time of year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an improper shipment.

7. PERIOD OF SHIPMENT- as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

8. PORTS OF SHIPMENT - From a port or ports in

9. SALES BY NAMED VESSELS- For all sales by named vessels, the following shall apply:-

- (a) Position of vessel is mutually agreed between Buyers and Sellers;
- (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
- (c) Appropriation Clause cancelled if sold "shipped".

10. SHIP'S CLASSIFICATION- Shipment to be made by:

- (a) Ocean Vessels, first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
- (b) Coaster(s), mechanically self-propelled vessel(s), suitable for the carriage of the contract goods, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" Vessels.

11. EXTENSION OF SHIPMENT- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -

- 1 to 4 additional days, 0.50%;
- 5 or 6 additional days, 1%;
- 7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

12. DUTIES, TAXES, LEVIES, ETC.- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

13. APPROPRIATION-

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, the date or the presumed date of the bill of lading, and in the case of C&F the port of shipment.

(b) The notice of appropriation shall, within 8 consecutive days from the date of the bill(s) of lading, be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply. The 8 consecutive days stated in the Appropriation Clause of the contract for notice of appropriation shall be deemed to apply to USA and Canadian load ports. For other load ports the following number of days shall apply: -

- 10 consecutive days if shipped from a Mediterranean, African or South American port, or
- 14 consecutive days if shipped from an Australasian port, or
- 28 consecutive days if shipped from an Asian port, orconsecutive days as agreed between Buyers and Sellers.

(c) Notice of Appropriation shall, within the period stated in sub-clause (a) be served in accordance with sub-clause (e) or on behalf of subsequent Sellers on their Buyers or the Representative or Selling Agent or Brokers named in the contract, but if Notice of Appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (a) from the date of the bill of lading, their Notice of Appropriation shall be deemed to be in time if served: -

- 1) On the same calendar day, if received not later than 1600 hours on any business day, or
- 2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) Buyers, on receiving a Notice of Appropriation, shall, on demand, give a written receipt therefore, and if required, Sellers shall give to Buyers a copy of the particulars contained in the notice received by them and the time and date of its receipt.

(e) The Shipper's Notice of Appropriation and every subsequent Sellers' Notice of Appropriation shall state the date or the presumed date of the bill of lading and port of shipment which shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving Notices of Appropriation the actual date of the bill of lading shall prevail.

(f) Every such Notice of Appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith. Should the vessel

119 arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses are shall be borne by Sellers.
120 (g) When a valid Notice of Appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
121 (h) A Notice of Appropriation served on the Representative, or Selling Agent, or Brokers named in the contract shall be considered an
122 appropriation served on Buyers.
123 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
124 for sampling, analysis and lighterage incurred thereby at port of discharge.
125

126 **14. PAYMENT –**

- 127 (a) **Payment** to be by cash in
- 128 * (i) In exchange for and on presentation of shipping documents;
129 * (ii) By irrevocable letter of credit to be made available to Sellers by
130 * (iii) In exchange for shipping documents on or before arrival of the vessel at destination at Buyers' option;
131 Sellers, however, have the option of calling upon Buyers to take up and pay for the documents on or after
132 consecutive days from the date of the bill(s) of lading.
- 133 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)
134 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be
135 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of
136 Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4.
137 Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War
138 Deviation Clause and/or other recognised official War Risk Clause.
- 139 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers
140 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in
141 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
142 available.
- 143 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may
144 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra
145 expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents,
146 shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are
147 eventually available.
- 148 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
149 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
150 by Buyers, by a recognised bank.
- 151 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
152 event any additional collection costs shall be borne by Buyers.
- 153 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
154 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
155 thereto.
- 156 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
157 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
- 158 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
159 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
160 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
161 override the parties' contractual obligation under sub-clause (a).
162

163 **15. INSURANCE-** For a C.I.F. contract Sellers shall provide insurance appropriate to the contractual goods on terms set out hereunder,
164 and as set out in detail in GAFTA Insurance Terms No.72 viz.: -

- 165 (a) Risks Covered: -
- 166 * (i) Either Cargo Clauses (All risks) - Section 1 of Form 72
167 Or,
168 * Cargo Clauses (WA) - Section 2 of Form 72
169 plus the following: -
- 170 (ii) War Clauses (Cargo) - Section 4 of Form 72
171 (iii) Strikes, Riots and Civil Clauses (Cargo) - Section 5 of Form 72
172 (iv) Where applicable, Australian, Canadian, South African
173 and limited United States of America Acts - Section 6 of Form 72
- 174 b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
175 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
176 process in London, but for whose solvency Sellers shall not be responsible.
- 177 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
178 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
179 Buyers.
- 180 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
181 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
182 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
183 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
184 if the full contract value plus 2% were insured from the time of shipment.
- 185 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly

186 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
187 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
188 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
189 recognised bank, or by any other guarantor who is acceptable to Buyers.

190 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
191 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
192 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

193 (g) Currency of Claims - Claims to be paid in the currency of the contract.

194 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
195 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
196 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
197 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
198 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
199 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

200 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
201 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
202 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
203 in respect of such matters.

204 (j) In the case of goods being shipped in an over age vessel, any additional premium to be for account of Sellers.

205 (k) For a C&F contract Buyers shall provide insurance for their own account on terms not less favourable than Cargo Clauses (WA) as
206 set out in detail in Section 2 of Form No: 72, and upon receipt of a request from Sellers, Buyers shall notify Sellers of the insurance
207 provided.

208
209 **16. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
210 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of
211 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
212 account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be
213 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
214 time of contract.

215
216 **17. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
217 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
218 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
219 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
220 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
221 which case the Deficiency Clause will not apply).

222
223 **18. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
224 weight shall be paid for by Buyers at contract price.

225
226 **19. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124,
227 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship
228 or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at loading. The parties
229 shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of
230 Superintendents. For quality certificates provided at loading, unless otherwise agreed, analysts shall be appointed from the
231 GAFTA Register of Analysts.

232
233 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
234 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
235 restricting export, whether partially or otherwise, any such restrictions shall be deemed by both parties to apply to this contract and to
236 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
237 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
238 therefor and, if required, Sellers must produce proof to justify the cancellation.

239
240 **21. LOADING STRIKES-**

241 (a). Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment,
242 or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at port(s) of
243 loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination
244 of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports as was left for
245 shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left for shipment under
246 the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes or lock-outs
247 occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of
248 the foregoing paragraph, the additional extension shall be limited to the actual duration of such further riots, strikes or lock-outs. In
249 case of non-fulfilment under the above conditions the date of default shall be similarly deferred.

250 (b). The Shipper shall serve a notice stating the port or ports of loading from which the goods were intended to be shipped not
251 later than 3 business days after the last day of guaranteed time for shipment if he intends to claim an extension of time for
252 shipment, such notice shall limit the ports for shipment after expiry of contract period to those from which an extension is

253 claimed.

254 (c). If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.

255
256 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
257 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
258 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
259 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
260 shipment). Different currencies shall not invalidate the circle.

261 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
262 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
263 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

264 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
265 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

266 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
267 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
268 differences between the market price and the relative contract price in currency of the contract.

269 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
270 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
271 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
272 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
273 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
274 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
275 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
276 price.

277
278 **23. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
279 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
280 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
281 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
282 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
283 notice was actually transmitted to the addressee. . In case of resales/repurchases all notices shall be served without delay by sellers
284 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
285 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

286
287 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
288 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
289 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
290 thereafter. The period of shipment shall not be affected by this clause.

291
292 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

293 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase,
294 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

295 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
296 agreed, then the assessment of damages shall be settled by arbitration.

297 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
298 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

299 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
300 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

301 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
302 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
303 mean contract quantity.

304 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
305 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
306 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
307 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first
308 business day thereafter.

309
310 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
311 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
312 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
313 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
314 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
315 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
316 notice of the occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the
317 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
318 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
319 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on

320 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
321 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
322 ruling on the first business day after the date when the Act of Insolvency occurred.
323 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
324 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
325 receivable under this contract.
326

327 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
328 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
329 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
330 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
331 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
332 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
333 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
334 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
335 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
336 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
337 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
338 service, any rule of law or equity to the contrary notwithstanding.
339

340 **28. ARBITRATION-**

341 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules
342 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
343 shall be deemed to be cognisant.

344 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
345 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
346 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
347 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
348 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
349 any such dispute.
350

351 **29. INTERNATIONAL CONVENTIONS-**

352 The following shall not apply to this contract: -

353 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
354 Sales Act 1967;

355 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

356 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
357 of 1980.

358 (b) Incoterms.

359 (c) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
360 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION
**CONTRACT FOR PULSES FOR FEED
IN BULK
TALE QUALE - CIF TERMS**

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6

have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9

Sellers shall have the option of shipping up to 10% in bags for safe stowage. Such bags to be taken and paid for as goods.

10

11 **2. QUANTITY-**

12

Sellers have the option of shipping 5% more or less at contract price. In the event of more than one shipment being made, each shipment shall be considered separate contract, but the margin of the mean quantity sold shall not be affected thereby.

13

14 **3. PRICE AND DESTINATION** - At

15

per tonne of 1000 kilograms, cost, insurance and freight, direct or indirect to with or without transhipment.

16

17 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

18

contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

19

20 **5. QUALITY -**

21

*** Specifications**

22

Any excess or deficiency as the case may be, shall be allowed for by Sellers at contract price.

23

24 *** Official** certificate of inspection at time of loading into the ocean carrying vessel shall be final as to quality.

25

*** F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by comparison with GAFTA F.A.Q. Standard of the month during which the bill of lading is dated. In the event of no F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality. An average sample of the delivery shall be taken and sealed jointly at port of loading by the Representatives of the Shipper and the Representatives of the Holders of the bill of lading or Shipper's delivery order, and shall be forwarded immediately to the Association for the purpose of establishing the F.A.Q. Standard. The expenses of such sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be entitled to the full difference in value.

26

27 *** Sample**, at time and place of shipment about as per sealed sample marked

28

in possession of.....; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis to be determined by GAFTA or its duly appointed Analysts.

29

Difference in quality shall not entitle Buyers to reject, except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

30

46 **Condition-** Shipment shall be made in good condition. Goods must be sound, uniform, free from live, and practically free from
47 dead insect infestation. Should the goods arrive out of condition, due regard shall be made for the time of the year in which the
48 shipment took place.

49
50 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
51 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
52 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
53 as being in both halves of the month.

54
55 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply:-
56 (a) Position of vessel is mutually agreed between Buyers and Sellers;
57 (b) The word "now" is to be inserted before the word "classed" in the Ship's Classification Clause;
58 (c) Appropriation Clause cancelled if sold "shipped".

59
60 **8. PORTS OF SHIPMENT-** From a port or ports in

61
62 **9. SHIP'S CLASSIFICATION-** Shipment to be made by:
63 (a) Ocean Vessels – first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in
64 accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment,
65 excluding tankers and vessels, which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil"
66 vessels.
67 (b) Coaster(s) – mechanically self-propelled vessel(s), suitable for the carriage of the contract goods, excluding tankers and vessels
68 which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels. Vessel(s) hold(s) must be
69 clean, easily accessible and if necessary cargo duly protected. No charge for dunnage.

70
71 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period
72 of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day
73 of the originally stipulated period. The notice need not state the number of additional days claimed.
74 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
75 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 76
77 1 to 4 additional days, 0.50%;
78 5 or 6 additional days, 1%;
79 7 or 8 additional days 1.50% of the gross contract price.

80
81 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
82 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
83 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
84 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

85
86 **11. APPROPRIATION -**

87 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
88 bill of lading.
89 (b) The notice of appropriation shall within 8 consecutive days from the date of the bill(s) of lading be served by or on behalf of
90 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
91 not apply.
92 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
93 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
94 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
95 deemed to be in time if served: -

- 96
97 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
98
99 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

100
101 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
102 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
103 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
104 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

105 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
106 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

- 107 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
 108 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
 109 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
 110 borne by Sellers.
 111 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
 112 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
 113 for sampling, analysis and lighterage incurred thereby at port of discharge.
 114

115 **12. PAYMENT-**

- 116 (a) **Payment** to be by cash in
- 117 * (i) In exchange for and on presentation of shipping documents
- 118 * (ii) By irrevocable letter of credit to be made available to Sellers by
- 119 *(iii) In exchange for shipping documents on or before arrival of the vessel at destination at Buyer's option;
 120 Sellers, however, have the option of calling upon Buyers to take up and pay for the documents on or after
 121 consecutive days from the date of the bill(s) of lading.
 122

123 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)
 124 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be
 125 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of
 126 Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4.
 127 Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War
 128 Deviation Clause and/or other recognised official War Risk Clause.

129 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers
 130 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in
 131 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
 132 available.

133 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may
 134 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra
 135 expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents,
 136 shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are
 137 eventually available.

138 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
 139 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
 140 by Buyers, by a recognised bank.

141 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
 142 event any additional collection costs shall be borne by Buyers.

143 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
 144 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
 145 thereto.

146 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
 147 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

148 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
 149 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
 150 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
 151 clause do not override the parties' contractual obligation under sub-clause (a).
 152

153 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
 154 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
 155

156 **14. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
 157 GAFTA Insurance Terms No.72 viz.:-

158 (a) Risks Covered: -

- 159 (i) Cargo Clauses (WA) with average payable. With 3% franchise or better terms - Section 2 of Form 72
- 160 (ii) War Clauses (Cargo) - Section 4 of Form 72
- 161 (iii) Strikes, Riots and Civil Clauses (Cargo) - Section 5 of Form 72
- 162 (iv) Where applicable, Australian, Canadian, South African
 163 and limited United States of America Acts - Section 6 of Form 72

164 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
 165 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
 166 process in London, but for whose solvency Sellers shall not be responsible.

167 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on

168 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
169 Buyers.

170 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
171 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
172 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
173 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
174 if the full contract value plus 2% were insured from the time of shipment.

175 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
176 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
177 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
178 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
179 recognised bank, or by any other guarantor who is acceptable to Buyers.

180 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
181 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
182 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

183 (g) Currency of Claims - Claims to be paid in the currency of the contract.

184 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
185 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
186 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
187 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
188 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
189 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

190 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
191 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of shipment, shall immediately return to Sellers the
192 insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in
193 respect of such matters.

194 (j) In the case of goods being shipped in an over age vessel, any additional premium to be for account of Sellers.
195

196 **15. DISCHARGE-** Discharge shall be as fast as the vessel can deliver according to the custom of the port, but in the event of shipment
197 being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the bill(s) of
198 lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers' account. If
199 documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be responsible to
200 Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at time of contract.
201

202 **16. WEIGHING** - the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
203 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
204 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
205 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
206 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
207 which case the Deficiency Clause will not apply).
208

209 **17. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
210 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
211

212 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling, Rules
213 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal
214 from ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and
215 place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the
216 GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
217

218 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
219 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
220 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
221 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
222 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
223 therefor and, if required, Sellers must produce proof to justify the cancellation.
224

225 **20. LOADING STRIKES** -

226 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment
227 or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at port(s) of
228 loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination

of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of the foregoing paragraph, the additional extension allowed shall be limited to the actual duration of such further riots, strikes or lock-outs. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.

(b) The Shipper shall serve a notice not later than 3 business days after the last day of guaranteed time for shipment if he intends to claim an extension of time for shipment, such notice shall limit the ports of shipment after expiry of contract period to those from which an extension is claimed.

(c) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.

21. PRO RATA -

(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

(c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these final invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those receivers who did not receive their full invoiced quantity.

(d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by invoices to be rendered by receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

(e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

22. CIRCLE- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the Circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the Circle by payment of the differences between the market price and the relative contract price in currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance

with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.

23. **NOTICES**- All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
24. **NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.
25. **DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply:-
- (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
 - (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
 - (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
 - (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
 - (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
 - (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first business day thereafter.
26. **INSOLVENCY**- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the giving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
- In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
27. **DOMICILE**- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal

351 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
352 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
353 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
354 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
355 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
356 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
357 service, any rule of law or equity to the contrary notwithstanding.
358

359 **28. ARBITRATION-**

360 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
361 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
362 shall be deemed to be cognisant.

363 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
364 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
365 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
366 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
367 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
368 any such dispute.
369

370 **29. INTERNATIONAL CONVENTIONS -**

371 The following shall not apply to this contract: -

372 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
373 Sales Act 1967;

374 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

375 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
376 of 1980

377 (d) Incoterms.

378 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
379 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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GAFTA
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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR CANADIAN AND UNITED STATES OF AMERICA GRAIN IN BULK - CARGOES TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS** - a cargo of

9

10 **2. QUANTITY**- including dockage 5% more or less.

11 Sellers shall have the option of shipping a further 5% more or less on contract quantity, excess or deficiency over the above 5%,

12 shall be settled at the CIF price on the date of the last bill of lading, and on the quantity thereof; the value to be fixed by

13 arbitration, unless mutually agreed.

14

15 **3. PRICE AND DESTINATION** - At

16

17 * per tonne of 1000 kilograms }

18 } gross weight, cost, insurance, freight to

19 * per ton of 1016 kilograms or 2240 lbs. }

20

21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

22 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

23 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not

24 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25

26 **5. QUALITY**-

27 * **Warranted to contain** at time and place of discharge.

28

29 * **Official** certificate of inspection, or certification of inspection of at time and place of loading

30 into the ocean carrying vessel, shall be final as to quality. On sales of Canadian produce Sellers shall have the option of

31 delivering the Official Canadian Inspection Certificate issued in the United States. Buyers shall not be entitled to reject a

32 tender of a higher grade of the same colour and description.

33

34 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

35 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

36 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may

37 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

38 **Condition**- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for

39 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof

40 of an improper shipment.

41

42 **6. PERIOD OF SHIPMENT**- as per bill(s) of lading dated or to be dated

43 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of

44 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day

45 shall be accepted as being in both halves of the month.

46

47 **7. PORTS OF SHIPMENT**- from United States and/or Canadian port(s) including Lake Port(s) and Hudson River not above

48 Albany, but excluding Pacific and Hudson Bay port(s).

49

- 50 **8. SALES BY NAMED VESSELS-** For all sales by named vessel(s), the following shall apply: -
51 (a) Position of vessel is mutually agreed between Buyers and Sellers;
52 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
53 (c) Appropriation Clause cancelled if sold "shipped".
54
- 55 **9. SHIP'S CLASSIFICATION-** Direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the carriage of
56 the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in
57 force at the time of shipment.
58
- 59 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
60 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
61 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
62 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
63 which the originally stipulated period is exceeded, in accordance with the following scale: -
64 1 to 4 additional days, 0.50%;
65 5 or 6 additional days, 1%;
66 7 or 8 additional days 1.50% of the gross contract price.
67 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
68 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
69 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
70 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
71 basis of such reduced price.
72
- 73 **11. APPROPRIATION-**
74 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
75 of the bill of lading.
76 (b) The notice of appropriation shall within 8 consecutive days from the date of the last bill(s) of lading be served by or on
77 behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
78 Clause shall not apply.
79 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
80 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
81 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their
82 notice of appropriation shall be deemed to be in time if served: -
83
84 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
85
86 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
87 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
88 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
89 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
90 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
91 Brokers.
92 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
93 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
94 prevail.
95 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
96 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
97 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
98 shall be borne by Sellers.
99 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
100 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
101 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
102
- 103 **12. PAYMENT-**
104 (a) **Payment** % of invoice amount by cash in
105 in exchange for and on presentation of shipping documents.
106 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)
107 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be
108 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
109 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by
110 Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
111 Shipping War Deviation Clause and/or other recognised official War Risk Clause.
112 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
113 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
114 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
115 are eventually available.
116 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers

117 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
118 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
119 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
120 shipping documents are eventually available.

121 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
122 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
123 countersigned, if required by Buyers, by a recognised bank.

124 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
125 event any additional collection costs shall be borne by Buyers.

126 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
127 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
128 respect thereto.

129 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
130 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

131 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
132 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall
133 be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do
134 not override the parties' contractual obligation under sub-clause (a).

135

136 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
137 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
138 unless otherwise provided.

139

140 **14. DISCHARGE-** Ship to discharge according to the custom of the port. Ship to discharge at the rate of
141 If documents are tendered which do not provide for discharge as above, or contain contrary stipulations, Sellers to be responsible
142 to Buyers for all extra expenses incurred thereby.

143

144 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
145 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
146 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
147 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
148 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
149 Sellers' choice and expense, (in which case the deficiency clause will not apply).

150

151 **16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
152 weight shall be paid for by Buyers at contract price.

153

154 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
155 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
156 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
157 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
158 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
159 GAFTA Register of Analysts.

160

161 **18. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
162 in GAFTA Insurance Terms No. 72 viz.:-

163 (a) Risks Covered: -

164 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

165 War Clauses (Cargo) - Section 4 of Form 72

166 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

167 Australian, Canadian, South African and United States of America Acts - Section 6 of Form 72

168 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
169 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
170 address for service of process in London, but for whose solvency Sellers shall not be responsible.

171 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
172 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
173 payable by Buyers.

174 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
175 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
176 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
177 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
178 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

179 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
180 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
181 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
182 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall

183 be guaranteed by a recognised Bank, or by any other guarantor who is acceptable to Buyers.
184 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
185 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
186 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
187 (g) Currency of Claims - Claims to be paid in the currency of the contract.
188 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
189 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
190 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
191 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
192 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
193 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
194 London at time of shipment.
195 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
196 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
197 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
198 against the Insurers in respect of such matters.
199

200 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by
201 or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein
202 is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply
203 to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other
204 means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise
205 Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
206

207 **20. STRIKES AND OTHER CAUSES IN DELAY OF SHIPMENT**

208 (a) Should the shipment of all or any part of the goods be prevented at any time during the last 28 days or less of the guaranteed
209 time of shipment, by reason of any of the causes in paragraph (b), the Shippers shall be entitled at the cessation of the cause(s) to
210 as much time as was left for shipment under the contract. If the time left was 14 days or less a minimum extension of 14 days
211 shall be allowed. If any further prevention occurs during this extended time due to cause(s) in paragraph (b), any additional
212 extension shall be limited to the actual duration of the cause(s). In the event of non-shipment the date of default shall be
213 similarly deferred.

214 (b) Causes of delay and/or prevention of shipment- Strikes, riots, lockouts, interruptions in, or stoppages of the normal course
215 of labour, embargoes or exceptional impediments to transportation, action by Federal, State or local government, or authority,
216 on the Great Lakes or the St. Lawrence River, or elsewhere, preventing the proceeding of the vessel(s) to the Great Lakes or St.
217 Lawrence port(s) of loading and/or preventing the goods from being delivered to the load port or to the vessel.

218 (c) The Shippers shall serve a notice on the Buyers no later than 2 business days after the last day of the guaranteed time for
219 shipment if he intends to claim an extension as above. Such notice shall state the port(s) from which shipment was intended
220 and if such extension is claimed, the shipment after expiry of the contract period shall only be made from such port(s).

221 (d) The Shippers shall, after serving notice as per paragraph (c) apply forthwith to The North American Export Grain
222 Association (NAEGA) or competent authority in Canada, for confirmation in writing of the existence and duration of the
223 cause(s) of delay or prevention and as soon as practicable for a certificate confirming this information. Such certificate shall
224 be final.
225

226 **21. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
227 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
228 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
229 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
230 during the same period of shipment). Different currencies shall not invalidate the circle.

231 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
232 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
233 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
234 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
235 be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
236 ascertained.

237 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
238 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
239 payment of the differences between the market price and the relative contract price in currency of the contract.

240 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
241 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle,
242 the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party
243 in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract,
244 settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause,
245 which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective
246 Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
247 between the closing out price and the contract price.
248

249 **22. NOTICES -** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in

250 legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: -
251 either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always
252 subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender
253 who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to
254 the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices
255 shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on
256 a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall
257 be deemed a notice under this contract.
258

259 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
260 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
261 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
262 business day thereafter. The period of shipment shall not be affected by this clause.
263

264 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
265 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or
266 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
267 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
268 mutually agreed, then the assessment of damages shall be settled by arbitration.
269 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
270 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
271 above.
272 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
273 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
274 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
275 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
276 favour of the mean contract quantity.
277 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
278 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
279 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after
280 the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall
281 then be the first business day thereafter.
282

283 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
284 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
285 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
286 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
287 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
288 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
289 Insolvency shall serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
290 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
291 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
292 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
293 such notice has not been served then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
294 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
295 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
296 Act of Insolvency occurred.
297 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
298 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
299 amount payable or receivable under this contract.
300

301 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
302 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
303 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
304 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
305 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
306 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
307 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
308 and Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to
309 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
310 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
311 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
312 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
313 notwithstanding.
314

315 **27. ARBITRATION-**
316 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration

317 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
318 parties hereto shall be deemed to be cognisant.
319 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
320 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
321 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
322 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
323 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
324 the other of them in respect of any such dispute.
325

326 **28. INTERNATIONAL CONVENTIONS-**

327 The following shall not apply to this contract: -

328 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
329 International Sales Act 1967;

330 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

331 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
332 Protocol of 1980.

333 (d) Incoterms.

334 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
335 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR CANADIAN AND UNITED STATES OF AMERICA GRAIN IN BULK PARCELS TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS** -

9

10 **2. QUANTITY**- including dockage 2% more or less.

11 Sellers shall have the option of shipping a further 3%, more or less on contract quantity, excess or deficiency over the above

12 2%, shall be settled at the CIF price on the date of bill of lading, and on the quantity thereof; the value to be fixed by arbitration,

13 unless mutually agreed. In the event of more than one shipment being made, each shipment shall be considered a separate

14 contract, but the margin of the mean quantity sold shall not be affected thereby.

15

16 **3. PRICE AND DESTINATION** - At

17 * per tonne of 1000 kilograms }

18 } gross weight, cost, insurance and freight to

19 * per ton of 1016 kilograms or 2240 lbs. }

20

21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

22 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

23 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not

24 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25

26 **5. QUALITY** -

27 * **Warranted to contain** at time and place of discharge.

28

29 * **Official** certificate of inspection, or certification of inspection of at time and place of loading

30 into the ocean carrying vessel, shall be final as to quality. On sales of Canadian produce Sellers shall have the option of

31 delivering the Official Canadian Inspection Certificate issued in the United States. Buyers shall not be entitled to reject a

32 tender of a higher grade of the same colour and description.

33

34 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

35 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

36 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may

37 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

38 **Condition**- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for

39 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof

40 of an improper shipment.

41

42 **6. PERIOD OF SHIPMENT**- as per bill(s) of lading dated or to be dated

43 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of

44 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day

45 shall be accepted as being in both halves of the month.

46

47 **7. PORTS OF SHIPMENT**- from United States and/or Canadian port(s) including Lake Port(s) and Hudson River not above

48 Albany, but excluding Pacific and Hudson Bay port(s).

49

50 **8. SALES BY NAMED VESSELS**- For all sales by named vessels, the following shall apply: -

51 (a) Position of vessel is mutually agreed between Buyers and Sellers;

52 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;

53 (c) Appropriation Clause cancelled if sold "shipped".

54

55 **9. SHIP'S CLASSIFICATION-** Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
56 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in
57 force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in
58 Lloyd's Shipping Index as "Ore/Oil" vessels
59

60 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
61 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
62 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
63 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
64 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 65 1 to 4 additional days, 0.50%;
- 66 5 or 6 additional days, 1%;
- 67 7 or 8 additional days 1.50% of the gross contract price.

68 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
69 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
70 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
71 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
72 basis of such reduced price.
73

74 **11. APPROPRIATION -**

75 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
76 of the bill of lading.

77 (b) The notice of appropriation shall within 8 consecutive days from the date of the bill(s) of lading be served by or on behalf
78 of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
79 Clause shall not apply.

80 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
81 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
82 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
83 appropriation shall be deemed to be in time if served: -

84 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

85 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

86 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
87 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
88 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
89 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
90 Brokers.
91

92 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
93 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
94 prevail.
95

96 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
97 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

98 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
99 shall be borne by Sellers.

100 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

101 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
102 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
103

104 **12. PAYMENT-**

105 (a) **Payment** % of invoice amount by cash in
106 in exchange for and on presentation of shipping documents.

107 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
108 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
109 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
110 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
111 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
112 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

113 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
114 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
115 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
116 contract when shipping documents are eventually available.

117 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
118 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
119 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
120 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
121 contract when shipping documents are eventually available.

- 122 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
123 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
124 countersigned, if required by Buyers, by a recognised bank.
- 125 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
126 in that event any additional collection costs shall be borne by Buyers.
- 127 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
128 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
129 guarantee in respect thereto.
- 130 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other
131 that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
132 Arbitration Rules.
- 133 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
134 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
135 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
136 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
- 137
- 138 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
139 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
140 unless otherwise provided.
- 141
- 142 **14. DISCHARGE-** Discharge shall be as fast as the vessel can deliver according to the custom of the port, but in the event of
143 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
144 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
145 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain
146 contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s)
147 shall be permitted unless specifically excluded at time of contract.
- 148
- 149 **15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
150 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
151 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
152 taken at time and place or loading. The parties shall appoint superintendents, for the purposes of supervision and sampling
153 of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
154 GAFTA Register of Analysts.
- 155
- 156 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
157 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
158 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
159 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
160 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
161 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
- 162
- 163 **17. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
164 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
- 165
- 166 **18. PRO RATA -**
- 167 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
168 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
169 or distinction shall be necessary.
- 170 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
171 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of
172 this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
173 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
174 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or
175 their Representatives.
- 176 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
177 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
178 delivered to those Receivers who did not receive their full invoiced quantity.
- 179 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
180 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
181 Sellers without taking into consideration the above pro-rata apportionment between Receivers.
- 182 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the
183 excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for
184 any balance resulting from this settlement.
- 185 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall
186 be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
187 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
188 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
189 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
- 190 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
191 port of destination, such price to be fixed by arbitration unless mutually agreed.
- 192 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under

193 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
194 pro-rata weight.

195 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the methods published by The Grain
196 and Feed Trade Association shall, where applicable, take precedence over sub-clauses (b) to (h) above.

197 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
198 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
199 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
200 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
201 shall be the average of the market prices on the last day of discharge in the respective ports.
202

203 **19. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
204 in GAFTA Insurance Terms No.72 viz.: -

205 (a) Risks Covered: -

206 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

207 War Clauses (Cargo) - Section 4 of Form 72

208 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

209 Australian, Canadian, South African and United States of America Acts - Section 6 of Form 72

210 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
211 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
212 address for service of process in London, but for whose solvency Sellers shall not be responsible.

213 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
214 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
215 payable by Buyers.

216 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
217 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
218 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
219 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
220 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

221 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
222 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
223 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
224 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
225 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

226 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
227 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
228 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

229 (g) Currency of Claims - Claims to be paid in the currency of the contract.

230 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
231 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
232 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
233 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
234 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
235 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
236 London at time of shipment.

237 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
238 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
239 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
240 against the Insurers in respect of such matters.
241

242 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
243 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
244 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
245 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
246 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
247 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
248

249 **21. STRIKES AND OTHER CAUSES IN DELAY OF SHIPMENT**

250 (a) Should the shipment of all or any part of the goods be prevented at any time during the last 28 days or less of the guaranteed
251 time of shipment, by reason of any of the causes in paragraph (b), the Shippers shall be entitled at the cessation of the cause(s) to
252 as much time as was left for shipment under the contract. If the time left was 14 days or less a minimum extension of 14 days
253 shall be allowed. If any further prevention occurs during this extended time due to cause(s) in paragraph (b), any additional
254 extension shall be limited to the actual duration of the cause(s). In the event of non-shipment the date of default shall be
255 similarly deferred.

256 (b) Causes of delay and/or prevention of shipment- Strikes, riots, lockouts, interruptions in, or stoppages of the normal course
257 of labour, embargoes or exceptional impediments to transportation, action by Federal, State or local government, or authority,
258 on the Great Lakes or the St. Lawrence River, or elsewhere, preventing the proceeding of the vessel(s) to the Great Lakes or St.
259 Lawrence port(s) of loading and/or preventing the goods from being delivered to the load port or to the vessel.

260 (c) The Shippers shall serve a notice on Buyers not later than 2 business days after the last day of the guaranteed time for
261 shipment if he intends to claim an extension as above. Such notice shall state the port(s) from which shipment was intended and
262 if such extension is claimed, the shipment after expiry of the contract period shall only be made from such port(s).

263 (d) The Shipper or Sellers shall, after serving notice as per paragraph (c) apply forthwith to The North American Export
264 Grain Association (NAEGA) or competent authority in Canada, for confirmation in writing of the existence and duration of
265 the cause(s) of delay or prevention and as soon as practicable for a certificate confirming this information. Such certificate

266 shall be final.

267

268 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
269 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
270 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
271 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
272 during the same period of shipment). Different currencies shall not invalidate the circle.

273 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
274 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
275 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
276 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
277 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
278 ascertained.

279 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
280 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
281 payment of the differences between the market price and the relative contract price in currency of the contract.

282 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
283 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
284 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
285 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
286 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
287 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
288 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
289 contract price.

290
291 **23. NOTICES -** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
292 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
293 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
294 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
295 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
296 notice was actually transmitted to the addressee. In case of resales/repurchase all notices shall be served without delay by sellers
297 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have
298 been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

299
300 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
301 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
302 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
303 business day thereafter. The period of shipment shall not be affected by this clause.

304
305 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-
306 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or
307 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
308 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
309 mutually agreed, then the assessment of damages shall be settled by arbitration.
310 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
311 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
312 above.
313 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
314 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
315 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
316 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
317 favour of the mean contract quantity.
318 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
319 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
320 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after
321 the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then
322 be the first business day thereafter.

323
324 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
325 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
326 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
327 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
328 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
329 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
330 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
331 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
332 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
333 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
334 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
335 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
336 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
337 Act of Insolvency occurred.

338 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the

339 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
340 amount payable or receivable under this contract.

341
342 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
343 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
344 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
345 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
346 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
347 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
348 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
349 and Feed Trade Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to
350 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
351 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
352 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
353 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
354 notwithstanding.

355
356 **28. ARBITRATION-**
357 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
358 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
359 parties hereto shall be deemed to be cognisant.
360 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
361 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
362 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
363 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
364 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
365 the other of them in respect of any such dispute.

366
367 **29. INTERNATIONAL CONVENTIONS-**
368 The following shall not apply to this contract: -
369 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
370 International Sales Act 1967;
371 (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and
372 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
373 Protocol of 1980.
374 (d) Incoterms.
375 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
376 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR CANADIAN PACIFIC COAST IN BULK PARCELS TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-** 2% more or less.
11 Sellers shall have the option of shipping a further 3%, more or less on contract quantity, excess or deficiency over the above 2%,
12 shall be settled at the CIF price on the date of bill of lading, and on the quantity thereof; value to be fixed by arbitration, unless
13 mutually agreed. Dockage not to be considered in the quantity deliverable under this contract. In the event of more than one
14 shipment being made each shipment to be considered a separate contract, but the margin on the mean quantity sold not to be
15 affected thereby.

16
17 **3. PRICE AND DESTINATION - At**
18 * per tonne of 1000 kilograms }
19 } gross weight, cost, insurance and freight to
20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE**per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
23 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
24 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
25 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**
28 * **Warranted to contain** at time and place of discharge.

29
30 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
31 into the ocean carrying vessel, shall be final as to quality. On sales of Canadian produce Sellers shall have the option of
32 delivering the Official Canadian Inspection Certificate issued in the United States. Buyers shall not be entitled to reject a
33 tender of a higher grade of the same colour and description.

34
35 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of; the
36 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
37 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
38 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

39 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
40 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
41 improper shipment.

42
43 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
44 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
45 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall
46 be accepted as being in both halves of the month.

47
48 **7. PORTS OF SHIPMENT-**
49 from a Canadian Pacific Coast port or ports.

50
51 **8. SALES BY NAMED VESSELS-** for all sales by named vessels the following shall apply: -
52 (a) Position of vessel is mutually agreed between Buyers and Sellers;
53 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
54 (c) Appropriation Clause cancelled if sold "shipped".

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9. **SHIP'S CLASSIFICATION.** Shipment direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

10. **EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -

- 1 to 4 additional days, 0.50%;
- 5 or 6 additional days, 1%;
- 7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

11. **BILL OF LADING-** All conditions as per customary clause of the Pacific Coast Liner bills of lading.

12. **APPROPRIATION-**

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.

(b) The notice of appropriation shall within 7 consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.

(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

(1) On the same calendar day, if received not later than 1600 hours on any business day, or

(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge

13. **PAYMENT-**

(a) **Payment** % of invoice amount by cash in

..... in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 45 days from the date of the bill of lading, payment, unless already made, to be made after the 45th day from the bill of lading date when required by Sellers.

(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,

123 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
124 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
125 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
126 contract when shipping documents are eventually available.

127 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
128 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
129 countersigned, if required by Buyers, by a recognised bank.

130 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
131 that event any additional collection costs shall be borne by Buyers.

132 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
133 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
134 guarantee in respect thereto.

135 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
136 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
137 Rules.

138 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
139 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
140 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration.
141 The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
142

143 **14. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
144 GAFTA Insurance terms No.72 viz.:-

145 (a) Risks Covered: -

146 Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
147 War Clauses (Cargo)	- Section 4 of Form 72
148 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72
149 Australian, Canadian, South African and United States of America Acts	- Section 6 of Form 72

150 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
151 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address
152 for service of process in London, but for whose solvency Sellers shall not be responsible.

153 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable
154 on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable
155 by Buyers.

156 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
157 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
158 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
159 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in
160 the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

161 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
162 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
163 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
164 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be
165 guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

166 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
167 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
168 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

169 (g) Currency of Claims - Claims to be paid in the currency of the contract.

170 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
171 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters.
172 Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the
173 date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the
174 later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide
175 War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

176 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
177 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
178 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
179 against the Insurers in respect of such matters.
180

181 **15. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
182 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
183 unless otherwise provided.
184
185

186 **16. DISCHARGE-** Discharge shall be as fast as the vessel can deliver according to the custom of the port, but in the event of shipment
187 being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the
188 bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
189 account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be
190 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
191 time of contract.
192

193 **17. PRO RATA-**

194 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags
195 of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or
196 distinction shall be necessary.

197 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
198 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this
199 not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
200 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
201 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their
202 Representatives.

203 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
204 and for the purpose of these final invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
205 delivered to those receivers who did not receive their full invoiced quantity.

206 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
207 market price by invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
208 without taking into consideration the above pro-rata apportionment between Receivers.

209 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the
210 excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for
211 any balance resulting from this settlement.

212 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
213 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
214 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
215 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
216 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

217 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
218 port of destination, such price to be fixed by arbitration unless mutually agreed.

219 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
220 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
221 pro-rata weight.

222 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
223 shall, where applicable, take precedence over sub-clauses (b) to (h) above.

224 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
225 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
226 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
227 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall
228 be the average of the market prices on the last day of discharge in the respective ports.

229

230 **18. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
231 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge
232 at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by
233 Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during
234 the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and
235 expense, (in which case the Deficiency Clause will not apply).

236

237 **19. DEFICIENCY-**Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
238 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

239

240 **20. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
241 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal
242 from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at
243 time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the
244 goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA
245 Register of Analysts.

246

247 **21. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
248 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
249 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
250 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
251 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
252 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

253

254 **22. STRIKES-**

255 (a). Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
256 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
257 ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the
258 termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports as was
259 left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left for
260 shipment under the contract being 21 days or less, a minimum extension of 21 days shall be allowed. In the event of further riots,
261 strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of the
262 operation of the provisions of the foregoing paragraph, the additional extension allowed shall be limited to the actual duration of
263 such further riots, strikes or lock-outs. In case of non-shipment under the above circumstances, and if the Shipper has claimed an
264 extension under paragraph (b) of this clause, the date of default shall be similarly deferred.

265 (b) The Shipper shall serve notice not later than 2 business days after the last day of guaranteed time of shipment if he intends to
266 claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which shipment was intended

267 to be made and if such extension is claimed, the shipment, after expiry of contract period, shall only be made from such port(s).
268 (c) If the Shipper serves the notice referred to above, he shall forthwith apply to The Vancouver Grain Exporters Association and
269 request them to notify immediately to GAFTA confirming the existence of such riots, strikes or lock-outs and in due course the
270 dates of commencement and termination thereof. The Shipper further agrees to comply with all requirements of The Vancouver
271 Grain Exporters Association to ensure such information is sent.
272 (d) A certificate of The Vancouver Grain Exporters Association certifying the existence and duration of the riots, strikes or
273 lockouts causing the delay and/or prevention shall be attached to shipping documents and be accepted as final. If a certificate is
274 issued too late to be attached to shipping documents, then a notice from The Vancouver Grain Exporters Association change to
275 GAFTA that such certificate has been issued shall be deemed equivalent to a certificate attached to shipping documents, always
276 provided that such notification shall have been received by GAFTA not later than the date of arrival of documents.
277

278 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
279 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
280 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
281 of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during
282 the same period of shipment). Different currencies shall not invalidate the circle.
283 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
284 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
285 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
286 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
287 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
288 ascertained.
289 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
290 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
291 payment of the differences between the market price and the relative contract price in currency of the contract.
292 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
293 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
294 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
295 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
296 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
297 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
298 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
299 price.
300

301 **24. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible
302 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as:- either telex, or
303 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
304 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
305 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
306 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by
307 sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to
308 have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this
309 contract.
310

311 **25. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
312 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit
313 for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business
314 day thereafter. The period of shipment shall not be affected by this clause.
315

316 **26. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
317 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or
318 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
319 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
320 agreed, then the assessment of damages shall be settled by arbitration.
321 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
322 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
323 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
324 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
325 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
326 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
327 of the mean contract quantity.
328 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
329 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
330 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
331 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be
332 the first business day thereafter.
333

334 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
335 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting
336 of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver
337 or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation)

338 become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against
339 him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall
340 forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either
341 the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act
342 of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract
343 shall be closed out at the market price ruling on the business day following the giving of the notice. If such notice has not been
344 served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract
345 closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act
346 of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
347 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
348 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
349 amount payable or receivable under this contract.
350

351 **28. DOMICILE** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
352 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for
353 the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall
354 have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation
355 to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or
356 board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings
357 each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade
358 Association, England, (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated
359 jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be
360 bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the
361 offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address
362 outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
363

364 **29. ARBITRATION-**
365 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
366 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
367 parties hereto shall be deemed to be cognisant.
368 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
369 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or
370 a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the
371 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of
372 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other
373 of them in respect of any such dispute.
374
375

376 **30. INTERNATIONAL CONVENTIONS-**
377 The following shall not apply to this contract: -
378 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
379 Sales Act 1967;
380 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
381 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
382 Protocol of 1980.
383 (d) Incoterms.
384 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
385 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR LA PLATA GRAIN CARGOES IN BULK OR BAGS RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-** A cargo of
9 in bulk and/or in bags. If in bags, then the bags to be of suitable strength to withstand ordinary wear and tear to port of destination.
10 Such bags to be taken and paid for as goods.

11
12 **2. QUANTITY-** 2% more or less
13 Sellers shall have the option of shipping a further 8%, more or less on contract quantity, excess or deficiency over the above 2%, shall
14 be settled at the CIF price on the date of the last bill of lading, and on the quantity thereof; the value to be fixed by arbitration, unless
15 mutually agreed.

16
17 **3. PRICE AND DESTINATION -** At
18 * per tonne of 1000 kilograms }
19 } gross weight, cost, insurance and freight to
20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
23 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
24 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
25 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**
28 * **Warranted to contain** at time and place of discharge.

29
30 * **Official** certificate of inspection, or certification of inspection of at time and place of loading into
31 the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain
32 of the same colour and description.

33
34 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
35 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
36 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.
37 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
38 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
39 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid
40 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of
41 ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the
42 F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall
43 be entitled to the full difference in value.

44
45 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of; the
46 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

47
48 * **Natural weight** ofkilograms per hectolitre guaranteed at time and place of
49 to be ascertained and allowances determined according to the GAFTA Sampling Rules No. 124.

50
51 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may

52 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

53 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
54 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
55 improper shipment.

56
57 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
58 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
59 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
60 as being in both halves of the month.

61
62 **7. PORTS OF SHIPMENT-** from a port or ports in the Argentine Republic and/or Uruguay. Vessels loaded in the area of kilometre 52
63 to be considered as if loaded at Buenos Aires and/or La Plata.

64
65 **8. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:-
66 (a) Position of vessel is mutually agreed between Buyers and Sellers;
67 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
68 (c) Appropriation Clause cancelled if sold "shipped".
69

70 **9. SHIP'S CLASSIFICATION.** Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract
71 goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of
72 shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as
73 "Ore/Oil" vessels.

74
75 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period
76 of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day
77 of the originally stipulated period. The notice need not state the number of additional days claimed. Sellers shall make an allowance to
78 Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is
79 exceeded, in accordance with the following scale:-

- 80 1 to 4 additional days, 0.50%;
- 81 5 or 6 additional days, 1%;
- 82 7 or 8 additional days 1.50% of the gross contract price.

83 If, however, after having served notice to the Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
84 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any
85 settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be
86 deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such
87 reduced price.

88
89 **11. APPROPRIATION-**

- 90 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
91 last bill of lading.
- 92 (b) The notice of appropriation shall within 10 consecutive days from the date of the last bill(s) of lading be served by or on behalf
93 of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
94 not apply.
- 95 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
96 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
97 the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be
98 deemed to be in time if served: -

99
100 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

101 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

102 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
103 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
104 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
105 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

106 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
107 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

108 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
109 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

110 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
111 borne by Sellers.

112 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

113 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
114 for sampling, analysis and lighterage incurred thereby at port of discharge

115
116
117 **11. PAYMENT –**

118 (a) **Payment** % of invoice amount by cash in

119 in exchange for and on presentation of shipping documents.

120 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
121 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
122 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
123 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by
124 Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
125 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

126 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
127 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
128 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
129 are eventually available.

130 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
131 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
132 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
133 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
134 shipping documents are eventually available.

135 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
136 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
137 countersigned, if required by Buyers, by a recognised bank.

138 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
139 event any additional collection costs shall be borne by Buyers.

140 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
141 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
142 respect thereto.

143 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
144 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

145 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
146 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
147 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
148 clause do not override the parties' contractual obligation under sub-clause (a).

149
150 **13. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
151 GAFTA Insurance Terms No.72 viz.: -

152 (a) Risks Covered: -

153 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

154 War Clauses (Cargo) - Section 4 of Form 72

155 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

156 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
157 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
158 process in London, but for whose solvency Sellers shall not be responsible.

159 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
160 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
161 Buyers.

162 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
163 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
164 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
165 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
166 if the C.I.F. value plus 2% were insured from the time of shipment.

167 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
168 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
169 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
170 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
171 recognised bank, or by any other guarantor who is acceptable to Buyers.

172 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
173 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
174 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

175 (g) Currency of Claims - Claims to be paid in the currency of the contract.

176 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
177 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
178 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
179 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
180 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
181 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

182 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
183 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
184 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
185 in respect of such matters.

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- 14. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account, unless otherwise provided.
- 15. DISCHARGE-** Vessel to discharge according to the custom of the port. The Lighterage, Strike and Ice Clauses in the Centrocon Charter Party of 1914 are to be understood as forming part of this contract. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers to be responsible for all extra expenses incurred thereby.
- 16. "CENTROCON" C.P. (1914) - Lighterage, Strike and Ice** - Should the vessel be ordered to a port of discharge on the Continent inaccessible by reason of ice, the Master shall have the option of waiting until the port is again open, or of proceeding to the nearest safe open port or roadstead (telegraphing his arrival there to Consignees), where he shall receive fresh orders for an open and accessible port of discharge in the United Kingdom or Continent as above, within 24 hours after arrival, or lay days to count. If so ordered, the vessel shall receive the same freight as if she had discharged at the port to which she was originally ordered, but if ordered to a port more than 100 nautical miles distant from such open port or roadstead, the freight shall be increased by 5 pence per English ton as above. In no case shall the vessel be ordered from a port of call in the United Kingdom to an ice-bound port. Should the vessel be ordered to discharge at a place to which there is not sufficient water for her to get the first tide after arrival without lightening, and lie always afloat, lay days are to count from 48 hours after her arrival at a safe anchorage, for similar vessels bound for such place, and any lighterage incurred to enable her to reach the place of discharge is to be at the expense and risk of the receiver of the cargo, any custom of the port or place to the contrary notwithstanding, but time occupied in proceeding from the anchorage to the port of discharge is not to count.
If the cargo cannot be discharged by reason of riots, civil commotions, or of a strike or lock-out of any class of workmen essential to the discharge, the time for discharging shall not count during the continuance of such causes, provided that a strike or lock-out of the Receivers' men shall not prevent demurrage accruing if by the use of reasonable diligence they could have obtained other suitable labour at rates current before the strike or lock-out. In the case of any delay by reason of the before-mentioned causes, no claim for damages or demurrage shall be made by the receivers of the cargo or owners of the steamer. For the purpose, however, of settling despatch money accounts, any time lost by the steamer through any of the above causes shall be counted as time used in loading.
- 17. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
- 18. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price.
- 19. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS:** -the terms and conditions of GAFTA Sampling Rules No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
- 20. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the season's crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination damaged or out of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on the contract price to be fixed by arbitration unless mutually agreed.

In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum recovered under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in connection with the claim shall be deducted.

Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters for preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in addition documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as Sellers may be unable to recover in consequence.
- 21. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
- 22. LA PLATA LOADING STRIKE-**

253 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment
254 or at any time during guaranteed contract period if such be less than 28 days, by reason of civil and/or military commotions, strikes or
255 lock-outs at port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall
256 be entitled at the termination of such civil and/or military commotions, strikes or lock-outs to as much time, not exceeding 28 days, for
257 shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the civil and/or military
258 commotions, strikes or lock-outs, and in the event of the time left for shipment under the contract being 14 days or less, a minimum
259 extension of 14 days shall be allowed. In the event of further civil and/or military commotions, strikes or lock-outs occurring during
260 the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of the foregoing, the
261 additional extension allowed shall be limited to the actual duration of such further civil and/or military commotions, strikes or lock-
262 outs. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.

263 (b) The Shipper shall serve a notice naming the port or ports not later than 2 business days after the last day of guaranteed time for
264 shipment if he intends to claim an extension of time for shipment, such notice shall limit the ports for shipment after expiry of contract
265 period, to those from which extension is claimed.

266 (c) The official Certificate of The Bolsa de Comercio of Buenos Aires or of Rosario, or of the principal Customs Official at port or
267 ports of loading countersigned by The Bolsa de Comercio of Buenos Aires or of Rosario, certifying the existence and duration of civil
268 and/or military commotion, strike or lock-out causing the delay shall be attached to shipping documents.

269 (d) Notices of the outbreak and termination of civil and/or military commotion, strike or lock-out shall be sent by the Centro de
270 Cereales to GAFTA within 5 days of each event.

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272 **23. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
273 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
274 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if
275 receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,
276 establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was
277 actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their
278 respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received
279 on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

280

281 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
282 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
283 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
284 thereafter. The period of shipment shall not be affected by this clause.

285

286 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-
287 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
288 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
289 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
290 agreed, then the assessment of damages shall be settled by arbitration.
291 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
292 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
293 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
294 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
295 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
296 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
297 mean contract quantity.
298 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
299 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
300 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
301 day for appropriation laid down in the contract, Sellers shall be deemed to be in default, and the default date shall then be the first
302 business day thereafter.

303

304 **26. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
305 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
306 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
307 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
308 shipment). Different currencies shall not invalidate the circle.
309 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
310 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
311 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
312 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
313 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
314 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
315 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
316 differences between the market price and the relative contract price in currency of the contract.
317 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
318 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
319 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date

320 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
321 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
322 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
323 make payment to their Buyers of the difference between the closing out price and the contract price.
324

325 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
326 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
327 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
328 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
329 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
330 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
331 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
332 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
333 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
334 price ruling on the business day following the serving of the notice. If such notice has been not served, then the other party, on
335 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
336 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
337 ruling on the first business day after the date when the Act of Insolvency occurred.

338 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
339 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
340 receivable under this contract.
341

342 **28. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
343 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
344 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
345 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
346 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
347 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
348 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
349 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
350 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
351 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
352 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
353 service, any rule of law or equity to the contrary notwithstanding.
354

355 **29. ARBITRATION-**
356 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
357 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
358 shall be deemed to be cognisant.
359 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
360 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
361 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
362 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
363 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
364 any such dispute.
365

366 **30. INTERNATIONAL CONVENTIONS -**
367 The following shall not apply to this contract: -
368 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is served by the Uniform Laws on International
369 Sales Act 1967;
370 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
371 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
372 of 1980.
373 (d) Incoterms.
374 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
375 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR LA PLATA GRAIN PARCELS IN BULK OR BAGS TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 in bulk or in bags. If in bags, then the bags to be of suitable strength to withstand ordinary wear and tear to port of destination. Such
10 bags to be taken and paid for as goods.

11
12 **2. QUANTITY-** 2% more or less.

13 Sellers shall have the option of shipping a further 3%, more or less on contract quantity, excess or deficiency over the above 2%, shall
14 be settled at the CIF price on the date of the bill of lading, and on the quantity thereof; the value to be fixed by arbitration, unless
15 mutually agreed. In the event of more than one shipment being made each shipment to be considered a separate contract, but the
16 margin on the mean quantity sold not to be affected thereby.

17
18 **3. PRICE AND DESTINATION - At**

19 *per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight, to
21 *per ton of 1016 kilograms or 2240 lbs. }

22
23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

24 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
25 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
26 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27
28 **5. QUALITY-**

29 * **Warranted to contain** at time and place of discharge.

30
31 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
32 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of
33 grain of the same colour and description.

34 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
35 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
36 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.
37 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
38 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
39 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid
40 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of
41 ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the
42 F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be
43 entitled to the full difference in value.

44
45 * **Natural weight** ofkilograms per hectolitre guaranteed at time and place of..... to be ascertained and
46 allowances determined according to the GAFTA Sampling Rules No.124.

47
48 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

49
50; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
51 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
52 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

53 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
54 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
55 improper shipment.

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- 6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.
- 7. PORT OF SHIPMENT-** from a port or ports in the Argentine Republic and/or Uruguay. Vessels loaded in the area of kilometre 52 to be considered as if loaded at Buenos Aires and/or La Plata.
- 8. SALES BY NAMED VESSELS –** For all sales by named vessels, the following shall apply:-
(a) Position of vessel is mutually agreed between Buyers and Sellers;
(b) The word "now" to be inserted between the word "classed in the Ship's Classification Clause;
(c) Appropriation Clause cancelled if sold "shipped".
- 9. SHIP'S CLASSIFICATION-** Shipment direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
- 10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -
1 to 4 additional days, 0.50%;
5 or 6 additional days, 1%;
7 or 8 additional days 1.50% of the gross contract price.
If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price
- 11. APPROPRIATION-**
(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.
(b) The notice of appropriation shall within 10 consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -
(1) On the same calendar day, if received not later than 1600 hours on any business day, or
(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.
(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge
- 12. PAYMENT-**
(a) **Payment** % of invoice amount by cash in
..... in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 37 days from the date of the bill of lading, payment, unless already made, to be made after the 37th day from the bill of lading date when required by Sellers.
(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of

Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.

(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.

(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

(h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

13. **INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.:-

(a) Risks Covered: -

Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
War Clauses (Cargo)	- Section 4 of Form 72
Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

(b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.

(c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.

(d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

14. **DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account, unless otherwise provided.

15. **DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'

196 account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be
197 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
198 time of contract.
199

200 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
201 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
202 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or
203 their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If
204 final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which
205 case the Deficiency Clause will not apply).
206

207 **17. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
208 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
209

210 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No. 124,
211 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship
212 or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of
213 loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
214 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
215

216 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
217 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
218 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
219 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
220 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
221 therefor and, if required, Sellers must produce proof to justify the cancellation.
222

223 **20. LA PLATA LOADING STRIKE -**

224 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment
225 or at any time during guaranteed contract period if such be less than 28 days, by reason of civil and/or military commotions, strikes or
226 lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be
227 entitled at the termination of such civil and/or military commotions, strikes or lock-outs to as much time, not exceeding 28 days, for
228 shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the civil and/or military
229 commotions, strikes or lock-outs, and in the event of the time left for shipment under the contract being 14 days or less, a minimum
230 extension of 14 days shall be allowed. In the event of further civil and/or military commotions, strikes or lock-outs occurring during
231 the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of the foregoing
232 paragraph, the additional extension allowed shall be limited to the actual duration of such further civil and/or military commotions,
233 strikes or lock-outs. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred. The
234 extensions under the foregoing provisions shall be limited to a total period of 60 days and the contract shall be considered void at the
235 end of such period if shipment is still prevented by civil and/or military commotions, strikes or lockouts.

236 (b) The Shipper shall serve a notice naming the port or ports not later than 2 business days after the last day of guaranteed time for
237 shipment if he intends to claim an extension of time for shipment, such notice shall limit the ports for shipment after expiry of
238 contract period to those from which extension is claimed.

239 (c) The official Certificate of The Bolsa de Comercio of Buenos Aires or of Rosario, or of the principal Customs Official at port
240 or ports of loading countersigned by The Bolsa de Comercio of Buenos Aires or of Rosario, certifying the existence and duration
241 of civil and/or military commotion, strike or lock-out causing the delay shall be attached to shipping documents.

242 (d) Notices of the outbreak and termination of civil and/or military commotion strike or lockout shall be sent by the Centro de
243 Cereales to GAFTA within 5 days of each event.
244

245 **21. PRO RATA-**

246 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
247 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
248 shall be necessary.

249 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
250 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
251 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
252 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
253 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

254 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
255 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
256 those Receivers who did not receive their full invoiced quantity.

257 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
258 price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
259 without taking into consideration the above pro-rata apportionment between Receivers.

260 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess
261 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
262 resulting from this settlement.

263 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
264 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
265 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
266 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
267 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

268 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port

- 269 of destination, such price to be fixed by arbitration unless mutually agreed.
270 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
271 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
272 weight.
273 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
274 where applicable, take precedence over sub-clauses (b) to (h) above.
275 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
276 than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
277 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
278 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
279 market prices on the last day of discharge in the respective ports.
280
- 281 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
282 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
283 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
284 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
285 shipment). Different currencies shall not invalidate the circle. Subject to the terms of the Prohibition Clause in the contract, if the
286 goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity
287 shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers'
288 invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day
289 for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15
290 consecutive days after the circle is ascertained.
291 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
292 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
293 differences between the market price and the relative contract price in currency of the contract.
294 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
295 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
296 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
297 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
298 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
299 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
300 make payment to their Buyers of the difference between the closing out price and the contract price.
301
- 302 **23. NOTICES** – All Notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible
303 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
304 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
305 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
306 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
307 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
308 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
309 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
310
- 311 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
312 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
313 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
314 thereafter. The period of shipment shall not be affected by this clause.
315
- 316 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
317 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter to sell or purchase, as
318 the case may be, against the defaulter, and such sale or purchase shall establish the default price.
319 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
320 agreed, then the assessment of damages shall be settled by arbitration.
321 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
322 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
323 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
324 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
325 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
326 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
327 mean contract quantity.
328 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
329 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
330 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
331 day for appropriation laid down in the contract, the Seller shall be deemed to be in default and the default date shall then be the first
332 business day thereafter.
333
- 334 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
335 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
336 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
337 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
338 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
339 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a

340 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
341 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
342 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
343 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
344 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
345 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
346 ruling on the first business day after the date when the Act of Insolvency occurred.

347 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
348 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
349 receivable under this contract.

350
351 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
352 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
353 purpose of enforcing any award made in pursuance of the Arbitration clause of this contract, the Courts of England shall have
354 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
355 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
356 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
357 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
358 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
359 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
360 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
361 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
362 any rule of law or equity to the contrary notwithstanding.

363
364 **28. ARBITRATION-**
365 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
366 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
367 shall be deemed to be cognisant.
368 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
369 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
370 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
371 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
372 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
373 any such dispute.

374
375 **29. INTERNATIONAL CONVENTIONS-**
376 The following shall not apply to this contract: -
377 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
378 Sales Act 1967;
379 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
380 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
381 of 1980.
382 (d) Incoterms.
383 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
384 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR LA PLATA GRAIN PARCELS IN BULK OR BAGS RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9 in bulk and/or in bags. If in bags, then the bags to be of suitable strength to withstand ordinary wear and tear to port of

10 destination. Such bags to be taken and paid for as goods.

11

12 **2. QUANTITY** 2% more or less.

13 Sellers shall have the option of shipping a further 3%, more or less on contract quantity, excess or deficiency over the above

14 2%, shall be settled at the CIF price on the date of the bill of lading, and on the quantity thereof; value to be fixed by arbitration,

15 unless mutually agreed. In the event of more than one shipment being made each shipment to be considered a separate contract,

16 but the margin on the mean quantity sold not to be affected thereby.

17

18 **3. PRICE AND DESTINATION - At**

19 * per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight to

21 * per ton of 1016 kilograms or 2240 lbs. }
22 }

23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

24 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

25 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not

26 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27

28 **5. QUALITY-**

29 * **Warranted to contain** at time and place of discharge.

30

31 * **Natural weight-** of kilograms per hectolitre guaranteed at time and place of to be

32 ascertained and allowances determined according to the GAFTA Sampling Rules No. 124.

33

34 * **Official** certificate of inspection, or certification of inspection of at time and place of

35 loading into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a

36 higher grade of grain of the same colour and description.

37

38 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by

39 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no

40 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair

41 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the

42 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and

43 shall be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of

44 such sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this

45 contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the

46 Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no

47 allowance for quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.

48

49 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of; the

50 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

51 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may

52 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

53 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
54 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
55 of an improper shipment.

56
57 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
58 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
59 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
60 shall be accepted as being in both halves of the month.

61
62 **7. PORTS OF SHIPMENT-** from a port or ports in the Argentine Republic and/or Uruguay. Vessels loaded in the area of
63 kilometre 52 to be considered as if loaded at Buenos Aires and/or La Plata.

64
65 **8. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply:-
66 (a) Position of the vessel is mutually agreed between Buyers and Sellers;
67 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
68 (c) Appropriation Clause cancelled if sold "shipped".

69
70 **9. SHIP'S CLASSIFICATION-** Shipment direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the
71 carriage of the contract goods, classed in accordance with the Institute Classification Clause of the Institute of London
72 Underwriters Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's
73 Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels

74
75 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
76 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
77 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
78 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
79 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 80 1 to 4 additional days, 0.50%;
81 5 or 6 additional days, 1%;
82 7 or 8 additional days 1.50% of the gross contract price.

83 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
84 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
85 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
86 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
87 basis of such reduced price.

88
89 **11. APPROPRIATION-**

90 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
91 of the bill of lading.

92 (b) The notice of appropriation shall within (i) 10 consecutive days from the date of the bill(s) of lading be served by or on
93 behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
94 Clause shall not apply.

95 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
96 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
97 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
98 appropriation shall be deemed to be in time if served: -

99
100 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

101
102 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

103 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
104 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
105 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
106 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
107 Brokers.

108 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
109 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
110 prevail.

111 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
112 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

113 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
114 shall be borne by Sellers.

115 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

116 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
117 expenses for sampling, analysis and lighterage incurred thereby at port of discharge

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12. PAYMENT-

- (a) **Payment**% of invoice amount by cash in in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 37 days from the date of the bill of lading, payment, unless already made, to be made after the 37th day from the bill of lading date when required by Sellers.
- (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
- (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.
- (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.
- (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.
- (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.
- (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.
- (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
- (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

13. INSURANCE- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.: -

- (a) Risks Covered: -
- | | |
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| Cargo Clauses (WA) with average payable, with 3% franchise or better terms | - Section 2 of Form 72 |
| War Clauses (Cargo) | - Section 4 of Form 72 |
| Strikes, Riots and Civil Commotions Clauses (Cargo) | - Section 5 of Form 72 |
- (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.
- (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.
- (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.
- (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
- (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
- (g) Currency of Claims - Claims to be paid in the currency of the contract.
- (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by

183 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
184 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
185 whichever may be the later, otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable.
186 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
187 London at time of shipment.

188 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
189 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
190 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
191 against the insurers in respect of such matters.
192

193 **14. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
194 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
195 unless otherwise provided.
196

197 **15. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
198 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
199 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
200 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary
201 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be
202 permitted unless specifically excluded at time of contract.
203

204 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
205 contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place
206 of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
207 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
208 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
209 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
210

211 **17. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
212 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
213

214 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
215 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
216 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
217 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling
218 of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
219 GAFTA Register of Analysts.
220

221 **19. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the
222 season's crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination
223 damaged or out of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on
224 the contract price to be fixed by arbitration unless mutually agreed.
225

226 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
227 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum
228 recovered under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in
229 connection with the claim shall be deducted.
230

231 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters
232 for preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in
233 addition documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as
234 Sellers may be unable to recover in consequence.
235

236 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
237 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
238 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
239 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
240 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
241 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
242

243 **21. LA PLATA LOADING STRIKES-**

244 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
245 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of civil and/or military
246 commotions, strikes or lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports,
247 then the Shipper shall be entitled at the termination of such civil and/or military commotions, strikes or lock-outs to as much
248 time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the

249 outbreak of the civil and/or military commotions, strikes or lock-outs, and in the event of the time left for shipment under the
250 contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further civil and/or military
251 commotions, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by
252 reason of the operation of the provisions of the foregoing, the additional extension allowed shall be limited to the actual duration
253 of such further civil and/or military commotions, strikes or lock-outs. In case of non-fulfilment under the above conditions the
254 date of default shall be similarly deferred. The extensions under the foregoing provisions shall be limited to a total period of 60
255 days and the contract shall be considered void at the end of such period if shipment is still prevented by civil and/or military
256 commotions, strikes or lockouts.

257 (b) The Shipper shall serve notice naming the port or ports not later than 2 business days after the last day of guaranteed time for
258 shipment if he intends to claim an extension of time for shipment, such notice shall limit the port(s) for shipment after expiry of
259 contract period to those from which extension is claimed. All such notices shall be passed on in due course.

260 (c) The official Certificate of The Bolsa de Comercio of Buenos Aires or of Rosario, or of the principal Customs Official at port
261 or ports of loading countersigned by The Bolsa de Comercio of Buenos Aires or of Rosario, certifying the existence and
262 duration of civil and/or military commotion, strike or lock-out causing the delay shall be attached to shipping documents.

263 (d) Notices of the outbreak and termination of civil and/or military commotion, strike or lock-out shall be sent by the Centro
264 de Cereales to GAFTA within 5 days of each event.

265
266 **22. PRO RATA-**

267 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
268 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
269 or distinction shall be necessary.

270 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
271 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of
272 this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
273 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
274 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or
275 their Representatives.

276 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
277 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
278 delivered to those receivers who did not receive their full invoiced quantity.

279 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
280 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
281 Sellers without taking into consideration the above pro-rata apportionment between Receivers.

282 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall
283 be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from
284 this settlement.

285 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall
286 be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
287 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
288 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
289 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

290 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
291 port of destination, such price to be fixed by arbitration unless mutually agreed.

292 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
293 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on
294 the pro-rata weight.

295 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA,
296 where applicable, take precedence over sub-clauses (b) to (h) above.

297 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
298 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
299 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
300 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
301 shall be the average of the market prices on the last day of discharge in the respective ports.

302
303 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
304 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
305 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
306 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
307 during the same period of shipment). Different currencies shall not invalidate the circle.

308 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
309 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
310 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
311 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
312 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
313 ascertained.

314 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market

315 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
316 payment of the differences between the market price and the relative contract price in currency of the contract.

317 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
318 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
319 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
320 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
321 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
322 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
323 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
324 contract price.

325
326 **24. NOTICES** - All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
327 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex,
328 or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the
329 proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the
330 case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
331 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
332 without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day
333 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
334 notice under this contract.

335
336 **25. NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
337 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
338 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
339 business day thereafter. The period of shipment shall not be affected by this clause.

340
341 **26. DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply: -
342 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or
343 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
344 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
345 mutually agreed, then the assessment of damages shall be settled by arbitration.
346 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
347 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
348 above.
349 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
350 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
351 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
352 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
353 of the mean contract quantity.
354 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
355 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
356 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after
357 the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then
358 be the first business day thereafter.

359
360 **27. INSOLVENCY**- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
361 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
362 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
363 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
364 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
365 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
366 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
367 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
368 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
369 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
370 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
371 option of declaring the Contract closed out at either the market price on the first business day after the date when such party first
372 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
373 Act of Insolvency occurred.
374 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
375 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
376 amount payable or receivable under this contract.

377
378 **28. DOMICILE**- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
379 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
380 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England

381 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
382 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
383 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
384 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
385 and Feed Trade Association, England, and any party residing or carrying on business in Scotland shall be held to have
386 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction
387 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same
388 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
389 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
390

391 **29. ARBITRATION-**

392 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
393 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
394 parties hereto shall be deemed to be cognisant.

395 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
396 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
397 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
398 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
399 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
400 the other of them in respect of any such dispute.
401

402 **30. INTERNATIONAL CONVENTIONS-**

403 The following shall not apply to this contract: -

404 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
405 International Sales Act 1967;

406 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

407 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
408 Protocol of 1980.

409 (d) Incoterms.

410 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
411 under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR LA PLATA GRAIN IN BULK PARCELS RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS**

9 Sellers have the option of shipping up to 10% in bags for safe stowage; such bags to be taken and paid for as grain.

10

11 **2. QUANTITY** - 2% more or less.

12 Sellers shall have the option of shipping a further 3% more or less on contract quantity, excess or deficiency over the above 2% shall

13 be settled at the CIF price on the date of the bill of lading, and on the quantity thereof; the value to be fixed by arbitration, unless

14 mutually agreed. In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the

15 margin of the mean quantity sold shall not be affected thereby.

16

17 **3. PRICE AND DESTINATION** - At

18 * per tonne of 1000 kilograms }
19 } gross weight, cost, insurance and freight to

20 * per ton of 1016 kilograms or 2240 lbs. }
21 }

22

23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

24 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the

25 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated

26 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27

28 **5. QUALITY-**

29 * **Warranted to contain** at time and place of discharge.

30

31 * **Official** certificate of inspection, or certification of inspection of at time and place of loading into

32 the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain

33 of the same colour and description.

34 * **F.A.Q.** (fair average quality) of the season's shipments at time and place of loading, to be assessed upon the basis of, and by

35 comparison with GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.

36 Standard being established by the Association, the Arbitrator(s) shall in his/their discretion decide what is the fair average quality.

37 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper

38 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the

39 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid

40 half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports

41 adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q.

42 Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be entitled

43 to the full difference in value.

44 * **Sample**, at time and place of shipment about as per sealed sample marked..... in possession of; the

45 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

46

47 * **Natural weight** of kilograms per hectolitre

48

49 guaranteed at time and place of and shall be

50 ascertained and allowances determined according to the GAFTA Sampling Rules No. 124.

51 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may

52 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

53 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
54 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
55 improper shipment.

56
57 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
58 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date
59 of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be
60 accepted as being in both halves of the month.

61
62 **7. PORTS OF SHIPMENT-** from a port or ports in the Argentine Republic and/or Uruguay. Vessels loaded in the area of kilometre 52
63 to be considered as if loaded at Buenos Aires and/or La Plata.

64
65 **8. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

66 (a) Position of vessel is mutually agreed between Buyers and Sellers;

67 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;

68 (c) Appropriation Clause cancelled if sold "shipped".

69
70 **9. SHIP'S CLASSIFICATION-** Shipment to be made direct or indirect, with transshipment provided that through bill(s) of lading are
71 tendered, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with
72 the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

73
74 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
75 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
76 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

77 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
78 which the originally stipulated period is exceeded, in accordance with the following scale: -

79 1 to 4 additional days, 0.50%;

80 5 or 6 additional days, 1%;

81 7 or 8 additional days 1.50% of the gross contract price.

82 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
83 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
84 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
85 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

86
87 **11. APPROPRIATION-**

88 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
89 bill of lading.

90 (b) The notice of appropriation shall within 10 consecutive days from the date of the bill(s) of lading be served by or on behalf of
91 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
92 not apply.

93 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
94 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
95 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
96 deemed to be in time if served: -

97
98 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

99 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

100 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
101 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
102 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
103 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

104 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
105 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

106 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
107 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

108 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
109 borne by Sellers.

110 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

111 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
112 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

113
114
115 **12. PAYMENT-**

116 (a) **Payment** % of invoice amount by cash in

117 in exchange for and on presentation of shipping documents.

119 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
120 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
121 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
122 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
123 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
124 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

125 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
126 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
127 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
128 are eventually available.

129 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
130 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
131 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
132 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
133 shipping documents are eventually available.

134 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
135 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
136 countersigned, if required by Buyers, by a recognised bank.

137 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
138 event any additional collection costs shall be borne by Buyers.

139 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
140 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
141 respect thereto.

142 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
143 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

144 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
145 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
146 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
147 clause do not override the parties' contractual obligation under sub-clause (a).

148
149 **13. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
150 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account, unless
151 otherwise provided.
152

153 **14. DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
154 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of
155 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
156 account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be
157 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
158 time of contract.
159

160 **15. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless
161 otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers'
162 expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents
163 for weighing. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and
164 expense, (in which case the Deficiency Clause will not apply).
165

166 **16. DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
167 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
168

169 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No. 124,
170 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
171 ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place
172 of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
173 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
174

175 **18. RYE TERMS**- Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the season's
176 crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination damaged or out
177 of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on the contract price to be
178 fixed by arbitration unless mutually agreed.
179

180 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
181 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum recovered
182 under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in connection with the
183 claim shall be deducted.
184

185 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters for
186 preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in addition
187 documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as Sellers may be
188 unable to recover in consequence.

189
190 **19. PRO RATA-**

191 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
192 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
193 shall be necessary.

194 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
195 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
196 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
197 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
198 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

199 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
200 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
201 those Receivers who did not receive their full invoiced quantity.

202 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
203 price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
204 without taking into consideration the above pro-rata apportionment between Receivers.

205 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be
206 settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this
207 settlement.

208 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
209 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
210 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
211 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
212 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

213 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
214 of destination, such price to be fixed by arbitration unless mutually agreed.

215 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
216 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
217 weight.

218 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
219 where applicable, take precedence over sub-clauses (b) to (h) above.

220 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
221 than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
222 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
223 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
224 market prices on the last day of discharge in the respective ports.

225
226 **20. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
227 GAFTA Insurance Terms No. 72 viz.: -

228 (a) Risks Covered: -

229 Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
230 War Clauses (Cargo)	- Section 4 of Form 72
231 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

232 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
233 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
234 process in London, but for whose solvency Sellers shall not be responsible.

235 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
236 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
237 Buyers.

238 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
239 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
240 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
241 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
242 if the C.I.F. value plus 2% were insured from the time of shipment.

243 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
244 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
245 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
246 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
247 recognised bank, or by any other guarantor who is acceptable to Buyers.

248 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
249 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
250 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

251 (g) Currency of Claims - Claims to be paid in the currency of the contract.

252 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
253 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
254 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
255 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
256 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
257 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

258 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
259 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
260 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
261 in respect of such matters.
262

263 **21. PROHIBITION** - In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
264 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, or
265 of the country from which the contractual goods are normally shipped, restricting export, whether partially or otherwise, any such
266 restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent
267 fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof
268 shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to
269 justify the cancellation.
270

271 **22. LA PLATA LOADING STRIKE** -

272 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
273 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of civil and/or military
274 commotions, strikes or lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such or port(s), then
275 the Shipper shall be entitled at the termination of such civil and/or military commotions, strikes or lock-outs to as much time, not
276 exceeding 28 days, for shipment from such port(s) as was left for shipment under the contract prior to the outbreak of the civil
277 and/or military commotions, strikes or lock-outs, and in the event of the time left for shipment under the contract being 14 days or
278 less, a minimum extension of 14 days shall be allowed. In the event of further civil and/or military commotions, strikes or lock-
279 outs occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the
280 provisions of the foregoing, the additional extension allowed shall be limited to the actual duration of such further civil and/or
281 military commotions, strikes or lock-outs. In case of non-fulfilment under the above conditions the date of default shall be
282 similarly deferred. The extensions under the foregoing provisions shall be limited to a total period of 60 days and the contract
283 shall be considered void at the end of such period if shipment is still prevented by civil and/or military commotions, strikes or
284 lockouts.

285 (b) The Shipper shall serve a notice naming the port(s) not later than 2 business days after the last day of guaranteed time for shipment
286 if he intends to claim an extension of time for shipment, such notice shall limit the port(s) for shipment after expiry of contract period
287 to those from which extension is claimed. All such notices shall be passed on in due course.

288 (c) The official Certificate of The Bolsa de Comercio of Buenos Aires or of Rosario, or of the principal Customs Official at port(s) of
289 loading countersigned by The Bolsa de Comercio of Buenos Aires or of Rosario, certifying the existence and duration of civil and/or
290 military commotion, strike or lock-out causing the delay shall be attached to shipping documents.

291 (d) Notices of the outbreak and termination of civil and/or military commotion strike or lockout shall be sent by the Centro de
292 Cereales to GAFTA within 5 consecutive days of each event.
293

294 **23. NOTICES**- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
295 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
296 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
297 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
298 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
299 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
300 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
301 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
302

303 **24. NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
304 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
305 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
306 thereafter. The period of shipment shall not be affected by this clause.
307

308 **25. DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply: -

309 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase,
310 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

311 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
312 agreed, then the assessment of damages shall be settled by arbitration.

313 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
314 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

315 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
316 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

317 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
318 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the

319 mean contract quantity.
320 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
321 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
322 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
323 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
324 business day thereafter.
325

326 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
327 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
328 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
329 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
330 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
331 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
332 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
333 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
334 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
335 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
336 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
337 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
338 ruling on the first business day after the date when the Act of Insolvency occurred.
339 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
340 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
341 receivable under this contract.
342

343 **27. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
344 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
345 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
346 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
347 shipment). Different currencies shall not invalidate the circle.
348 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
349 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
350 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
351 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
352 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
353 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
354 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
355 differences between the market price and the relative contract price in currency of the contract.
356 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
357 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
358 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
359 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
360 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
361 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
362 make payment to their Buyers of the difference between the closing out price and the contract price.
363

364 **28. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
365 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
366 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
367 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
368 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
369 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
370 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
371 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
372 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
373 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
374 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
375 service, any rule of law or equity to the contrary notwithstanding.
376

377 **29. ARBITRATION-**
378 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
379 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
380 shall be deemed to be cognisant.
381 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
382 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
383 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
384 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
385

386 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
387 any such dispute.

388
389 **30. INTERNATIONAL CONVENTIONS-**

390 The following shall not apply to this contract: -

391 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
392 Sales Act 1967;

393 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

394 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
395 of 1980.

396 (d) Incoterms.

397 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
398 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.43

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SOUTH AMERICAN OFFAL PARCELS IN BULK RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 Have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-** 5% more or less. In the event of more than one shipment being made, each
11 shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

12
13 **3. PRICE AND DESTINATION-** At

14 * per tonne of 1000 kilograms }

15 } gross weight, cost, insurance and freight to

16 * per ton of 1016 kilograms or 2240 lbs. }

17
18 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
19 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
20 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
21 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

22
23 **5. QUALITY-**

24 * **Warranted to contain** at time and place of discharge.

25
26 * **Official** certificate of inspection, or certification of inspection of at time and place of
27 loading into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher
28 grade of grain of the same colour and description.

29
30 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of
31 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

32 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
33 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

34 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
35 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
36 improper shipment.

37
38 **6. PERIOD OF SHIPMENT** - As per bill(s) of lading dated or to be dated

39 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
40 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall
41 be accepted as being in both halves of the month.

42
43 **7. PORTS OF SHIPMENT** - From a port or ports in the Argentine Republic and/or Uruguay and/or vessels loaded in the area of
44 kilometre 52 to be considered as if loaded at Buenos Aires and/or La Plata.

45
46 **8. SALES BY NAMED VESSELS** - For all sales by named vessels, the following shall apply: -

47 (a) Position of vessel is mutually agreed between Buyers and Sellers;

48 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;

49 (c) Appropriation Clause cancelled if sold "shipped".

50
51 **9. SHIP'S CLASSIFICATION** - Shipment to be made direct or indirect, with transshipment, provided that through bill(s) of lading
52 are tendered, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in
53 accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

55 **10. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
56 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following
57 the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
58 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
59 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 60 1 to 4 additional days, 0.50%;
- 61 5 or 6 additional days, 1%;
- 62 7 or 8 additional days 1.50% of the gross contract price.

63 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
64 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
65 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall
66 be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of
67 such reduced price.

68 **11. APPROPRIATION-**

69 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of
70 the bill of lading.

71 (b) The notice of appropriation shall within 10 consecutive days from the date of the bill(s) of lading be served by or on behalf of
72 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
73 not apply.

74 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on
75 their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent
76 Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation
77 shall be deemed to be in time if served: -

78 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

79 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

80 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
81 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
82 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
83 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

84 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
85 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

86 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
87 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

88 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
89 borne by Sellers.

90 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

91 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
92 for sampling, analysis and lighterage incurred thereby at port of discharge

93 **12. PAYMENT-**

94 (a) **Payment** % of invoice amount by cash in in
95 exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers'
96 option, but if the ship shall not have arrived within 37 days from the date of the bill of lading, payment, unless already made, to
97 be made after the 37th day from the bill of lading date when required by Sellers.

98 (b) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
99 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
100 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
101 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
102 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
103 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

104 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
105 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
106 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
107 are eventually available.

108 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
109 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
110 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
111 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
112 shipping documents are eventually available.

113 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
114 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
115 countersigned, if required by Buyers, by a recognised bank.

116 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
117 event any additional collection costs shall be borne by Buyers.

118 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
119 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
120 respect thereto.

124 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
125 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
126 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
127 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
128 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
129 clause do not override the parties' contractual obligation under sub-clause (a).
130

131 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
132 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
133 unless otherwise provided.
134

135 **14. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
136 GAFTA Insurance Terms No. 72, viz.: -

137 (a) Risks Covered: -

138 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

139 War Clauses (Cargo) - Section 4 of Form 72

140 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

141 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
142 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
143 address for service of process in London, but for whose solvency Sellers shall not be responsible.

144 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable
145 on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable
146 by Buyers.

147 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
148 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
149 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
150 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in
151 the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

152 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
153 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
154 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
155 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be
156 guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

157 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
158 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
159 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

160 (g) Currency of Claims - Claims to be paid in the currency of the contract.

161 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
162 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters.

163 Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the
164 date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be
165 the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to
166 provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of
167 shipment.

168 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
169 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
170 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
171 against the Insurers in respect of such matters.
172

173 **15. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
174 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
175 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
176 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary
177 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted
178 unless specifically excluded at time of contract.
179

180 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
181 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
182 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
183 or their agents for weighing. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers'
184 choice and expense, (in which case the Deficiency Clause will not apply).
185

186 **17. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
187 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
188

189 **18. SAMPLING, ANALYSIS, AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
190 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from
191 the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and
192 place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the
193 GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
194

195 **19. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the season's

196 crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination damaged or out
197 of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on the contract price to be
198 fixed by arbitration unless mutually agreed.
199

200 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
201 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum recovered
202 under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in connection with the
203 claim shall be deducted.
204

205 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters for
206 preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in addition
207 documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as Sellers may be
208 unable to recover in consequence.
209

210 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
211 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
212 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
213 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
214 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
215 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
216

217 **21. LOADING STRIKE-**

218 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment
219 or at any time during guaranteed contract period if such be less than 28 days, by reason of civil and/or military commotions, strikes or
220 lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shippers shall be
221 entitled at the termination of such civil and/or military commotions, strikes or lock-outs to as much time, not exceeding 28 days, for
222 shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the civil and/or military
223 commotions, strikes or lock-outs, and in the event of the time left for shipment under the contract being 14 days or less, a minimum
224 extension of 14 days shall be allowed. In the event of further civil and/or military commotions, strikes or lock-outs occurring during
225 the time by which the guaranteed time of shipment has been extended by reason of the operation of the foregoing provisions, the
226 additional extension allowed shall be limited to the actual duration of such further civil and/or military commotions, strikes or lock-
227 outs. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred. The extensions under the
228 foregoing provisions shall be limited to a total period of 60 days and the contract shall be considered void at the end of such period if
229 shipment is still prevented by civil and/or military commotions, strikes or lock-outs.

230 (b) The Shipper shall serve a notice naming the mill or mills, or port or ports, not later than 2 business days after the last day of
231 guaranteed time for shipment if he intends to claim an extension of time for shipment, such notice shall limit the mill or mills, or
232 port or ports for shipment after expiry of contract period to those from which an extension is claimed.

233 (c) The official Certificate of The Bolsa de Comercio of Buenos Aires or of Rosario, or of the principal Customs Official at port
234

235 or ports of loading countersigned by The Bolsa de Comercio of Buenos Aires or of Rosario, or of
236 certifying the existence and duration of civil and/or military commotion, strike or lock-out causing the delay shall be attached to
237 the shipping documents.

238 (d) Notices of the outbreak of termination of civil and/or military commotions, strike and lock-out shall be sent by The Centro de
239

240 Cereales or by to GAFTA, within 5 days of each event. In the event of mill or mills being specified
241 as the manufacturers of the goods, then in case of civil and/or military commotions, strikes or lock-outs, fire or any accidents,
242 causing the stoppage of the mill or mills, the Sellers may postpone the fulfilment of the contract for a period corresponding with
243 the continuance of such stoppage, provided that if fulfilment shall be postponed for more than one calendar month the portion of
244 the contract affected by the delay shall be cancelled without compensation to either Buyers or Sellers.
245

246 **22. PRO RATA-**

247 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags
248 of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or
249 distinction shall be necessary.

250 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
251 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this
252 not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
253 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
254 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their
255 Representatives.

256 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
257 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
258 delivered to those Receivers who did not receive their full invoiced quantity.

259 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
260 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
261 Sellers without taking into consideration the above pro-rata apportionment between Receivers.

262 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be
263 settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this
264 settlement.

265 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
266 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
267 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the

268 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
269 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

270 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
271 port of destination, such price to be fixed by arbitration unless mutually agreed.

272 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
273 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
274 pro-rata weight.

275 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
276 shall, where applicable, take precedence over sub-clauses (b) to (h) above.

277 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
278 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
279 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.
280 Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
281 shall be the average of the market prices on the last day of discharge in the respective ports.

282

283 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
284 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
285 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
286 of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during
287 the same period of shipment). Different currencies shall not invalidate the circle.

288 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
289 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
290 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
291 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
292 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
293 ascertained.

294 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
295 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
296 payment of the differences between the market price and the relative contract price in currency of the contract.

297 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
298 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
299 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract.

300 Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this
301 contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause,
302 which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers
303 shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing
304 out price and the contract price.

305

306 **24. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible
307 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
308 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
309 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
310 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
311 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
312 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
313 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

314

315 **25. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
316 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
317 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
318 business day thereafter. The period of shipment shall not be affected by this clause.

319

320 **26. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

321 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or
322 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

323 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
324 mutually agreed, then the assessment of damages shall be settled by arbitration.

325 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
326 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
327 above.

328 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
329 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

330 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
331 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
332 of the mean contract quantity.

333 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
334 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
335 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
336 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be
337 the first business day thereafter.

338

339 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
340 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting

341 of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver
342 or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation)
343 become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented
344 against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency
345 shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
346 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing
347 the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the
348 contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has
349 not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring
350 the contract closed out at either the market price on the first business day after the date when such party first learnt of the
351 occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of
352 Insolvency occurred.

353 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
354 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
355 amount payable or receivable under this contract.
356

357 **28. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
358 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
359 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
360 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
361 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of
362 appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party
363 shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association,
364 (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction
365 against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the
366 decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain
367 and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be
368 deemed good service, any rule of law or equity to the contrary notwithstanding.
369

370 **29. ARBITRATION-**

371 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
372 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
373 parties hereto shall be deemed to be cognisant.

374 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
375 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
376 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the
377 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of
378 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other
379 of them in respect of any such dispute.
380

381 **30. INTERNATIONAL CONVENTIONS-**

382 The following shall not apply to this contract: -

383 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
384 Sales Act 1967;

385 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

386 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
387 Protocol of 1980.

388 (d) Incoterms.

389 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
390 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR THE SHIPMENT OF GOODS FROM CENTRAL AND EASTERN EUROPE IN BULK PARCELS OR CARGOES TALE QUALE - CIF TERMS

**delete/specify as appropriate*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9 Sellers shall have the option of shipping up to 10 % in bags for safe stowage, such bags to be taken and paid for as goods. Such bags

10 shall not at any time have contained any potentially injurious material.

11

12 **2. QUANTITY-** 5% more or less.

13 In the event of the quantity contracted being for a full and complete cargo and/or cargoes the margin of contract quantity to be 10 %

14 more or less, excess or deficiency over 5% to be settled at the c.i.f. price on the date of the last bill of lading and on the quantity

15 thereof; the value to be fixed by arbitration, unless mutually agreed. In the event of more than one shipment being made each shipment

16 to be considered a separate contract, but the margin on the mean quantity sold not to be affected thereby.

17

18 **3. PRICE AND DESTINATION - At**

19 * per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight to

21 * per ton of 1016 kilograms or 2240 lbs. }
22 }

23 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost

24 or not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

25 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods

26 are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27

28 **5. QUALITY-**

29 **Specifications**

30

31 To be certified by

32 Certificate of inspection at time of loading shall be final as to quality.

33 **Condition-** Shipment shall be made in good condition.

34

35 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

36 The bill(s) of lading to be dated when the goods are actually on board. Date of the Bill(s) of lading to be considered proof of date of

37 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted

38 as belonging to both halves of the month

39

40 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

41 (a) Position of vessel is mutually agreed between Buyers and Sellers;

42 (b) The "now" to be inserted before the word "classed" in the Shipment and Classification Clause;

43 (c) Appropriation Clause cancelled if sold "shipped".

44

45 **8. SHIPMENT AND CLASSIFICATION-** Shipment from

46 by first class mechanically self-propelled vessel(s) classed in accordance with the Institute Classification Clause of the International

47 Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register

48 or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

49

50 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
51 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
52 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
53 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
54 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 55 1 to 4 additional days, 0.50%;
- 56 5 or 6 additional days, 1%;
- 57 7 or 8 additional days 1.50% of the gross contract price.

58 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
59 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
60 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
61 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

62
63 **10. APPROPRIATION-**

64 (a) Notice of appropriation shall state the vessel's name, the port of shipment, the approximate weight shipped, and the date or the
65 presumed date of the bill of lading.

66 (b) The notice of appropriation shall within 3 business days from the date of the last bill(s) of lading be served by or on behalf of
67 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
68 not apply.

69 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
70 Buyers or on the Selling Agent or Brokers named in the contract. Should the Shipper's Notice of Appropriation be delayed beyond
71 the said 3 business days through any cause beyond his control, the Shipper's Representative or Agent or Brokers, shall serve notice on
72 Buyers in due course after receipt but in no case later than 24 hours after receiving the shipping documents. If notice of appropriation
73 is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading,
74 their notice of appropriation shall be deemed to be in time if served: -

- 75 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
- 76 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

77 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
78 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
79 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
80 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

81 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
82 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

83 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
84 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

85 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
86 borne by Sellers.

87 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

88 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
89 for sampling, analysis and lighterage incurred thereby at port of discharge

90
91
92 **11. PAYMENT-**

93 (a) **Payment**% of invoice amount by cash in

94 (b) * in exchange for and on presentation of shipping documents;

95 * in exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

96
97 Sellers, however, have the option of calling upon Buyers to take up and pay for the documents on or after
98 consecutive days from the date of the bill(s) of lading.

99 (c) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
100 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
101 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
102 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
103 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
104 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

105 (d) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
106 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
107 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
108 are eventually available.

109 (e) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
110 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
111 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
112 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
113 shipping documents are eventually available.

114 (f) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
115 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
116 by Buyers, by a recognised bank.

- 117 (g) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
 118 event any additional collection costs shall be borne by Buyers.
- 119 (h) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
 120 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
 121 thereto.
- 122 (i) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
 123 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
- 124 (j) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
 125 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
 126 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
 127 override the parties' contractual obligation under sub-clause (a).
- 128
- 129 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc. present or future, up to and including port of loading, shall
 130 be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
- 131
- 132 **13. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
 133 GAFTA Insurance Terms No.72 viz.:-
- 134 (a) Risks Covered:-
- 135 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
 136 War Clauses (Cargo) - Section 4 of Form 72
 137 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
- 138 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
 139 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
 140 process in London, but for whose solvency Sellers shall not be responsible.
- 141 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
 142 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
 143 Buyers.
- 144 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
 145 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
 146 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
 147 that their policies are so worded that in the case of particular or general average claim the Buyers shall be put in the same position as if
 148 the c.i.f. value plus 2% were insured from the time of shipment.
- 149 (e) Certificates/Policies - Sellers shall serve all policies and/or certificates and/or letters of insurance provided for in this contract,
 150 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
 151 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
 152 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
 153 recognised bank, or by any other guarantor who is acceptable to Buyers.
- 154 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
 155 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
 156 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
- 157 (g) Currency of Claims - Claims to be paid in the currency of the contract.
- 158 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
 159 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
 160 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
 161 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
 162 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
 163 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.
- 164 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
 165 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
 166 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
 167 in respect of such matters.
- 168
- 169 **14. DISCHARGE-** Ship to discharge
 170 Ship to discharge afloat. Discharge by grab(s) shall be permitted unless specifically excluded at time of contract.
- 171
- 172 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
 173 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
 174 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or
 175 their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If
 176 final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which
 177 case the Deficiency Clause will not apply).
- 178
- 179 **16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
 180 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
- 181
- 182 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124,
 183 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
 184 ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place
 185 of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
 186 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

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- 18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situated, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
- 19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
- If after serving such a notice an extension to the shipping period is required, then the Shipper shall serve a notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
- If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
- 20. ICE-** Should ice delay shipment within the period stipulated in the contract, this contract or any unfulfilled part thereof to be fulfilled within three weeks after official re-opening of the navigation. Should the port of destination be in accessible by reasons of ice, any lighterage and/or extra costs to be for Buyers' account.
- 21. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
- 22. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.
- 23. PRO-RATA-**
- (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to one or more port, no separation or distinction shall be necessary.
- (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.
- (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those Receivers who did not receive their full invoiced quantity.
- (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.
- (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.
- (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under the contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within reasonable time.
- (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port

254 of destination, such price to be fixed by arbitration unless mutually agreed.
255 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
256 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
257 weight.
258 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
259 where applicable, take precedence over sub-clauses (b) to (h) above.
260 (j) In the event that sub-clause (a) applies or that goods subsequently become co-mingled, and that the goods were shipped by more
261 than one Shipper and destined for one or more ports of discharge then, after adjustment between Receivers under the terms of this
262 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
263 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
264 market prices on the last day of discharge in the respective ports.
265

266 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
267 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase,
268 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
269 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
270 agreed, then the assessment of damages shall be settled by arbitration.
271 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
272 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
273 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
274 ordinary course of events from defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made by
275 the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
276 his/their sole and absolute discretion think fit.
277 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
278 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
279 mean contract quantity.
280 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
281 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
282 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 4th business day after the last day
283 for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
284 business day thereafter.
285

286 **25. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
287 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
288 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
289 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
290 shipment). Different currencies shall not invalidate the circle.
291 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
292 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
293 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
294 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
295 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
296 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
297 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
298 differences between the market price and the relative contract price in the currency of the contract.
299 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
300 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
301 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
302 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
303 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
304 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
305 make payment to their Buyers of the difference between the closing out price and the contract price.
306

307 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
308 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
309 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
310 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
311 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
312 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
313 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
314 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
315 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
316 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
317 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
318 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
319 ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall
320 have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference

321 between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

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27. DOMICILE- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

28. ARBITRATION-

- (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.
- (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

29. INTERNATIONAL CONVENTIONS-

- The following shall not apply to this contract: -
- (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;
 - (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
 - (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.
 - (d) Incoterms.
 - (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR THE DELIVERY OF GOODS FROM CENTRAL AND EASTERN EUROPE IN BULK OR BAGS FOB TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-** (in bulk or in bags)
9 **Packing** - if in bags, to be uniform weight bags suitable to withstand ordinary wear and tear to destination, such bags to be taken and
10 paid for as goods.

11
12 **2. QUANTITY-** tonnes of 1000 kilograms, plus or minus 5%
13 at Buyers' call. In the event of more than one delivery being made, each delivery shall be considered a separate contract, but the
14 margin on the mean quantity sold shall not be affected thereby. Each mark/parcel shall stand as a separate parcel.

15
16 **3. PRICE-** per tonne of 1000 kilograms gross weight,
17 delivered Free On Board Buyers' Vessel(s) in

18
19
20 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
21 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
22 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
23 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for delivery.

24
25 **5. QUALITY-**
26 **Condition** – delivery shall be made in good condition.

27
28 **6. PERIOD OF DELIVERY**
29 **Delivery during-** at Buyers' call.

30
31 **Nomination of Vessel-** Buyers shall serve not less thanconsecutive days notice of the name and
32 probable readiness date of the vessel and the estimated tonnage required. The Sellers shall have the goods ready to be delivered to
33 the Buyers at any time within the contract period of delivery.

34 Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension shall not
35 be affected thereby. Provided the vessel is presented at the loading port in readiness to load within the delivery period, Sellers
36 shall if necessary complete loading after the delivery period and carrying charges shall not apply. In case of re-sales a provisional
37 notice shall be passed on without delay, where possible, by telephone and confirmed on the same day in accordance with the
38 Notices Clause.

39
40 **7. LOADING** -Loading port

41
42 If a range is given, Sellers to declare port/berth(s)..... days prior to commencement of the delivery period. Vessel(s)
43 to load in accordance with the custom of the port of loading unless otherwise stipulated. Bill of lading shall be considered proof
44 of delivery in the absence of evidence to the contrary.

45
46 **8. EXTENSION OF DELIVERY-** The contract period of delivery shall be extended by an additional period of not more than 21
47 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of
48 the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and

49 other such normal carrying expenses shall be for Buyers' account, unless the vessel presents in readiness to load within the contractual
50 delivery period.

51 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying
52 during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the
53 amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.

54 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring Buyers
55 to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less current FOB
56 charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete delivery of the contract
57 on the part of Sellers.

58
59 **9. INSURANCE-** Marine and war risk insurance including strikes, riots, civil commotions and mine risks to be effected by Buyers with
60 first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation thereof at least 5 consecutive days
61 prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation, Sellers shall have the right to place such insurance
62 at Buyers' risk and expense.

63
64 **10. PAYMENT-**

65 (a) By cash in

66
67 against the following documents

68 (b) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
69 all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved guarantee in
70 respect thereto.

71 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
72 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

73 (d) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
74 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
75 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
76 clause do not override the parties' contractual obligation under sub-clause (a).

77
78 **11. EXPORT LICENCE-** if required, to be obtained by Sellers.

79
80 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin or of the territory
81 where the port or ports of shipment named herein is/are situate, shall be for Sellers' account.

82
83 **13. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
84 behalf of the government of the country of origin of the goods, or of the country from which the goods are to be shipped, restricting
85 export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of
86 such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this
87 contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if
88 required, Sellers must produce proof to justify the cancellation.

89
90 **14. FORCE MAJEURE, STRIKES, ETC.-** Should the execution of this contract or any unfulfilled portion thereof be prevented by a
91 strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, or fire, or any cause comprehended in the
92 term "Force Majeure", provided that notice has been served by Sellers or Buyers, as appropriate, within 7 consecutive days from the
93 occurrence, or not later than 21 days before the commencement of the delivery period, whichever is later, the time for delivery shall be
94 extended for a period of 30 consecutive days. If delivery be delayed for more than 30 consecutive days, Buyers shall have the option of
95 cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later
96 than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be
97 automatically extended for a further period of 30 consecutive days. If delivery under this clause be prevented during the further 30
98 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-delivery
99 under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-
100 fulfilment.

101
102 **15. ICE-**

103 (a) If FOB at an ocean-going port, should delivery or loading of the goods or any part thereof be prevented at any time during the
104 last 30 days of the guaranteed delivery period or at any time during the guaranteed delivery period if such be less than 30 days, by
105 reason of ice at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Sellers shall
106 be entitled, at the termination of such ice, to as much time, not exceeding 21 days, for delivery at such port(s) as was left for
107 delivery under the contract prior to the outbreak of ice, and in the event of the time left for delivery under the contract being 14
108 days or less, a minimum extension of 14 days shall be allowed. In the event of further ice preventing delivery or loading of the
109 goods during the time by which the guaranteed time of delivery has been extended by reason of the operation of the provisions of
110 the foregoing paragraph, the additional extension shall be limited to the actual duration of such ice.

111 (b) If FOB at an up-river port, should delivery or loading of the goods or any part thereof be prevented at any time during the last 30
112 days of the guaranteed delivery period or at any time during the guaranteed delivery period if such be less than 30 days, by reason of
113 ice at port(s) of loading or elsewhere preventing the arrival of the vessel at the load port, then the Buyers shall be entitled at the
114 termination of such ice to as much time, not exceeding 21 days, for delivery at such port(s) as was left for delivery under the contract
115 prior to the outbreak of ice, and in the event of the time left for delivery under the contract being 14 days or less, a minimum

116 extension of 14 days shall be allowed. In the event of further ice preventing delivery or loading of the goods during the time by which
117 the guaranteed time of delivery has been extended by reason of the operation of the provisions of the foregoing paragraph, the
118 additional extension shall be limited to the actual duration of such ice.

119 (c) Buyers shall serve notice not later than 5 business days after the commencement of ice or 5 business days after the commencement
120 of the delivery period whichever is later if they intend to claim an extension of time for delivery under this clause.

121 (d) If required by either party, the other party must provide documentary evidence to establish any claim for extension under this
122 clause.

123 (e) In the case of non-delivery made under the above circumstances the date of default shall be similarly deferred.
124

125 **16. NOTICES**-All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.

126 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
127 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if
128 receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,
129 establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice
130 was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on
131 their respective buyers or vice versa, any notice received after 1600 hours on a business day shall be deemed to have been
132 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
133

134 **17. NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
135 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
136 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
137 thereafter. The period of delivery shall not be affected by this Clause.
138

139 **18. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
140 Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and expense. Buyers
141 have the right to attend at loading.
142

143 **19. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.
144 124, are deemed to be incorporated into this contract. Samples shall be taken at time and place of loading. The parties shall
145 appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of
146 Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts
147

148 **20. DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply: -

149 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
150 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

151 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
152 agreed, then the assessment of damages shall be settled by arbitration.

153 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
154 established under (a) above or upon the actual or estimated value of the goods on the date of default established under (b) above.

155 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
156 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
157 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
158 his/their sole and absolute discretion think fit.

159 (e) Damages, if any, shall be computed on the quantity called for, but if no such quantity has been declared then on the mean
160 contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
161 mean contract quantity.
162

163 **21. CIRCLE**- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
164 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
165 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
166 of the same quality, and, where applicable, of the same analysis warranty, for delivery from the same port(s) of loading during the
167 same period of delivery). Different currencies shall not invalidate the circle.

168 Subject to the terms of the Prohibition Clause in the contract, if the circle is established before the goods are delivered, or if the
169 goods are not delivered, invoices based on the mean contract quantity, or if the goods have been delivered invoices based on the
170 delivered quantity, shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the
171 excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15
172 consecutive days after the last date for delivery, or, should the circle not be ascertained before the expiry of this time, then
173 payment shall be due not later than 15 consecutive days after the circle is ascertained.

174 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
175 price on the first day for contractual delivery and invoices shall be settled between each Buyer and his Seller in the circle by
176 payment of the differences between the market price and the relative contract price in the currency of the contract.

177 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
178 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
179 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle
180 prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in
181 the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for
182 settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or

183 respective Sellers shall make payment to their Buyers if the difference between the closing out price and the contract price.

184
185 **22. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
186 unable to meet debts or that he has suspended or that he is about to suspend payment of his debts, convene, call or hold a meeting of
187 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
188 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation), or have a
189 Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party
190 committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the
191 contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person
192 representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of
193 the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the
194 notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
195 option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt
196 of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of
197 Insolvency occurred.

198 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
199 repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
200 receivable under this contract.

201
202 **23. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
203 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
204 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
205 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
206 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
207 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
208 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
209 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
210 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
211 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
212 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
213 service, any rule of law or equity to the contrary notwithstanding.

214
215 **24. ARBITRATION-**

216 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
217 No.125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
218 shall be deemed to be cognisant.

219 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
220 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
221 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
222 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
223 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
224 any such dispute.

225
226 **25. INTERNATIONAL CONVENTIONS-**

227 The following shall not apply to this contract: -

228 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
229 Sales Act 1967;

230 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

231 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and amending Protocol of
232 1980.

233 (d) Incoterms.

234 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
235 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR BALTIC GRAIN IN BULK OR BAGS PARCELS OR CARGOES RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9 in bulk and/or in bags. If in bags, then the bags to be of suitable strength to withstand ordinary wear and tear to port of
10 destination. Such bags to be taken and paid for as goods.

11

12 **2. QUANTITY**2% more or less

13 Sellers have the option of shipping a further 3% more or less on a parcel, or a further 8% more or less on a cargo, on contract
14 quantity, excess or deficiency over the above 2% to be settled at the CIF price on the date of the last bill of lading, and on the
15 quantity thereof; value to be fixed by arbitration, unless mutually agreed. In the event of more than one shipment being made
16 each shipment to be considered a separate contract, but the margin on the mean quantity sold not to be affected thereby.

17

18 **3. PRICE AND DESTINATION - At**

19 * per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight to

21 * per ton of 1016 kilograms or 2240 lbs. }
22

23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

24 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
25 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
26 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.
27

28 **5. QUALITY-**

29 * **Warranted to contain** at time and place of discharge.

30

31 * **Natural weight** kilograms per hectolitre guaranteed at time and place of

32 to be ascertained according to the GAFTA Sampling Rules No.124.

33

34 * **Admixture-** any admixture of dirt and/or other foreign substances over 2% to be allowed for by Sellers at contract price, but

35 any grain or seed other than the grain contracted for to be reckoned as foreign substances at half their quantity. The

36 percentage of admixture to be determined by GAFTA, or its duly appointed analysts.
37

38 * **Official** certificate of inspection, or certification of inspection of at time and place of loading

39 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher

40 grade of grain of the same colour and description.
41

42 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by

43 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no

44 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair

45 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the

46 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall

47 be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such

48 sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract

49 shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If

50 the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for
51 quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.
52

53 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of;
54 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
55 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
56 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

57 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
58 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
59 of an improper shipment.
60

61 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
62 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
63 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
64 shall be accepted as being in both halves of the month.
65

66 **7. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:-

- 67 (a) Position of vessel is mutually agree between Buyers and Sellers;
- 68 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
- 69 (c) Appropriation Clause cancelled if sold "shipped".
70

71 **8. SHIP'S CLASSIFICATION-** Shipment from
72 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the
73 Institute Classification Clause of the International Underwriting Association in force at time of shipment, excluding tankers and
74 vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
75

76 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an
77 additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business
78 day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
79 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
80 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 81 1 to 4 additional days, 0.50%;
- 82 5 or 6 additional days, 1%;
- 83 7 or 8 additional days 1.50% of the gross contract price.

84 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
85 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
86 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
87 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
88 basis of such reduced price.
89

90 **10. APPROPRIATION-**

91 (a) Notice of appropriation shall state the vessel's name, the port of shipment, the approximate weight shipped, and the date
92 or the presumed date of the bill of lading.
93 (b) The notice of appropriation shall within 3 business days from the date of the last bill(s) of lading be served by or on
94 behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
95 Clause shall not apply.

96 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
97 on their Buyers or on the Selling Agent or Brokers named in the contract. Should the Shipper's Notice of Appropriation be
98 delayed beyond the said 3 business days through any cause beyond his control, the Shipper's Representative or Agent or Brokers,
99 shall serve notice on Buyers in due course after receipt but in no case later than 24 hours after receiving the shipping documents.
100 If notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the
101 date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

102 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

103 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

104 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
105 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
106 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
107 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
108 Brokers.
109

110 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
111 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
112 prevail.

113 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
114 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

115 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses are incurred thereby, such expenses
116 shall be borne by Sellers.

- 117 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
118 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
119 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
120

121 **11. PAYMENT-**

- 122 (a) **Payment** % of invoice amount by cash in
123 exchange for and on presentation of shipping documents.
124 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
125 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
126 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
127 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
128 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
129 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
130 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
131 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
132 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
133 contract when shipping documents are eventually available.
134 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
135 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
136 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
137 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
138 contract when shipping documents are eventually available.
139 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
140 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
141 countersigned, if required by Buyers, by a recognised bank.
142 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
143 in that event any additional collection costs shall be borne by Buyers.
144 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
145 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
146 guarantee in respect thereto.
147 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
148 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
149 Arbitration Rules.
150 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
151 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
152 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
153 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
154

155 **12. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
156 in GAFTA Insurance Terms No.72 viz.: -

- 157 (a) Risks Covered: -
158 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72
159 War Clauses (Cargo) - Section 4 of Form 72
160 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
161 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
162 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
163 address for service of process in London, but for whose solvency Sellers shall not be responsible.
164 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
165 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
166 payable by Buyers.
167 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
168 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
169 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
170 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
171 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.
172 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
173 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
174 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
175 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
176 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
177 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
178 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
179 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
180 (g) Currency of Claims - Claims to be paid in the currency of the contract.
181 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
182 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
183 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no

184 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
185 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
186 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
187 London at time of shipment.

188 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
189 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
190 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
191 against the Insurers in respect of such matters.
192

193 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
194 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
195 unless otherwise provided.
196

197 **14. DISCHARGE-** Ship to discharge as per custom of the port unless otherwise agreed. If documents are tendered which do not
198 provide for discharge as above, or contain contrary stipulations, Sellers to be responsible to Buyers for all extra expenses
199 incurred thereby.
200

201 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
202 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
203 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
204 or their agents for weighing. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
205 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
206

207 **16. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
208 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
209

210 **17. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the
211 season's crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination
212 damaged or out of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on
213 the contract price to be fixed by arbitration unless mutually agreed.
214

215 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
216 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum
217 recovered under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in
218 connection with the claim shall be deducted.
219

220 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters
221 for preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in
222 addition documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as
223 Sellers may be unable to recover in consequence.
224

225 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
226 No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
227 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
228 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
229 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
230 GAFTA Register of Analysts.
231

232 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
233 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
234 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
235 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
236 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
237 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
238

239 **20. LOADING STRIKES-**

240 (a). Should shipment of the goods or any part thereof be prevented at any time during the last 14 days of guaranteed time of
241 shipment or at any time during guaranteed contract period if such be less than 14 days, by reason of riots, strikes or lock-outs at
242 port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at
243 the termination of such riots, strikes or lock-outs to as much time, not exceeding 14 days, for shipment from such port or ports
244 as was left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left
245 for shipment under the contract being 7 days or less, a minimum extension of 7 days shall be allowed. In the event of further
246 riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of
247 the operation of the provisions of the foregoing paragraph, the additional extension allowed shall be limited to the actual duration
248 of such further riots, strikes or lock-outs. In case of non-fulfilment under the above conditions the date of default shall be
249 similarly deferred.

250 (b). The Shipper shall serve notice naming the port or ports, not later than 2 business days after the last day of guaranteed time

- 251 for shipment if he intends to claim an extension of time of shipment, such notice shall limit the port or ports for shipment after
252 expiry of contract period to those from which an extension is claimed.
- 253 (c). The official Certificate of The Chamber of Commerce at port or ports of loading, or of the principal Customs Official at
254 port or ports of loading countersigned by The Chamber of Commerce, Burgomaster, Magistrate or any other competent
255 authority, at port or ports of loading, certifying the existence and duration of riot, strike or lock-out causing the delay shall be
256 attached to the shipping documents.
- 257
- 258 **21. ICE-** Should ice delay shipment within the period stipulated in the contract, this contract or any unfulfilled part thereof to be
259 fulfilled within three weeks after official re-opening of the navigation. Should the port of destination be inaccessible by reasons
260 of ice, any lightering and/or extra costs to be for Buyers' account.
- 261
- 262 **22. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
263 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
264 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
265 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
266 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
267 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
268 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have
269 been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
- 270
- 271 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
272 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
273 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
274 business day thereafter. The period of shipment shall not be affected by this clause.
- 275
- 276 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
- 277 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or
278 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
- 279 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
280 mutually agreed, then the assessment of damages shall be settled by arbitration.
- 281 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
282 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
283 above.
- 284 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
285 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
- 286 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
287 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
288 of the mean contract quantity.
- 289 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
290 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
291 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 4th business day after the last
292 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the
293 first business day thereafter.
- 294
- 295 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
296 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
297 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
298 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
299 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
300 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
301 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
302 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
303 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
304 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
305 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
306 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
307 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
308 Act of Insolvency occurred.
- 309 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
310 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
311 amount payable or receivable under this contract.
- 312
- 313 **26. PRO RATA-**
- 314 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
315 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
316 or distinction shall be necessary.
- 317 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various

318 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of
319 this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
320 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
321 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or
322 their Representatives.

323 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
324 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
325 delivered to those Receivers who did not receive their full invoiced quantity.

326 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
327 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
328 Sellers without taking into consideration the above pro-rata apportionment between Receivers.

329 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall
330 be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from
331 this settlement.

332 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
333 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
334 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
335 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
336 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

337 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
338 port of destination, such price to be fixed by arbitration unless mutually agreed.

339 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
340 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on
341 the pro-rata weight.

342 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
343 shall, where applicable, take precedence over sub-clauses (b) to (h) above.

344 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
345 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
346 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
347 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
348 shall be the average of the market prices on the last day of discharge in the respective ports.

349
350 **27. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
351 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
352 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
353 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
354 during the same period of shipment). Different currencies shall not invalidate the circle.

355 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
356 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
357 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
358 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
359 be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
360 ascertained.

361 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
362 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
363 payment of the differences between the market price and the relative contract price in currency of the contract.

364 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
365 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
366 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
367 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
368 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
369 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
370 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
371 contract price.

372
373 **28. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
374 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
375 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
376 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
377 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
378 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
379 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
380 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
381 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
382 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
383 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
384 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary

385 notwithstanding.

386

387 **29. ARBITRATION -**

388 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
389 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
390 parties hereto shall be deemed to be cognisant.

391 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
392 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
393 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
394 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
395 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
396 the other of them in respect of any such dispute.

397

398 **30. INTERNATIONAL CONVENTIONS-**

399 The following shall not apply to this contract: -

400 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
401 International Sales Act 1967;

402 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

403 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
404 Protocol of 1980.

405 (d) Incoterms.

406 (c) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
407 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.59

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SOUTH AFRICAN GRAIN IN BULK CARGOES TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-** A cargo of

9
10 **2. QUANTITY-**2% more or less. Sellers shall have the option of shipping a
11 further 8% more or less on contract quantity, excess or deficiency over the above 2% shall be settled at the CIF price on date of
12 last bill of lading and on the quantity thereof; the value to be fixed by arbitration, unless mutually agreed.

13
14 **3. PRICE AND DESTINATION - At**

15 * per tonne of 1000 kilograms }
16 } gross weight, cost, insurance and freight, to
17 * per ton of 1016 kilograms or 2240 lbs. }

18
19 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
20 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
21 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
22 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

23
24 **5. QUALITY-**
25 * **Warranted to contain**at time and place of discharge.

26
27 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
28 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher
29 grade of grain of the same colour and description.

30 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
31 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no
32 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair
33 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the
34 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall
35 be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such
36 sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract
37 shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If
38 the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for
39 quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.

40
41 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of;
42 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

43 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
44 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

45 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
46 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
47 of an improper shipment.

48
49 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

50 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
51 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
52 shall be accepted as being in both halves of the month.
53

54 **7. SALES BY NAMED VESSELS** - For all sales by named vessels, the following shall apply: -

- 55 (a) Position of vessel is mutually agreed between Buyers and Sellers;
56 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
57 (c) Appropriation Clause cancelled if sold "shipped".
58

59 **8. SHIP'S CLASSIFICATION**- Shipment direct or indirect, from
60 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the
61 Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers
62 and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
63

64 **9. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an
65 additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business
66 day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
67 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
68 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 69 1 to 4 additional days, 0.50%;
70 5 or 6 additional days, 1%;
71 7 or 8 additional days 1.50% of the gross contract price.

72 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
73 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
74 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
75 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
76 basis of such reduced price.
77

78 **10. APPROPRIATION**-

- 79 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
80 of the last bill of lading.
81 (b) The notice of appropriation shall within 10 consecutive days from the date of the last bill(s) of lading be served by or on
82 behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
83 Clause shall not apply.
84 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
85 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
86 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their
87 notice of appropriation shall be deemed to be in time if served: -
88

89 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

90 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

91 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
92 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
93 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
94 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
95 Brokers.
96

97 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
98 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
99 prevail.

100 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
101 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

102 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses are incurred thereby, such expenses
103 shall be borne by Sellers.

104 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
105

106 **11. PAYMENT**-

107 (a) **Payment** % of invoice amount by cash in
108 in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at
109 Buyers' option, but if the ship shall not have arrived within 30 days from the date of the bill of lading, payment, unless
110 already made, to be made after the 30th day from the bill of lading date when required by Sellers.

111 (b) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
112 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
113 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
114 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
115 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
116 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

117 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
118 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
119 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
120 contract when shipping documents are eventually available.

121 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
122 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
123 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
124 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
125 contract when shipping documents are eventually available.

126 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
127 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
128 countersigned, if required by Buyers, by a recognised bank.

129 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
130 in that event any additional collection costs shall be borne by Buyers.

131 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
132 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
133 guarantee in respect thereto.

134 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
135 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
136 Arbitration Rules.

137 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
138 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
139 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
140 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
141

142 **12. INSURANCE** - Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
143 in GAFTA Insurance Terms No. 72 viz.: -

144 (a) Risks Covered: -

145 Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
146 War Clauses (Cargo)	- Section 4 of Form 72
147 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72
148 Australian, Canadian, South African and United States of America Acts	- Section 6 of Form 72

149 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
150 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
151 address for service of process in London, but for whose solvency Sellers shall not be responsible.

152 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
153 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
154 payable by Buyers.

155 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
156 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
157 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
158 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
159 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

160 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
161 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
162 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
163 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
164 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

165 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
166 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
167 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

168 (g) Currency of Claims - Claims to be paid in the currency of the contract.

169 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
170 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
171 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
172 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
173 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
174 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
175 London at time of shipment.

176 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
177 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
178 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
179 against the Insurers in respect of such matters.
180

181 **13. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
182 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account,
183 unless otherwise provided.

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- 14. DISCHARGE-** Ship to discharge according to the custom of the port. Ship to discharge at the rate of
If documents are tendered which do not provide for discharge as above, or contain contrary stipulations, Sellers to be responsible to Buyers for all extra expenses incurred thereby.
- 15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
- 16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price.
- 17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
- 18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
- 19. LOADING STRIKES-**
- (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of typhoons, floods, riots, strikes or lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination of such typhoons, floods, riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the typhoons, floods, riots, strikes or lock-outs, and in the event of the time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further typhoons, floods, riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the foregoing provisions, the additional extension allowed shall be limited to the actual duration of such further typhoons, floods, riots, strikes or lock-outs. In case of non-shipment under the above circumstances and the Shipper has claimed an extension under paragraph (b) of this clause, the date of default shall be similarly deferred.
 - (b) The Shipper shall serve notice not later than 2 business days after the last day of guaranteed time of shipment if he intends to claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which shipment was intended to be made and if such extension is claimed, the shipment, after expiry of the contract period, shall only be made from such port(s).
 - (c) If the Shipper serves the notice referred to above, he shall forthwith apply to and request them to notify GAFTA confirming the existence of such typhoon, flood, riot, strike or lock-out and in due course to cable or telex the dates of commencement and resumption of work after termination thereof.
 - (d) An official Certificate of the Chamber of Commerce at port(s) of loading, or of the principal Customs Official at port(s) of loading countersigned by the Chamber of Commerce at port(s) of loading confirming the information as paragraph 3 above and certifying the effective duration of the typhoon, flood, riot, strike or lock-out causing the delay and/or prevention of shipment shall be attached to the shipping documents.
- 20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
- 21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or giving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

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- 22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
- (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
 - (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
 - (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
 - (d) In no case shall damages include loss or profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
 - (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
 - (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.
- 23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.
- Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
- Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.
- All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.
- 24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
- 25. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and

318 Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have
319 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction
320 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same
321 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
322 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
323

324 **26. ARBITRATION-**

325 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
326 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
327 parties hereto shall be deemed to be cognisant.

328 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
329 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
330 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
331 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
332 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
333 the other of them in respect of any such dispute.
334

335 **27. INTERNATIONAL CONVENTIONS-**

336 The following shall not apply to this contract: -

337 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
338 International Sales Act 1967;

339 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

340 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
341 Protocol of 1980.

342 (d) Incoterms.

343 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
344 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SOUTH AFRICAN GRAIN IN BULK PARCELS TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-**.....2% more or less.
11 Sellers shall have the option of shipping a further 3% more or less on contract quantity, excess or deficiency over the above 2%
12 shall be settled at the CIF price on date of the bill of lading and on the quantity thereof; the value to be fixed by arbitration,
13 unless mutually agreed. In the event of more than one shipment being made each shipment to be considered a separate contract,
14 but the margin on the mean quantity sold not to be affected thereby.

15
16 **3. PRICE AND DESTINATION - At**

17 * per tonne of 1000 kilograms	}	gross weight, cost, insurance and freight,
18	}	
19 * per ton of 1016 kilograms or 2240 lbs.	}	
20	}	

21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
22 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
23 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
24 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25
26 **5. QUALITY-**

27 * **Warranted to contain** at time and place of discharge.

28
29 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
30 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher
31 grade of grain of the same colour and description.

32 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
33 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no
34 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair
35 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the
36 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall
37 be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such
38 sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract
39 shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If
40 the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for
41 quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.

42
43 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of;
44 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
45 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
46 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

47 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
48 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
49 of an improper shipment.

50
51 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

52 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
53 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
54 shall be accepted as being in both halves of the month.

- 55 7. **SALE BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
56 (a) Position of vessel is mutually agreed between Buyers and Sellers;
57 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
58 (c) Appropriation Clause cancelled if sold "shipped".
59
- 60 8. **SHIP'S CLASSIFICATION-** Shipment direct or indirect, with or without transshipment, from
61 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the
62 Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers
63 and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
64
- 65 9. **EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
66 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
67 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
68 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
69 which the originally stipulated period is exceeded, in accordance with the following scale: -
70 1 to 4 additional days, 0.50%;
71 5 or 6 additional days, 1%;
72 7 or 8 additional days 1.50% of the gross contract price.
73 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
74 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
75 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
76 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
77 basis of such reduced price.
78
- 79 10. **APPROPRIATION-**
80 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
81 of the bill of lading.
82 (b) The notice of appropriation shall within 10 consecutive days from the date of the bill(s) of lading be served by or on
83 behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
84 Clause shall not apply.
85 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
86 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
87 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
88 appropriation shall be deemed to be in time if served: -
89
90 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
91
92 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
93 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
94 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
95 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
96 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
97 Brokers.
98 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
99 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
100 prevail.
101 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
102 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
103 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
104 shall be borne by Sellers.
105 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
106 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
107 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
108
- 109 11. **PAYMENT-**
110 (a) **Payment** % of invoice amount by cash in
111
112 in exchange for and on presentation of shipping documents, on
113 or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 30
114 days from the date of the bill of lading, payment, unless already made, to be made after the 30th day from the bill of lading
115 date when required by Sellers.
116 (b) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
117 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
118 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
119 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
120 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
121 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
122 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
123 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
124 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the

125 contract when shipping documents are eventually available.

126 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,

127 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.

128 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of

129 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the

130 contract when shipping documents are eventually available.

131 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be

132 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be

133 countersigned, if required by Buyers, by a recognised bank.

134 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,

135 in that event any additional collection costs shall be borne by Buyers.

136 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be

137 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved

138 guarantee in respect thereto.

139 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that

140 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the

141 Arbitration Rules.

142 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be

143 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.

144 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of

145 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

146

147 **12. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail

148 in GAFTA Insurance Terms No. 72 viz.:-

149 (a) Risks Covered: -

150 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

151 War Clauses (Cargo) - Section 4 of Form 72

152 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

153 Australian, Canadian, South African and United States of America Acts - Section 6 of Form 72

154 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on

155 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an

156 address for service of process in London, but for whose solvency Sellers shall not be responsible.

157 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is

158 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium

159 payable by Buyers.

160 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does

161 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes

162 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and

163 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put

164 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

165 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,

166 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a

167 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when

168 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall

169 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

170 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the

171 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy

172 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

173 (g) Currency of Claims - Claims to be paid in the currency of the contract.

174 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance

175 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by

176 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no

177 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,

178 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.

179 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in

180 London at time of shipment.

181 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and

182 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return

183 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim

184 against the Insurers in respect of such matters.

185

186 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be

187 for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers'

188 account, unless otherwise provided.

189

190 **14. DISCHARGE-** Discharge shall be as fast as the vessel can deliver according to the custom of the port, but in the event of

191 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms

192 of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for

193 Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations,

194 Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless

195 specifically excluded at time of contract.

196

- 197 **15. WEIGHING**-the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
198 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
199 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
200 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
201 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
202 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
203
- 204 **16. DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
205 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
206
- 207 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules
208 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
209 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
210 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling
211 of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
212 GAFTA Register of Analysts.
213
- 214 **18. PRO RATA**-
215 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
216 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
217 or distinction shall be necessary.
218 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
219 receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of
220 this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
221 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
222 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or
223 their Representatives.
224 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
225 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
226 delivered to those Receivers who did not receive their full invoiced quantity.
227 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
228 market price by final invoices to be rendered by receivers, who have received more or less than that paid for, to their immediate
229 Sellers without taking into consideration the above pro-rata apportionment between Receivers.
230 (e) If one or more receivers is delivered in excess, and one or more receivers bears a shortage, the excess and deficiency shall be
231 settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this
232 settlement.
233 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall
234 be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
235 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
236 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
237 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
238 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
239 port of destination, such price to be fixed by arbitration unless mutually agreed.
240 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
241 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
242 pro-rata weight.
243 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
244 shall, where applicable, take precedence over sub-clauses (b) to (h) above.
245 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
246 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
247 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
248 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
249 shall be the average of the market prices on the last day of discharge in the respective ports.
250
- 251 **19. PROHIBITION**- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
252 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
253 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
254 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
255 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
256 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
257
- 258 **20. LOADING STRIKES**-
259 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
260 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of typhoons, floods, riots,
261 strikes or lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the
262 Shipper shall be entitled at the termination of such typhoons, floods, riots, strikes or lock-outs to as much time, not exceeding 28
263 days, for shipment from such port or ports as was left for shipment under the contract prior to the outbreak of the typhoons,
264 floods, riots, strikes or lock-outs. In case of non-shipment under the above circumstances, and if the Shipper has claimed an
265 extension under paragraph (b) of this clause, the date of default shall be similarly deferred.
266 (b) The Shipper shall serve a notice not later than 2 business days after the last day of guaranteed time of shipment if he intends
267 to claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which shipment was
268 intended to be made and if such extension is claimed, the shipment, after expiry of contract period, shall only be made from
269 such port(s).

270 (c) If the Shipper serves the notice referred to above, he shall forthwith apply to
271 and request them to notify GAFTA confirming the existence of such typhoon, flood, riot, strike or lockout and in due course to
272 notify the dates of commencement and resumption of work after termination thereof.
273 (d) An official Certificate of the Chamber of Commerce at port(s) of loading, or of the principal Customs Official at port(s) of
274 loading countersigned by the Chamber of Commerce at port(s) of loading confirming the information as paragraph (c) above and
275 certifying the effective duration of the typhoon, flood, riot, strike or lock-out causing the delay and/or prevention of shipment
276 shall be attached to the shipping documents.
277

278 **21. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
279 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either
280 telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to
281 the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in
282 the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
283 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
284 without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day
285 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
286 notice under this contract.
287

288 **22. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
289 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
290 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
291 business day thereafter. The period of shipment shall not be affected by this clause.
292

293 **23. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
294 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or
295 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
296 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
297 mutually agreed, then the assessment of damages shall be settled by arbitration.
298 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
299 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
300 above.
301 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
302 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
303 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
304 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
305 favour of the mean contract quantity.
306 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
307 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
308 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after
309 the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall
310 then be the first business day thereafter.
311

312 **24. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
313 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
314 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
315 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
316 during the same period of shipment). Different currencies shall not invalidate the circle.
317 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
318 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
319 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
320 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
321 be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
322 ascertained.
323 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
324 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
325 payment of the differences between the market price and the relative contract price in currency of the contract.
326 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
327 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
328 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
329 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
330 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
331 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
332 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
333 contract price.
334

335 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
336 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
337 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
338 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
339 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
340 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
341 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency to the other party to the contract and upon
342 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party

343 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
344 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
345 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
346 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
347 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
348 Act of Insolvency occurred.

349 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
350 contract by repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
351 amount payable or receivable under this contract.
352

353 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
354 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
355 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
356 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
357 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
358 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
359 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
360 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
361 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
362 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
363 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
364 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
365 notwithstanding.
366

367 **27. ARBITRATION-**

368 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
369 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
370 parties hereto shall be deemed to be cognisant.

371 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
372 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
373 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
374 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
375 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
376 the other of them in respect of any such dispute.
377

378 **28. INTERNATIONAL CONVENTIONS-**

379 The following shall not apply to this contract: -

380 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
381 International Sales Act 1967;

382 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

383 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
384 Protocol of 1980.

385 (d) Incoterms.

386 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
387 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR MEDITERRANEAN AND MOROCCO IN BULK OR BAGS CARGOES TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-** a cargo of
9 shipped in bulk and/or bags. If in bags, then the bags to be of suitable strength to withstand ordinary wear and tear to port of
10 destination. Such bags to be taken and paid for as goods.

11
12 **2. QUANTITY-** units, 5% more or less.
13 Sellers have the option of shipping a further 5% more or less on contract quantity, excess or deficiency over the above 5% to be
14 settled at the CIF price on the date of the last bill of lading, and on the quantity thereof; value to be fixed by arbitration, unless
15 mutually agreed

16
17 **3. PRICE AND DESTINATION - At**
18 * per tonne of 1000 kilograms }
19 } gross weight, cost, insurance and freight to
20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not
23 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
24 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
25 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**
28 * **Warranted to contain** at time and place of discharge.

29
30 * **Natural weight** of kilograms per hectolitre guaranteed at time and place of
31 discharge, to be ascertained according to GAFTA Sampling Rules No.124, or other accepted authority, and any
32 allowances determined to be allowed for off contract price, in accordance with GAFTA Sampling Rules No. 124.

33
34 * **Admixture Barley-** Any admixture of dirt and/or other foreign substance over % to be allowed for by
35 Sellers at contract price, but any pulse, seed or grain other than Barley to be reckoned as foreign substances at half their
36 quantities.

37 * **Other Grain and Seed-** Any admixture of dirt and/or other foreign substance over % to be allowed for by
38 Sellers at contract price. The percentage of admixture to be determined by GAFTA, or its duly appointed Analyst.

39
40 * **Official** certificate of inspection, or certification of inspection of at time and place of
41 loading into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a
42 higher grade of grain of the same colour and description.

43 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and
44 by comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no
45 F.A.Q. Standard being established by the Association, the Arbitrator(s) shall in his/their discretion decide what is the fair
46 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the
47 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and
48 shall be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of
49 such sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this

contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be entitled to the full difference in value.

* **Sample**, at time and place of shipment about as per sealed sample marked in possession of; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an improper shipment.

6. PERIOD OF SHIPMENT- as per bill(s) of lading dated or to be dated The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

7. SALES BY NAMED VESSELS – For all sales by named vessels, the following shall apply: -

- (a) Position of vessel is mutually agreed between Buyers and Sellers;
- (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
- (c) Appropriation Clause cancelled if sold "shipped".

8. SHIP'S CLASSIFICATION - Shipment from by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

9. EXTENSION OF SHIPMENT- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed. Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale:-

- 1 to 4 additional days, 0.50%;
- 5 or 6 additional days, 1%;
- 7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

10. APPROPRIATION-

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.

(b) The notice of appropriation shall within 10 consecutive days, (or if shipped from a Moroccan port 7 consecutive days), from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.

(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

(1) On the same calendar day, if received not later than 1600 hours on any business day, or

(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

117 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
118 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

119
120 **11. PAYMENT-**

121 (a) **Payment** % of invoice amount by cash in
122 in exchange for and on presentation of shipping documents.

123 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
124 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
125 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
126 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
127 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
128 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

129 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
130 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
131 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
132 contract when shipping documents are eventually available.

133 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
134 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
135 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
136 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
137 contract when shipping documents are eventually available.

138 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
139 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
140 countersigned, if required by Buyers, by a recognised bank.

141 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
142 in that event any additional collection costs shall be borne by Buyers.

143 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
144 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
145 guarantee in respect thereto.

146 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
147 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
148 Arbitration Rules.

149 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
150 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
151 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
152 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

153
154 **12. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
155 in GAFTA Insurance Terms No.72 viz.:-

156 (a) Risks Covered: -

157 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

158 War Clauses (Cargo) - Section 4 of Form 72

159 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

160 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
161 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
162 address for service of process in London, but for whose solvency Sellers shall not be responsible.

163 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
164 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
165 payable by Buyers.

166 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
167 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
168 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
169 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
170 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

171 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
172 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
173 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
174 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
175 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

176 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
177 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
178 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

179 (g) Currency of Claims - Claims to be paid in the currency of the contract.

180 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
181 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
182 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
183 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,

- 184 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
185 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
186 London at time of shipment.
- 187 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
188 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
189 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
190 against the Insurers in respect of such matters.
191
- 192 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
193 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
194
- 195 **14. DISCHARGE-** Ship to discharge according to the custom of the port. Ship to discharge at the rate of
196 If documents are tendered which do not provide for discharge as above, or contain contrary stipulations, Sellers to be
197 responsible to Buyers for all extra expenses incurred thereby.
198
- 199 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
200 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
201 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
202 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
203 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
204 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
205
- 206 **16. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
207 weight shall be paid for by Buyers at contract price.
208
- 209 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
210 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
211 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
212 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling
213 of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
214 GAFTA Register of Analysts.
215
- 216 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
217 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
218 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
219 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
220 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
221 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
222
- 223 **19. LOADING STRIKE-**
- 224 (a) Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
225 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
226 port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at
227 the termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports
228 as was left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left
229 for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further
230 riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of
231 the provisions of the foregoing paragraph, the additional extension shall be limited to the actual duration of such further riots,
232 strikes or lock-outs. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.
- 233 (b). The Shipper shall serve notice naming the ports not later than 3 business days after the last day of guaranteed time of
234 shipment if he intends to claim an extension of time for shipment, such notice shall limit the port(s) for shipment after expiry of
235 contract period to those from which an extension is claimed.
- 236 (c). If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.
237
- 238 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
239 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either
240 telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to
241 the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in
242 the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
243 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
244 without delay by sellers on their respective buyers or vice versa and any notice received after 1600 hours on a business day
245 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
246 notice under this contract.
247
- 248 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
249 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
250 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
251 business day thereafter. The period of shipment shall not be affected by this clause.

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- 22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
- (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
 - (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
 - (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
 - (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the Arbitrator(s) or Board of Appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
 - (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
 - (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.
- 23. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
- In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
- 24. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.
- Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
- Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.
- All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.
- 25. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any

319 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
320 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
321 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
322 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
323 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
324 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
325 notwithstanding.
326

327 **26. ARBITRATION-**

328 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
329 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
330 parties hereto shall be deemed to be cognisant.

331 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
332 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
333 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
334 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
335 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
336 the other of them in respect of any such dispute.
337

338 **27. INTERNATIONAL CONVENTIONS-**

339 The following shall not apply to this contract: -

340 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
341 International Sales Act 1967;

342 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

343 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
344 Protocol of 1980.

345 (d) Incoterms.

346 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
347 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR MEDITERRANEAN AND MOROCCO IN BULK OR BAGS PARCELS TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 in bulk or bags. If in bags, then the bags to be of suitable strength to withstand ordinary wear and tear to port of destination.
10 Such bags to be taken and paid for as goods.

11
12 **2. QUANTITY-** 2% more or less.

13 Sellers have the option of shipping a further 3% more or less on contract quantity, excess or deficiency over the above 2% to be
14 settled at the CIF price on the date of the bill of lading, and on the quantity thereof; value to be fixed by arbitration, unless
15 mutually agreed. In the event of more than one shipment being made each shipment to be considered a separate contract, but the
16 margin on the mean quantity sold not to be affected thereby.

17
18 **3. PRICE - At**

19 * per tonne of 1000 kilograms }
20 } gross weight, cost, insurance and freight to
21 * per ton of 1016 kilograms or 2240 lbs. }

22
23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

24 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
25 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
26 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27
28 **5. QUALITY-**

29 * **Warranted to contain**at time and place of discharge.

30
31 * **Natural weight** of.....kilograms per hectolitre guaranteed at time and place of discharge to be
32 ascertained according to GAFTA Sampling Rules No.124, or other accepted authority and any deficiency so determined to
33 be allowed for off contract price, in accordance with GAFTA Sampling Rules No.124.

34 * **Admixture-**
35 (a) **Barley** - Any admixture of dirt and/or other foreign substance over..... % to be allowed for by Sellers at
36 contract price, but any pulse, seed or grain other than Barley to be reckoned as foreign substances at half their quantities.

37
38 (b) **Other Grain and Seed** - Any admixture of dirt and/or other foreign substance over.....% to be allowed for by
39 Sellers at contract price. The percentage of admixture to be determined by GAFTA, or its duly appointed Analyst.

40
41 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
42 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher
43 grade of grain of the same colour and description.

44
45 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
46 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no
47 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair
48 average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the
49 representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall
50 be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such
51 sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract
52 shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If
53 the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for

54 quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.

55
56 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of;
57 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.
58 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
59 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

60 **Condition**- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
61 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
62 of an improper shipment.
63

64 **6. PERIOD OF SHIPMENT**- as per bill(s) of lading dated or to be dated
65 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
66 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
67 shall be accepted as being in both halves of the month.
68

69 **7. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply: -

- 70 (a) Position of vessel is mutually agreed between Buyers and Sellers;
71 (b) The word "now" to be inserted before the word "classed" in the Ship's Classification Clause;
72 (c) Appropriation Clause cancelled if sold "shipped".
73

74 **8. SHIP'S CLASSIFICATION**- Shipment direct or indirect, with or without transshipment, from
75 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the
76 Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers
77 and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
78

79 **9. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional
80 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
81 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
82 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
83 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 84 1 to 4 additional days, 0.50%;
85 5 or 6 additional days, 1%;
86 7 or 8 additional days 1.50% of the gross contract price.

87 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
88 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
89 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
90 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
91 basis of such reduced price.
92

93 **10. APPROPRIATION**-

- 94 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
95 of the bill of lading.
96 (b) The notice of appropriation shall within 10 consecutive days, (or if shipped from a Moroccan port 7 consecutive days),
97 from the date of the bill of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or
98 Brokers named in the contract. The Non-Business Days Clause shall not apply.
99 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
100 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
101 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
102 appropriation shall be deemed to be in time if served: -

- 103 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
104
105 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

106 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
107 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
108 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
109 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
110 Brokers.

111 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
112 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
113 prevail.

114 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
115 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

116 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
117 shall be borne by Sellers.

118 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

119 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved
120 extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
121

122 **11. PAYMENT**-

- 123 (a) Payment % of invoice amount by cash in

124 in exchange for and on presentation of shipping documents.

125 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)

126 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be

127 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s)

128 of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4.

129 Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War

130 Deviation Clause and/or other recognised official War Risk Clause.

131 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers

132 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers

133 in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually

134 available.

135 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers

136 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any

137 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to

138 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when

139 shipping documents are eventually available.

140 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be

141 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned,

142 if required by Buyers, by a recognised bank.

143 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that

144 event any additional collection costs shall be borne by Buyers.

145 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for

146 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect

147 thereto.

148 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a

149 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

150 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If

151 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall

152 be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not

153 override the parties' contractual obligation under sub-clause (a).

154

155 **12. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail

156 in GAFTA Insurance Terms No.72 viz.:-

157 (a) Risks Covered: -

158 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72

159 War Clauses (Cargo) - Section 4 of Form 72

160 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

161 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on

162 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an

163 address for service of process in London, but for whose solvency Sellers shall not be responsible.

164 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable

165 on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable

166 by Buyers.

167 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not

168 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes

169 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and

170 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in

171 the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

172 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,

173 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a

174 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when

175 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be

176 guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

177 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the

178 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy

179 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

180 (g) Currency of Claims - Claims to be paid in the currency of the contract.

181 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance

182 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters.

183 Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than

184 the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may

185 be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to

186 provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of

187 shipment.

188 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and

189 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately

190 return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of

191 claim against the Insurers in respect of such matters.

192

193 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for

- 194 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
195
- 196 **14. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
197 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
198 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
199 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary
200 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be
201 permitted unless specifically excluded at time of contract.
202
- 203 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
204 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
205 Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
206 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
207 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
208 which case the Deficiency Clause will not apply).
209
- 210 **16. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
211 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
212
- 213 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
214 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
215 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
216 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
217 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
218 GAFTA Register of Analysts.
219
- 220 **18. PRO RATA-**
221 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
222 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
223 or distinction shall be necessary.
224 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
225 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this
226 not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
227 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
228 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their
229 Representatives.
230 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
231 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
232 delivered to those Receivers who did not receive their full invoiced quantity.
233 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
234 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
235 Sellers without taking into consideration the above pro-rata apportionment between Receivers.
236 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall
237 be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from
238 this settlement.
239 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
240 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
241 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
242 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
243 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
244 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
245 port of destination, such price to be fixed by arbitration unless mutually agreed.
246 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
247 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
248 pro-rata weight.
249 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
250 shall, where applicable, take precedence over sub-clauses (b) to (h) above.
251 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
252 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
253 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.
254 Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
255 shall be the average of the market prices on the last day of discharge in the respective ports.
256
- 257 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
258 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
259 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
260 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
261 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
262 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
263
- 264 **20. LOADING STRIKES-**

265 (a) Should shipment of the grain or any part thereof be prevented at any time during the last 28 days of guaranteed time of
266 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
267 port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at
268 the termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports
269 as was left for shipment under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the event of the time left
270 for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further
271 riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of
272 the operation of the provisions of the foregoing paragraph, the additional extension shall be limited to the actual duration of such
273 further riots, strikes or lock-outs. In case of non-fulfilment under the above conditions the date of default shall be similarly
274 deferred.

275 (b) The Shipper shall serve a notice naming the port(s) not later than 3 business days after the last day of guaranteed time for
276 shipment if he intends to claim an extension of time for shipment, such notice shall limit the ports for shipment after expiry of
277 contract period to those from which an extension is claimed.

278 (c) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.

279

280 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
281 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex,
282 or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the
283 proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the
284 case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
285 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
286 without delay by sellers on their respective buyers or vice versa and any notice received after 1600 hours on a business day
287 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
288 notice under this contract.

289

290 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
291 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
292 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
293 business day thereafter. The period of shipment shall not be affected by this clause.

294

295 **22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

296 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or
297 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

298 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
299 mutually agreed, then the assessment of damages shall be settled by arbitration.

300 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
301 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
302 above.

303 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
304 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

305 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
306 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
307 of the mean contract quantity.

308 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
309 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
310 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
311 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be
312 the first business day thereafter.

313

314 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
315 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
316 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
317 of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during
318 the same period of shipment). Different currencies shall not invalidate the circle.

319 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
320 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
321 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
322 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
323 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
324 ascertained.

325 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
326 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
327 payment of the differences between the market price and the relative contract price in currency of the contract.

328 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
329 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
330 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
331 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
332 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
333 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
334 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
335 contract price.

336

337 **24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he

338 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
339 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
340 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
341 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
342 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
343 Insolvency shall serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
344 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing
345 the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the
346 contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has
347 not been served then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the
348 contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence
349 of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
350 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
351 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
352 amount payable or receivable under this contract.
353

354 **25. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
355 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
356 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
357 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
358 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
359 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
360 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and
361 Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have
362 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and
363 to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at
364 the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address
365 outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
366

367 **26. ARBITRATION-**

368 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
369 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
370 parties hereto shall be deemed to be cognisant.

371 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
372 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
373 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the
374 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of
375 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other
376 of them in respect of any such dispute.
377

378 **27. INTERNATIONAL CONVENTIONS-**

379 The following shall not apply to this contract: -

380 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
381 International Sales Act 1967;

382 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

383 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
384 Protocol of 1980.

385 (d) Incoterms.

386 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
387 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FOR GRAIN IN BULK FOB TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS -**

9 Buyers have the option of calling for up to 10% in bags for safe stowage such bags to be taken and paid for as grain.

10

11 **2. QUANTITY-**

12 5 % more or less at Buyers' option. In the event of the quantity contracted for being a full and complete cargo and/or cargoes the

13 margin of contract quantity shall be 10% more or less, excess or deficiency over 5% shall be settled at the FOB price on date of last

14 bill of lading; value shall be fixed by arbitration unless mutually agreed. In the event of more than one delivery being made each

15 delivery shall be considered a separate contract, but the margin on the mean quantity sold shall not be affected thereby.

16

17 **3. PRICE-**

18 * per tonne of 1000 kilograms }

19 } gross weight, delivered Free on Board Buyers' Vessel at

20 * per ton of 1016 kilograms or 2240 lbs. }

21

22 **4. BROKERAGE**per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract

23 fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the Prohibition

24 Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the goods are not delivered then the

25 brokerage shall be due on the 30th consecutive day after the last day for delivery.

26

27 **5. QUALITY-**

28 * **Warranted to contain**

29 * **Government, Official or Customary Inspector's Certificates** issued at time and place of delivery shall be final as to quality.

30 Buyers shall not be entitled to reject the delivery of a higher grade of grain of the same colour and description.

31 * **FAQ - (fair average quality)** of the season's shipments at time and place of shipment, to be assessed upon the basis of, and by

32 comparison with the GAFTA F.A.Q. Standard of the month during which the bill of lading is dated. In the event of no F.A.Q.

33 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality. An

34 average sample of the delivery shall be taken and sealed jointly at port of loading by the representatives of the Sellers and the

35 Representatives of the Buyers and shall be forwarded immediately to the Association for the purpose of establishing the F.A.Q.

36 Standard. The expenses of such sampling and forwarding shall be paid half by the Sellers and half by the Buyers. Place of loading

37 under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the

38 Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% of contract price, no allowance

39 for quality shall be due; otherwise Buyers shall be entitled to the full difference in value.

40

41 * **Sample -** at time and place of shipment about as per sealed sample marked in the

42

43 possession of

44 **Condition-Delivery** shall be made in good condition.

45

46 **6. PERIOD OF DELIVERY**

47 **Delivery during** at Buyers' call.

48

49 **Nomination of Vessel-** Buyers shall serve not less thanconsecutive days notice of the name and

50 probable readiness date of the vessel and the estimated tonnage required.

51 Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension shall not

52 be affected thereby. Provided the vessel is presented at the loading port in readiness to load within the delivery period, Sellers
53 shall if necessary complete loading after the delivery period and carrying charges shall not apply. In case of re-sales a provisional
54 notice shall be passed on without delay, where possible, by telephone and confirmed on the same day in accordance with the
55 Notices Clause.
56

57 **7. LOADING** - Vessel(s) to load in accordance with the custom of the port of loading unless otherwise stipulated. Bill of lading
58 shall be considered proof of delivery in the absence of evidence to the contrary.
59

60 **8. EXTENSION OF DELIVERY**- The contract period of delivery shall be extended by an additional period of not more than 21
61 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of
62 the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and
63 other such normal carrying expenses shall be for Buyers' account, unless the vessel presents in readiness to load within the contractual
64 delivery period.
65

66 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying
67 during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the
68 amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.
69

70 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring Buyers
71 to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less current FOB
72 charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete delivery of the contract
73 on the part of Sellers.
74

75 **9. ICE**

76
77 **10. SHIP'S CLASSIFICATION.** Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract
78 goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time
79 of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as
80 "Ore/Oil" vessels.
81

82 **11. PAYMENT-**
83 (a) By cash in

84 against the following documents

85 (b) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
86 all loss or expense caused to Buyers by reason of such error and Sellers shall on request of Buyers furnish an approved guarantee in
87 respect thereto.
88

89 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
90 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

91 (d) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
92 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
93 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
94 clause do not override the parties' contractual obligation under sub-clause (a).
95

96 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin or of the territory
97 where the port or ports of shipment named herein is/are situate, shall be for Sellers' account.
98

99 **13. EXPORT LICENCE** - if required, to be obtained by Sellers.
100

101 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
102 Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and expense. Buyers
103 have the right to attend at loading.
104

105 **15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124,
106 are deemed to be incorporated into this contract. Samples shall be taken at time and place of loading. The parties shall appoint
107 superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless
108 otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
109

110 **16. INSURANCE-** Marine and War Risk insurance including strikes, riots, civil commotions and mine risks to be effected by the Buyers
111 with first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation thereof at least 5 consecutive
112 days prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation Sellers shall have the right to place such
113 insurance at Buyers' risk and expense.
114

115 **17. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
116 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
117 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
118 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that

119 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
120 therefor and, if required, Sellers must produce proof to justify the cancellation.
121

122 **18. LOADING STRIKES-**

123 (a) Should delivery of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of delivery, or
124 at any time during guaranteed delivery period if such be less than 28 days, by reason of riots, strikes or lock-outs at port(s) of loading
125 or elsewhere preventing the forwarding of the goods to such port(s), then Sellers shall be entitled at the termination of such riots,
126 strikes or lock-outs to as much time for delivery at such port(s) as was left for delivery under the contract prior to the outbreak of the
127 riots, strikes or lock-outs, and in the event of the time left for delivery under the contract being 14 days or less, a minimum extension
128 of 14 days shall be allowed.

129 (b) In the event of further riots, strikes or lock-outs occurring during the time by which the guaranteed period of delivery has been
130 extended by reasons of the operation of the provisions in paragraph (a), the additional extension allowed shall be limited to the actual
131 duration of such further riots, strikes or lock-outs. In case of non-delivery under the above circumstances and if Sellers have claimed
132 extension under paragraph (c), the date of default shall be similarly deferred.

133 (c) Sellers shall serve a notice naming the port(s) not later than 5 business days after the commencement of the riots, strikes or lock-
134 outs or 5 business days after the commencement of the delivery period, whichever is later, if they intend to claim an extension of time
135 for delivery, such notice shall limit the port(s) for delivery after expiry of contract period to those for which an extension is claimed.

136 (d) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.
137

138 **19. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.

139 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
140 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt
141 of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to
142 the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually
143 transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective
144 buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the
145 business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
146

147 **20. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
148 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
149 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
150 thereafter. The period of delivery shall not be affected by this clause.
151

152 **21. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

153 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
154 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

155 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
156 agreed, then the assessment of damages shall be settled by arbitration.

157 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
158 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

159 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
160 ordinary course of events from the defaulter's breach of contract, but in no case shall damages include loss of profit on any
161 sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special
162 circumstances, shall in his/their sole and absolute discretion think fit.

163 (e) Damages, if any, shall be computed on the quantity called for, but if no such quantity has been declared then on the mean contract
164 quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract
165 quantity.
166

167 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
168 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
169 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
170 of the same quality, and, where applicable, of the same analysis warranty, for delivery from the same port(s) of loading during the
171 same period of delivery). Different currencies shall not invalidate the circle.

172 Subject to the terms of the Prohibition Clause in the contract, if the circle is established before the goods are delivered, or if the
173 goods are not delivered, invoices based on the mean contract quantity, or if the goods have been delivered invoices based on the
174 delivered quantity, shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the
175 excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15
176 consecutive days after the last date for delivery, or, should the circle not be ascertained before the expiry of this time, then
177 payment shall be due not later than 15 consecutive days after the circle is ascertained.

178 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
179 price on the first day for contractual delivery and invoices shall be settled between each Buyer and his Seller in the circle by
180 payment of the differences between the market price and the relative contract price in the currency of the contract.

181 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
182 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
183 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract.

184 Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract,

185 settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be
186 taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
187 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
188 price.
189

23. **INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
191 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
192 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
193 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
194 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
195 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
196 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
197 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
198 notice was served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price
199 ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of
200 the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first
201 business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the
202 first business day after the date when the Act of Insolvency occurred.

203 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
204 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
205 receivable under this contract.
206

24. **DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
208 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
209 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
210 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
211 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
212 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
213 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England,
214 (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself
215 to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
216 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
217 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
218 service, any rule of law or equity to the contrary notwithstanding.
219

25. **ARBITRATION-**

221 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
222 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
223 shall be deemed to be cognisant.

224 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
225 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
226 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
227 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
228 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
229 any such dispute.
230

26. **INTERNATIONAL CONVENTIONS-**

232 The following shall not apply to this contract: -

233 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
234 Sales Act 1967;

235 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

236 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
237 of 1980.

238 (d) Incoterms

239 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
240 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.76

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THE GRAIN AND FEED TRADE ASSOCIATION

MALTING BARLEY TERMS ADDENDUM

* delete/specify as applicable

Date

1 These terms are an addendum attaching to and forming part of contract dated

2
3 **1. QUALITY**

4 At the time of loading or discharge as required by the contract,

5
6 Germinative capacity *
7 guaranteed -----

8 Germinative energy *
9 (the test to be carried out by one of the growth methods prescribed in "Analytica" of the European Brewery Convention).

10 Moisture content %

11 Protein, dry basis, Kjeldahl method, %

12 Screening, full barley

13 Screening, small barley

14 Admixture %

15 Purity of Variety

16 The first test for all Purity of Variety Malting Barley shall be carried out by The National Institute of Agricultural Botany, Cambridge, in accordance with their appropriate tests for that variety. The second test, if required, shall be carried out by The Scottish Department of Agriculture Station, Edinburgh, in accordance with their appropriate tests for that variety. The costs for these tests shall be borne by the party giving the instructions, except when they are successful in obtaining an allowance, and then the costs shall be borne by the other party to the contract. Two additional samples to those specified in the sampling rules shall be drawn for the purpose of testing variety.

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28 **2. ALLOWANCES**

29 (a) Moisture - Any excess in the guaranteed maximum moisture content shall be allowed for off contract price on the following scale: -

30 1% for 1% up to the first 1% excess.
31 1.50% for 1% of the excess over the first 1% up to 2%.

32 Fractions in proportion.

33 (b) Admixture - Any admixture of dirt and foreign substances (including other grain and seeds) in excess of the percentage permitted shall be allowed for at contract price.

34 (c) Germination - Any deficiency in the guaranteed germination shall be allowed for off contract price on the following scale: -

35 0.50% for the first 1% deficient.
36 0.75% for the second 1% deficient.
37 1% each for the third, fourth and fifth 1% deficient.

38 Fractions in proportion.

39 Dormancy (if germinative energy is guaranteed) - If loading of UK and/or Irish new crop grain is effected before 1st November, the test for germination shall be made not earlier than 15th November, or if effected on or after 1st November, not earlier than two weeks after completion of loading, unless a committee appointed by GAFTA shall decide by 14th November that due to the condition of the crop these periods shall be further extended. In all cases, the test to commence as soon as possible after the expiry of the relevant period.

40 (d) Screening

41 (i) Full Barley
42 Any deficiency in the guaranteed size shall be allowed for off contract price on the following scale: -

- 51 0.125% of the first 1% deficient.
52 0.125% for the second 1% deficient.
53 0.25% for the third 1% deficient.
54 0.50% for the fourth 1% deficient.
55 1% for the fifth 1% deficient.
56 Fractions in proportion.
57 If the deficiency exceeds 5% the allowance to be mutually agreed or settled by arbitration.
58 (ii) Small Barley
59 Any deficiency in the guaranteed size shall be allowed for off contract price on the following scale: -
60 0.25% for the first 1% deficient.
61 0.75% for the second 1% deficient.
62 1.50% for the third 1% deficient.
63 Fractions in proportion.
64 If the deficiency exceeds 3% the allowance to be mutually agreed or settled by arbitration.
65 (e) Purity of Variety. For any deficiency in the guaranteed purity of variety there shall be allowances off the contract price
66 on the following scale: -
67 (i) 0.50% for the first 1% of other barley varieties, plus a further
68 1% for the second 1% deficient, plus a further
69 1% for the third 1% deficient.
70 Fractions in proportion.
71 Admixture of Winter Barley and Spring Barley. Notwithstanding the above clause, for any excess of winter barley in
72 a named variety of spring barley above 4% there shall be an additional allowance on the following scale: -
73 (ii) For each 1% deficiency between 95.9% to 93%, 0.50% allowance.
74 For each 1% deficiency between 92.9% to 90%, 1% allowance.
75 Fractions in proportion.
76 (f) Where a variety is not named, but the contract calls for spring malting barley for any admixture of winter barley above
77 4% there shall be an allowance off the contract price on the scale set out in paragraph (e) (ii) above.
78 If the above allowance scales are exceeded and Buyers do not exercise their right of rejection as provided in Clause 4,
79 allowances to be mutually agreed or settled by arbitration.

80
81 **3. FINALITY-** Where the analysis for warranties/guarantees is to be determined by GAFTA or their appointed Analysts, or other
82 accepted authority agreed by both parties, samples and analysis instructions shall be in accordance with GAFTA Sampling Rules
83 No. 124.

84
85 **4. REJECTION-**

86 Buyers have the right of rejection on the following: -
87 If deficiency in respect of germinative energy/capacity exceeds the allowance scale; or
88 if the protein guarantee is exceeded; or
89 if the moisture content is exceeded by more than 2% of the maximum guarantee; or
90 if the deficiency in respect of Purity of Variety exceeds the allowance scale; or
91 if the admixture of Winter with Spring Malting Barley exceeds the allowance scale.
92 In the event of rejection the Buyers shall store the goods separately in a sealed place so that the identity and condition of the
93 goods is preserved, pending the results of the final analysis tests.
94 In the event that it is established upon receipt of the final analysis results that the Buyers should not have rejected the goods then
95 the Sellers shall be entitled to recover damages and proven extra expenses. If Buyers were entitled to reject the goods, then
96 damages and proven extra expenses incurred shall be borne by Sellers. Any damages to be settled in accordance with the
97 Default Clause. The right of rejection provided by the addendum shall be limited to the parcel or parcels found to be defective.
98
99

100 This contract addendum is made upon the terms, conditions and rules of GAFTA Contract No: including the
101 GAFTA Arbitration Rules No. 125 and the above details shall be taken as having been written into such contract form in their
102 appropriate place. Both parties to this contract addendum admit the existence and agree the conditions of the contract form
103 referred to above.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No. 78

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR GOODS BY RAIL IN BULK RYE TERMS

**delete/specify as applicable*

Date.....

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS**

9

10 **2. QUANTITY-** tonnes of 1000 kilograms, 5% more or less

11 Each consignment in whole or part fulfilment of this contract to be considered a separate contract, but the margin on the quantity sold

12 shall not be affected thereby.

13

14 **3. PRICE-** At the price of per tonne of 1000 kilograms

15

16 DAF/CPT/DDU/DDP

17 (as per the edition of Incoterms current at the date of this contract).

18

19 **4. BROKERAGE-** per tonne

20 to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-fulfilment

21 is due to the cancellation of the contract under the terms of the Prohibition Clause or the Force Majeure Clause. Brokerage shall be

22 due on the day contractual documents are exchanged or, if the goods are not despatched then the brokerage shall be due on the 30th

23 consecutive day after the last day for advice of despatch.

24

25 **5. QUALITY-**

26 * Warranted to contain

27

28 * Sample, at time and place of loading about as per sealed sample marked in possession

29 of

30 the word "about" when referring to quality shall mean the equivalent of one-half of

31 one percent on contract price.

32

33 * Natural weight kilograms per hectolitre at time and place of loading.

34

35 * Moisture %

36

37 * Admixture %

38 In any assessment at arbitration of allowance for quality, due regard shall be given to any analyses under other guarantees.

39 Difference in quality shall not entitle Buyers to reject, except under the award of arbitrator(s) or board of appeal, as the case may be,

40 referred to in accordance with the Arbitration Rules specified in the Arbitration Clause

41 **Condition.** Despatch shall be made in good condition.

42

43 **6. PERIOD OF DESPATCH-** Despatch during

44

45 Buyers shall give full despatch instructions by, failing which Buyers shall be deemed to be in

46 default, unless the parties agree to extend the period of despatch. The Consignment Note(s)/Railway Bill to be dated when the goods

47 are despatched, and are to be considered proof of date of despatch in the absence of evidence to the contrary

48

49 **7. WAGON CLASSIFICATION-** per good grain carrying bulk wagon(s) suitable for the journey, clean, and free from smell or taint at

50 time of loading.

51

52 **8. LOADING-**

53

- 54 **9. DESTINATION-**
- 55
- 56 **10. ADVICE OF DESPATCH**
- 57 (a) The advice of despatch shall state the wagons' numbers, the approximate weight shipped and the date or presumed date of the
- 58 consignment note.
- 59 (b) The advice of despatch shall be served within two business days from the date of the consignment note by or on behalf of the
- 60 consignor direct on his Buyers or on the Selling Agent or Broker named in this contract.
- 61 (c) The advice of despatch shall be passed on by subsequent Sellers to their Buyers with due despatch.
- 62 (d) Failure by Sellers to pass such advice to their Buyers will not constitute default, except as provided for in the Default Clause, but
- 63 Sellers shall be responsible to their Buyers for proved extra expenses incurred as a consequence.
- 64 (e) The date of the consignment note stated in the notice of despatch shall be for information only and shall not be binding, but in
- 65 fixing the period laid down by this clause for serving advice of despatch the actual date of the consignment note shall prevail.
- 66 (f) Every advice of despatch shall be open to correction of any errors occurring in transmission, provided that the sender is not
- 67 responsible for such errors, and for any previous error in transmission that has been repeated in good faith.
- 68 (g) Should the wagon(s) arrive before receipt of the advice of despatch and any extra expenses be incurred thereby, such expenses shall
- 69 be borne by Sellers.
- 70
- 71 **11. PAYMENT-**
- 72 (a) **Payment** by nett cash in in exchange for and on presentation of transport documents.
- 73 (b) **Transport documents** shall consist of 1. Invoice, 2. Duplicate consignment note or railway bill, as appropriate 3. Other documents
- 74 as called for under the contract.
- 75 (c) In the event of transport documents not being available when called for by Buyers, or on arrival of the goods at destination, Sellers
- 76 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in
- 77 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when transport documents are eventually
- 78 available.
- 79 (d) Should Sellers fail to present transport documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
- 80 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable
- 81 extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such
- 82 documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when transport documents
- 83 are eventually available.
- 84 (e) Should transport documents be presented with an incomplete set of consignment note(s) or should other transport documents be
- 85 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if
- 86 required by Buyers, by a recognised bank.
- 87 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
- 88 event any additional collection costs shall be borne by Buyers.
- 89 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
- 90 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
- 91 thereto.
- 92 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
- 93 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
- 94 (i) Interest – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
- 95 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
- 96 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
- 97 override the parties' contractual obligation under sub-clause (a).
- 98
- 99 **12. DUTIES, TAXES, LEVIES-** Sellers shall obtain and pay for all taxes, duties and levies, present or future to enable the goods to be
- 100 despatched to the point of delivery specified in the contract, and Buyers shall obtain and pay for all taxes, duties and levies, present or
- 101 future, applicable to the goods thereafter.
- 102
- 103 **13. INSURANCE-**
- 104
- 105 **14. DISCHARGE-** Consignment to be discharged at Buyers' risk, and expense. Wagon demurrage shall be for Buyers' account in
- 106 accordance with the current regulations of the applicable railway authority.
- 107
- 108 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Buyers
- 109 shall weigh the goods on delivery, such weights shall be accepted as final and advised to Sellers without delay. Buyers shall give
- 110 a copy of the weight note to the driver.
- 111
- 112 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
- 113 124, are deemed to be incorporated into this contract. Where the contract requires quality final at loading, samples shall be taken
- 114 at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods,
- 115 from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of
- 116 Analysts.
- 117
- 118 **17. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
- 119 behalf of the government of the country of origin or of the territory where the station(s) or private siding(s) of loading named herein
- 120 is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
- 121 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means

122 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
123 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
124

- 125 **18. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in despatch of the goods or any part thereof
126 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
127 any cause comprehended in the term "force majeure". If delay in despatch is likely to occur for any of the above reasons, the
128 consignor shall serve a notice on the Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before
129 the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
130

131 If after serving such notice an extension to the period of despatch is required, then the consignor shall serve a further notice not later
132 than 2 business days after the last day of the period of despatch stating the loading place(s) from which the goods were intended to be
133 loaded, and consignments effected after the contract period shall be limited to the loading place(s) so nominated.
134

135 If despatch be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
136 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
137 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
138 period of 30 consecutive days. If despatch under this clause be prevented during the further 30 consecutive days extension, the
139 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-despatch under this clause, provided that
140 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
141

- 142 **19. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
143 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
144 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
145 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
146 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
147 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
148 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
149 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
150

- 151 **20. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
152 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
153 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
154 thereafter. The period of despatch shall not be affected by this clause.
155

- 156 **21. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

157 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase,
158 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

159 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
160 agreed, then the assessment of damages shall be settled by arbitration.

161 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
162 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

163 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
164 ordinary course of events from the defaulter's breach of contract, but shall in no case include, loss of profit on any sub-contracts made
165 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
166 his/their sole and absolute discretion think fit.

167 (e) If default has not already been declared then (notwithstanding the provisions stated in the Despatch Clause) if notice of advice is not
168 passed by the 10th consecutive day after the last day for the advice of despatch laid down in the contract, the Sellers shall be deemed to
169 be in default, and the default date shall then be the first business day thereafter.
170

- 171 **22. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
172 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
173 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
174 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
175 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
176 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall serve a notice of
177 the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or
178 the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was
179 thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price
180 ruling on the business day following the serving of the notice. If such notice has not been served as aforesaid, then the other party, on
181 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
182 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
183 ruling on the first business day after the date when the Act of Insolvency occurred.

184 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
185 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
186 receivable under this contract.
187

- 188 **23. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
189 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
190 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
191 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the

192 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
193 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
194 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
195 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
196 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
197 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
198 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
199 service, any rule of law or equity to the contrary notwithstanding.
200

201 **24. ARBITRATION-**

202 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
203 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
204 shall be deemed to be cognisant.

205 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
206 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
207 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
208 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
209 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
210 any such dispute.
211

212 **25. INTERNATIONAL CONVENTIONS-**

213 The following shall not apply to this contract: -

214 (a) the Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales
215 Act 1967;

216 (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and

217 (c) the United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
218 of 1980

219 (d) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
220 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR UNITED KINGDOM AND IRELAND GRAIN IN BULK RYE TERMS - CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9 shipped in bulk. Shipper has the option of shipping up to 10% in bags for stowage purposes, such bags to be taken and paid for as

10 goods.

11

12 **2. QUANTITY -** tonnes, say 5% more or less.

13 In the event of the quantity contracted for being for a full and complete cargo and/or cargoes the margin of contract quantity to be

14 10% more or less, excess or deficiency over 5% to be settled at the CIF price on date of last bill of lading and on the quantity thereof;

15 value to be fixed by arbitration unless mutually agreed. In the event of more than one shipment being made each shipment to be

16 considered a separate contract, but the margin on the mean quantity sold not to be affected thereby.

17

18 **3. PRICE-** At price of per tonne of 1000 kilograms,

19 gross weight, cost, insurance and freight to

20

21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

22 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the

23 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated

24 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25

26

27 **5. QUALITY**

28 * **Warranted to contain** at time and place of discharge.

29

30 * **Natural Weight** kilograms per hectolitre.

31

32 * **Moisture** % * **Admixture** %

33

34 * **To be certified by**

35 Certificate of inspection at time of loading shall be final as to quality.

36

37 * **F.A.Q.** (fair average quality) of the season's shipments at time and place of loading to be assessed upon the basis of, and by

38 comparison with the GAFTA F.A.Q. Standard of the month during which the bill of lading is dated. In the event of no F.A.Q.

39 Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.

40 An average sample of the delivery shall be taken and sealed jointly at port of loading by the representatives of the Sellers and the

41 Representatives of the Buyers and shall be forwarded immediately to the Association for the purpose of establishing the F.A.Q.

42 Standard. The expenses of such sampling and forwarding shall be paid half by the Sellers and half by the Buyers. Place of

43 loading under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in

44 making the Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% of contract

45 price, no allowance for quality shall be due; otherwise Buyers shall be entitled to the full difference in value.

46

47 * **Sample** - at time and place of loading about as per sealed sample marked

48

49 in possession of; the word "about" shall mean the equivalent of 0.50% of the contract price.

50 In any assessment of allowances for quality at arbitration, due regard shall be given to any analysis under other guarantees.

51 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,

referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition-Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an improper shipment.

6. **PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.
7. **SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply: -
(a) Position of vessel is mutually agreed between Buyers and Sellers;
(b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
(c) Appropriation Clause cancelled if sold shipped.
8. **SHIPMENT AND CLASSIFICATION-** Shipment from
direct or indirect, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding Tankers and Vessels which are either classified in Lloyd’s Register or described in Lloyd’s Shipping Index as “Ore/Oil” Vessels.
9. **EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -
1 to 4 additional days, 0.50%;
5 or 6 additional days, 1%;
7 or 8 additional days 1.50% of the gross contract price.
If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
10. **APPROPRIATION** –
(a) Notice of appropriation shall state the vessel’s name, the approximate weight shipped, and the date or the presumed date of the bill of lading.
(b) The notice of appropriation shall within 2 business days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -
(1) On the same calendar day, if received not later than 1600 hours on any business day, or
(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.
(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and ligherage incurred thereby at port of discharge.
11. **PAYMENT-**
(a) **Payment** % of invoice amount by cash in
in exchange for and on presentation of shipping documents.
(b) **Shipping documents** – shall consist of – 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship’s Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of

119 Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4.
120 Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War
121 Deviation Clause and/or other recognised official War Risk Clause.

122 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers
123 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in
124 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
125 available.

126 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may
127 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra
128 expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents,
129 shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are
130 eventually available.

131 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
132 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
133 by Buyers, by a recognised bank.

134 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
135 event any additional collection costs shall be borne by Buyers.

136 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
137 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
138 thereto.

139 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
140 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

141 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
142 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
143 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
144 override the parties' contractual obligation under sub-clause (a).

145

146 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
147 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account. Where the
148 goods become the subject of a European Union export refund in accordance with the EC regulations in force at time of export, they
149 are not eligible for re-importation to the European Union.

150

151 **13. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
152 GAFTA Insurance Terms No.72 viz.: -

153 (a) Risks Covered: -

154 Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
155 War Clauses (Cargo)	- Section 4 of Form 72
156 Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

157 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
158 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
159 process in London, but for whose solvency Sellers shall not be responsible.

160 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
161 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
162 Buyers.

163 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
164 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
165 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
166 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
167 if the CIF value plus 2% were insured from the time of shipment.

168 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
169 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
170 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
171 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
172 recognised bank, or by any other guarantor who is acceptable to Buyers.

173 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
174 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
175 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

176 (g) Currency of Claims - Claims to be paid in the currency of the contract.

177 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
178 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
179 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
180 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
181 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
182 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

183 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
184 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
185 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers

186 in respect of such matters.

187
188 **14. DISCHARGE-** Vessel to discharge according to the custom of the port at buyers' expense. Vessel to discharge afloat or safely
189 aground:-

190 (a) within running hours, weather permitting, or

191
192 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,

193
194 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
195 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700 hours
196 on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in discharging
197 unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the rate stipulated in the
198 charter party. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers
199 to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted, unless specifically
200 excluded at time of contract.

201
202 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
203 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
204 Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or
205 their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If
206 final at time and place of loading as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which
207 case the Deficiency Clause will not apply).

208
209 **16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
210 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

211
212 **17. ALLOWANCES-**

213 (a) **Natural Weight** - To be ascertained by GAFTA or other accepted authority and any deficiency so determined to be allowed for
214 off the contract price in accordance with the GAFTA Sampling Rules No.124.

215 (b) **Moisture** - Any excess in the guaranteed maximum moisture content shall be allowed for off the contract price on the following
216 scale:

217 1% for 1% up to the first 1% excess.

218 1.50% for 1% of the excess over the first 1% up to 2%.

219 2.50% for 1% of the excess over 2% up to 3%.

220 Fractions in proportion.

221 If the excess exceeds 3%, the allowance to be mutually agreed or settled by arbitration.

222 (c) **Admixture** - Any admixture of dirt and/or other foreign substance in excess of the guaranteed maximum shall be allowed for by
223 Sellers at contract price but any grain or seed other than the grain contracted for to be reckoned as foreign substances at half their
224 quantities. The percentage of admixture to be determined by GAFTA or its duly appointed Analysts.

225
226 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
227 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from
228 the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and
229 place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the
230 GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

231
232 **19. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the season's
233 crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination damaged or out
234 of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on the contract price to be
235 fixed by arbitration unless mutually agreed.

236
237 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
238 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum recovered
239 under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in connection with the
240 claim shall be deducted.

241
242 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters for
243 preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in addition
244 documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as Sellers may be
245 unable to recover in consequence.

246
247 **20. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
248 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
249 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
250 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
251 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
252 therefor and, if required, Sellers must produce proof to justify the cancellation.

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21. LOADING STRIKES/ICE-

(a) Should shipment of the grain or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes, lock-outs or ice at port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination of any such occurrence as aforesaid to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the commencement of the occurrence and in the event of the time left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes, lock-outs or ice occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the foregoing provisions, the additional extension allowed shall be limited to the actual duration of such further riots, strikes, lock-outs or ice. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.

(b) The Shipper shall serve notice naming the port or ports not later than 2 business days after the last day of guaranteed time for shipment if he intends to claim an extension of time for shipment, such notice shall limit the ports for shipment after expiry of contract period to those from which an extension is claimed.

(c) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.

22. DISCHARGING STRIKES/ICE - In the event of a strike or lock-out affecting the discharge of the cargo at, or ice preventing the vessel reaching the port of destination named in the contract, the terms of the "Gencon" or "Synacomex" or "Britcon" Clauses to apply. If during any of the time allowed for shipment the port of destination is inaccessible because of ice to ships of the size required under this contract, and the Sellers are unable to charter for this reason, then Sellers shall by serving notice on Buyers, be entitled at the termination of such inaccessibility to as much time for shipment as was left for shipment prior to the commencement of the inaccessibility, with a minimum of 14 days always to be allowed for. Current charges in force at time of contract, after the date of the originally stipulated contract period of shipment to be for Buyers' account. The question of accessibility to be decided by Lloyd's Agent, if necessary.

23. PRO RATA-

(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

(c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those Receivers who did not receive their full invoiced quantity.

(d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

(e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under the contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by the GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

24. CIRCLE- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents

320 are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment
321 by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be
322 due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of
323 this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

324 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on
325 the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
326 differences between the market price and the relative contract price in the currency of the contract.

327 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with
328 this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
329 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of
330 payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
331 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the
332 lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make
333 payment to their Buyers of the difference between the closing out price and the contract price.

334
335 **25. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
336 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
337 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if
338 receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,
339 establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was
340 actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their
341 respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received
342 on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

343
344 **26. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
345 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
346 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
347 thereafter. The period of shipment shall not be affected by this clause.

348
349 **27. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
350 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase,
351 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
352 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
353 agreed, then the assessment of damages shall be settled by arbitration.
354 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
355 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
356 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
357 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
358 (e) Damages, if any, shall be computed on the quantity appropriated but, if no such quantity has been appropriated then on the mean
359 contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean
360 contract quantity.
361 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
362 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
363 provisions stated in the Appropriation Clause), if notice of appropriation has not been served by the 4th business day after the last day
364 for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
365 business day thereafter.

366
367 **28. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
368 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
369 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
370 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
371 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
372 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
373 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
374 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
375 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
376 price ruling on the business day following the giving of the notice. If such notice has not been served then the other party, on learning
377 of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the
378 first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on
379 the first business day after the date when the Act of Insolvency occurred.

380 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
381 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
382 receivable under this contract.

383
384 **29. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
385 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
386 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have

387 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
388 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
389 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
390 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
391 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
392 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
393 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
394 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
395 service, any rule of law or equity to the contrary notwithstanding.
396

397 **30. ARBITRATION-**

398 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
399 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
400 shall be deemed to be cognisant.

401 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
402 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
403 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
404 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
405 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
406 any such dispute.
407

408 **31. INTERNATIONAL CONVENTIONS -**

409 The following shall not apply to this contract: -

410 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
411 Sales Act 1967;

412 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

413 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
414 Protocol of 1980.

415 (d) Incoterms

416 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
417 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA
THE GRAIN AND FEED TRADE ASSOCIATION
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No. 79A

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION
**CONTRACT FOR UNITED KINGDOM
AND IRELAND GRAIN**
FOB TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS IN BULK-**

9 Buyers have the option of calling for up to 10% in bags for safe stowage, such bags to be taken and paid for as Grain.

10

11 **2. QUANTITY-**tonnes, 5% more or less at Buyers' option. In the event of the

12 quantity contracted for being for a full and complete cargo and/or cargoes the margin of contract quantity to be 10% more or

13 less, excess or deficiency over 5% to be settled at the FOB price on date of last bill of lading and on the quantity thereof; value

14 to be fixed by arbitration unless mutually agreed. In the event of more than one shipment being made, each shipment to be

15 considered a separate contract, but the margin on the mean quantity sold not to be affected thereby.

16

17 **3. PRICE-** At the price of

18 per tonne of 1000 kilograms delivered free on board Buyers' vessel(s), including trimming and/or stowage.

19

20 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

21 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

22 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the goods are not

23 delivered then the brokerage shall be due on the 30th consecutive day after the last day for delivery.

24

25 **5. LOADING PORT-**

26

27 Sellers have the option of declaring

28 as the loading port(s) for each period of shipment. To exercise this option, the first Sellers shall declare the loading port(s) to

29

30 their Buyers not later than 1000 hours on

31 Notice of Declaration may be passed by telephone in which case to be confirmed in writing on the same day.

32 The Notices Clause and the Non-Business Days Clause shall not apply to such declaration.

33 Where the date for declaring a port falls to be served on a non-business day (as defined in the Non-Business Days Clause) it

34 shall be given not later than 1000 hours on the immediate preceding business day.

35 In case of re-sales all notices shall be served by any means of rapid written communication (or by telephone and confirmed by

36 telex) on the same day if received not later than 1700 hours or not later than 1000 hours on the next business day if received

37 after 1700 hours or on a non-business day.

38 A notice to the Brokers or Agent shall be deemed a notice under this contract.

39

40 **6. QUALITY-**

41 * **Warranted to contain**

42

43 * **Natural Weight** kilograms per hectolitre.

44

45 * **Moisture**..... %* **Admixture**

46

47 * **To be certified by**.....

48 Certificate of inspection at time of loading shall be final as to quality.

49 * **F.A.Q.** (of fair average quality) of the season's shipments at time and place of loading to be assessed upon the basis of, and
50 by comparison with the GAFTA F.A.Q. Standard of the month during which the bill of lading is dated. In the event of no
51 F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair
52 average quality. An average sample of the delivery shall be taken and sealed jointly at port of loading by the representatives
53 of the Sellers and the Representatives of the Buyers and shall be forwarded immediately to the Association for the purpose of
54 establishing the F.A.Q. Standard. The expenses of such sampling and forwarding shall be paid half by the Sellers and half
55 by the Buyers. Place of loading under this contract shall be understood as the port or group of ports adopted by the
56 appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q. Standard
57 shall not amount to 0.50% of contract price, no allowance for quality shall be due; otherwise Buyers shall be entitled to the
58 full difference in value.

59 * **Sample** - at time and place of loading about as per sealed sample marked
60
61 in possession of; the word "about" shall mean the equivalent of 0.50% of the contract price.
62 In any assessment of allowances for quality at arbitration, due regard shall be given to any analysis under other guarantees.
63 **Condition-** Delivery shall be made in good condition.
64

65 **7. DELIVERY PERIOD-**

66 **A.** Delivery during at Buyers' call.
67 Vessel shall load in accordance with the custom of the port of loading at one safe berth per vessel at Sellers' option. Bill of
68 lading shall be considered proof of date of delivery in the absence of evidence to the contrary.
69 **B.** Provided that the vessel is presented at loading port in readiness to load, Sellers shall if necessary complete loading after the
70 contractual period, and such delivery shall be deemed to be within the contractual period, subject to the following
71 provisions:
72 (a) Notwithstanding the provisions of the Nomination of Vessel's Clause the presentation shall allow at least
73
74 36/ consecutive hours remaining prior to the end of the contractual delivery period.
75 (b) The presentation must be between 0800 hours and 1700 hours on a business day.
76 (c) Time from 1700 hours on a Friday or a day preceding a public holiday until 0800 hours on the next working day shall
77 not count in computing (a) above.
78

79 **8. EXTENSION OF DELIVERY-** The contract period of delivery shall be extended for not more than eight consecutive days,
80 provided that Buyers serves notice claiming extension not later than the next business day following the last day of the delivery
81 period. The notice need not state the number of additional days claimed. If delivery is made within the extended period of eight
82 days, the contract price will be increased in accordance with the number of days by which the originally stipulated period is
83 exceeded, in accordance with the following scale:
84

- 85 1 to 4 days 0.50%;
- 86 5 or 6 days 1%;
- 87 7 or 8 days 1.50% of the gross contract price.

88
89 Any difference in export duties, taxes, levies etc., between those applying during the original delivery period and those applying
90 during the period of extension shall be for the account of Buyers; Sellers shall produce evidence of the amounts paid if required
91 by Buyers. If any increase becomes due under this clause, the contract price shall be deemed to be the original contract price
92 plus the increase and any other contractual differences shall be settled on the basis of such increased price. For the purpose
93

94 of establishing the increased price, the calculation of extension shall commence 36/..... consecutive hours
95 after the vessel is presented at the loading port in readiness to load. If however, after having served notice to Sellers as above,
96 subject to the provisions of Delivery Period Clause, above, Buyers fail to take delivery within such 8 days, then the contract
97 shall be deemed to have called for delivery during the originally stipulated period plus 8 days, at contract price plus 1.50% and
98 any settlement for default shall be calculated on that basis.
99

100 **9. NOMINATION OF VESSELS-**

101 (a) **Nomination of Vessels**
102 (i) The last F.O.B. Buyers shall give at least 3 clear days notice of the name of the vessel(s) and the probable readiness
103 date; the estimated quantity required to be loaded and the name of the Ship's Agents, to be despatched by telex by
104 the last F.O.B. Buyers by 1000 hours on a business day. The above-mentioned notice shall not become effective
105 under the terms of this contract before the expiry of the 3 clear day's notice.
106 (ii) Buyers shall instruct the Ship's Agents to keep the Sellers informed of any delay in the expected date of the vessel's
107 readiness. In the event that the vessel does not present in readiness to load in compliance with the Delivery Period
108 Clause within 5 days from the original probable readiness date, the nomination shall be deemed to have lapsed.
109 (b) **Substitution of Vessels**
110 Having nominated as in (a)(i) above, the last F.O.B. Buyers are entitled to substitute the last named vessel, provided that
111 they serve a notice to the Sellers of the name of the substitute vessel and any change of the Ship's Agent. The substitute
112 vessel shall present at the loading port in readiness to load in compliance with the Delivery Period Clause no later than 5

113 days from the expected probable readiness date of the vessel nominated in accordance with paragraph (a)(i) above.

114
115 In the case of resales all notices shall be passed on without delay by telephone and confirmed by telex on the same day. A notice
116 to the Brokers or Agent shall be deemed a notice under this clause. The Notices Clause and the Non-Business Days Clause shall
117 not apply.
118

119 **10. SHIP'S CLASSIFICATION-** By first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods,
120 classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of
121 shipment, excluding Tankers and Vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping index
122 as "Ore/Oil" Vessels.
123

124 **11. PAYMENT-**

125 (a) Payment by cash in on presentation of and in exchange for, bill(s) of lading or mate's receipt.

126 (b) No obvious clerical error in the documents shall entitle the Buyers to reject them or delay payment, but the Sellers shall be
127 responsible for all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an
128 approved guarantee in respect thereto.

129 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
130 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
131 Arbitration Rules.

132 (d) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
133 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
134 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
135 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
136

137 **12. EXPORT LICENCE-** Export Licence, if required, to be obtained by Buyers.
138

139 **13. DUTIES AND TAXES ON GOODS-** All export duties and taxes, present or future, in country of origin or of the territory
140 where the port or ports of shipment named herein is situate, shall be for Sellers' account, unless otherwise provided. E.C.
141 Levies, Refunds etc. shall be for Buyers' account, unless otherwise provided.
142

143 Where the goods become the subject of a European Union (EC, EEC, EU) export refund in accordance with the EU regulations
144 in force at time of export, they are not eligible for re-importation to the European Union.
145

146 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
147 contract. Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and
148 expense.
149

150 **15. SUPERVISION-** Sellers and Buyers and/or their Representatives shall have the right of supervision both as to delivery and
151 weighing at port(s) of loading.
152

153 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
154 No. 124, are deemed to be incorporated into this contract. Where the contract requires quality final at loading, samples shall
155 be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and
156 sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed
157 from the GAFTA Register of Analysts.
158

159 **17. ALLOWANCES-**

160 (a) **Natural Weight** - To be ascertained by GAFTA or other accepted authority and any deficiency so determined to be
161 allowed for off the contract price in accordance with GAFTA Sampling Rules No.124.

162 (b) **Moisture** - Any excess in the guaranteed maximum moisture content shall be allowed for off the contract price on the
163 following scale:

164 1% for 1% up to the first 1% excess.

165 1.50% for 1% of the excess over the first 1% up to 2%.

166 2.50% for 1% of the excess over 2% up to 3%.

167 Fractions in proportion.

168 If the excess exceeds 3%, the allowance to be mutually agreed or settled by arbitration.

169 (c) **Admixture** - Any admixture of dirt and/or other foreign substance in excess of the guaranteed maximum shall be allowed
170 for by Sellers at contract price but any grain or seed other than the grain contracted for to be reckoned as foreign substances
171 at half their quantities. The percentage of admixture to be determined by GAFTA or its duly appointed Analysts.
172

173 **18. INSURANCE-** Marine and War Risk Insurance including strikes, riots, civil commotions and mine risk shall be effected by
174 Buyers with first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation thereof at least 3
175 consecutive days prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation, Sellers shall have the right
176 to place such insurance at Buyers' risk and expense.

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- 19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
- 20. LOADING STRIKES, RIOTS, LOCK-OUTS OR ICE-**
- (a) Should delivery or loading of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed delivery period or at any time during the guaranteed delivery period if such be less than 28 days, by reason of riots, strikes, lock-outs or ice at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then Sellers shall be entitled at the termination of such riots, strikes, lock-outs or ice to as much time, not exceeding 28 days, for delivery at such port(s) as was left for delivery under the contract prior to the outbreak of the riots, strikes, lock-outs or ice, and in the event of the time left for delivery under the contract being 14 days or less, a minimum extension of 14 days shall be allowed.
- (b) In the event of further riots, strikes, lock-outs or ice preventing delivery or loading of the goods during the time by which the guaranteed time of delivery has been extended by reason of the operation of the provisions of paragraph (a), the additional extension shall be limited to the actual duration of such further riots, strikes, lock-outs or ice. In the case of non-delivery made under the above circumstances the date of default shall be similarly deferred.
- (c) Sellers shall serve a notice naming the port(s) not later than 5 business days after the commencement of the strikes, riots, lock-outs or ice or 5 business days after the commencement of the delivery period, whichever is later, if they intend to claim an extension of time for delivery under this clause, such notice shall limit the port(s) for delivery after expiry of contract period to those for which an extension is claimed.
- (c) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.
- 21. ICE-** If the ice situation at the port of delivery named in the contract prevents the ship from calling at that port, within the period of delivery, the Buyers shall be entitled at the termination of this inaccessibility to as much time as left for shipment, prior to the commencement of the inaccessibility, with a minimum of 14 days to be allowed. The Buyers shall serve a notice in accordance with the Notices Clause not later than the next business day after the last day of the guaranteed time of delivery if he intends to claim an extension of time for delivery. In the case of non-fulfilment under the above condition, the date of default shall be similarly deferred. The question of inaccessibility to be decided by a Lloyd's agent if required.
- 22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for delivery from the same port(s) of loading during the same period of delivery). Different currencies shall not invalidate the circle. Subject to the terms of the Prohibition Clause in the contract if the goods are not delivered invoices based on the mean contract quantity or, if the goods have been delivered invoices based on the delivered quantity, shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for delivery, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained. Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual delivery, and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in the currency of the contract. All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.
- 23. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

- 241 **24. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
242 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
243 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
244 business day thereafter. The period of delivery shall not be affected by this clause.
245
- 246 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
247 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or
248 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
249 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
250 mutually agreed, then the assessment of damages shall be settled by arbitration.
251 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
252 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
253 above.
254 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result
255 in the ordinary course of events from the defaulter's breach of contract, but shall in no case include, loss of profit on any
256 sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special
257 circumstances, shall in his/their sole and absolute discretion think fit.
258 (e) Damages, if any, shall be computed on the mean contract quantity.
259
- 260 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
261 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
262 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
263 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
264 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
265 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
266 Insolvency shall serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
267 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
268 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
269 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
270 such notice has not been served as aforesaid, then the other party, on learning of the occurrence of the Act of Insolvency, shall
271 have the option of declaring the contract closed out at either the market price on the first business day after the date when such
272 party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date
273 when the Act of Insolvency occurred.
274 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
275 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
276 amount payable or receivable under this contract.
277
- 278 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
279 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
280 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
281 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
282 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
283 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
284 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
285 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
286 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
287 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
288 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
289 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
290 notwithstanding.
291
- 292 **28. ARBITRATION-**
293 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
294 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
295 parties hereto shall be deemed to be cognisant.
296 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
297 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
298 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
299 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
300 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
301 the other of them in respect of any such dispute.
302
- 303 **29. INTERNATIONAL CONVENTIONS-**
304 The following shall not apply to this contract: -

- 305 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
306 International Sales Act 1967;
307 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
308 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
309 Protocol of 1980
310 (d) Incoterms
311 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
312 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SALE AND PURCHASE OF UK & IRELAND GRAIN Delivery/Collection

**delete/specify as applicable*

Date

The following are standard terms for the sale and purchase of grain intended for export, but are not necessarily limited to export.

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6

7 **1. GOODS-**

8

9 **2. QUANTITY-** 5% more or less,
10 at *Sellers/Buyers option, any excess or deficiency over/under 5% to be settled by arbitration unless mutually agreed.

11

12 **3. PRICE-** per tonne of 1000 kilograms,

13

14 delivered to

15

16 collected from

17

18 **4. PAYMENT-**

19 (a) Payment to be by cash in

20 * (i) in exchange for and on presentation of shipping documents

21 * (ii) by irrevocable Letter of Credit to be made available to Sellers by

22 (b) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the
23 other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance
24 with the GAFTA Arbitration Rules No. 125.

25 (c) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall
26 be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by
27 arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an
28 award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

29

30 **5. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or
31 not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the
32 terms of the Force Majeure Clause. Brokerage shall be due on the last day of the period of delivery.

33

34 **6. QUALITY-**

35 ***Warranted to contain: -**

36

Type/Variety	Moisture	Admixture	Sprouted Grains	Natural Weight (specific)
	Max %	Max by weight %	by weight %	

37

38

39 ***Moisture-** To be ascertained at point of destination. In the event of a dispute, the moisture content shall be ascertained
40 by ISO 712 standard. The Buyers have the option of rejecting the goods within the UK for any excess, or alternatively to
41 take the goods with mutually agreed allowances off the contract price.

42 ***Admixture and Sprouted Grains -** To be ascertained at point of destination within the UK. The Buyers have the option
43 of rejecting the goods for any excess or alternatively to take the goods with mutually agreed allowances off the contract

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price.

***Natural Weight-** Warranted at time and place of destination within the UK to be ascertained by a mutually agreed organisation or by GAFTA and any deficiency to be allowed for off contract price, in accordance with the GAFTA Sampling Rules No.124.

Condition-The goods are warranted to be in good condition, free from infestation, clean and to have a natural smell.

Ergot not to exceed 0.001% by weight.

The goods are warranted to comply with the regulations for maximum residue levels for pesticides established for cereals in Directive EC 86/362, as amended.

***7. IN ADDITION TO CLAUSE 7 ABOVE FOR MALTING BARLEY -**

NITROGEN: Maximum dry basis	GERMINATION		SCREENING	
% Tolerance 0.05%	Capacity	Energy	Small Barley	Full Barley

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58

Notwithstanding Clause 6, the above barley sold for malting in the UK is subject to the MAGB scale of allowances for excess moisture. Buyers do not have any option to reject unless the barley is out of condition or has a moisture level above the unit of the current scale.

Purity of Variety

The test for purity of variety to be carried out by The National Institute of Agricultural Botany, Cambridge, in accordance with the appropriate tests for that variety. The cost for this test shall be borne by the party giving the instructions except where they are successful in obtaining an allowance, then the cost shall be borne by the other party to the contract.

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***8. IN ADDITION TO CLAUSE 7 ABOVE FOR MILLING WHEAT -**

PROTEIN	HAGBERG	HARDNESS	GLUTEN
minimum/maximum		as per Stenvert Hardness Scale	

66
67

ZELNY	MACHINABILITY	SODIUM DODECYL SEDIMENTATION (SDS)	
-------	---------------	------------------------------------	--

68
69

9. PERIOD OF DELIVERY

(a) **Collection** - Sellers shall have the grain available for collection at Buyers' call at a mutually agreed time, provided at least 1 business day's notice is given by Buyers. Sellers shall load in good condition in bulk, free onto Buyers vehicles on an accessible hard standing within the contract delivery period. Each vehicle load to be considered a separate contract, but the margin on the mean contract quantity shall not be affected thereby.

(b) **Delivery** - Sellers shall deliver to Buyers nominated destination at Buyers' call at a mutually agreed time, provided that at least 1 business day's notice is given to Sellers by Buyers.

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10. EXTENSION OF DELIVERY/COLLECTION- The contract period of delivery shall be extended for not more than 8 consecutive days, provided Buyers serves a notice claiming extension not later than the business day following the last day of the delivery/collection period.

In the event that delivery/collection is made within the extended 8 consecutive days, the contract price shall be increased in accordance with the number of days by which the originally stipulated period of delivery is exceeded, as follows:

- 1 to 4 days 0.50%
- 5 or 6 days 1%
- 7 or 8 days 1.50% of the gross contract price.

If however, after serving notice as above, Sellers fail to deliver or Buyers fail to collect within such 8 days then the contract shall be deemed to have called for delivery/collection during the originally stipulated period plus 8 days at contract price plus 1.50%.

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11. WEIGHING- All the terms and conditions of GAFTA Weighing Rules No. 123, are deemed to be incorporated into this contract. Buyers shall weigh the goods on delivery, such weights shall be accepted as final and advised to Sellers without delay. Buyers shall give a copy of the weight note to the driver.

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94

- 95 12. **SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling
96 Rules No.124 are deemed incorporated into this contract. The parties shall appoint superintendents, for the purposes of
97 supervision and sampling of goods, from the GAFTA Register of Superintendents. For quality certificates, unless
98 otherwise agreed, analysts shall be appointed from the Register of Analysts.
99
- 100 13. **INSURANCE**- Sellers shall be responsible for insurance cover up to the point of delivery/collection, thereafter
101 insurance shall be for the account of Buyers.
102
- 103 14. **FORCE MAJEURE**- Should the execution of this contract or any unfulfilled portion thereof be prevented by any
104 cause comprehended in the term "force majeure", provided that notice has been served by Sellers/Buyers within 7
105 consecutive days from the occurrence, or not later than 21 days before the commencement of the delivery/collection
106 period, whichever is the later, the time for delivery/collection shall be extended for a period of 30 consecutive days.
107 After the additional period of 30 consecutive days the contract shall be void for the unfulfilled portion so prevented.
108 Sellers/Buyers shall have no claim against Sellers/Buyers for delay or non-fulfilment under this clause, provided that
109 they shall have supplied, if required, satisfactory evidence to justify the delay or non-fulfilment.
110
- 111 15. **DEMURRAGE**- In the event of there being any unreasonable delay by Sellers in loading vehicles, Buyers shall be
112 entitled to recover from Sellers any proved additional expenses. In the event of there being any unreasonable delay by
113 Buyers in discharging vehicles Sellers shall be entitled to recover from Buyers any proved additional expenses.
114
- 115 16. **NOTICES**- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in
116 legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as:
117 - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means,
118 always subject to the proviso that if receipt of any notice is contested by the addressee, the burden of proof of
119 transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s)
120 or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted. In case of
121 resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any
122 notice received after 1600 hours on a business day shall be deemed to have been received on the business day
123 following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
124
- 125 17. **CIRCLE** - Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a
126 circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause
127 shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same
128 county of origin, of the same quality and, where applicable, of the same analysis warranty and of the same delivery
129 period). Different currencies shall not invalidate the circle.
130 If the goods are not delivered, invoices based on the mean contract quantity, (or if the goods have been delivered, on
131 the invoice quantity), shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their
132 Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due
133 not later than 15 consecutive days after the last day for delivery, or should the circle not be ascertained before the
134 expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
135 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the
136 market price on the first day for contractual delivery and invoices shall be settled between each buyer and his seller in the
137 circle by payment of the differences between the market price and the relative contract price in the currency of the
138 contract. All Sellers and Buyers shall give every assistance to ascertain the circle and when the circle shall have been
139 ascertained in accordance with this clause same shall be binding on all parties to the circle. Should any party in the circle
140 prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
141 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be
142 taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall
143 make payment to their Sellers or respective Seller shall make payment to their Buyers of the difference between the closing
144 out price and the contract price.
145
- 146 18. **NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective
147 countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business
148 days. Should the time limit for doing any act or giving any notice expire on a non-business day, the time so limited
149 shall be extended until the first business day thereafter. The period of delivery/ collection shall not be affected by this
150 clause.
151
- 152 19. **DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply: -
153 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter to
154 sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
155 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot
156 be mutually agreed, then the assessment of damages shall be settled by arbitration.
157 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the
158 default price established under (a) above or upon the actual or estimated value of the goods, on the date of default,
159 established under (b) above.
160 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and
161 naturally result in the ordinary course of events from the defaulter's breach of contract, but shall in no case include

162 loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of
163 appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
164 (e) Damages, if any, shall be computed on the mean contract quantity.
165

166 **20. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the
167 creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts,
168 convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made,
169 have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into
170 liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of
171 the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter
172 called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the
173 occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
174 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of
175 Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the
176 contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such
177 notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
178 option of declaring the contract closed out at either the market price on the first business day after the date when such
179 party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after
180 the date when the Act of Insolvency occurred.

181 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of
182 the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale
183 price shall be the amount payable or receivable under this contract
184

185 **21. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England,
186 notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws
187 of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this
188 contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the
189 exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which
190 shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause
191 of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or
192 carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party
193 residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English
194 Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
195 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed
196 Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be
197 deemed good service, any rule of law or equity to the contrary notwithstanding.
198

199 **22. ARBITRATION-**

200 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA
201 Arbitration Rules No.125, in the edition current at the date of this contract, such Rules forming part of this contract
202 and of which both parties hereto shall be deemed to be cognisant.

203 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings
204 against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the
205 arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed
206 and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a
207 condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action
208 or other legal proceedings against the other of them in respect of any such dispute.
209

210 **23. INTERNATIONAL CONVENTIONS-**

211 The following shall not apply to this contract: -

212 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
213 International Sales Act 1967;

214 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

215 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the
216 amending Protocol of 1980.

217 (d) Incoterms

218 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has
219 no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers.....Buyers.....

Printed in England and issued by
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GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.80

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR EU GRAIN IN BULK PARCELS OR CARGOES RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. PARCELS/CARGO (ES)-**

9 shipped in bulk. Sellers have the option of shipping up to 10% in bags for safe stowage, such bags to be taken and paid for as grain.
10 Such bags shall not at any time have contained asbestos or any other potentially injurious material.

11
12 **2. QUANTITY-** 5% more or less.

13 In the event of the quantity contracted being for a full and complete cargo and/or cargoes the margin of contract quantity to be 10%
14 more or less, excess or deficiency over 5% to be settled at the CIF price on date of last bill of lading and on the quantity thereof; value
15 to be fixed by arbitration unless mutually agreed. In the event of more than one shipment being made each shipment to be considered a
16 separate contract, but the margin on the mean quantity sold not to be affected thereby.

17
18 **3. PRICE AND DESTINATION -** At the price of per tonne of 1000 kilograms

19 gross weight, cost, insurance and freight to

20
21 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

22 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
23 Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated
24 then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25
26
27 **5. QUALITY-**

28 * **Warranted to contain** at time and place of discharge.

29
30 * **Official** certificate of inspection, or certification of inspection of, at time and place of loading into
31 the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain
32 of the same colour and description.

33
34 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
35 comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
36 Standard being established by the Association, the Arbitrator(s) shall in his/their discretion decide what is the fair average quality.
37 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper
38 and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the
39 Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid half
40 by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports
41 adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q.
42 Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall be entitled
43 to the full difference in value.

44
45 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of; the
46 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

47 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
48 referred to in the Arbitration Rules specified in the Arbitration Clause.

49 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the
50 time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an
51 improper shipment.

52
53 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

54 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
55 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
56 as being in both halves of the month.

57
58 **7. SALES BY NAMED VESSELS:-** For all sales of named vessels, the following shall apply:-

- 59 (a) Position of vessel is mutually agreed between Buyers and Sellers;
60 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
61 (c) Appropriation Clause cancelled if sold "shipped".

62
63 **8. SHIPMENT AND CLASSIFICATION-** Shipment direct or indirect, from
64 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed Lloyds 100A1 or equivalent
65 class, or in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of
66 shipment, excluding Tankers and Vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as
67 "Ore/Oil" Vessels.

68
69 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
70 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
71 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
72 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
73 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 74
75 1 to 4 additional days, 0.50%;
76 5 or 6 additional days, 1%;
77 7 or 8 additional days 1.50% of the gross contract price.

78
79 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
80 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
81 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
82 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

83
84
85 **10. APPROPRIATION-**

- 86 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
87 bill of lading.
88 (b) The notice of appropriation shall within 2 business days from the date of the last bill of lading be served by or on behalf of the
89 Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not
90 apply.
91 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
92 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
93 the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be
94 deemed to be in time if served: -

95 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

96 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

97
98 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
99 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
100 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
101 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

102 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
103 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

104 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
105 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

106 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
107 borne by Sellers.

108 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

109
110 **11. PAYMENT-**

111 (a) **Payment** % of invoice amount by cash in
112 in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers'
113 option, but if the ship shall not have arrived within 7 days from the date of the bill of lading, payment, unless already made, to be
114 made after the 7th day from the bill of lading date when required by Sellers.

115 (b) **Shipping documents**

116 Shipping documents shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)
117 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be
118 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
119 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
120 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
121 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

122 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
123 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made

124 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
125 are eventually available.

126 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
127 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
128 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
129 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
130 shipping documents are eventually available.

131 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
132 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
133 countersigned, if required by Buyers, by a recognised bank.

134 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
135 that event any additional collection costs shall be borne by Buyers.

136 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
137 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
138 respect thereto.

139 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
140 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
141 Rules.

142 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
143 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
144 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
145 clause do not override the parties' contractual obligation under sub-clause (a).
146

147 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
148 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account. Where the
149 goods become the subject of a European Union export refund in accordance with the EC regulations in force at time of export, they
150 are not eligible for re-importation to the European Union.
151

152 **13. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
153 GAFTA Insurance Terms No.72 viz.: -

154 (a) Risks Covered: -

155 Cargo Clauses (WA) with average payable, or 3% franchise or better terms - Section 2 of Form 72

156 War Clauses (Cargo) - Section 4 of Form 72

157 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

158 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
159 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
160 process in London, but for whose solvency Sellers shall not be responsible.

161 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
162 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
163 Buyers.

164 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
165 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
166 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
167 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
168 if the CIF value plus 2% were insured from the time of shipment.

169 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
170 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
171 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
172 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
173 recognised bank, or by any other guarantor who is acceptable to Buyers.

174 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
175 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
176 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

177 (g) Currency of Claims - Claims to be paid in the currency of the contract.

178 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
179 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
180 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
181 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
182 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
183 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

184 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
185 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
186 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
187 in respect of such matters.
188

189 **14. DISCHARGE**- Vessel to discharge according to the custom of the port at Buyers' expense. Vessel to discharge afloat or safely
190 aground: -

191 (a) within running hours, weather permitting, or
192

193 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,
194 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
195 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700 hours
196 on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in discharging

197 unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the rate stipulated in the
198 charter party. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers
199 to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted, unless specifically
200 excluded at time of contract.
201

202 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
203 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
204 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
205 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
206 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
207 which case the Deficiency Clause will not apply).
208

209 **16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
210 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
211

212 **17. SAMPLING AND ANALYSIS-**the terms and conditions of GAFTA Sampling Rules No. 124 are deemed to be incorporated into
213 this contract. Samples shall be taken at time of discharge on or before removal from the ship or quay, unless the parties agree that
214 quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint
215 superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless
216 otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
217

218 **18. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the season's
219 crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination damaged or out
220 of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on the contract price to be
221 fixed by arbitration unless mutually agreed.
222

223 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
224 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum recovered
225 under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in connection with the
226 claim shall be deducted.
227

228 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters for
229 preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in addition
230 documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as Sellers may be
231 unable to recover in consequence
232

233 **19. PROHIBITION** - In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
234 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
235 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
236 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
237 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
238 therefor and, if required, Sellers must produce proof to justify the cancellation.
239

240 **20. LOADING STRIKES, RIOTS, LOCK-OUTS, ICE -**

241 (a) Should shipment of the grain or any part thereof be prevented at any time during the last 28 days of guaranteed time of shipment
242 or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes, lock-outs or ice at port(s) of
243 loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination
244 of any such occurrence as aforesaid to as much time, not exceeding 28 days, for shipment from such port or ports as was left for
245 shipment under the contract prior to the commencement of the occurrence and in the event of the time left for shipment under the
246 contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes, lock-outs or ice
247 occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of
248 the foregoing paragraph, the additional extension shall be limited to the actual duration of such further riots, strikes, lock-outs or ice.
249 In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.

250 (b) The Shipper shall serve notice naming the port or ports not later than 2 business days after the last day of guaranteed time of
251 shipment if he intends to claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which
252 shipment was intended to be made and if such extension is claimed, the shipment, after expiry of contract period, shall only be made
253 from such port(s).

254 (c) If required by Buyers, Sellers must provide documentary evidence to justify any claim for extension under this clause.
255

256 **21. PRO RATA-**

257 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
258 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
259 shall be necessary.

260 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
261 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
262 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
263 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
264 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

265 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
266 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
267 those Receivers who did not receive their full invoiced quantity.

268 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
269 price by final invoices to be rendered by Receivers, who have received more or less than that paid for to their immediate Sellers
270 without taking into consideration the above pro-rata apportionment between receivers.

271 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be
272 settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this
273 settlement.

274 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
275 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
276 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
277 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
278 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

279 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
280 of destination, such price to be fixed by arbitration unless mutually agreed.

281 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
282 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
283 weight.

284 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
285 where applicable, take precedence over sub-clauses (b) to (h) above.

286 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
287 than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
288 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
289 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
290 market prices on the last day of discharge in the respective ports.

291
292 **22. NOTICES** - All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
293 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
294 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
295 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
296 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
297 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
298 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
299 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

300
301 **23. NON-BUSINESS DAYS** - Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
302 days which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
303 doing any act or giving any notice expire on a non-business day, the time so limited shall be extended until the first business day
304 thereafter. The period of shipment shall not be affected by this clause.

305
306 **24. DEFAULT** - In default of fulfilment of contract by either party, the following provisions shall apply: -
307 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice in accordance with the Notices Clause
308 to the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
309 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
310 agreed, then the assessment of damages shall be settled by arbitration.
311 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
312 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
313 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
314 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
315 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
316 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
317 mean contract quantity.
318 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
319 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
320 provisions stated in the Appropriation Clause) if notice of appropriation is not passed by the 4th business day after the last day for
321 appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first business
322 day thereafter.

323
324 **25. CIRCLE**- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
325 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
326 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
327 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
328 shipment). Different currencies shall not invalidate the circle.

329
330 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
331 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
332 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
333 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
334 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

335
336 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
337 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
338 differences between the market price and the relative contract price in the currency of the contract.

339
340 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance

341 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
342 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
343 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
344 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
345 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
346 make payment to their Buyers of the difference between the closing out price and the contract price.
347

348 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
349 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
350 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a Receiver or
351 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
352 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
353 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
354 notice in accordance with the Notices Clause of the occurrence of such Act of Insolvency to the other party to the contract and upon
355 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
356 committing the Act of Insolvency) that such notice was thus given within 2 business days of the occurrence of the Act of Insolvency,
357 the contract shall be closed out at the market price ruling on the business day following the giving of the notice. If such notice be not
358 given as aforesaid, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the
359 contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of
360 the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all
361 cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-
362 purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
363 receivable under this contract.
364

365 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
366 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
367 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
368 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
369 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
370 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
371 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
372 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
373 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
374 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
375 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
376 service, any rule of law or equity to the contrary notwithstanding.
377

378 **28. ARBITRATION-**
379 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
380 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
381 shall be deemed to be cognisant.
382 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
383 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
384 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
385 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
386 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
387 any such dispute.
388

389 **29. INTERNATIONAL CONVENTIONS -**
390 The following shall not apply to this contract: -
391 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
392 Sales Act 1967;
393 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
394 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
395 of 1980.
396 (d) Incoterms
397 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
398 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR EU GRAIN IN BULK PARCELS OR CARGOES TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. PARCELS/CARGO (ES)-**

9 Sellers shall have the option of shipping up to 10 % in bags for safe stowage, such bags to be taken and paid for as goods. Such
10 bags shall not at any time have contained asbestos or any other potentially injurious material.

11
12 **2. QUANTITY-** 5% more or less.

13 In the event of the quantity contracted being a for a full and complete cargo and/or cargoes the margin of contract quantity to be
14 10 % more or less, excess or deficiency over 5 % to be settled at the CIF price on date of last bill of lading and on the quantity
15 thereof; the value to be fixed by arbitration, unless mutually agreed. In the event of more than one shipment being made each
16 shipment to be considered a separate contract, but the margin on the mean quantity sold not to be affected thereby.

17
18 **3. PRICE AND DESTINATION -** At the price of per tonne of 1000 kilograms

19 gross weight, cost, insurance and freight to

20
21
22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

23 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
24 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not
25 appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

26
27 **5. QUALITY-**

28 * **Warranted to contain** at time and place of discharge.

29
30 * **Official** certificate of inspection, or certification of inspection of at time and place of loading
31 into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher
32 grade of grain of the same colour and description.

33 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by
34 comparison with GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q.
35 Standard being established by GAFTA, the arbitrator(s) shall in his/their discretion decide what is the fair average quality.
36 An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the
37 shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded
38 immediately to GAFTA for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and
39 forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract shall be
40 understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If the
41 difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for
42 quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.

43
44 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of;
45 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

46 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
47 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

48 **Condition-** Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for
49 the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof
50 of an improper shipment.

51
52 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

53 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of

54 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
55 shall be accepted as being in both halves of the month.

56
57 **7. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:-

- 58 (a) Position of vessel is mutually agreed between Buyers and Sellers;
59 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
60 (c) Appropriation Clause cancelled if sold "shipped".

61
62 **8. SHIPMENT AND CLASSIFICATION**- Shipment direct or indirect, from
63 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the
64 Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding Tankers
65 and Vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" Vessels.

66
67 **9. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional
68 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
69 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

70 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
71 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 72 1 to 4 additional days, 0.50%;
73 5 or 6 additional days, 1%;
74 7 or 8 additional days 1.50% of the gross contract price.

75 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
76 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
77 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
78 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
79 basis of such reduced price.

80
81 **10. APPROPRIATION**-

82 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
83 of the bill of lading.

84 (b) The notice of appropriation shall within 2 business days from the date of the last bill of lading be served by or on behalf
85 of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
86 Clause shall not apply.

87 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
88 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
89 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their
90 notice of appropriation shall be deemed to be in time if served: -

91
92 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

93
94 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

95 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
96 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
97 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
98 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
99 Brokers.

100 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
101 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
102 prevail.

103 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
104 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

105 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
106 shall be borne by Sellers.

107 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

108 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
109 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

110
111 **11. PAYMENT**-

112 (a) **Payment** % of invoice amount by cash in
113 in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at
114 Buyers' option, but if the ship shall not have arrived within 7 days from the date of the bill of lading, payment, unless
115 already made, to be made after the 7th day from the bill of lading date when required by Sellers.

116 (b) **Shipping documents**

117 Shipping documents shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
118 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
119 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
120 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
121 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept

122 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
 123 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
 124 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
 125 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
 126 contract when shipping documents are eventually available.
 127 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
 128 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
 129 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
 130 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
 131 contract when shipping documents are eventually available.
 132 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
 133 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
 134 countersigned, if required by Buyers, by a recognised bank.
 135 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
 136 in that event any additional collection costs shall be borne by Buyers.
 137 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
 138 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
 139 guarantee in respect thereto.
 140 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
 141 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
 142 Arbitration Rules.
 143 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
 144 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
 145 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
 146 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
 147

148 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
 149 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
 150 Where the goods become the subject of a European Union export refund in accordance with the EC regulations in force at time
 151 of export, they are not eligible for re-importation to the European Union.
 152

153 **13. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
 154 in GAFTA Insurance terms No. 72, viz.: -

155 (a) Risks Covered:-

156	Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
157	War Clauses (Cargo)	- Section 4 of Form 72
158	Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

159 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
 160 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
 161 address for service of process in London, but for whose solvency Sellers shall not be responsible.

162 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
 163 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
 164 payable by Buyers.

165 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
 166 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
 167 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
 168 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
 169 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

170 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
 171 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c)

172 above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for
 173 a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers,
 174 Letter(s) of Insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

175 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
 176 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
 177 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

178 (g) Currency of Claims - Claims to be paid in the currency of the contract.

179 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
 180 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
 181 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
 182 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
 183 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
 184 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
 185 London at time of shipment.

186 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
 187 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
 188 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
 189 against the Insurers in respect of such matters.
 190

191 **14. DISCHARGE-** Vessel to discharge according to the custom of the port at Buyers' expense. Vessel to discharge afloat or

- 192 safely aground: -
193 (a) within running hours, weather permitting, or
194
195 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,
196 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
197 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700
198 hours on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in
199 discharging unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the
200 rate stipulated in the charter party. If documents are tendered which do not provide for discharging as above, or contain
201 contrary stipulations, Sellers to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall
202 be permitted, unless specifically excluded at time of contract.
203
- 204 **15. WEIGHING** - the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
205 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
206 discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
207 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
208 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
209 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
210
- 211 **16. DEFICIENCY**- any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
212 weight shall be paid for by Buyers at contract price, (unless the Pro-rate Clause applies).
213
- 214 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules
215 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
216 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
217 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
218 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
219 GAFTA Register of Analysts.
220
- 221 **18. PROHIBITION**- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
222 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
223 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
224 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
225 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without
226 delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
227
- 228 **19. LOADING STRIKES, RIOTS, LOCK-OUTS, ICE-**
229 (a) Should shipment of the grain or any part thereof be prevented at any time during the last 28 days of guaranteed time of
230 shipment or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes, lock-outs or
231 ice at port(s) of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be
232 entitled at the termination of such occurrence as aforesaid to as much time, not exceeding 28 days, for shipment from such port
233 or ports as was left for shipment under the contract prior to the commencement of the occurrence and in the event of the time
234 left for shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of
235 further riots, strikes, lock-outs or ice occurring during the time by which the guaranteed time of shipment has been extended by
236 reason of the operation of the foregoing provisions, the additional extension shall be limited to the actual duration of such further
237 riots, strikes, lock-outs or ice.
238 In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.
239 (b) The Shipper shall serve a notice not later than 2 business days after the last day of guaranteed time for shipment if he intends
240 to claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which shipment was
241 intended to be made and if such extension is claimed, the shipment, after expiry of contract period, shall only be made from
242 such port(s).
243 (c) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this Clause.
244
- 245 **20. NOTICES**- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
246 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex,
247 or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the
248 proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the
249 case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
250 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
251 without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day
252 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
253 notice under this contract.
254
- 255 **21. NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
256 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
257 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
258 business day thereafter. The period of shipment shall not be affected by this clause.
259
- 260 **22. DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply: -
261 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or

262 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
263 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
264 mutually agreed, then the assessment of damages shall be settled by arbitration.
265 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
266 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
267 above.
268 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
269 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
270 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
271 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
272 favour of the mean contract quantity.
273 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
274 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
275 provisions stated in the appropriation clause) if notice of appropriation has not been served by the 4th business day after the last
276 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the
277 first business day thereafter.
278

279 **23. PRO RATA-**

280 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
281 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
282 or distinction shall be necessary.
283 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
284 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of
285 this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
286 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
287 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or
288 their Representatives.
289 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
290 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
291 delivered to those Receivers who did not receive their full invoiced quantity.
292 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
293 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
294 Sellers without taking into consideration the above pro-rata apportionment between Receivers.
295 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall
296 be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from
297 this settlement.
298 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall
299 be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
300 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
301 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
302 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
303 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
304 port of destination, such price to be fixed by arbitration unless mutually agreed.
305 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
306 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on
307 the Pro-Rata weight.
308 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
309 shall, where applicable, take precedence over sub-clauses (b) to (h) above.
310 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
311 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
312 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
313 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
314 shall be the average of the market prices on the last day of discharge in the respective ports.
315

316 **24. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
317 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
318 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
319 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
320 during the same period of shipment). Different currencies shall not invalidate the circle.

321 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
322 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
323 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
324 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
325 be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
326 ascertained.

327 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
328 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
329 payment of the differences between the market price and the relative contract price in currency of the contract.

330 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
331 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
332 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in
333 the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract,

334 settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause,
335 which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective
336 Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
337 between the closing out price and the contract price.
338

339 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
340 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
341 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
342 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
343 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
344 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
345 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
346 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
347 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
348 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
349 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
350 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
351 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
352 Act of Insolvency occurred.

353 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
354 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
355 amount payable or receivable under this contract.
356

357 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
358 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
359 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
360 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
361 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
362 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
363 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
364 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
365 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
366 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
367 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
368 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
369 notwithstanding.
370

371 **27. ARBITRATION-**
372 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
373 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
374 parties hereto shall be deemed to be cognisant.
375 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
376 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
377 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
378 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
379 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
380 the other of them in respect of any such dispute.
381

382 **28. INTERNATIONAL CONVENTIONS-**
383 The following shall not apply to this contract: -
384 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
385 International Sales Act 1967;
386 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
387 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
388 Protocol of 1980.
389 (d) Incoterms
390 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
391 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT COST INSURANCE FREIGHT TERMS (C.I.F.)

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-**

11
12 **3. PRICE- At**

13
14 per tonne of 1000 kilograms, gross weight, cost, insurance and freight to

15
16 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

17 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the

18 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are

19 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

20
21 **5. QUALITY-**
22 Specifications

23 **Condition-** Shipment shall be made in good condition.

24
25 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

26 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of

27 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted

28 as being in both halves of the month.

29
30 **7. SALES BY NAMED VESSELS** – For all sales by named vessels, the following shall apply:-

31 (a) Position of vessel is mutually agreed between Buyers and Sellers;

32 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause.

33 (c) Appropriation Clause cancelled if sold "shipped".

34
35 **8. SHIPMENT AND CLASSIFICATION-** Shipment from

36 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the

37 contract goods classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at

38 the time of shipment.

39
40 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional

41 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the

42 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

43 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by

44 which the originally stipulated period is exceeded, in accordance with the following scale: -

45 1 to 4 additional days, 0.50%;

46 5 or 6 additional days, 1%;

47 7 or 8 additional days 1.50% of the gross contract price.

48 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be

49 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement

50 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be

51 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

52
53 **10. APPROPRIATION-**

54 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
55 bill of lading.

56 (b) The notice of appropriation shall within 10 consecutive days from the date of the bill(s) of lading be served by or on behalf of
57 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
58 not apply.

59 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
60 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
61 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
62 deemed to be in time if served: -

63
64 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

65
66 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

67 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
68 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
69 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
70 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

71 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
72 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

73 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
74 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

75 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
76 borne by Sellers.

77 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

78 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
79 for sampling, analysis and lighterage incurred thereby at port of discharge.

80
81 **11. PAYMENT-**

82 (a) **Payment** % of invoice amount by cash in

83 * In exchange for and on presentation of shipping documents.

84 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option.

85 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

86 consecutive days from the date of the bill(s) of lading.

87 (b) **Shipping documents shall consist of: -**

88 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and
89 transferable form. Such other Delivery Order(s) if required by Buyers, to be certified by the Shipowners, their Agents or a recognised
90 bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of
91 Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Should
92 documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be
93 made, provided that delivery of such missing documents be guaranteed, such guarantee to be signed, if required by Buyers, by a
94 recognised bank. Acceptance of this guarantee shall not prejudice Buyers' rights under this contract. No clerical error in the documents
95 shall entitle Buyers to rejection or to delay payment provided that Sellers furnish at the request of Buyers a guarantee, to be
96 countersigned by a recognised bank, if required by Buyers. Sellers shall be responsible for any loss or expense incurred by Buyers on
97 account of such error. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other
98 recognised official War Risk Clause.

99 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
100 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

101 (d) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
102 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
103 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
104 clause do not override the parties' contractual obligation under sub-clause (a).

105
106 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
107 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

108
109 **13. WEIGHING-** the terms and conditions of GAFTA Form 123 Weighing Rules are deemed to be incorporated into this contract.
110 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
111 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
112 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
113 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
114 which case the Deficiency Clause will not apply).

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116 **14. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
117 weight shall be paid for by Buyers at contract price.

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- 15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
- 16. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No. 72, Risks Covered: -
- | | |
|---|------------------------|
| Cargo Clauses (W.A.), with average payable, with 3% franchise or better terms | - Section 2 of Form 72 |
| War Clauses (Cargo) | - Section 4 of Form 72 |
| Strikes, Riots and Civil Commotions Clauses (Cargo) | - Section 5 of Form 72 |
- 17. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
- 18. FORCE MAJEURE, STRIKES ETC.-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
- If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
- If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
- 19. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
- 20. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.
- 21. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
- The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
 - If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
 - The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
 - In all cases damages shall, in addition, include any proven additional expenses which would directly and naturally result in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
 - Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
 - Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last

186 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
187 business day thereafter.
188

189 **22. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
190 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
191 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
192 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
193 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
194 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
195 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
196 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
197 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
198 price ruling on the business day following the serving of the notice. If such notice has not been served then the other party, on learning
199 of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the
200 first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on
201 the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option
202 of ascertaining the settlement price on the closing out of the contract by repurchase or re-sale, and the difference between the contract
203 price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
204

205 **23. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
206 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
207 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
208 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
209 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
210 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
211 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
212 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
213 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
214 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
215 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
216 any rule of law or equity to the contrary notwithstanding.
217

218 **24. ARBITRATION -**

219 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
220 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
221 shall be deemed to be cognisant.

222 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
223 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
224 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
225 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
226 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
227 any such dispute.
228

229 **25. INTERNATIONAL CONVENTIONS -**

230 The following shall not apply to this contract: -

231 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
232 Sales Act 1967;

233 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

234 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
235 of 1980.

236 (d) Incoterms

237 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
238 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.82

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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FREE ON BOARD TERMS (F.O.B.)

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-**

11
12 **3. PRICE-** per tonne of 1000 kilograms, gross weight, delivered free on board Buyers' vessel at

13
14 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
15 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
16 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the goods are
17 not delivered then the brokerage shall be due on the 30th consecutive day after the last day for delivery.

18
19 **5. QUALITY-**
20 Specifications

21 **Condition-** Delivery shall be made in good condition.

22
23 **6. PERIOD OF DELIVERY** -Delivery during- at Buyers' call.

24
25 **Nomination of Vessel-** Buyers shall serve not less thanconsecutive days notice of the name and
26 probable readiness date of the vessel and the estimated tonnage required.

27 Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension shall not
28 be affected thereby. Provided the vessel is presented at the loading port in readiness to load within the delivery period, Sellers
29 shall if necessary complete loading after the delivery period and carrying charges shall not apply. In case of re-sales a provisional
30 notice shall be passed on without delay, where possible, by telephone and confirmed on the same day in accordance with the
31 Notices Clause.

32
33 **7. LOADING** - Vessel(s) to load in accordance with the custom of the port of loading unless otherwise stipulated. Bill of lading
34 shall be considered proof of delivery in the absence of evidence to the contrary.

35
36 **8. EXTENSION OF DELIVERY-** The contract period of delivery shall be extended by an additional period of not more than 21
37 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of
38 the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and
39 other such normal carrying expenses shall be for Buyers' account, unless the vessel presents in readiness to load within the contractual
40 delivery period.

41
42 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying
43 during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the
44 amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.

45
46 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring Buyers
47 to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less current FOB
48 charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete delivery of the contract
49 on the part of Sellers.

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9. **SHIP'S CLASSIFICATION**- Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

10. **PAYMENT**-

(a) By cash in

against the following documents

(b) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved guarantee in respect thereto.

(c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(d) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

11. **DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin or of the territory where the port or ports of shipment named herein is/are situate, shall be for Sellers' account.

12. **EXPORT LICENCE** - if required, to be obtained by Sellers.

13. **WEIGHING**- the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and expense. Buyers have the right to attend at loading.

14. **SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

15. **INSURANCE**- Marine and war risk insurance including strikes, riots, civil commotions and mine risks to be effected by Buyers with first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation thereof at least five consecutive days prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation Sellers shall have the right to place such insurance at Buyers' risk and expense.

16. **PROHIBITION**- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

17. **FORCE MAJEURE, STRIKES ETC.**- Sellers shall not be responsible for delay in delivery of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or any cause comprehended in the term "force majeure". If delay in delivery is likely to occur for any of the above reasons, shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is later.

The notice shall state the reason(s) for the anticipated delay. If after serving such notice an extension to the delivery period is required, then the Sellers shall serve a further notice not later than 2 business days after the last day of the contract period of delivery. If delivery be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days.

If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If delivery under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-delivery under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

18. **NOTICES**- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been

received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

19. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of delivery shall not be affected by this clause.

20. **DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity called for, but if no such quantity has been declared then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.

21. **INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

22. **DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

23. **ARBITRATION-**

(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.

(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

24. **INTERNATIONAL CONVENTIONS-**

The following shall not apply to this contract: -

(a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;

(b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

(c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol

188 of 1980.
189 (d) Incoterms
190 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
191 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR TRANSHIPMENT/RE-SHIPMENT OF GRAIN IN BULK PARCELS OR CARGOES TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 Shipped in bulk, Sellers have the option of shipping up to 10% in bags for safe stowage, such bags to be taken and paid for as grain.

10
11 **2. QUANTITY-** 5% more or

12 less. In the event of the quality contracted for being for a full and complete cargo and/or cargoes the margin of contract quantity to be 10% more or less. Dockage not to be considered in the quantity deliverable under this contract. In the event of more than one shipment being made each shipment to be considered a separate contract, but the margin on the mean quantity sold not to be affected thereby

13
14 **3. PRICE AND DESTINATION - At**

15 * per tonne of 1000 kilograms }

16 } gross weight, cost, insurance and freight, to

17 * per ton of 1016 kilograms for 2240 lbs. }

18
19 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

20 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

21
22 **5. QUALITY-**

23 * **Warranted to contain** at time and place of discharge.

24 * **Official** certificate of inspection, or certification of inspection of at time and place of loading into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain of the same colour and description.

25 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is the fair average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due; otherwise the Buyers shall be entitled to the full difference in value.

26 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of ; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

27 * **Natural Weight-** of kilograms per hectolitre, guaranteed at time and place of discharge to be ascertained by GAFTA or other accepted authority and any allowances so determined to be allowed for off contract price, in accordance with the GAFTA Sampling Rules No.124.

28 * **Admixture-** Any admixture of dirt and/or other foreign substances over 2 % to be allowed for by Sellers at contract price, but any grain or seed other than the grain contracted for to be reckoned as foreign substances at half their quantities. The percentage of admixture to be determined by the official Analysts of GAFTA or its duly appointed Analyst.

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Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an improper shipment.

- 6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.
- 7. SALES BY NAMED VESSELS** –For all sales by named vessels, the following shall apply: -
(a) Position of vessel is mutually agreed between Buyers and Sellers;
(b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
(c) Appropriation Clause cancelled if sold "shipped".
- 8. SHIPMENT AND CLASSIFICATION-** Shipment direct or indirect, from.....
by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.
- 9. APPROPRIATION**
(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.
(b) The notice of appropriation shall within 1 business day from the date of the last bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be deemed to be in time if served: -
(1) On the same calendar day, if received not later than 1600 hours on any business day, or
(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.
(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
- 10. PAYMENT-**
(a) **Payment** % of invoice amount by cash in
in exchange for and on presentation of shipping documents, on or before arrival of the ship at first point of discharge, at Buyers' option, but if the ship shall not have arrived within 7 days from the date of the bill of lading, payment, unless already made, to be made after the 7th day from the bill of lading date when required by Sellers.
(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.
(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.
(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.
(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.
(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible

128 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
129 respect thereto.

130 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
131 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
132 Rules.

133 (i) Interest – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
134 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
135 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
136 clause do not override the parties' contractual obligation under sub-clause (a).

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138 **11. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
139 GAFTA Insurance Terms No.72 viz.: -

140 (a) Risks Covered: -

141 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72
142 War Clauses (Cargo) - Section 4 of Form 72
143 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

144 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
145 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
146 address for service of process in London, but for whose solvency Sellers shall not be responsible.

147 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable
148 on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable
149 by Buyers.

150 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
151 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
152 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
153 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in
154 the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

155 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
156 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
157 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
158 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be
159 guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

160 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
161 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy
162 (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

163 (g) Currency of Claims - Claims to be paid in the currency of the contract.

164 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
165 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters.
166 Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the
167 date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be
168 the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to
169 provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of
170 shipment.

171 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
172 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
173 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
174 against the Insurers in respect of such matters.

175

176 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
177 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

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179 **13. DISCHARGE-** Vessel to discharge according to the custom of the port at Buyers' expense. Vessel to discharge afloat or safely
180 aground:-

181 (a) within running hours, weather permitting, or
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183 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,
184 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
185 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700 hours
186 on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in discharging
187 unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the rate stipulated in the
188 charter party. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers
189 to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted, unless specifically
190 excluded at time of contract.

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192 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
193 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
194 Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
195 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
196 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
197 which case the Deficiency Clause will not apply).

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199 **15. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
200 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

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16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS- the terms and conditions of GAFTA Sampling Rules No. 124, are deemed to be incorporated into this contract. Samples shall be taken at time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

17. LOADING STRIKES/ICE/PROHIBITION-

1. (a) At Transshipment/Re-Shipment Port(s) -

Loading Strikes - Should shipment of the grain or any part thereof be prevented at any time during the guaranteed contract period of shipment by reason of riots, strikes, lock-outs or ice at port or ports of loading or elsewhere (other than the country of origin of the grain) preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination of any such occurrence as aforesaid to as much time, not exceeding 21 days, for shipment from such port or ports as was left for shipment under the contract prior to the commencement of the occurrence and in the event of the time for shipment under the contract being 10 days or less, a minimum extension of 10 days shall be allowed. In the event of further riots, strikes or lock-outs occurring during the time by which the guaranteed time of shipment has been extended by reason of the operation of the provisions of the foregoing paragraph, the additional extension allowed shall be limited to the actual duration of such further riots, strikes or lock-outs.

In case of non-fulfilment under the above conditions the date of default shall be similarly deferred. The Shipper shall serve a notice naming the port(s) not later than 2 business days after the last day of guaranteed time for shipment if he intends to claim an extension of time for shipment, such notice shall limit the port(s) for shipment after expiry of contract period to those from which an extension is claimed. If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.

Prohibition - In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

(b) In Country of Origin -

For the sole purpose of the application of the Loading Strikes Clause and Prohibition Clause in country of origin, it is agreed between Buyers and Sellers that a theoretical period of shipment from origin shall be deemed to precede the contract period of shipment from transshipment/re-shipment port(s) by the following number of days, according to area of origin:

If shipped from:

Mexican Pacific, West Coast North America, China, Indonesia, Japan and other Far Eastern Ports	45 days
Burma, Malaysia, Thailand, Bangladesh, Australasia	40 days
India West/East, South America, Pakistan, East Africa	35 days
Iran, Iraq, Southern Africa, Angola, Zaire	30 days
U.S. Gulf, U.S. South of Cape Hatteras, Canadian/U.S. Lakes, Mexican Gulf, West African Ports, Gabon to Ivory Coast, Red Sea Area	20 days
Canadian Atlantic, St. Lawrence, Churchill, U.S. North of Cape Hatteras, Mediterranean, Morocco to Liberia	15 days
Baltic, Iberian Atlantic	7 days
Other European Ports	3 days

theoretical period shall be referred to hereafter as "the deemed period of shipment" and shall in all cases consist of the same number of days as the actual shipment period of this contract.

2. The Loading Strikes Clause and Prohibition Clause of the GAFTA Contract No to apply to this Transshipment/Re-Shipment contract, should either of these clauses become operative at origin during the deemed period of shipment. In which event Sellers shall be entitled: -

(a) to an extension of the contract period of shipment from transshipment/re-shipment port(s) by the number of days by which the deemed period of shipment is extended under the Loading Strikes Clause at origin;

(b) to invoke the Prohibition Clause at origin, should same fall within the deemed period of shipment.

Sellers shall serve a notice naming the port or ports in the country of origin, not later than 2 business days after the last day of the deemed period of shipment, if they intend to claim an extension of time for shipment; such notice shall limit the ports for shipment to those from which extension is claimed. If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause. In case of non-fulfilment under the above conditions, the date of default shall be similarly deferred.

18. NOTICES- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as:- either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

19. NON-BUSINESS DAYS- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

- 274 **20. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
275 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter to sell or
276 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
277 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
278 mutually agreed, then the assessment of damages shall be settled by arbitration.
279 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
280 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
281 above.
282 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
283 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
284 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
285 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
286 of the mean contract quantity.
287 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
288 business day after the date of Sellers' advice to their Buyers.
289 If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of
290 appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, where
291 the Appropriation Clause provides for 7 or more days for service of the appropriation, or if notice of appropriation has not been
292 served by the 4th business day after the last day for appropriation laid down in the contract where the Appropriation Clause
293 provides for less than 7 days for service of the appropriation, the Sellers shall be deemed to be in default, and the default date
294 shall then be the first business day thereafter.
- 295 **21. PRO RATA-**
296 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags
297 of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or
298 distinction shall be necessary.
299 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
300 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this
301 not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
302 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
303 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their
304 Representatives.
305 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
306 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
307 delivered to those Receivers who did not receive their full invoiced quantity.
308 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
309 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
310 Sellers without taking into consideration the above pro-rata apportionment between Receivers.
311 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be
312 settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this
313 settlement.
314 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
315 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
316 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
317 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
318 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
319 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
320 port of destination, such price to be fixed by arbitration unless mutually agreed.
321 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
322 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
323 pro-rata weight.
324 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA,
325 where applicable, take precedence over sub-clauses (b) to (h) above.
326 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
327 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the
328 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
329 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall
330 be the average of the market prices on the last day of discharge in the respective ports.
- 331 **22. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
332 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
333 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
334 of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during
335 the same period of shipment). Different currencies shall not invalidate the circle.
336 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
337 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
338 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
339 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
340 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
341 ascertained.
342 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
343 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
344 payment of the differences between the market price and the relative contract price in the currency of the contract.
345
346

347 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
348 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
349 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of
350 payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
351 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the
352 lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make
353 payment to their Buyers of the difference between the closing out price and the contract price.
354

355 **23. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
356 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
357 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
358 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
359 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
360 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
361 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
362 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
363 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
364 price ruling on the business day following the serving of the notice. If such notice be not served as aforesaid, then the other party, on
365 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the Contract closed out at either the market price
366 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
367 ruling on the first business day after the date when the Act of Insolvency occurred.
368 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract
369 by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount
370 payable or receivable under this contract.
371

372 **24. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
373 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
374 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
375 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
376 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
377 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
378 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
379 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
380 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
381 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
382 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
383 any rule of law or equity to the contrary notwithstanding.
384

385 **25. ARBITRATION-**
386 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
387 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
388 parties hereto shall be deemed to be cognisant.
389 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
390 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or
391 a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the
392 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of
393 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other
394 of them in respect of any such dispute.
395

396 **26. INTERNATIONAL CONVENTIONS-**
397 The following shall not apply to this contract: -
398 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
399 Sales Act 1967;
400 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
401 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
402 Protocol of 1980.
403 (d) Incoterms
404 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no Right
405 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by
GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Effective 1st January 2003

Gafta No. 84

Copyright

THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT OF SALE/PURCHASE

Date.....

Sellers Buyers

The full terms, conditions and rules contained in contract No of The Grain and Feed Trade Association in force at the date of this contract including the Arbitration Rules No. 125 (of which the parties admit they have knowledge and notice) apply to this contract, and the details given above shall be taken as having been written into the contract form in the appropriate clauses.

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GAFTA

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Gafta No.85

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT ADDENDUM FOR SHIPMENT FROM ORIGIN WITH PROVISION FOR TRANSHIPMENT

* delete/specify as applicable

Date

1 **ADDENDUM** attaching to and forming part of contract dated
2
3 for

4
5 The goods covered by this contract are to be transhipped as soon as possible per steamers or power vessels from the port of
6 (Sellers' option) to the port of destination named in the contract, and shall become the risk of the Buyers at such time as they are covered by
7 an "on board" Ocean bill of lading from origin. If in bulk, Sellers have the option of shipping up to 10% in bags for safe stowage, such
8 bags to be taken and paid for as grain. All terms and conditions of the within contract to apply as if shipped direct to destination, with the
9 following exceptions: -

10
11 1. **QUALITY**- In the event of the goods being sold on a certificate final basis, then Sellers to provide a photostat copy of the original
12 official certificate(s) of inspection, which must either be endorsed by, or be accompanied with, a certification by the Elevator
13 Company or an independent forwarding company at the port of transshipment, stating that the identity of the goods had been preserved
14 at such port. These certificates to be final as to quality.

15
16 2. **QUANTITY**- 10% more or less, at Sellers' option at contract price.

17
18 3. **SHIP'S CLASSIFICATION**- The goods to be transhipped per good grain-carrying mechanically self-propelled vessel(s) suitable for
19 the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting
20 Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described
21 in Lloyd's Shipping Index as "Ore/Oil" Vessels.

22
23 4. **INSURANCE**- All policies or certificates of insurance provided under this contract shall cover risks from warehouse at port of origin
24 to warehouse at final port of discharge including transshipment port.

25
26 5. **DISCHARGE OF TRANSHIPMENT VESSEL** - Vessel to discharge according to the custom of the port at Buyers' expense.
27 Vessel to discharge afloat or safely aground: -

28 (a) within running hours, weather permitting, or

29 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,

30
31 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
32 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700
33 hours on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in
34 discharging unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the rate
35 stipulated in the charter party. If documents are tendered which do not provide for discharging as above, or contain contrary
36 stipulations, Sellers to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be
37 permitted, unless specifically excluded at time of contract.

38
39
40
41 6. **PAYMENT**-
42 (a) Payment to be made by cash in in exchange for transshipment shipping documents,
43 * on presentation of transshipment shipping documents,
44 * on arrival of transshipment vessel at port of discharge,
45 but if the transshipment vessel shall not have arrived within 7 days from date of transshipment bill of lading, payment, unless
46 already made, to be made on or after the seventh day from bill of lading date when required by Sellers. If transshipping
47 documents have not been sighted at time of vessel's arrival at port of discharge, Sellers must provide other documents in lieu of
48 shipping documents entitling Buyers to obtain delivery of the grain, and, without prejudice to Buyers' rights under the contract,
49 payment must be made in exchange for same, provided that if such payment be made, landing charges, if any, incurred by reason

50 of such non-sighting of documents shall be borne by Sellers and allowed for in final invoice.
 51 (b) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
 52 that event any additional collection costs shall be for the account of the Buyers. When payment is due on a non-business day,
 53 Buyers shall have the option of taking up the documents on the previous business day - payment to be made not later than 12
 54 noon.
 55 (c) If, whilst the goods are at the risk of the Buyers and until transshipment takes place the ocean vessel or cargo should become a
 56 total or constructive total loss, or the voyage abandoned, then payment, at Sellers' option, to be made at contract price against
 57 complete set of ocean shipping documents, on or after the prompt date applicable to the origin of the within contract.
 58 In the event of Buyers electing to retain at the transshipment port the whole or any portion of the goods as defined in the following
 59 clause, payment to be made at contract price (i) against transit bill of lading for any portion transshipped, and (ii) against
 60 document of title enabling Buyers to take delivery of the grain retained at the transshipment port.
 61 (d) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
 62 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
 63 Rules.
 64 (e) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
 65 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
 66 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
 67 clause do not override the parties' contractual obligation under sub-clause (a).
 68
 69 **7. DAMAGED OR OUT OF CONDITION GRAIN-** Buyers have the right to appoint superintendents to act for them at the
 70 transshipment port. Should damaged or out of condition grain be ascertained at the transshipment port, the Buyers or their
 71 Superintendents to decide whether such damaged or out of condition grain be transhipped, and to instruct Sellers accordingly.
 72
 73 **8. PRO-RATA AT TRANSHIPMENT PORT-** Should the within quantity from origin form part of a larger quantity of the same or
 74 different period of shipment of bags of the same mark, or of similar quality, whether in bulk or bags, no separation or distinction shall
 75 be necessary. All loose collected, damaged and sweepings shall be shared by and apportioned pro-rata between the various Receivers
 76 thereof at port of transshipment buying under contracts containing similar provisions, and any unsold portion, and any of them
 77 receiving more or less than his pro-rata share or apportionment of such damaged shall settle with the other or others of them for the
 78 same in cash at the market price of the day of the ocean vessel's arrival at port of transshipment (such price to be fixed by arbitration
 79 unless mutually agreed). For the purpose of prosecuting claims for loss in value of damaged cargo delivered at transshipment port,
 80 either against the Shipowner, underwriters or other third parties, the Buyers will subrogate their rights to the Sellers, who will act as
 81 Buyers' Representatives for this purpose.
 82
 83 **9. WEIGHING/DELIVERY-** (Alternative clause to that in the basic contract).
 84 Transshipment vessel bill of lading weight to be final as to quantity. Buyers have the right to superintend at loading at transshipment
 85 port.
 86
 87 **10. APPROPRIATION-** Notice of Appropriation from origin shall be served in accordance with original contract, but tolerance in
 88 respect of quantity as per addendum.
 89 On transshipment, Sellers shall serve an advice of loading, giving approximate quantity, vessel's name and date of bill of lading, not
 90 later than the business day following the date of the transshipment bill of lading, such advice to be passed on in due course after receipt.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
 GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.86

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FULL CONTAINER LOADS (F.C.L.s) GRAIN

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9

10 **2. QUANTITY-**.....full containers each estimated to contain

11

12 **3. PRICE AND DESTINATION-** At

13 * per tonne of 1000 kilograms }

14 } gross/nett weight, cost insurance and freight to

15 *per ton of 1016 kilograms of 2240 lbs. }

16 direct or indirect with or without transhipment to

17

18 container terminal/base/or to

19

20 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost or

21 not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms

22 of the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the

23 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

24

25 **5. QUALITY-**

26 * Final at point of packing the container

27

28 * At time and place of acceptance about as per sealed sample marked

29

30 in possession of

31

32 * About fair average quality at time and area of acceptance

33

34 **6. PLACE OF ACCEPTANCE-** At point of packing or container depot, base or terminal in

35

36 **7. BILLS OF LADING-** Bill or bills of lading dated, or to be dated

37 The bill/s of lading shall be dated when the goods are handed over to the Container Consortia or their Agents.

38

39 **8. PLACE OF DELIVERY-** Direct or indirect with or without transhipment to

40

41 container terminal/base/or to

42

43 **9. FREIGHT-** Basic Service Rate (BSR) payable when due/on or before arrival at terminal. U.K./Europe Zone charges if

44 applicable payable when due/on or before arrival at terminal. The term "freight" is used to cover costs of movement of the

45 goods from the place of acceptance to place of delivery. Where place of delivery is other than a container terminal, a

46 U.K./Europe zone charge is payable to cover any onward movement. There is no guarantee that the containers will be stowed

47 below deck during their sea passage.

48

49 **10. EXTENSION OF HANDING OVER** The contract period for handing over, if such be 31 days or less, shall be extended by an

50 additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business

51 day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
52 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
53 which the originally stipulated period is exceeded, in accordance with the following scale:-

54 1 to 4 additional days, 0.50%;

55 5 or 6 additional days, 1%;

56 7 or 8 additional days 1.50% of the gross contract price.

57 If, however, after having served notice to Buyers as above, Sellers fail to hand over within such 8 days, then the contract shall
58 be deemed to have called for acceptance during the originally stipulated period plus 8 days, at contract price less 1.50%, and
59 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
60 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
61 basis of such reduced price.

62
63 **11. APPROPRIATION-**

64 (a) Notice of appropriation stating the vessel's name, or the intended ocean going vessel's name, the approximate weight
65 shipped, the number of containers and the date or the presumed date of the bill of lading.

66
67 (b) The notice of appropriation shall withinconsecutive from the date of the bill(s) of lading be served by or
68 on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business
69 Days Clause shall not apply.

70 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
71 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
72 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
73 appropriation shall be deemed to be in time if served: -

74
75 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

76
77 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

78 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
79 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
80 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
81 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
82 Brokers.

83 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
84 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
85 prevail.

86 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
87 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

88 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
89 shall be borne by Sellers.

90 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

91 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
92 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

93
94 **12. PAYMENT-**

95 (a) By cash inin exchange for all contractual documents, on or before arrival

96
97 of the ship at terminal at Buyers' option, but if the ship shall not have arrived withindays from date of bill of lading,

98
99 payment, unless already made, to be made on or after theday from bill of lading date when required by Sellers.

100 (b) If these documents have not been sighted at the time of ship's arrival at terminal, Sellers must provide other documents
101 entitling Buyers to obtain collection, and, without prejudice to Buyers' rights under the contract, payment must be made in
102 exchange for same, provided that, if such payment be made, any charges incurred by reason of such non-sighting of documents
103 shall be borne by Sellers. When payment is due on a non-business day, Buyers shall have the option of taking up the shipping
104 documents on the previous business day - payment to be made not later than 12 noon. No obvious clerical error in the
105 documents shall entitle the Buyers to reject them or to delay payment, but Sellers shall be responsible for all loss or expense
106 caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved guarantee in respect
107 thereto. Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their
108 choice, in that event any additional collection costs shall be for the account of the Buyers.

109 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other
110 that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
111 Arbitration Rules.

112 (d) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
113 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
114 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
115 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

116
117 **13. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail

118 in GAFTA Insurance Terms No.72 viz.: -
119 (a) Risks Covered: -
120 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72
121 War Clauses (Cargo) - Section 4 of Form 72
122 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
123 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
124 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
125 address for service of process in London, but for whose solvency Sellers shall not be responsible.
126 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
127 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
128 payable by Buyers.
129 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
130 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
131 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
132 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
133 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.
134 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
135 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
136 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
137 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
138 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
139 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
140 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the
141 policy(ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
142 (g) Currency of Claims - Claims to be paid in the currency of the contract.
143 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
144 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
145 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
146 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
147 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
148 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
149 London at time of shipment.
150 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
151 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
152 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
153 against the Insurers in respect of such matters.
154
155 **14. WEIGHING** – the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
156 * (a) Established at place of acceptance, or
157 * (b) at place of delivery. If the place of delivery is other than a container terminal then Buyers agree to pay the extra
158 expenses for following incurred by Sellers or their superintendents for such weighing.
159
160 **15. SAMPLES-**
161 * (a) Samples to be taken at place of acceptance, or
162 * (b) at place of delivery. If the place of delivery is other than a container terminal then Buyers agree to pay the extra
163 expenses for following incurred by the Sellers or their superintendents for such sampling.
164
165 **16. STRIKES-**
166 (a) Should acceptance of the goods or any part thereof be prevented at any time during the last 28 days of contract period, or at
167 any time during contract period if such be less than 28 days, by reason of riots, civil commotions, strikes or lock-outs at a
168 container depot, base or terminal, or elsewhere preventing the handing over of the goods to the container organisation or its
169 Agent/s, then Sellers shall be entitled at the termination of such riot, civil commotion, strike or lock-out or at the restoration of
170 facilities to as much time, not exceeding 14 days, for handing over the goods as was left for such act under the contract prior to
171 the outbreak of the riot, civil commotion, strike or lock-out, and in the event of the time left for handing over the shipment
172 under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, civil
173 commotions, strikes or lockouts occurring during the time by which the contract period has been extended by reason of the
174 operation of the foregoing, the additional extension shall be limited to the actual duration of the delays due to such causes. In
175 the event of non-fulfilment after the Sellers have claimed an extension under this clause, the date of default shall be similarly
176 deferred.
177 (b) If the Sellers desire to claim an extension of time for handing over under this clause they shall within 7 consecutive days of
178 the termination of the riot, civil commotion, strike or lock-out or the restoration of facilities, but in no case later than 2 business
179 days after the expiry of the contract period, serve a notice on their Buyers naming the place of acceptance which is intended.
180 (c) If required by Buyers, Sellers must provide documentary evidence to justify any claim for extension under this clause.
181
182 **17. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
183 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
184 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England

185 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
186 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
187 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
188 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and
189 Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have
190 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction
191 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same
192 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
193 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
194

195 **18. ARBITRATION-**

196 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
197 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
198 parties hereto shall be deemed to be cognisant.

199 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
200 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
201 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
202 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
203 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
204 the other of them in respect of any such dispute.
205

206 **19. OTHER TERMS-** All other terms and conditions as per GAFTA Contract No:
207 (of which both parties admit the existence and agree the conditions) but the following clauses are deemed to be deleted:

- 208 Ports of shipment
- 209 Shipment and Classification
- 210 Discharge
- 211 Weighing
- 212 Pro-Rata
- 213 Deficiency

214 Any other clause which is clearly not relevant to the movement of goods by container.

215
216 Where the above-mentioned GAFTA contract the term "Shipment" is used this shall be deemed to mean
217 "Acceptance"/"Handing-over".

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No. 86A.

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FULL CONTAINER LOADS

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 Have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS -**

9
10 **2. QUANTITY-**

11
12 **3. PRICE-** per tonne of 1000 kilograms

13
14 **4. QUALITY-**

15
16 **5. PLACE OF ACCEPTANCE -**

17 as per bill or bills of lading dated, or to be dated

18 to

19
20
21 **6. WEIGHT -** Weight as per

22
23 **7. INSURANCE -** Insurance as per GAFTA Insurance Terms No.72

24
25 **8. PAYMENT -** Payment days

26
27 **9. APPROPRIATION -** Appropriation days

28
29 **10. SPECIAL CONDITIONS-**

30
31

32
33

34
35

36 *This contract is made upon the terms, conditions and rules of Container contract No.86 of GAFTA, and the above details*
37 *shall be taken as having been written into such contract form in their appropriate place. All other terms and conditions*
38 *as per GAFTA Contract No:.....Both parties to this contract admit the existence and agree the conditions of the*
39 *two contract forms referred to above.*

Signature

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GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No. 93

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THE GRAIN AND FEED TRADE ASSOCIATION

EUROPEAN QUALITY TERMS FOR FEEDINGSTUFFS CONTRACTS

Date

1 These terms are an addendum attaching to and forming part of contract, dated No:

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1. SPECIFICATIONS

- 1:1(A) **Oil & Protein combined without reciprocal allowances:** The goods are warranted to contain not less than % of oil and protein combined, or
- 1:1(B) **Oil & Protein combined with reciprocal allowances:** The goods are warranted to contain not less than % of oil and protein combined, or
- 1:1(C) **Oil & Protein separated without reciprocal allowances:** The goods are warranted to contain not less than % of protein and min% & max% of oil, or
- 1:1(D) **Oil & Protein separated with reciprocal allowances:** The goods are warranted to contain not less than% of protein, and min% & max% of oil.
- 1:2 **Sand and/or Silica:** The goods are warranted to contain not more than 2.50% (or where agreed%) of sand and/or silica.
- 1:3 **Castor Seed/Castor Seed Husk:** The goods are warranted free from castor seed and/or castor seed husk.
- 1:4 **Moisture:** Basis %
- 1:5(A) **Fibre:** The goods are warranted to contain not more than % fibre, without reciprocal allowances.
- 1:5(B) **Fibre:** The goods are warranted to contain not more than % fibre, with reciprocal allowances.
- 1:6 **Datura:** The goods are warranted to contain not more than %
- 1:7 **Admixture including Foreign Vegetable Matter:** Basis 2% (or where agreed%)
- 1:8 **Undesirable Substances:** The goods shall not exceed the limits for feed materials in Directive No.98/60/EC, and as amended and in force at time of the contract.
- 1:9 The goods are not intended for sale nor sold as being suitable for straight feedingstuffs, but are only suitable as raw materials for further processing and mixture with other materials as to which no warranty is given or to be implied as the percentage of these goods to be used in any such operation which is at Buyers' sole risk.

2. ALLOWANCES AND REJECTION

Should the whole or any portion not turn out equal to warranty, the goods must be dealt with as provided

47 hereinafter.

48 2:1(A) **Oil & Protein combined without reciprocal allowances:**

49 For any deficiency of oil and protein combined as warranted in Clause 1:1 (A) there shall be allowances to

50 Buyers at the following rates: 1% of the contract price for each of the 1st 3 units of deficiency under the

51 warranted percentage; 2% of the contract price for the 4th and 5th units and 3% of the contract price for

52 each unit in excess of 5 and fractions in proportion. When the combined content of oil and protein is

53 warranted within a margin (as for example 40/42%) no allowance shall be made if the analysis ascertained as

54 herein provided be not below the minimum, but if the analysis result is below the minimum warranted the

55 allowance for deficiency shall be computed from the mean of the warranted content.

56

57 2:1(B) **Oil & Protein combined with reciprocal allowances:**

58 For any deficiency of oil and protein combined as warranted in Clause 1:1 (B) there shall be an allowance to

59 Buyers as per the scale provided in Clause 2:1 (A). For any excess of oil and protein combined Buyers shall

60 pay to Sellers a premium on a 1:1 basis and fractions in proportion.

61 2:1(C) **Oil & Protein separated without reciprocal allowances:**

62 For any deficiency of protein or deficiency/excess of oil as warranted in Clause 1:1 (C), there shall be

63 allowances to the Buyers as per the scale provided in Clause 2:1 (A) and fractions in proportion.

64 2:1(D) **Oil & Protein separated with reciprocal allowances:**

65 For any deficiency of protein and deficiency/excess of oil as warranted in Clause 1:1 (D), there shall be

66 allowances to the Buyers, as per the scale provided in Clause 2:1 (A). For any excess of protein Buyers shall

67 pay to Sellers a premium on a 1:1 basis and fractions in proportion.

68

69 2:2 **Sand and/or Silica:**

70 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of

71 excess and proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the

72 Buyers shall be entitled to reject the goods, in which case the contract shall be null and void, for such quantity

73 rejected.

74

75 2:3 **Castor Seed and/or Castor Seed Husk:**

76 Should the analysis show a percentage of castor seed husk not exceeding 0.005% the Buyers shall not be

77 entitled to reject the goods, but shall accept them with the following allowances:

78 0.75% of contract price if not exceeding 0.001%,

79 1% of contract price if not exceeding 0.002%, and

80 1.50% of contract price if not exceeding 0.005%.

81 Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be

82 final, but in the event of the first analysis showing castor seed husk to be present a second sample may be

83 analysed at the request of either party and the mean of the two analyses shall be taken as final. Should the

84 parcel contain castor seed husk in excess of 0.005% Buyers shall be entitled to reject the parcel, in which case

85 the contract shall be null and void for such quantity rejected. Nevertheless, should Buyers elect to retain the

86 parcel they shall be entitled to a further allowance for any excess over 0.005% of castor seed husk, to be

87 mutually agreed or settled by arbitration.

88

89 2:4 **Moisture:**

90 Should the whole or any portion not turn out equal to the warranty, the goods shall be taken at an allowance to

91 Buyers of 1% for 1% up to 3% over the contract warranty or fractions in proportion. Any excess over 3%

92 contract warranty Buyers have the right of rejection. Should Buyers elect not to reject, they shall be entitled to

93 allowances for the excess over 3% at a scale greater than 1% for 1%, to be mutually agreed or settled by

94 arbitration.

95

96 2:5(A) **Fibre without reciprocal allowances:**

97 For any excess of fibre above 0.50% of the contract warranty Sellers shall pay to Buyers an allowance in

98 accordance with the following scale: 2% for 1% for the first and second percent,

99 3% for 1% for the third, fourth and fifth percent,

100 4% for 1% thereafter. Fractions in proportion.

101 2:5(B) **Fibre with reciprocal allowances:**

102 For any deficiency of fibre below 0.50% of the contract warranty Buyers shall pay to Sellers a premium in

103 accordance with the following scale: 2% for 1% for the first and second percent,

104 3% for 1% for the third, fourth and fifth percent,

105 4% for 1% thereafter. Fractions in proportion.

106 For an excess of fibre above 0.50% of the contract warranty, Sellers shall pay to Buyers an allowance as per

107 the scale provided in Clause 2:5 (A).

108

109 2:6 **Datura:**
 110 Should the prescribed limit be exceeded, the Buyers have the right to reject, or accept the goods, with
 111 damages, to be mutually agreed or settled by arbitration.
 112

113 2:7 **Admixture including Foreign Vegetable Matter:**
 114 Should the whole or any portion not turn out equal to the warranty the goods shall be taken at an allowance to
 115 Buyers of 1% for 1% for the first 2.50% in excess and 2% for 1% for the second 2.50% in excess. Fractions
 116 in proportion. If the warranty is exceeded by more than 5% Buyers have the right to reject or to accept the
 117 goods with damages to be mutually agreed or settled by arbitration.
 118

119 2:8 **Undesirable Substances:**
 120 Should any of the prescribed limits be exceeded, the Buyers have the right to reject. Damages, to be mutually
 121 agreed or settled by arbitration.
 122

123 **3. REJECTION**
 124 In the event of rejection as provided in Clauses 2:2, 2:3, 2:4, 2:6, 2:7 and 2:8 above, Buyers shall store the
 125 goods separately in a sealed place so that the identity and condition of the goods is preserved, pending the
 126 results of the final analysis tests. In the event it is established upon receipt of the final analysis certificate that
 127 the Buyers should not have rejected the goods, the Sellers shall be entitled to recover damages and proven extra
 128 expenses incurred. If the Buyers were entitled to reject the goods, then damages and proven extra expenses
 129 incurred shall be borne by Sellers. Any damages to be settled in accordance with the Default Clause. The
 130 right of rejection provided by this Addendum shall be limited to the parcel or parcels found to be defective.
 131

132 **4. SAMPLING AND ANALYSIS when Clauses 1:1 (B) and/or 1:1 (D) and/or 1:5 (B) apply**
 133 For the purpose of sampling and analysis each parcel shall stand as a separate shipment and samples shall be
 134 drawn in accordance with the contract. When Reciprocal Allowances Clauses 1:1 (B) and/or 1:1 (D) and/or
 135 1:5 (B) are agreed, then notwithstanding anything to the contrary in the contract, Buyers shall in any event
 136 submit samples for tests in accordance with the provisions of the Sampling and Analysis Clause. The fees shall
 137 be borne, half by Sellers and half by Buyers, except that if the Sellers fail to receive an analysis certificate
 138 within a reasonable time, then after giving notice to Buyers, Sellers shall be entitled to call for the tests and the
 139 fees shall be for the account of Buyers.
 140

141 Methods of analysis to be prescribed by The Grain & Feed Trade Association, in accordance with GAFTA
 142 Analysis Methods Form No. 130. The methods used to be stated on the analysis certificates.
 143

144 This contract addendum is made upon the terms and conditions and rules of GAFTA Contract No: of
 145 including the GAFTA Arbitration Rules No. 125 and the above details shall be taken as having been written
 146 into such contract in their appropriate place.
 147

148 Where the options in Clause 1 Specifications are not specifically agreed then the basis contract applies.
 149

150 Both parties to this contract addendum admit the existence and agree the conditions of the contract form
 151 referred to above.

Sellers Buyers

Printed in England and issued by

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GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.94

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR THE ARRIVAL OF GRAIN IN BULK RYE TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6

7 **1. GOODS-**

8 Sellers have the option of shipping up to 10% in bags for safe stowage, such bags to be taken and paid for as grain.

9

10 **2. QUANTITY-** tonnes, 5% more or less.

11 In the event of the quantity contracted for being for a full and complete cargo and/or cargoes the margin of contract quantity

12 to be 10%, more or less, excess or deficiency over 5% shall be settled at the market price on the date of last bill of lading

13 and on the quantity thereof; value to be fixed by arbitration, unless mutually agreed. In the event of more than one shipment

14 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be

15 affected thereby.

16

17 **3. PRICE-** At the price of

18 * per tonne of 1000 kilograms } to

19 } to

20 * per ton of 1016 kilograms or 2240 lbs. }

21

22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

23 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

24 the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not

25 appropriated then brokerage shall be due on the 30th consecutive day after the last day for fulfilment.

26

27 **5. QUALITY**

28 * **Warranted to contain** at time and place of discharge.

29

30 * **Official** certificate of inspection, or certification of inspection of at time and place of

31 loading into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a

32 higher grade of grain of the same colour and description.

33 * **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of,

34 and by comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event

35 of no F.A.Q. Standard being established by the Association, the arbitrator(s) shall in his/their discretion decide what is

36 the fair average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by

37 the representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order,

38 and shall be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The

39 expenses of such sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment

40 under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in

41 making the Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on

42 contract price, no allowance for quality shall be due, otherwise the Buyers shall be entitled to the full difference in

43 value.

44

45 * **Sample**, at time and place of shipment about as per sealed sample marked in possession of

46 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

47

48 * **Natural Weight-**kilograms per hectolitre guaranteed at time and place of discharge to be ascertained by

49 GAFTA or other accepted Authority and any deficiency so determined to be allowed for off contract price, in

50 accordance with the GAFTA Sampling Rules No. 124.

51 * **Admixture-** Any admixture of dirt and/or other foreign substance over 2% to be allowed for by Sellers at contract price,

52 but any grain or seed other than the grain contracted for to be reckoned as foreign substances at half their quantities. The

53 percentage of admixture to be determined by GAFTA, or its duly appointed analyst.

54

55 * **Moisture**- Moisture content guaranteed not to exceed to be ascertained by the ISO 712
56 standard, * (a) at time of loading, as per first class superintendents/competent authorities' certificate,
57 * (b) at time of discharge

58 If the moisture content exceeds the guarantee Buyers shall have the right of rejection and the Default Clause shall then
59 apply.

60 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case
61 may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

62 **Condition**- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made
63 for the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be
64 sufficient proof of an improper shipment.

65
66 **6. PERIOD OF FULFILMENT**

67 (a) Sellers shall have complied with the provisions of this clause with the vessel having entered into Customs or registered
68 with the port authority/pilot station at the discharge port.

69 (b) If the vessel has entered into Customs or registered with the port authorities at the discharge port before the period of
70 fulfilment, the entry is deemed to have been effected on the first day of the period of fulfilment.

71 Sellers shall be responsible for any extra costs incurred through the premature entry at Customs or registration with port
72 authorities/pilot station.

73 (c) The period of fulfilment ends with its last calendar day. If fulfilment is prevented due to the period ending on a non-
74 business day, the preceding business day is deemed to be the last day of fulfilment.

75
76 **7. SALES BY NAMED VESSELS**- For all sales by named vessels, the following shall apply: -

77 (a) Position of vessel is mutually agreed between Buyers and Sellers;

78 (b) The word "now" to be inserted before the word "classified" in the Shipment and Classification Clause;

79 (c) Advice of Shipment Clause cancelled if sold "shipped".
80

81 **8. SHIPMENT AND CLASSIFICATION**- Shipment from
82 direct or indirect, with or without transshipment by first class mechanically self propelled vessel(s) suitable for the carriage of
83 the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting
84 Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or
85 described in Lloyd's Shipping Index as "Ore/Oil" Vessels.
86

87 **9. EXTENSION OF FULFILMENT**- Sellers shall be entitled, without notice, to an extension of the contract period for
88 fulfilment by an additional period not exceeding 8 consecutive days, from the last day of the originally stipulated period of
89 fulfilment.

90 Sellers shall make an allowance to Buyers, from the contract price, based on the number of days by which the originally
91 stipulated period, without taking into consideration the Period of Fulfilment Clause par.(c), is exceeded, in accordance with
92 the following scale: -

93 1 to 4 additional days, 0.50%;

94 5 or 6 additional days, 1%;

95 7 or 8 additional days 1.50% of the gross contract price.

96 If, however, Sellers fail to fulfil within such 8 days, then the contract shall be deemed to have called for fulfilment during
97 the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated
98 on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract
99 price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
100

101 **10. ADVICE OF SHIPMENT**-

102 (a) Sellers shall advise Buyers in due course, the name of the vessel and approximate quantity allocated to this contract and
103 for information only the port of shipment and bills of lading date.

104 (b) An advice of shipment shall be served by Sellers or their Agents or Brokers, either direct to the Buyers, or to their
105 Agents or Brokers.

106 (c) Every advice of shipment shall be open to correction of any errors occurring in transmission, provided that the sender is
107 not responsible for such errors, and for any previous error in transmission, which has been repeated in good faith.

108 (d) If the vessel enters into customs or registers with port authorities/pilot station during the period of fulfilment before
109 receipt of advice of shipment any proven extra expenses incurred thereby shall be borne by Sellers.

110 (e) Prior to the arrival of the vessel, Sellers are entitled to withdraw the advice of shipment and advise Buyers in due course
111 the name of another vessel(s).
112

113 **11. PAYMENT**-

114 (a) **Payment** % of invoice amount by cash in

115 * In exchange for and on presentation of shipping documents.

116 * In exchange for shipping documents on or before arrival of the vessel within the period of fulfilment, at Buyers' option.
117

118 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

119 (b) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
120 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
121 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
122 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
123 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept

documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.

(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.

(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

(h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

12. INSURANCE- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.: -

(a) Risks Covered: -

Cargo Clauses (WA) with average payable, with 3% franchise or better terms	- Section 2 of Form 72
War Clauses (Cargo)	- Section 4 of Form 72
Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

(b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.

(c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.

(d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

13. DUTIES, TAXES, LEVIES, ETC.- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

14. DISCHARGE- Vessel to discharge according to the custom of the port at Buyers' expense. Vessel to discharge afloat or safely aground: -

- 193 (a) within running hours, weather permitting, or
194
195 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,
196 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
197 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700
198 hours on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in
199 discharging unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the
200 rate stipulated in the charter party. If documents are tendered which do not provide for discharging as above, or contain
201 contrary stipulations, Sellers to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall
202 be permitted, unless specifically excluded at time of contract.
203
204 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
205 contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place
206 of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
207 incurred by Sellers or their agents for weighing. If final at time and place of loading, as per GAFTA registered
208 superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
209
210 **16. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
211 weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
212
213 **17. RYE TERMS-** Condition guaranteed on arrival, (subject to any country damaged grain in the fair average quality of the
214 season's crop), slight dry warmth not injuring the grain not to be objected to. In the event of goods arriving at destination
215 damaged or out of condition, Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on
216 the contract price to be fixed by arbitration unless mutually agreed.
217
218 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
219 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum
220 recovered under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in
221 connection with the claim shall be deducted.
222
223 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters
224 for preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in
225 addition documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as
226 Sellers may be unable to recover in consequence.
227
228 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
229 No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
230 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
231 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
232 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
233 GAFTA Register of Analysts.
234
235 **18. DEEMED PERIOD OF SHIPMENT-** It is agreed between Buyers and Sellers that the period of fulfilment under this
236 contract shall be preceded by the theoretical number of voyage days as set out below, and for the purposes of this contract, a
237 deemed period of shipment of 31 days at origin shall precede those days.
238 If shipped from: -
239 Mexican Pacific, West Coast North America, China, Indonesia,
240 Japan and other Far Eastern Ports 45 days
241 Burma, Malaysia, Thailand, Bangladesh, Australia 40 days
242 India West/East, South America, Pakistan, East Africa 35 days
243 Iran, Iraq, Southern Africa, Angola, Zaire 30 days
244 U.S. Gulf, U.S. South of Cape Hatteras, Canadian / U.S. Lakes,
245 Mexican Gulf, West African Ports, (Gabon to Ivory Coast),
246 Red Sea Area 20 days
247 Canadian Atlantic, St. Lawrence, Churchill, U.S. North
248 of Cape Hatteras, Mediterranean, Morocco to Liberia 15 days
249 Baltic, Iberian Atlantic Ports 7 days
250 Other European Ports 3 days
251
252 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done
253 by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named
254 herein is/are situate, restricting export, whether partially or otherwise, during the deemed period of shipment as defined in
255 Clause 18, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or
256 partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this
257 contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
258 therefor and, if required, Sellers must produce proof to justify the cancellation.
259
260 **20. LOADING STRIKES, RIOTS, LOCK-OUTS, ICE-**
261 (a) Should shipment of the grain or any part thereof be prevented at any time during the last 28 days of the deemed period of

shipment by reason of riots, strikes, lock-outs or ice at port or ports of loading or elsewhere preventing the forwarding of the goods to such port or ports, then the Shipper shall be entitled at the termination of any such occurrences as aforesaid to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the commencement of the occurrence and in the event of the time left for the deemed period of shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes, lock-outs or ice occurring during the time by which the deemed period of shipment has been extended by reason of the operation of the provisions of the foregoing paragraph, the additional extension allowed shall be limited to the actual duration of such further riots, strikes, lock-outs or ice. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.

(b) The Shipper shall serve notice not later than 2 business days after the last day of deemed period of shipment if he intends to claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which shipment was intended to be made and if such extension is claimed, the shipment, after expiry of the deemed period of shipment, shall only be made from such port(s).

(c) If required by Buyers, Sellers must provide documentary evidence to justify any claim for extension under this clause.

21. **DISCHARGING STRIKE/ICE-** In the event of a strike or lockout affecting the discharge of cargo at, or ice preventing the vessel reaching, the port of destination named in the contract the terms of the "Gencon" or "Synacomex" or "Britcon" Clause shall apply. If during any of the time allowed for fulfilment the port of destination is inaccessible because of ice to ships of the size required under the contract, and the Sellers are unable to charter for this reason, then Sellers shall - by serving notice on Buyers - be entitled at the termination of such inaccessibility to as much time for fulfilment as was left for fulfilment prior to the commencement of the inaccessibility, with a minimum of 14 days always to be allowed for. Current charges in force at time of contract, after the date of the originally stipulated contract period of fulfilment to be for Buyers' account. The question of accessibility to be decided by Lloyd's Agent, if necessary.

22. **NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

23. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of fulfilment shall not be affected by this clause.

24. **DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In no case shall damages include loss or profit on any sub-contracts made by the party defaulted against or others unless the Arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the advice of shipment quantity, provided that the advice(s) are within the contract quantity but, if no such quantities have been advised then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.

(f) In the event that Buyers have taken up and paid for shipping documents, but the vessel does not arrive during the contractual period of fulfilment, Buyers are entitled to reject the goods and ask for the payment to be refunded in exchange for shipping documents together with interest thereon but if Sellers have not accepted in writing Buyers rejection within 2 business days, Buyers are entitled to sell the goods against Sellers and maintain an action for recovery of any losses suffered.

(g) If Buyers do not elect to reject or sell against Sellers due to late entry into Customs of the vessels, or where applicable with port authorities/pilot station, any differences in import duties, taxes, levies or costs of a similar nature, between those applying during the original period of fulfilment and those applying at time of entry into Customs or where applicable at a freeport shall be for account of Sellers.

25. **PRO RATA-**

(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of fulfilment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in

334 conjunction with the Receivers or their Representatives.

335 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with

336 Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be

337 regarded as delivered to those Receivers who did not receive their full invoiced quantity.

338 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at

339 the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their

340 immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

341 (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency

342 shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance

343 resulting from this settlement.

344 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause

345 shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to

346 arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in

347 accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution

348 of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause

349 within a reasonable time.

350 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in

351 the port of destination, such price to be fixed by arbitration unless mutually agreed.

352 (h) In the event of this clause being brought into operation, any allowance payable in respect of condition, or quality, or

353 under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers

354 and not on the pro-rata weight.

355 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by

356 GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

357 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were

358 shipped by more than one Shipper and destined for one or more ports of discharge then, after the adjustment between

359 Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of

360 lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved,

361 then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

362

363 **26. CIRCLE-** Where Sellers repurchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a

364 circle shall be considered to exist as regards the particular goods so repurchased, and the provisions of the Default Clause

365 shall not apply. (For the purpose of this Clause the same goods shall mean goods of the same description, from the same

366 country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same

367 port(s) of destination during the same period of fulfilment). Different currencies shall not invalidate the circle.

368 Subject to the terms of the Prohibition Clause in the contract, if the goods are not advised, or, having been advised

369 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in

370 the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice

371 amount in the circle. Payment shall be due not later than 15 consecutive days after the last day of the originally stipulated

372 period of fulfilment, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not

373 later than 15 consecutive days after the circle is ascertained.

374 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the

375 market price on the first day for contractual fulfilment and invoices shall be settled between each Buyer and his Seller in the

376 circle by payment of the differences between the market price and the relative contract price in currency of the contract.

377 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in

378 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the

379 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in

380 the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract,

381 settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause,

382 which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective

383 Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference

384 between the closing out price and the contract price.

385

386 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors

387 that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call

388 or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up

389 order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for

390 re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have

391 a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the

392 party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the

393 other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator,

394 Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus given within 2

395 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the

396 business day following the serving of the notice. If such notice has not been served then the other party, on learning of the

397 occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on

398 the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market

399 price ruling on the first business day after the date when the Act of Insolvency occurred.

400 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the

401 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be

402 the amount payable or receivable under this contract.

403

404 **28. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England,

405 notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of

406 England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the
407 Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the
408 powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the
409 jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the
410 purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices
411 of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland
412 shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have
413 submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any
414 such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy
415 of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
416 notwithstanding.
417

418 **29. ARBITRATION-**

419 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA
420 Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of
421 which both parties hereto shall be deemed to be cognisant.

422 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings
423 against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the
424 arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed
425 and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a
426 condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or
427 other legal proceedings against the other of them in respect of any such dispute.
428

429 **30. INTERNATIONAL CONVENTIONS-**

430 The following shall not apply to this contract: -

431 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
432 International Sales Act 1967;

433 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

434 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
435 Protocol of 1980.

436 (d) Incoterms

437 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
438 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR THE ARRIVAL OF GRAIN IN BULK TALE QUALE

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6
7 **1. GOODS-**

Sellers have the option of shipping up to 10 % in bags for safe stowage, such bags to be taken and paid for as grain.

8
9
10 **2. QUANTITY-** per tonne 5% more or less.

In the event of the quantity contracted for being for a full and complete cargo and/or cargoes the margin of contract quantity to be 10 %, more or less, excess or deficiency over the above 5% shall be settled at the market price on the date of last bill of lading and on the quantity thereof; value to be fixed by arbitration, unless mutually agreed. In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

11
12
13
14
15
16 **3. PRICE AND DESTINATION** - At the price of

* per tonne of 1000 kilograms }
} to
* per ton of 1016 kilograms or 2240 lbs. }

17
18
19
20
21 **4. BROKERAGE-** per tonne,

to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the Prohibition Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for fulfilment.

22
23
24
25
26
27 **5. QUALITY-**

* **Warranted to contain** at time and place of discharge.

* **Official** certificate of inspection, or certification of inspection of, at time and place of loading into the ocean carrying vessel, shall be final as to quality. The Buyers shall not be entitled to reject a tender of a higher grade of grain of the same colour and description.

* **F.A.Q.** (fair average quality) of the season's shipment at time and place of loading, to be assessed upon the basis of, and by comparison with the GAFTA F.A.Q. standard of the month during which the bill of lading is dated. In the event of no F.A.Q. Standard being established by the Association, the Arbitrator(s) shall in his/their discretion decide what is the fair average quality. An average sample of the delivery shall be taken and sealed jointly at the port of discharge by the representatives of the shipper and the representatives of the holders of the bill of lading or shipper's delivery order, and shall be forwarded immediately to the Association for the purposes of establishing the F.A.Q. standard. The expenses of such sampling and forwarding shall be paid half by the Receiver and half by the Sellers. Place of shipment under this contract shall be understood as the port or group of ports adopted by the appointed Standards Committee in making the Standard. If the difference between the delivery and the F.A.Q. Standard shall not amount to 0.50% on contract price, no allowance for quality shall be due, otherwise the Buyers shall be entitled to the full difference in value.

* **Sample**, at time and place of shipment about as per sealed sample marked..... in possession of; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

* **Natural Weight-** kilograms per hectolitre guaranteed at time and place of discharge to be ascertained by GAFTA or other accepted Authority and any deficiency so determined to be allowed for off contract price, in accordance with the GAFTA Sampling Rules No. 124.

* **Admixture-** Any admixture of dirt and/or other foreign substance over 2% to be allowed for by Sellers at contract price, but any grain or seed other than the grain contracted for to be reckoned as foreign substances at half their quantities. The percentage of admixture to be determined by GAFTA, or its duly appointed analyst.

* **Moisture-** Moisture content guaranteed not to exceed.....to be ascertained by the ISO 712 standard,

*(a) at time of loading, as per first class superintendents/competent authorities' certificate,

*(b) at time of discharge

If the moisture content exceeds the guarantee Buyers shall have the right of rejection and the Default Clause shall then apply. Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition- Shipment shall be made in good condition. Should the goods arrive out of condition, due regard shall be made for the time of the year in which the shipment took place. The fact of the goods so arriving shall not necessarily be sufficient proof of an improper shipment.

6. PERIOD OF FULFILMENT-

(a) Sellers shall have complied with the provisions of this clause with the vessel having entered into customs or registered with the port authority/pilot station at the discharge port.

(b) If the vessel has entered into Customs or registered with the port authorities at the discharge port before the period of fulfilment, the entry is deemed to have been effected on the first day of the period of fulfilment. Sellers shall be responsible for any extra costs incurred through the premature entry at Customs or registration with port authorities/pilot station.

(c) The period of fulfilment ends with its last calendar day. If fulfilment is prevented due to the period ending on a non-business day, the preceding business day is deemed to be the last day of fulfilment.

7. SALES BY NAMED VESSELS- For all sales by named vessels, the following shall apply: -

(a) Position of vessel is mutually agreed between Buyers and Sellers;

(b) The word "now" to be inserted before the word "classified" in the Shipment and Classification Clause;

(c) Advice of Shipment Clause cancelled if sold "shipped".

8. SHIPMENT AND CLASSIFICATION- Shipment from

direct or indirect, with or without transshipment by first class mechanically self propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" Vessels.

9. EXTENSION OF FULFILMENT- Sellers shall be entitled, without notice, to an extension of the contract period for fulfilment by an additional period not exceeding 8 consecutive days, from the last day of the originally stipulated period of fulfilment. Sellers shall make an allowance to Buyers, from the contract price, based on the number of days by which the originally stipulated period, without taking into consideration the Period of Fulfilment Clause par.(c), is exceeded, in accordance with the following scale: -

1 to 4 additional days, 0.50%;

5 or 6 additional days, 1%;

7 or 8 additional days 1.50% of the gross contract price.

If, however, Sellers fail to fulfil within such 8 days, then the contract shall be deemed to have called for fulfilment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

10. ADVICE OF SHIPMENT-

(a) Sellers shall advise Buyers in due course, the name of the vessel and approximate quantity allocated to this contract and for information only the port of shipment and bills of lading date.

(b) An advice of shipment shall be served by Sellers or their Agents or Brokers in accordance with the Notices Clause, either direct to the Buyers, or to their Agents or Brokers.

(c) Every advice of shipment shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission, which has been repeated in good faith.

(d) If the vessel enters into customs or registers with port authorities/pilot station during the period of fulfilment before receipt of advice of shipment any proven extra expenses incurred thereby shall be borne by Sellers.

(e) Prior to the arrival of the vessel, Sellers are entitled to withdraw the advice of shipment and advise Buyers in due course the name of another vessel(s).

11. PAYMENT-

(a) **Payment** % of invoice amount by cash in

*In exchange for and on presentation of shipping documents.

*In exchange for shipping documents on or before arrival of the vessel within the period of fulfilment, at Buyers' option.

Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

(b) **Shipping documents** – shall consist of – 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when

131 shipping documents are eventually available.
 132 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
 133 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
 134 countersigned, if required by Buyers, by a recognised bank.
 135 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
 136 that event any additional collection costs shall be borne by Buyers.
 137 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
 138 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
 139 respect thereto.
 140 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
 141 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
 142 Rules.
 143 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
 144 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
 145 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
 146 clause do not override the parties' contractual obligation under sub-clause (a).

147
 148 **12. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
 149 GAFTA Insurance Terms No. 72 viz.: -

- 150 (a) Risks Covered: -
 151 Cargo Clauses (WA) with average payable, with 3% franchise or better terms - Section 2 of Form 72
 152 War Clauses (Cargo) - Section 4 of Form 72
 153 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
 154 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
 155 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
 156 process in London, but for whose solvency Sellers shall not be responsible.
 157 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
 158 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
 159 Buyers.
 160 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
 161 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
 162 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
 163 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
 164 if the C.I.F. value plus 2% were insured from the time of shipment.
 165 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
 166 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
 167 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
 168 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
 169 recognised bank, or by any other guarantor who is acceptable to Buyers.
 170 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
 171 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
 172 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
 173 (g) Currency of Claims - Claims to be paid in the currency of the contract.
 174 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
 175 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
 176 excess premium shall be claimed from Buyers, wherever possible, with the provisional invoice, but in no case later than the date of
 177 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
 178 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
 179 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.
 180 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
 181 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
 182 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
 183 in respect of such matters.

184
 185 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be
 186 for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers'
 187 account.
 188

189 **14. DISCHARGE-** Vessel to discharge according to the custom of the port at Buyers' expense. Vessel to discharge afloat or safely
 190 aground: -

- 191 (a) within running hours, weather permitting, or
 192
 193 (b) at an average rate of per tonne per weather working day of 24 consecutive hours,
 194 plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours
 195 Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700 hours
 196 on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in discharging
 197 unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the rate stipulated in the
 198 charter party. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers
 199 to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted, unless specifically
 200 excluded at time of contract.
 201

202 **15. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
 203 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at

buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).

16. **DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
17. **SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-**the terms and conditions of GAFTA Sampling Rules No. 124 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
18. **DEEMED PERIOD OF SHIPMENT-** It is agreed between Buyers and Sellers that the period of fulfilment under this contract shall be preceded by the theoretical number of voyage days set out below, and for the purposes of this contract, a deemed period of shipment of 31 days at origin shall precede those days:

If shipped from:

Mexican Pacific, West Coast North America, China, Indonesia,	
Japan and other Far Eastern Ports	45 days
Burma, Malaysia, Thailand, Bangladesh, Australia	40 days
India West/East, South America, Pakistan, East Africa	35 days
Iran, Iraq, Southern Africa, Angola, Zaire	30 days
U.S.Gulf, U.S. South of Cape Hatteras, Canadian/U.S. Lakes, Mexican Gulf,	
West African Ports, (Gabon to Ivory Coast), Red Sea Area	20 days
Canadian Atlantic, St. Lawrence, Churchill, U.S. North	
of Cape Hatteras, Mediterranean, Morocco to Liberia	15 days
Baltic, Iberian Atlantic Ports	7 days
Other European Ports	3 days

19. **PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, during the deemed period of shipment as defined in Clause 17, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
20. **LOADING STRIKES, RIOTS, LOCK-OUTS, ICE-**
- (a) Should shipment of the grain or any part thereof be prevented at any time during the last 28 days of the deemed period of shipment, by reason of riots, strikes, lock-outs or ice at port(s) of loading or elsewhere preventing the forwarding of the grain to such port or ports, then the Shipper shall be entitled at the termination of any such occurrences as aforesaid to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract prior to the commencement of the occurrence and in the event of the time left for the deemed period of shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further riots, strikes, lock-outs or ice occurring during the time by which the deemed period of shipment has been extended by reason of the operation of the foregoing provisions, the additional extension allowed shall be limited to the actual duration of such further riots, strikes, lock-outs or ice. In case of non-fulfilment under the above conditions the date of default shall be similarly deferred.
- (b) The Shipper shall serve notice not later than 2 business days after the last day of deemed period of shipment if he intends to claim an extension of time for shipment under paragraph (a). Such notice shall state the port(s) from which shipment was intended to be made and if such extension is claimed, the shipment, after expiry of the deemed period of shipment, shall only be made from such port(s).
- (c) If required by Buyers, Sellers must provide documentary evidence to justify any claim for extension under this clause.
21. **DISCHARGING STRIKE/ICE-** In the event of a strike or lock-out affecting the discharge of the cargo at, or ice preventing the vessel reaching, port of destination named in the contract the terms of the "Gencon" or "Synacomex" or "Britcon" Clause shall apply. If during any of the time allowed for fulfilment the port of destination is inaccessible because of ice to ships of the size required under the contract, and the Sellers are unable to charter for this reason, then Sellers shall - by serving notice on Buyers - be entitled at the termination of such inaccessibility to as much time for fulfilment as was left for fulfilment prior to the commencement of the inaccessibility, with a minimum of 14 days always to be allowed for. Current charges in force at time of contract, after the date of the originally stipulated contract period of fulfilment to be for Buyers' account. The question of accessibility to be decided by Lloyd's Agent, if necessary.
22. **NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
23. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of fulfilment shall not be affected by this clause.

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24. DEFAULT- In default of fulfilment of contract by either party, the following provisions shall apply: -

- (a) The party other than the defaulter shall, at their discretion have the right, serving a notice on the defaulter, to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
- (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
- (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
- (d) In no case shall damages include loss or profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
- (e) Damages, if any, shall be computed on the advice of shipment quantity, provided that the advice(s) are within the contract quantity but, if no such quantities have been advised then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
- (f) In the event that Buyers have taken up and paid for shipping documents, but the vessel does not arrive during the contractual period of fulfilment, Buyers are entitled to reject the goods and ask for the payment to be refunded in exchange for shipping documents together with interest thereon but if Sellers have not accepted in writing Buyers' rejection within 2 business days, Buyers are entitled to sell the goods against Sellers and maintain an action for recovery of any losses suffered.
- (g) If Buyers do not elect to reject or sell against Sellers due to late entry into Customs of the vessels, or where applicable with port authorities/pilot station, any differences in import duties, taxes, levies or costs of a similar nature, between those applying during the original period of fulfilment and those applying at time of entry into Customs or where applicable at a freeport shall be for account of Sellers.

25. PRO RATA-

- (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of fulfilment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.
- (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.
- (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those Receivers who did not receive their full invoiced quantity.
- (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.
- (e) If one or more Receivers is delivered in excess, and one or more Receivers bears a shortage, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.
- (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
- (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.
- (h) In the event of this clause being brought into operation, any allowance payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.
- (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA, where applicable, take precedence over sub-clauses (b) to (h) above.
- (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

26. CIRCLE- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of fulfilment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not advised or, having been advised documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day of the originally stipulated period of fulfilment or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual fulfilment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in the currency of the contract. All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle.

355 As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a
356 breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency
357 Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the
358 Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event
359 respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
360 between the closing out price and the contract price.
361

362 **27. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
363 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
364 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
365 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
366 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
367 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
368 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
369 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
370 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
371 price ruling on the business day following the serving of the notice.
372

373 If such notice be not served then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of
374 declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the
375 occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency
376 occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
377 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
378 amount payable or receivable under this contract.
379

380 **28. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
381 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
382 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
383 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
384 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
385 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
386 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
387 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
388 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
389 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
390 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
391 service, any rule of law or equity to the contrary notwithstanding.
392

393 **29. ARBITRATION-**
394 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
395 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
396 shall be deemed to be cognisant.
397 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
398 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
399 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
400 award from the Arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
401 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
402 any such dispute.
403

404 **30. INTERNATIONAL CONVENTIONS-**
405 The following shall not apply to this contract: -
406 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
407 Sales Act 1967;
408 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
409 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
410 of 1980.
411 (d) Incoterms
412 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
413 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SALES FOR ARRIVAL OF FEEDINGSTUFFS IN BULK TALE QUALE

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean goods
7 of the contractual description.

8
9 **1. GOODS-**

10 Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of handling, to be taken and
11 paid for as cakes. Goods in bulk, but Buyers agree to accept up to 15% in stowage bags, such bags to be taken and paid for as cakes
12 and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or part of the quantity in excess of 15% in
13 bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be responsible for cutting the excess bags which
14 remain their property.

15
16 **2. QUANTITY-** 2% more or less.

17 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the deficiency
18 below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port of
19 destination, the value to be fixed by arbitration, unless mutually agreed. Should the Sellers exercise the option to ship up to 5% more,
20 the excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the market price
21 calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more than one shipment
22 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
23 thereby.

24
25 **3. PRICE AND DESTINATION - At**

26 * per tonne of 1000 kilograms }
27 } gross weight, cost, insurance and freight to
28 * per ton of 1016 kilograms or 2240 lbs. }

29
30 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
31 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
32 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
33 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for fulfilment.

34
35 **5. QUALITY-**
36 * **Warranted to contain** at time and place of discharge.

37
38 Not less than oil and protein combined, and not more than 2.50% of sand and/or silica.
39 Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or settled
40 by arbitration as provided for below, except that for any deficiency of oil and protein there shall be allowances to Buyers at the
41 following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted percentage; 2% of the
42 contract price for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and proportionately for any fraction
43 thereof. When the combined content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance
44 shall be made if the analysis ascertained as herein provided be not below the minimum, but if the analysis results are below the
45 minimum warranted the allowance for deficiency shall be computed from the mean of the warranted content.

46 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and
47 proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to
48 reject the goods, in which case the contract shall be null and void, for such quantity rejected.

49 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not
50 exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75%
51 of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
52 exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be
53 final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of
54 either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of
55 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected.
56 Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of
57 castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark shall stand as a

58 separate shipment. The right rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

59
60 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to quality.

61
62 * **Sample**, at time and place of shipment about as per sealed sample marked , in possession of; the
63 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival sample.

64 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
65 referred to in the Arbitration Rules specified in the Arbitration Clause.

66 **Condition**- Shipment shall be made in good condition.

67
68 **6. PERIOD OF FULFILMENT-**

69 (a) Sellers shall have complied with the provisions of this clause with the vessel having entered into customs or registered with the port
70 authority/pilot station at the discharge port.

71 (b) If the vessel has entered into Customs or registered with the port authorities at the discharge port before the period of fulfilment,
72 the entry is deemed to have been effected on the first day of the period of fulfilment. Sellers shall be responsible for any extra costs
73 incurred through the premature entry at Customs or registration with port authorities/pilot station.

74 (c) The period of fulfilment ends with its last calendar day. If fulfilment is prevented due to the period ending on a non-business day,
75 the preceding business day is deemed to be the last day of fulfilment.

76
77 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

78 (a) Position of vessel is mutually agreed between Buyers and Sellers;

79 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;

80 (c) Advice of Shipment Clause cancelled if sold "shipped".

81
82 **8. SHIPMENT AND CLASSIFICATION-** Shipment from
83 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
84 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at
85 the time of shipment.

86
87 **9. EXTENSION OF FULFILMENT-** Sellers shall be entitled, without notice, to an extension of the contract period for fulfilment by an
88 additional period not exceeding 8 consecutive days, from the last day of the originally stipulated period of fulfilment.

89 Sellers shall make an allowance to Buyers, from the contract price, based on the number of days by which the originally stipulated
90 period, without taking into consideration the Period of Fulfilment Clause par.(c), is exceeded, in accordance with the following scale: -

91 1 to 4 additional days, 0.50%;

92 5 or 6 additional days, 1%;

93 7 or 8 additional days 1.50% of the gross contract price.

94 If, however, Sellers fail to fulfil within such 8 days, then the contract shall be deemed to have called for fulfilment during the
95 originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If
96 any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance
97 and any other contractual differences shall be settled on the basis of such reduced price.

98
99 **10. ADVICE OF SHIPMENT-**

100 (a) Sellers shall advise Buyers in due course, the name of the vessel and approximate quantity allocated to this contract and for
101 information only the port of shipment and bills of lading date.

102 (b) An advice of shipment shall be served by Sellers or their Agents or Brokers, either direct to the Buyers, or to their Agents or
103 Brokers.

104 (c) Every advice of shipment shall be open to correction of any errors occurring in transmission, provided that the sender is not
105 responsible for such errors, and for any previous error in transmission, which has been repeated in good faith.

106 (d) If the vessel enters into customs or registers with port authorities/pilot station during the period of fulfilment before receipt of
107 advice of shipment any proven extra expenses incurred thereby shall be borne by Sellers.

108 (e) Prior to the arrival of the vessel, Sellers are entitled to withdraw the advice of shipment and advise Buyers in due course the name
109 of another vessel(s).

110
111 **11. PAYMENT-**

112 (a) **Payment** % of invoice amount by cash in

113 * In exchange for and on presentation of shipping documents.

114 * In exchange for shipping documents on or before arrival of the vessel within the period of fulfilment, at Buyers' option.

115
116 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

117 (b) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
118 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
119 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
120 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
121 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
122 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

123 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
124 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
125 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
126 are eventually available.

127 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
128 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
129 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
130 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when

131 shipping documents are eventually available.

132 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
133 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
134 countersigned, if required by Buyers, by a recognised bank.

135 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
136 event any additional collection costs shall be borne by Buyers.

137 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
138 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
139 respect thereto.

140 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
141 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

142 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
143 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
144 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
145 clause do not override the parties' contractual obligation under sub-clause (a).

146
147 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
148 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

149
150 **13. DISCHARGE** - Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
151 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of
152 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
153 account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be
154 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
155 the time of contract. If shipment is effected by lash barge, then the last day of discharge shall be the day of discharging the last lash
156 barge at the port of destination.

157
158 **14. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
159 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
160 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
161 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
162 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
163 which case the Deficiency Clause will not apply).

164
165 **15. DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
166 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

167
168 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124,
169 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
170 ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place
171 of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
172 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

173
174 **17. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
175 GAFTA Insurance Terms No. 72 viz.: -

176 (a) Risks Covered: -

177 Cargo Clauses (WA), with average payable, with 3% franchise or better terms

- Section 2 of Form 72

178 War Clauses (Cargo)

- Section 4 of Form 72

179 Strikes, Riots and Civil Commotions Clauses (Cargo)

- Section 5 of Form 72

180 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
181 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
182 process in London, but for whose solvency Sellers shall not be responsible.

183 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
184 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
185 Buyers.

186 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
187 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
188 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
189 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
190 if the C.I.F. value plus 2% were insured from the time of shipment.

191 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
192 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
193 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
194 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
195 recognised bank, or by any other guarantor who is acceptable to Buyers.

196 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
197 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
198 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

199 (g) Currency of Claims - Claims to be paid in the currency of the contract.

200 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
201 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
202 excess premium shall be claimed from Buyers, wherever possible, with the provisional invoice, but in no case later than the date of

vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

18. DEEMED PERIOD OF SHIPMENT- It is agreed between Buyers and Sellers that the period of fulfilment under this contract shall be preceded by the theoretical number of voyage days as set out below, and for the purposes of this contract, a deemed period of shipment of 31 days at origin shall precede those days:

If shipped from:

Mexican Pacific, West Coast North America, China, Indonesia, Japan and other	
Far Eastern Ports	45 days
Burma, Malaysia, Thailand, Bangladesh, Australasia	40 days
India West/East, Pakistan, East Africa	35 days
Iran, Iraq, Southern Africa, Angola, Zaire	30 days
South America	25 days
U.S. Gulf, U.S. South of Cape Hatteras, Canadian/U.S. Lakes, Mexican Gulf, West African Ports, (Gabon to Ivory Coast), Red Sea Area	20 days
Canadian Atlantic, St. Lawrence, Churchill, U.S. North of Cape Hatteras, Mediterranean, Morocco to Liberia	15 days
Baltic, Iberian Atlantic Ports	7 days
Other European Ports	3 days

19. PROHIBITION- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, or of any country from which the contractual goods are normally shipped, restricting export, whether partially or otherwise, during the deemed period of shipment as defined in Clause 18 any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

20. FORCE MAJEURE, STRIKES, ETC- Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

21. NOTICES- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

22. NON-BUSINESS DAYS- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of fulfilment shall not be affected by this clause.

23. DEFAULT- In default of fulfilment of contract by either party, the following provisions shall apply: -
(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
(d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
(e) Damages, if any, shall be computed on the advice of shipment quantity, provided the advice(s) are within the contract quantity, but

277 if no such quantities have been advised then on the mean contract quantity, and any option available to either party shall be deemed to
278 have been exercised accordingly in favour of the mean contract quantity.

279 (f) In the event that Buyers have taken up and paid for shipping documents, but the vessel does not arrive in time, Buyers are entitled
280 to reject the goods and ask for the payment to be refunded in exchange for shipping documents together with interest thereon, but if
281 Sellers have not accepted in writing Buyers rejection within 2 business days, Buyers are entitled to sell the goods against Sellers and
282 maintain an action for recovery of any losses suffered.

283 (g) If Buyers do not elect to reject or sell against Sellers due to late entry into customs of the vessel, or where applicable with port
284 authorities/pilot station, any differences in import duties, taxes, levies or costs of a similar nature, between those applying during the
285 original period of fulfilment and those applying at time of entry into Customs or where applicable at a freeport shall be for account of
286 Sellers.

287 **24. PRO RATA-**

288 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of fulfilment of bags of
289 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
290 shall be necessary.

291 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
292 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
293 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
294 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
295 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

296 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
297 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
298 those Receivers who did not receive their full invoiced quantity.

299 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
300 price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
301 without taking into consideration the above pro-rata apportionment between Receivers.

302 (e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more receiver, the excess
303 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
304 resulting from this settlement.

305 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
306 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
307 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
308 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
309 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

310 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
311 of destination, such price to be fixed by arbitration unless mutually agreed.

312 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
313 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
314 weight.

315 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
316 where applicable, take precedence over sub-clauses (b) to (h) above.

317 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
318 than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
319 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.

320 Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
321 shall be the average of the market prices on the last day of discharge in the respective ports.

322 **25. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be 323 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the 324 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, 325 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of 326 fulfilment). Different currencies shall not invalidate the circle.

327
328 Subject to the terms of the Prohibition Clause in the contract, if the goods are not advised, or, having been advised documents are not
329 presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all
330 Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due
331 not later than 15 consecutive days after the last day of the originally stipulated period of fulfilment, or, should the circle not be
332 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
333 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
334 on the first day for contractual fulfilment and invoices shall be settled between each Buyer and his Seller in the circle by payment of
335 the differences between the market price and the relative contract price in currency of the contract.

336
337 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
338 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
339 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
340 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
341 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
342 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
343 make payment to their Buyers of the difference between the closing out price and the contract price.

344 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is 345 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of 346 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or 347 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become 348 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of

352 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
353 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
354 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
355 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
356 price ruling on the business day following the served of the notice. If such notice has not been served, then the other party, on learning
357 of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the
358 first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on
359 the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the
360 option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the
361 contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
362

363 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
364 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
365 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
366 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
367 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
368 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
369 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
370 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
371 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
372 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
373 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
374 service, any rule of law or equity to the contrary notwithstanding.
375

376 **28. ARBITRATION-**
377 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
378 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
379 shall be deemed to be cognisant.
380 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
381 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
382 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
383 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
384 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
385 any such dispute.
386

387 **29. INTERNATIONAL CONVENTIONS-**
388 The following shall not apply to this contract: -
389 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
390 Sales Act 1967;
391 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
392 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
393 of 1980.
394 (d) Incoterms
395 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
396 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF TAPIOCA, MANIOC AND CASSAVA PRODUCTS IN BULK TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "pellets" is used, this is agreed to mean
7 goods of the contractual description.

8
9 **1. GOODS-**

10 Broken and/or Powdered Pellets in a proportion, having regard to the characteristics of the goods and methods of handling, to be
11 taken and paid for as pellets. Goods in bulk but Buyers agree to accept up to 10% in stowage bags, such bags to be taken and
12 paid for as pellets and any cutting to be paid for by Buyers.

13
14 **2. QUANTITY-**

15 2% more or less. Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above
16 2% or the deficiency below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of
17 the vessel at the port of destination; the value to be fixed by arbitration, unless mutually agreed. Should the Sellers exercise the
18 option to ship up to 5% more, the excess over 2% shall be paid for provisionally at contract price. The difference between the
19 contract price and the market price calculated in accordance with the provisions of this clause shall be adjusted in a final invoice.
20 In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the
21 mean quantity sold shall not be affected thereby.

22
23 **3. PRICE AND DESTINATION - At**

24 * per tonne of 1000 kilograms }
25 } gross weight, cost, insurance and freight to
26 * per ton of 1016 kilograms or 2240 lbs. }

27
28 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
29 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
30 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
31 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

32
33 **5. QUALITY-**

34 (a) Warranted to contain as per the EEC Method 72/199 not less than: -

35 (i) Basis, 63% starch for originally stipulated shipment for June to October inclusive (irrespective of whether or not there is an
36 extension of shipment), at an allowance of 1% for 1% for any deficiency below 63% down to 58%, fractions in proportion,
37 and any deficiency below 58% shall be settled by arbitration if not mutually agreed.

38 (ii) Basis, 65% starch for originally stipulated shipment period for November to May inclusive (irrespective of whether or not
39 there is an extension of shipment), at an allowance of 1% for 1% for any deficiency below 65% down to 60%, at an allowance
40 of 2% for 1% deficiency below 60% down to 58%, fractions in proportion, below 58% to be settled by arbitration if not
41 mutually agreed.

42 (b) Warranted to contain: -

43 not more than 5% fibre;

44 not more than 3.50% sand and/or silica combined

45 not more than 14% moisture content or 14.30% if for originally stipulated shipment period of June to October inclusive
46 (irrespective of whether or not there is an extension of shipment). Should the whole or any portion not turn out equal to the
47 warranties the goods must be taken at an allowance of 1% for 1%, or fractions in proportion.

48 (c) The goods are warranted to conform to EC Regulations at time and place of shipment, based on the contractual samples taken
49 at time and place of discharge.

50 (d) * (i) Analyses results as "AS IS" basis,

51 * (ii) Analyses results on a Moisture basis.

52 **Condition-** Shipment shall be made in good condition.

53
54 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
55 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
56 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall
57 be accepted as being in both halves of the month.

58
59 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
60 (a) Position of vessel is mutually agreed between Buyers and Sellers;
61 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
62 (c) Appropriation Clause cancelled if sold "shipped".
63 For sales by named vessel the date of the last bill of lading shall prevail.

64
65 **8. SHIPMENT AND CLASSIFICATION-** Shipment from
66 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
67 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force
68 at the time of shipment.

69
70 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
71 period of not more than 15 days, provided that Sellers serve notice claiming extension not later than the next business day
72 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed. Sellers
73 shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which
74 the originally stipulated period is exceeded, in accordance with the following scale: -

- 75
76 1 to 7 additional days, no allowance,
77 8 to 11 additional days, 0.50%;
78 12 or 13 additional days, 1%;
79 14 or 15 additional days 1.50% of the gross contract price.

80
81 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 15 days, then the contract
82 shall be deemed to have called for shipment during the originally stipulated period plus 15 days, at contract price less 1.50%, and
83 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall
84 be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of
85 such reduced price.

86
87 **10. APPROPRIATION-**

88 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
89 bill of lading.
90 (b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on behalf of
91 the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall
92 not apply.
93 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
94 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers
95 on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
96 deemed to be in time if served: -

- 97
98 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
99 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

100
101
102 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
103 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
104 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
105 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

106 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
107 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail. The bill of
108 lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid
109 down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

110 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
111 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

112 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
113 borne by Sellers.

114 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

115 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
116 for sampling, analysis and lighterage incurred thereby at port of discharge.

117
118 **11. PAYMENT-**

119 (a) Payment % of invoice amount by cash in

120 * In exchange for and on presentation of shipping documents;

121 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

122 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

123 Consecutive days from the date of the bill(s) of lading.

124 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery

125 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,

126 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or

127 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required

128 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of

129 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

130 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,

131 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made

132 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents

133 are eventually available.

134 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers

135 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any

136 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to

137 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when

138 shipping documents are eventually available.

139 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be

140 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be

141 countersigned, if required by Buyers, by a recognised bank.

142 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in

143 that event any additional collection costs shall be borne by Buyers.

144 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible

145 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in

146 respect thereto.

147 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a

148 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration

149 Rules.

150 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.

151 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest

152 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this

153 clause do not override the parties' contractual obligation under sub-clause (a).

154

155 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for

156 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

157

158 **13. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of

159 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the

160 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail

161 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary

162 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted

163 unless specifically excluded at time of contract.

164

165 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.

166 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at

167 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers

168 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.

169 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in

170 which case the Deficiency Clause will not apply).

171

172 **15. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight

173 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

174

175 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules

176 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal

177 from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time

178 and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from

179 the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of

180 Analysts.

181

182 **17. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in

183 GAFTA Insurance Terms No.72 viz.: -

184 (a) Risks Covered: -

185 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

186 War Clauses (Cargo) - Section 4 of Form 72

(b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.

(c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.

(d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters.

Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

18. PROHIBITION- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

19. FORCE MAJEURE, STRIKES, ETC- Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

20. NOTICES- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

21. NON-BUSINESS DAYS- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time

limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

22. PRO RATA-

(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

(c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those receivers who did not receive their full invoiced quantity.

(d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

(e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more receiver, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.

Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

23. DEFAULT- In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.

(f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first business day thereafter.

24. CIRCLE - Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be

323 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
324 ascertained.

325
326 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
327 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
328 payment of the differences between the market price and the relative contract price in currency of the contract.

329 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
330 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
331 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
332 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
333 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
334 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their
335 Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract
336 price.

337
338 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
339 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting
340 of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver
341 or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation)
342 become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented
343 against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency
344 shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
345 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing
346 the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the
347 contract shall be closed out at the market price ruling on the business day following the serving of the notice.

348
349 If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
350 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
351 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act
352 of Insolvency occurred.

353
354 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
355 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
356 amount payable or receivable under this contract.

357
358 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
359 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
360 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
361 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
362 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
363 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
364 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
365 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
366 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
367 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
368 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
369 service, any rule of law or equity to the contrary notwithstanding.

370
371 **27. ARBITRATION-**

372 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
373 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
374 parties hereto shall be deemed to be cognisant.

375 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
376 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or
377 a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the
378 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of
379 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other
380 of them in respect of any such dispute.

381
382 **28. INTERNATIONAL CONVENTIONS-**

383 The following shall not apply to this contract: -

384 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
385 Sales Act 1967;

386 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

387 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
388 Protocol of 1980.

389 (d) Incoterms

390 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right

Sellers.....Buyers.....

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF NORTH AMERICAN SOYABEAN MEAL AND/OR PELLETS IN BULK TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "meal" is used, this is agreed to mean meal
7 and/or pellets at Sellers' option.

8
9 **1. GOODS-**

10 United States and/or Canadian Solvent Extracted Toasted Soyabean Meal. Goods in bulk but Buyers agree to accept up to 15% in
11 stowage bags, such bags to be taken and paid for as meal and any cutting to be paid for by Buyers. Sellers have the option of shipping
12 the whole or part of the quantity in excess of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers
13 shall be responsible for cutting the excess bags which remain their property.

14
15 **2. QUANTITY-** 2% more or less.

16 Sellers shall have the option of shipping a further 3% more or less on contract quantity. The excess above 2% or the deficiency below
17 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port of
18 destination; the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5% more, the
19 excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the market price
20 calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more than one shipment
21 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
22 thereby.

23
24 **3. PRICE AND DESTINATION - At**

25 * per tonne of 1000 kilograms }
26 } gross weight, cost, insurance and freight to

27 * per ton of 1016 kilograms or 2240 lbs. }
28 }

29 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
30 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
31 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
32 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

33
34 **5. QUALITY-**

35 * **Sample** - at time and place of shipment to be about as per sealed sample marked

36
37 in the possession of Analysis as per arrival sample.

38
39 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to
40 quality.

41
42 * **Warranted at time and place of discharge**

43
44 **Warranted to contain -**

45 (a) Protein: not less than 44%, allowances 1 for 1 and fractions in proportion for deficiency.

46 (b) Fibre: not more than 7%, no allowances for excess up to 7.50%. If above 7.50%, allowances start from 7% as follows and
47 fractions in proportion:

- 48 7% - 7.50%, 1 for 1
- 49 Over 7.50% - 8%, 2 for 1
- 50 Over 8% - 9%, 3 for 1
- 51 Over 9%, 4 for 1

52 (c) Moisture: not more than 12.50%, allowances 1 for 1 and fractions in proportion for excess.

53 (d) Warranted to contain not more than 2.50% of sand and/or silica. Should the whole, or any portion, not turn out equal to warranty,
54 the goods must be taken at an allowance to be agreed or settled by arbitration as provided for below. For any excess of sand
55 and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and proportionately for any fraction
56 thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to reject the goods, in which case the

57 contract shall be null and void, for such quantity rejected.

- 58 (e) The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not
59 exceeding 0.005%, Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75% of
60 contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
61 exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be
62 final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of
63 either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of
64 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected.

65 Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of
66 castor seed husk, to be settled by agreement or arbitration.

67 For the purpose of sampling and analysis each parcel shall stand as a separate shipment. The right of rejection provided by this clause
68 shall be limited to the parcel or parcels found to be defective.

69 **Condition-** Shipment shall be made in good condition.

- 70
71 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
72 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
73 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
74 as being in both halves of the month.

- 75
76 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

- 77 (a) Position of vessel is mutually agreed between Buyers and Sellers;
78 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
79 (c) Appropriation Clause cancelled if sold "shipped".

- 80
81 **8. SHIPMENT AND CLASSIFICATION-** Shipment direct or indirect, with or without transshipment from United States and/or
82 Canadian Port or Ports, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in
83 accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

- 84
85 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
86 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
87 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

88 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
89 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 90 1 to 4 additional days, 0.50%;
91 5 or 6 additional days, 1%;
92 7 or 8 additional days 1.50% of the gross contract price.

93 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
94 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
95 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
96 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

- 97
98 **10. APPROPRIATION-**

99 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
100 bill of lading.

101 (b) The notice of appropriation shall within (i) 10 consecutive days if shipped from the U.S. Gulf and/or U.S. and/or Canadian
102 Atlantic/Lake Ports, (ii) 14 consecutive days if shipped from any other port, from the date of the bill(s) of lading be served by or
103 on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
104 Clause shall not apply.

105 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
106 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
107 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
108 deemed to be in time if served: -

109
110 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

111
112 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

113 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
114 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
115 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
116 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

117 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
118 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

119 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
120 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

121 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
122 borne by Sellers.

123 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

124 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
125 for sampling, analysis and lighterage incurred thereby at port of discharge.

- 126
127 **11. PAYMENT-**

128 (a) **Payment** % of invoice amount by cash in

129 * In exchange for and on presentation of shipping documents;

130 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

131 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

132 consecutive days from the date of the bill(s) of lading.

133 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s)

134 and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be

135 countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of

136 Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4.

137 Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War

138 Deviation Clause and/or other recognised official War Risk Clause.

139 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers

140 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in

141 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually

142 available.

143 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may

144 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable

145 extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such

146 documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents

147 are eventually available.

148 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,

149 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required

150 by Buyers, by a recognised bank.

151 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that

152 event any additional collection costs shall be borne by Buyers.

153 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for

154 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect

155 thereto.

156 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute

157 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

158 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If

159 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be

160 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not

161 override the parties' contractual obligation under sub-clause (a).

162

163 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'

164 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

165

166 **13. DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of

167 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of

168 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'

169 account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be

170 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at

171 time of contract. If shipment is effected by lash barge, then the last day of discharge shall be the day of discharging the last lash barge

172 at the port of destination.

173

174 **14. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.

175 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at

176 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers

177 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.

178 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in

179 which case the Deficiency Clause will not apply).

180

181 **15. DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight

182 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

183

184 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No. 124,

185 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship

186 or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of

187 loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA

188 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

189

190 **17. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in

191 GAFTA Insurance Terms No. 72 viz.: -

192 (a) Risks Covered: -

193 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

194 War Clauses (Cargo) - Section 4 of Form 72

195 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

196 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in

197 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of

process in London, but for whose solvency Sellers shall not be responsible.

(c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.

(d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

18. PROHIBITION- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

19. FORCE MAJEURE, STRIKES, ETC- Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

20. NOTICES- All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

21. NON-BUSINESS DAYS- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

22. PRO RATA-

(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata

statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

(c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those Receivers who did not receive their full invoiced quantity.

(d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between receivers.

(e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one Shipper and destined for one or more ports of discharge then, after the adjustment between receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.

Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

23. DEFAULT- In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulters, to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.

(f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the appropriation clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first business day thereafter.

24. CIRCLE- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in the currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.

25. INSOLVENCY- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such

348 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
349 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
350 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
351 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
352 ruling on the first business day after the date when the Act of Insolvency occurred.
353 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
354 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
355 receivable under this contract.

356
357 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
358 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
359 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
360 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
361 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of
362 appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party
363 shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association,
364 (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction
365 against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the
366 decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain
367 and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be
368 deemed good service, any rule of law or equity to the contrary notwithstanding.

369
370 **27. ARBITRATION-**
371 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
372 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
373 shall be deemed to be cognisant.
374 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
375 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
376 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
377 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
378 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
379 any such dispute.

380
381 **28. INTERNATIONAL CONVENTIONS-**
382 The following shall not apply to this contract: -
383 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
384 Sales Act 1967;
385 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
386 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
387 of 1980.
388 (d) Incoterms
389 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
390 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF NORTH AMERICAN SOYABEAN MEAL AND/OR PELLETS IN BULK TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "meal" is used, this is agreed to mean meal
7 and/or pellets at Sellers' option.

8
9 **1. GOODS-**

10 United States and/or Canadian Solvent Extracted Toasted Soyabean Meal. Goods in bulk but Buyers agree to accept up to 15% in
11 stowage bags, such bags to be taken and paid for as meal and any cutting to be paid for by Buyers. Sellers have the option of shipping
12 the whole or part of the quantity in excess of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers
13 shall be responsible for cutting the excess bags which remain their property.

14
15 **2. QUANTITY-** 2% more or less.

16 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the deficiency
17 below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port of
18 destination; the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5% more, the
19 excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the market price
20 calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more than one shipment
21 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
22 thereby.

23
24 **3. PRICE AND DESTINATION - At**

25 * per tonne of 1000 kilograms }
26 } gross weight, cost, insurance and freight to
27 * per ton of 1016 kilograms or 2240 lbs. }

28
29 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
30 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
31 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
32 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

33
34 **5. QUALITY-**

35 * **Sample** - at time and place of shipment to be about as per sealed sample marked
36
37 in the possession of Analysis as per arrival sample,
38 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price.

39
40 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to
41 quality.

42
43 * **Warranted to contain** at time and place of discharge.

44
45 Not less than% of oil and protein combined, and not more than 2.50% of sand and/or silica. Should the whole, or any
46 portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or settled by arbitration as provided for
47 below, except that for any deficiency of oil and protein there shall be allowances to Buyers at the following rates, viz.: 1% of the
48 contract price for each of the first 3 units of deficiency under the warranted percentage; 2% of the contract price for the 4th and 5th
49 units and 3% of the contract price for each unit in excess of 5 and proportionately for any fraction thereof. When the combined
50 content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance shall be made if the analysis
51 ascertained as herein provided be not below the minimum, but if the analysis results are below the minimum warranted the allowance
52 for deficiency shall be computed from the mean of the warranted content.

53 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and proportionately
54 for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to reject the goods, in
55 which case the contract shall be null and void, for such quantity rejected.

56 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not exceeding

0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75% of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected. Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark shall stand as a separate shipment. The right rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition – Shipment shall be made in good condition.

6. PERIOD OF SHIPMENT- as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

7. SALES BY NAMED VESSELS- For all sales by named vessels, the following shall apply: -

(a) Position of vessel is mutually agreed between Buyers and Sellers;

(b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;

(c) Appropriation Clause cancelled if sold "shipped".

8. SHIPMENT AND CLASSIFICATION- Shipment direct or indirect, with or without transshipment from United States and/or Canadian port or ports, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

9. EXTENSION OF SHIPMENT- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale: -

1 to 4 additional days, 0.50%;

5 or 6 additional days, 1%;

7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

10. APPROPRIATION-

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.

(b) The notice of appropriation shall within (i) 10 consecutive days if shipped from the U.S. Gulf and/or U.S. and/or Canadian Atlantic/Lake Ports, (ii) 14 consecutive days if shipped from any other port, from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.

(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be deemed to be in time if served: -

(1) On the same calendar day, if received not later than 1600 hours on any business day, or

(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

11. PAYMENT-

(a) **Payment** % of invoice amount by cash in

* In exchange for and on presentation of shipping documents;

128 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;
129 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
130 consecutive days from the date of the bill(s) of lading.

131 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
132 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
133 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
134 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
135 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
136 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

137 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
138 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
139 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
140 are eventually available.

141 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
142 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
143 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
144 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
145 shipping documents are eventually available.

146 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
147 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
148 countersigned, if required by Buyers, by a recognised bank.

149 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
150 that event any additional collection costs shall be borne by Buyers.

151 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
152 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
153 respect thereto.

154 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
155 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
156 Rules.

157 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
158 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
159 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
160 clause do not override the parties' contractual obligation under sub-clause (a).

161
162 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
163 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
164

165 **13. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
166 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms
167 of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for
168 Buyers' account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers
169 shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically
170 excluded at time of contract. If shipment is effected by lash barge, then the last day of discharge shall be the day of discharging
171 the last lash barge at the port of destination.
172

173 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
174 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
175 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
176 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
177 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
178 which case the Deficiency Clause will not apply).
179

180 **15. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
181 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
182

183 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
184 124, are deemed to be incorporated into this contract. Samples shall be taken at the time and place of discharge on or before
185 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken
186 at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods,
187 from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of
188 Analysts.
189

190 **17. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
191 GAFTA Insurance Terms No.72 viz.: -

192 (a) Risks Covered: -

193 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

194 War Clauses (Cargo) - Section 4 of Form 72

195 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

196 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in

197 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
198 process in London, but for whose solvency Sellers shall not be responsible.

199 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
200 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
201 Buyers.

202 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
203 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
204 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
205 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
206 if the C.I.F. value plus 2% were insured from the time of shipment.

207 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
208 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
209 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
210 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
211 recognised bank, or by any other guarantor who is acceptable to Buyers.

212 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
213 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
214 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

215 (g) Currency of Claims - Claims to be paid in the currency of the contract.

216 (h) War and Strike Risks/Premiums - Any premium excess of 0.50% to be for account of Buyers. The rate of such insurance not to
217 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
218 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case, later than the date of
219 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
220 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
221 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

222 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
223 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
224 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
225 in respect of such matters.

226
227 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
228 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
229 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
230 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
231 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
232 therefor and, if required, Sellers must produce proof to justify the cancellation.

233
234 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
235 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
236 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
237 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
238 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

239
240 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later
241 than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods
242 were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

243
244 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
245 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
246 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
247 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
248 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
249 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

250
251 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible
252 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
253 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
254 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
255 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
256 notice was actually transmitted to the addressee. In case of resales/re purchases all notices shall be served without delay by sellers
257 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
258 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

259
260 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
261 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
262 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
263 thereafter. The period of shipment shall not be affected by this clause.

264
265 **22. PRO RATA-**

266 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
267 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
268 shall be necessary.

269 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
270 receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
271 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a

272 pro-rata basis in cash at the market price and each receiver shall bear his proportion of the depreciation in market value. The pro-rata
273 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

274 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
275 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
276 those receivers who did not receive their full invoiced quantity.

277 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
278 price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
279 without taking into consideration the above pro-rata apportionment between receivers.

280 (e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more receiver, the excess
281 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
282 resulting from this settlement.

283 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
284 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
285 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
286 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
287 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

288 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
289 of destination, such price to be fixed by arbitration unless mutually agreed.

290 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
291 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
292 weight.

293 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
294 where applicable, take precedence over sub-clauses (b) to (h) above.

295 (j) In the event that Clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
296 than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
297 clause, the shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.

298 Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
299 shall be the average of the market prices on the last day of discharge in the respective ports.

300
301 **23. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

302 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
303 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

304 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
305 agreed, then the assessment of damages shall be settled by arbitration.

306 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
307 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

308 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
309 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

310 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
311 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
312 mean contract quantity.

313 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
314 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
315 provisions stated in the appropriation clause) if notice of appropriation has not been served by the 10th consecutive day after the last
316 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first
317 business day thereafter.

318
319 **24. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
320 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
321 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
322 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
323 shipment). Different currencies shall not invalidate the circle.

324 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
325 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
326 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

327 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
328 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

329 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
330 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
331 differences between the market price and the relative contract price in currency of the contract.

332 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
333 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
334 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
335 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
336 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
337 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
338 make payment to their Buyers of the difference between the closing out price and the contract price.

339
340 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
341 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
342 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
343 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
344 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
345 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
346 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the

347 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
348 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
349 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
350 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
351 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
352 ruling on the first business day after the date when the Act of Insolvency occurred.
353 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
354 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
355 receivable under this contract.
356

357 **26. DOMICILE**-This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
358 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
359 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
360 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
361 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
362 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
363 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
364 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
365 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
366 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
367 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
368 service, any rule of law or equity to the contrary notwithstanding.
369

370 **27. ARBITRATION**-
371 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
372 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
373 shall be deemed to be cognisant.
374 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
375 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
376 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
377 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
378 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
379 any such dispute.
380

381 **28. INTERNATIONAL CONVENTIONS**-
382 The following shall not apply to this contract: -
383 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
384 Sales Act 1967;
385 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
386 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
387 of 1980.
388 (d) Incoterms
389 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
390 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF NORTH AMERICAN HIPRO (HIGH PROTEIN) SOYABEAN MEAL AND/OR PELLETS IN BULK TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "meal" is used, this is agreed to mean meal
7 and/or pellets at Sellers' option.

8
9 **1. GOODS-**

10 United States and/or Canadian Solvent Extracted Toasted Soyabean Meal. Goods in bulk but Buyers agree to accept up to 15% in
11 stowage bags, such bags to be taken and paid for as meal and any cutting to be paid for by Buyers. Sellers have the option of shipping
12 the whole or part of the quantity in excess of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers
13 shall be responsible for cutting the excess bags which remain their property.

14
15 **2. QUANTITY-** 2% more or less.

16 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the deficiency
17 below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port of
18 destination; the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5% more, the
19 excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the market price
20 calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more than one shipment
21 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
22 thereby.

23
24 **3. PRICE AND DESTINATION-** At

25 * per tonne of 1000 kilograms }
26 } gross weight, cost, insurance and freight to
27 * per ton of 1016 kilograms or 2240 lbs. }

28
29 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
30 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
31 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
32 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

33
34 **5. QUALITY-**

35 * **Sample** - at time and place of shipment to be about as per sealed sample marked

36 in the possession of Analysis as per arrival sample.

37
38 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to
39 quality.

40
41 * **Warranted to contain** at time and place of discharge.

42
43
44 **Warranted to contain -**

- 45 (a) Protein: not less than 48.50%, allowances 1% for 1% and fractions in proportion for deficiency.
- 46 (b) Fibre: not more than 3.50% allowances 10% for 1% and fractions in proportion for excess.
- 47 (c) Moisture: not more than 12.0% allowances 1% for 1% and fractions in proportion for excess.
- 48 (d) The goods are warranted to contain not more than 2.50% of sand and/or silica. For any excess of sand and/or silica there shall
49 be an allowance of 1% of the contract price of each unit of excess and proportionately for any fraction thereof. Should the
50 goods contain over 5% of sand and/or silica the Buyers shall be entitled to reject the goods, in which case the contract shall be
51 null and void, for such quantity rejected.
- 52 (e) The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not
53 exceeding 0.005%, Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75%
54 of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
55

56 exceeding 0.005%.

57 Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be final but in the
58 event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of either party
59 and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of 0.005% Buyers
60 shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected. Nevertheless,
61 should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of castor seed
62 husk, to be settled by agreement or arbitration.

63 For the purpose of sampling and analysis each parcel shall stand as a separate shipment.

64 The right of rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

65 **Condition-** Shipment shall be made in good condition.

66
67 **6. PERIOD OF SHIPMENT-** As per bill(s) of lading dated or to be dated
68 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
69 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
70 as being in both halves of the month.

71
72 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

73 (a) Position of vessel is mutually agreed between Buyers and Sellers;

74 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;

75 (c) Appropriation Clause cancelled if sold "shipped".

76
77 **8. SHIPMENT AND CLASSIFICATION-** Shipment direct or indirect, with or without transshipment from United States and/or
78 Canadian port or ports, by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in
79 accordance with the Institute Classification Clause of the International Underwriting Association on force at the time of shipment.

80
81 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
82 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
83 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

84 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
85 which the originally stipulated period is exceeded, in accordance with the following scale: -

86 1 to 4 additional days, 0.50%;

87 5 or 6 additional days, 1%;

88 7 or 8 additional days 1.50% of the gross contract price.

89 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
90 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
91 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
92 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

93
94 **10. APPROPRIATION-**

95 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
96 bill of lading.

97 (b) The notice of appropriation shall within (i) 10 consecutive days if shipped from the U.S. Gulf and/or U.S. and/or Canadian
98 Atlantic/Lake Ports, (ii) 14 consecutive days if shipped from any other port, from the date of the bill(s) of lading be served by or
99 on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
100 Clause shall not apply.

101 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
102 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
103 the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
104 deemed to be in time if served: -

105
106 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

107
108 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

109 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
110 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
111 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
112 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

113 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
114 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

115 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
116 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

117 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
118 borne by Sellers.

119 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

120 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
121 for sampling, analysis and lighterage incurred thereby at port of discharge.

122
123 **11. PAYMENT-**

124 (a) **Payment** % of invoice amount by cash in

125 * In exchange for and on presentation of shipping documents;

126 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

127 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
128 consecutive days from the date of the bill(s) of lading.

129 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
130 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
131 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
132 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
133 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
134 Shipping War Deviation Clause and/or other recognised official War Risk Clause. (c) In the event of shipping documents not
135 being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an
136 indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such
137 payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

138 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
139 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
140 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
141 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
142 shipping documents are eventually available.

143 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
144 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
145 countersigned, if required by Buyers, by a recognised bank.

146 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
147 event any additional collection costs shall be borne by Buyers.

148 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
149 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
150 respect thereto.

151 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
152 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

153 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
154 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
155 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
156 clause do not override the parties' contractual obligation under sub-clause (a).

157

158 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
159 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

160

161 **13. DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
162 shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of
163 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
164 account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be
165 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
166 time of contract. If shipment is effected by lash barge, then the last day of discharge shall be the day of discharging the last lash barge
167 at the port of destination.

168

169 **14. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
170 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
171 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
172 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
173 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
174 which case the Deficiency Clause will not apply).

175

176 **15. DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
177 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

178

179 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124,
180 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
181 ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place
182 of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
183 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

184

185 **17. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
186 GAFTA Insurance Terms No.72 viz.: -

187 (a) Risks Covered: -

188 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
189 War Clauses (Cargo) - Section 4 of Form 72
190 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

191 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
192 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
193 process in London, but for whose solvency Sellers shall not be responsible.

194 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
195 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
196 Buyers.

197 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not

198 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
199 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
200 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
201 if the C.I.F. value plus 2% were insured from the time of shipment.

202 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
203 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
204 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
205 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
206 recognised bank, or by any other guarantor who is acceptable to Buyers.

207 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
208 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy(ies)
209 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

210 (g) Currency of Claims - Claims to be paid in the currency of the contract.

211 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
212 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
213 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
214 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
215 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
216 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

217 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
218 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
219 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
220 in respect of such matters.

221
222 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
223 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
224 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
225 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
226 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
227 therefor and, if required, Sellers must produce proof to justify the cancellation.

228
229 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
230 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
231 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
232 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
233 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

234
235 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2
236 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
237 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

238
239 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
240 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
241 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
242 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
243 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
244 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

245
246 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible
247 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
248 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
249 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
250 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
251 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
252 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been
253 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

254
255 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
256 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
257 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
258 thereafter. The period of shipment shall not be affected by this clause.

259
260 **22. PRO RATA-**

261 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
262 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
263 shall be necessary.

264 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
265 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
266 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
267 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
268 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

269 (c) The above pro-rata apportionment between receivers shall have no bearing on the establishment of final invoices with Sellers and
270 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
271 those receivers who did not receive their full invoiced quantity.

272 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market

price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

(e) If an excess quantity is delivered to one or more receiver and a deficient quantity is delivered to one or more Receiver, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall serve as all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

23. DEFAULT- In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.

(f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be the first business day thereafter.

24. CIRCLE - Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.

25. INSOLVENCY- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option

348 of ascertaining the settlement price on the closing out of the contract by repurchase or re-sale, and the difference between the contract
349 price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
350

351 **26. DOMICILE**-This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
352 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
353 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
354 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
355 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
356 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
357 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
358 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
359 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
360 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
361 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
362 service, any rule of law or equity to the contrary notwithstanding.
363

364 **27. ARBITRATION-**
365 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
366 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
367 shall be deemed to be cognisant.
368 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
369 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
370 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
371 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
372 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
373 any such dispute.
374

375 **28. INTERNATIONAL CONVENTIONS-**
376 The following shall not apply to this contract: -
377 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
378 Sales Act 1967;
379 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
380 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
381 of 1980.
382 (d) Incoterms
383 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
384 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF FEEDINGSTUFFS IN BULK TALE QUALE - CIF TERMS

**delete/specify as appropriate*

Date.....

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean
7 goods of the contractual description.

8
9 **1. GOODS-**

10 Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of handling, to be taken and
11 paid for as cakes. Goods in bulk but Buyers agree to accept up to 15% in stowage bags, such bags to be taken and paid for as cakes
12 and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or part of the quantity in excess of 15% in
13 bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be responsible for cutting the excess bags which
14 remain their property.

15
16 **2. QUANTITY-** 2% more or less.

17 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the deficiency
18 below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port of
19 destination; the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5% more, the
20 excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the market price
21 calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more than one shipment
22 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
23 thereby.

24
25 **3. PRICE AND DESTINATION - At**

26 * per tonne of 1000 kilograms }
27 } gross weight, cost, insurance and freight to
28 * per ton of 1016 kilograms or 2240 lbs. }

29
30 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

31 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
32 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
33 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

34
35 **5. QUALITY-**

36 * **Warranted to contain** at time and place of discharge.

37
38 Not less than% of oil and protein combined, and not more than 2.50% of sand and/or silica. Should the whole, or
39 any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or settled by arbitration as
40 provided for below, except that for any deficiency of oil and protein there shall be allowances to Buyers at the following rates,
41 viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted percentage; 2% of the contract price
42 for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and proportionately for any fraction thereof.
43 When the combined content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance shall be made
44 if the analysis ascertained as herein provided be not below the minimum, but if the analysis results are below the minimum
45 warranted the allowance for deficiency shall be computed from the mean of the warranted content. For any excess of sand and/or
46 silica there shall be an allowance of 1% of the contract price for each unit of excess and proportionately for any fraction thereof.
47 Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to reject the goods, in which case the contract
48 shall be null and void for such quantity rejected.

49
50 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not
51 exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75%
52 of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
53 exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be
54 final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of
55 either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of
56 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected.

57 Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of
58 castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark shall stand as a
59 separate shipment. The right of rejection provided by this clause shall be limited to the parcel or parcels found to be defective.
60

61 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to
62 quality.
63

64 * **Sample**, at time and place of shipment about as per sealed sample marked.....in possession of
65 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival sample.
66 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
67 referred to in the Arbitration Rules specified in the Arbitration Clause.
68 **Condition** - Shipment shall be made in good condition.
69

70 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated
71 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
72 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
73 as being in both halves of the month.
74

75 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
76 (a) Position of vessel is mutually agreed between Buyers and Sellers;
77 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
78 (c) Appropriation Clause cancelled if sold "shipped".
79

80 **8. SHIPMENT AND CLASSIFICATION** - Shipment from
81 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
82 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at
83 the time of shipment.
84

85 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
86 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
87 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
88 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
89 which the originally stipulated period is exceeded, in accordance with the following scale: -
90 1 to 4 additional days, 0.50%;
91 5 or 6 additional days, 1%;
92 7 or 8 additional days 1.50% of the gross contract price.
93

94 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
95 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
96 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
97 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
98

99 **10. APPROPRIATION-**

100 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
101 bill of lading.

102 (b) The notice of appropriation shall within (i) 10 consecutive days if shipped from the U.S. Gulf and/or U.S. and/or Canadian
103 Atlantic/Lake Ports, (ii) 14 consecutive days if shipped from any other port, from the date of the bill(s) of lading be served by or
104 on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
105 Clause shall not apply.

106 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on
107 their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent
108 Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation
109 shall be deemed to be in time if served: -

110 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

111 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
112
113

114 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
115 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
116 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
117 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

118 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
119 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

120 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
121 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

122 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall
123 be borne by Sellers.

124 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

11. PAYMENT-

(a) **Payment** % of invoice amount by cash in

* In exchange for and on presentation of shipping documents;

* In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after consecutive days from the date of the bill(s) of lading.

(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.

(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.

(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

(h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

12. **DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

13. **DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers' account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at time of contract. If shipment is effected by lash barge, then the last day of discharge shall be the day of discharging the last lash barge at the port of destination.

14. **WEIGHING**-the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).

15. **DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

16. **SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**- the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

17. **INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.:-

(a) Risks Covered:-

196 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
197 War Clauses (Cargo) - Section 4 of Form 72
198 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

199 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
200 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
201 process in London, but for whose solvency Sellers shall not be responsible.

202 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
203 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
204 Buyers.

205 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
206 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
207 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
208 that their policies are so worded that in the case of particular or general average claim the Buyers shall be put in the same position as if
209 the c.i.f. value plus 2% were insured from the time of shipment.

210 (e) Certificates/Policies - Sellers shall serve all policies and/or certificates and/or letters of insurance provided for in this contract,
211 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
212 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
213 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
214 recognised bank, or by any other guarantor who is acceptable to Buyers.

215 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
216 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
217 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

218 (g) Currency of Claims - Claims to be paid in the currency of the contract.

219 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
220 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
221 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
222 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
223 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
224 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

225 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
226 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
227 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
228 in respect of such matters.

229
230 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
231 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
232 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
233 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
234 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
235 therefor and, if required, Sellers must produce proof to justify the cancellation.

236
237 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
238 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
239 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
240 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
241 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

242
243 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2
244 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
245 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

246
247 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
248 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
249 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
250 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
251 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
252 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

253
254 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
255 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
256 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if
257 receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,
258 establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was
259 actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their
260 respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received
261 on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

262
263 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
264 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
265 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
266 thereafter. The period of shipment shall not be affected by this clause.

267
268 **22. PRO RATA-**

269 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
270 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
271 shall be necessary.
272 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
273 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
274 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
275 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
276 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.
277 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
278 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
279 those Receivers who did not receive their full invoiced quantity.
280 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
281 price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
282 without taking into consideration the above pro-rata apportionment between Receivers.
283 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess
284 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
285 resulting from this settlement.
286 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
287 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
288 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
289 Clause of this contract. Sellers and Buyers shall serve all reasonable assistance in execution of this clause. All Sellers shall be
290 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.
291 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
292 of destination, such price to be fixed by arbitration unless mutually agreed.
293 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
294 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
295 weight.
296 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall,
297 where applicable, take precedence over sub-clauses (b) to (h) above.
298 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more
299 than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this
300 clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be
301 made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the
302 market prices on the last day of discharge in the respective ports.
303

304 **23. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

305 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter to sell or purchase, as
306 the case may be, against the defaulter, and such sale or purchase shall establish the default price.
307 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
308 agreed, then the assessment of damages shall be settled by arbitration.
309 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
310 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
311 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
312 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
313 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
314 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
315 mean contract quantity.
316 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
317 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
318 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
319 day for appropriation laid down in the contract, the Seller shall be deemed to be in default and the default date shall then be the first
320 business day thereafter.
321

322 **24. CIRCLE** -Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle shall be
323 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
324 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
325 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
326 shipment). Different currencies shall not invalidate the circle.

327 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
328 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
329 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
330 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
331 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
332 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
333 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
334 differences between the market price and the relative contract price in currency of the contract.
335 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
336 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
337 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
338 of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the circle shall be
339 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
340 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
341 make payment to their Buyers of the difference between the closing out price and the contract price.

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- 25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice.
- If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
- In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
- 26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England, (GAFTA) and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
- 27. ARBITRATION-**
- (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.
- (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.
- 28. INTERNATIONAL CONVENTIONS-**
- The following shall not apply to this contract: -
- (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;
- (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
- (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.
- (d) Incoterms
- (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF FEEDINGSTUFFS IN FULL LASH BARGE LOADS CIF TERMS

*delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean

7 goods of the contractual description.

8

9 **1. GOODS-**

10 Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of handling, to be taken

11 and paid for as cakes.

12

13 **2. QUANTITY-** 2% more or less.

14 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the

15 deficiency below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the lash

16 barge carrying goods of the contractual description from the carrying vessel at the port of destination; the value to be fixed by

17 arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5% more, the excess over 2% shall be paid

18 for provisionally at contract price. The difference between the contract price and the market price calculated in accordance with

19 the provisions of this clause shall be adjusted in a final invoice.

20

21 **3. PRICE AND DESTINATION - At**

22 * per tonne of 1000 kilograms }
23 } gross weight, cost, insurance and freight to

24 * per ton of 1016 kilograms or 2240 lbs. }
25 }

26 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

27 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

28 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the

29 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

30

31 **5. QUALITY-**

32 * **Warranted to contain** at time and place of discharge.

33

34 Not less than % of oil and protein combined, and not more than 2.50% of sand and/or silica.

35 Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or

36 settled by arbitration as provided for below, except that for any deficiency of oil and protein there shall be allowances to

37 Buyers at the following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted

38 percentage; 2% of the contract price for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and

39 proportionately for any fraction thereof. When the combined content of oil and protein is warranted within a margin (as for

40 example 40%/42%) no allowance shall be made if the analysis ascertained as herein provided be not below the minimum,

41 but if the analysis results are below the minimum warranted the allowance for deficiency shall be computed from the mean of

42 the warranted content.

43

44 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and

45 proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled

46 to reject the goods, in which case the contract shall be null and void, for such quantity rejected.

47

48 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not

49 exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances:

50 0.75% of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract

51 price if not exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such

52 analysis shall be final but in the event of the first analysis showing castor seed husk to be present a second sample may be
53 analysed at the request of either party and the mean of the two analyses shall be taken as final. Should the barge load contain
54 castor seed husk in excess of 0.005% Buyers shall be entitled to reject the barge load, in which case the contract shall be null
55 and void for such quantity rejected. Nevertheless, should Buyers elect to retain the barge load they shall be entitled to a
56 further allowance for any excess over 0.005% of castor seed husk, to be settled by agreement or arbitration. For the
57 purpose of sampling and analysis each mark shall stand as a separate shipment. The right rejection provided by this clause
58 shall be limited to the barge load or barge loads found to be defective.
59

60 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to quality.

61
62 * **Sample**, at time and place of shipment about as per sealed sample marked , in possession of ;
63 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival
64 sample.

65 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
66 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

67 **Condition** – Shipment shall be made in good condition.
68

69 **6. PERIOD OF SHIPMENT-** As per bill(s) of lading dated or to be dated
70 The bill(s) of lading to be dated when the goods are actually on board the lash barge. Date of the bill(s) of lading shall be
71 accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of
72 days, the middle day shall be accepted as being in both halves of the month.
73

74 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -
75 (a) Position of vessel is mutually agreed between Buyers and Sellers;
76 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
77 (c) Appropriation Clause cancelled if sold "shipped".
78

79 **8. SHIPMENT AND CLASSIFICATION-** Shipment from
80 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
81 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in
82 force at the time of shipment.
83

84 **9. APPROPRIATION-**
85 (a) Notice of appropriation shall state the lash barge's number and bill(s) of lading date and the vessel's or intended vessel's
86 name, vessel's name, and the approximate weight shipped.
87 (b) The notice of appropriation shall within 10 consecutive days from the date of the last bill(s) of lading of the lash barge be
88 served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The
89 Non-Business Days Clause shall not apply.
90 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
91 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
92 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their
93 notice of appropriation shall be deemed to be in time if served: -
94

95 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
96

97 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
98

99 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
100 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
101 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on
102 the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
103

104 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
105 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
106 prevail.
107

108 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
109 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
110

111 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
112 shall be borne by Sellers.
113

114 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
115

116 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
117 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
118

119 **10. PAYMENT-**

120 (a) **Payment** % of invoice amount by cash in

121 * In exchange for and on presentation of shipping documents;

122 * In exchange for shipping documents on or before arrival of the mother vessel at the port or place of discharge of the lash
123 barge at destination, at Buyers' option;

124 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
125 consecutive days from the date of the bill(s) of lading.

120
121 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
122 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
123 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
124 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
125 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
126 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
127 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
128 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
129 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
130 contract when shipping documents are eventually available.
131 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
132 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
133 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
134 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
135 contract when shipping documents are eventually available.
136 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
137 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
138 countersigned, if required by Buyers, by a recognised bank.
139 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
140 in that event any additional collection costs shall be borne by Buyers.
141 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
142 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
143 guarantee in respect thereto.
144 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that
145 a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
146 Arbitration Rules.
147 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
148 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
149 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration.
150 The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
151
152 **11. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
153 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
154
155 **12. DISCHARGE-** the last day of discharge shall be the last day of discharging the last lash barge from the mother vessel of the
156 goods of the contractual description at the port of destination.
157
158 **13. WEIGHING-** the terms and conditions of GAFTA Form 123 Weighing Rules are deemed to be incorporated into this
159 contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place
160 of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
161 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
162 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
163 Sellers' choice and expense.
164
165 **14. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
166 weight shall be paid for by Buyers at contract price.
167
168 **15. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
169 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
170 removal from the ship of quay, unless the parties agree that quality final at loading applies, in which event samples shall be
171 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
172 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
173 GAFTA Register of Analysts, (in which case the Deficiency Clause will not apply).
174
175 **16. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
176 GAFTA Insurance Terms No.72 viz.:-
177 (a) Risks Covered: -
178 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
179 War Clauses (Cargo) - Section 4 of Form 72
180 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
181 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
182 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
183 address for service of process in London, but for whose solvency Sellers shall not be responsible.
184 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
185 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
186 payable by Buyers.
187 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does

not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall serve all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised Bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy(ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

17. PROHIBITION- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

18. FORCE MAJEURE, STRIKES, ETC- Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

19. CIRCLE- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all

258 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
259 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
260 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
261 contract price.

262
263 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
264 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
265 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
266 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
267 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
268 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
269 on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have
270 been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

271
272 **21. NON-BUSINESS DAYS CLAUSE-**Saturdays, Sundays and the officially recognised and/or legal holidays of the respective
273 countries and any days which GAFTA may declare as non-business days for specific purposes, shall be non-business days.
274 Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended
275 until the first business day thereafter. The period of shipment shall not be affected by this clause.

276
277 **22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
278 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or
279 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
280 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
281 mutually agreed, then the assessment of damages shall be settled by arbitration.
282 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
283 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
284 above.
285 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
286 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
287 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on
288 the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour
289 of the mean contract quantity.
290 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
291 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
292 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
293 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be
294 the first business day thereafter.

295
296 **23. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that
297 he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or
298 hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order
299 made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for
300 re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have
301 a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the
302 party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the
303 other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator,
304 Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within
305 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the
306 business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the
307 occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on
308 the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market
309 price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the
310 contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale,
311 and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable
312 under this contract.

313
314 **24. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
315 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
316 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
317 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
318 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of
319 appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party
320 shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association,
321 England, (GAFTA) and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction
322 against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the
323 decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain
324 and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be
325 deemed good service, any role of law or equity to the contrary notwithstanding.

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25. ARBITRATION-

(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.

(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

26. INTERNATIONAL CONVENTIONS-

The following shall not apply to this contract: -

(a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;

(b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

(c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.

(d) Incoterms

(e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

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**GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF FEEDINGSTUFFS IN BULK RYE TERMS - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to
7 mean goods of the contractual description.

8
9 **1. GOODS-**

10 Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of handling, to be
11 taken and paid for as cakes. Goods in bulk but Buyers agree to accept up to 15% in stowage bags, such bags to be taken
12 and paid for as cakes and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or part of the
13 quantity in excess of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be
14 responsible for cutting the excess bags which remain their property.

15
16 **2. QUANTITY-** 2% more or less.

17 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the
18 deficiency below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the
19 vessel at the port of destination; the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the
20 option to ship up to 5% more, the excess over 2% shall be paid for provisionally at contract price. The difference between
21 the contract price and the market price calculated in accordance with the provisions of this clause shall be adjusted in a final
22 invoice. In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the
23 margin of the mean quantity sold shall not be affected thereby.

24
25 **3. PRICE AND DESTINATION-** At

26 *per tonne of 1000 kilograms }
27 } gross weight, cost, insurance and freight to
28 *per ton of 1016 kilograms or 2240 lbs. }

29
30 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

31 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
32 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the
33 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

34
35 **5. QUALITY-**

36 * **Warranted to contain** at time and place of discharge.

37
38 Not less than % of oil and protein combined, and not more than 2.50% of sand and/or silica.
39 Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed
40 or settled by arbitration as provided for below, except that for any deficiency of oil and protein there shall be allowances
41 to Buyers at the following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency under the
42 warranted percentage; 2% of the contract price for the 4th and 5th units and 3% of the contract price for each unit in
43 excess of 5 and proportionately for any fraction thereof. When the combined content of oil and protein is warranted
44 within a margin (as for example 40%/42%) no allowance shall be made if the analysis ascertained as herein provided be
45 not below the minimum, but if the analysis results are below the minimum warranted the allowance for deficiency shall
46 be computed from the mean of the warranted content.

47
48 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and
49 proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be
50 entitled to reject the goods, in which case the contract shall be null and void, for such quantity rejected.

51
52 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk
53 not exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following
54 allowances: 0.75% of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and
55 1.50% of contract price if not exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or
56 castor seed husk such analysis shall be final but in the event of the first analysis showing castor seed husk to be present a

57 second sample may be analysed at the request of either party and the mean of the two analyses shall be taken as final.
58 Should the parcel contain castor seed husk in excess of 0.005% Buyers shall be entitled to reject the parcel, in which
59 case the contract shall be null and void for such quantity rejected. Nevertheless, should Buyers elect to retain the parcel
60 they shall be entitled to a further allowance for any excess over 0.005% of castor seed husk, to be settled by agreement
61 or arbitration. For the purpose of sampling and analysis each mark shall stand as a separate shipment. The right
62 rejection provided by this clause shall be limited to the parcel or parcels found to be defective.
63

64 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to
65 quality.
66

67 * **Sample**, at time and place of shipment about as per sealed sample marked....., in possession of;
68 the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per
69 arrival sample.

70 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case
71 may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

72 **Condition** – Shipment shall be made in good condition
73

74 **6. PERIOD OF SHIPMENT**- As per bill(s) of lading dated or to be dated
75 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof
76 of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle
77 day shall be accepted as being in both halves of the month.
78

79 **7. SALES BY NAMED VESSELS**- For all sales by named vessels, the following shall apply: -

- 80 (a) Position of vessel is mutually agreed between Buyers and Sellers;
- 81 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
- 82 (c) Appropriation Clause cancelled if sold "shipped".
83

84 **8. SHIPMENT AND CLASSIFICATION**- Shipment from
85 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of
86 the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting
87 Association in force at the time of shipment.
88

89 **9. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an
90 additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next
91 business day following the last day of the originally stipulated period. The notice need not state the number of additional
92 days claimed.

93 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of
94 days by which the originally stipulated period is exceeded, in accordance with the following scale:-

- 95 1 to 4 additional days, 0.50%;
- 96 5 or 6 additional days, 1%;
- 97 7 or 8 additional days 1.50% of the gross contract price.

98 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the
99 contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less
100 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the
101 contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall
102 be settled on the basis of such reduced price.
103

104 **10. APPROPRIATION -**

105 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
106 of the bill of lading.

107 (b) The notice of appropriation shall within (i) 10 consecutive days if shipped from the U.S. Gulf and/or U.S. and/or
108 Canadian Atlantic/Lake Ports, (ii) 14 consecutive days if shipped from any other port, from the date of the bill(s) of lading
109 be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The
110 Non-Business Days Clause shall not apply.

111 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
112 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
113 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
114 appropriation shall be deemed to be in time if served: -
115

116 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
117

118 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

119 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
120 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
121 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
122 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
123 Brokers.

124 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
125 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
126 prevail.

127 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the

128 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
129 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
130 shall be borne by Sellers.
131 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
132 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
133 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
134

135 **11. PAYMENT-**

136 (a) **Payment** % of invoice amount by cash in.....
137 * In exchange for and on presentation of shipping documents;
138 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;
139 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after.....
140 consecutive days from the date of the bill(s) of lading.
141

142 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
143 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
144 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
145 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
146 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
147 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

148 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
149 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
150 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
151 contract when shipping documents are eventually available.

152 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
153 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
154 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
155 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
156 contract when shipping documents are eventually available.

157 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
158 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
159 countersigned, if required by Buyers, by a recognised bank.

160 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
161 in that event any additional collection costs shall be borne by Buyers.

162 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
163 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
164 guarantee in respect thereto.

165 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other
166 that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
167 Arbitration Rules.

168 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
169 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
170 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
171 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
172

173 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be
174 for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers'
175 account.
176

177 **13. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the
178 event of shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance
179 with the terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from
180 ship's rail overboard for Buyers' account. If documents are tendered which do not provide for discharging as above or
181 contain contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by
182 grab(s) shall be permitted unless specifically excluded at time of contract. If shipment is effected by lash barge, then the last
183 day of discharge shall be the day of discharging the last lash barge at the port of destination.
184

185 **14. WEIGHING** - the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
186 contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place
187 of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
188 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
189 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
190 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
191

192 **15. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
193 weight shall be paid for by Buyers at contract price, unless the Pro-rata clause applies.
194

195 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
196 No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
197 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be

198 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of
199 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
200 GAFTA Register of Analysts.

- 201
202 **17. RYE TERMS-** Condition guaranteed on arrival. In the event of goods arriving at destination damaged or out of condition,
203 Buyers shall be entitled to an allowance for deterioration calculated on a percentage based on the contract price to be fixed
204 by arbitration unless mutually agreed.
205

206 In the event of Buyers receiving an allowance from Sellers under this clause, Sellers and Buyers shall give all reasonable
207 assistance to each other in the prosecution of the claim for recovery from shipowners and/or other parties. Any sum
208 recovered under this clause shall be for the benefit of Sellers, and any proven reasonable expenses incurred by Buyers in
209 connection with the claim shall be deducted.
210

211 Buyers shall furnish Sellers on settlement of Rye Terms allowances with the usual documents required by average adjusters
212 for preparation of average statement and return to Sellers the policy (ies) and/or certificates received from them and in
213 addition documents for claiming against the ship or any party, failing which Buyers shall pay contribution to average as
214 Sellers may be unable to recover in consequence.
215

- 216 **18. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in
217 detail in GAFTA Insurance Terms No.72 viz.: -

218 (a) Risks Covered: -

219 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

220 War Clauses (Cargo) - Section 4 of Form 72

221 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

222 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
223 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
224 address for service of process in London, but for whose solvency Sellers shall not be responsible.

225 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
226 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk
227 premium payable by Buyers.

228 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance
229 does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight
230 becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned
231 clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the
232 Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

233 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this
234 contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the
235 event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy
236 if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of
237 insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

238 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full,
239 the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the
240 policy(ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

241 (g) Currency of Claims - Claims to be paid in the currency of the contract.

242 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such
243 insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted
244 by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but
245 in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with
246 underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay
247 is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and
248 generally obtainable in London at time of shipment.

249 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms,
250 (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall
251 immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to
252 Sellers all right of claim against the Insurers in respect of such matters.
253

- 254 **19. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done
255 by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named
256 herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties
257 to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by
258 any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall
259 advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
260

- 261 **20. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part
262 thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of
263 machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of
264 the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than
265 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the
266 reason(s) for the anticipated delay.
267

268 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not
269 later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which
270 the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports

271 so nominated.

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If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

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21. **NOTICES**-All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

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22. **NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

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23. **PRO RATA**-

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(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

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(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

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(c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those Receivers who did not receive their full invoiced quantity.

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(d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

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(e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

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(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

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(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

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(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

324

325

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

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(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

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24. **CIRCLE**- Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

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Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

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345 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the
346 market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the
347 circle by payment of the differences between the market price and the relative contract price in currency of the contract.
348 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
349 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
350 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in
351 the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract,
352 settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause,
353 which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective
354 Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
355 between the closing out price and the contract price.
356

357 **25. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

358 (a) The party other than the defaulter shall, at their discretion have the right, after serving a notice on the defaulter, to sell
359 or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

360 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
361 mutually agreed, then the assessment of damages shall be settled by arbitration.

362 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the
363 default price established under (a) above or upon the actual or estimated value of the goods, on the date of default,
364 established under (b) above.

365 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless
366 the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion
367 think fit.

368 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated
369 then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised
370 accordingly in favour of the mean contract quantity.

371 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the
372 first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then
373 (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th
374 consecutive day after the last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and
375 the default date shall then be the first business day thereafter.
376

377 **26. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors
378 that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call
379 or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up
380 order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for
381 re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have
382 a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the
383 party committing such Act of Insolvency shall forthwith serve a notice in accordance with the Notices Clause of the
384 occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the
385 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency)
386 that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be
387 closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been
388 served then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the
389 contract closed out at either the market price on the first business day after the date when such party first learnt of the
390 occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of
391 Insolvency occurred.

392 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
393 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall
394

395 **27. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
396 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
397 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
398 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
399 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
400 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
401 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
402 and Feed Trade Association, (GAFTA) England, and any party residing or carrying on business in Scotland shall be held to
403 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
404 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
405 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
406 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
407 notwithstanding.
408

409 **28. ARBITRATION-**

410 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA
411 Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of
412 which both parties hereto shall be deemed to be cognisant.

413 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings
414 against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the
415 arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed
416 and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a
417 condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or
418 other legal proceedings against the other of them in respect of any such dispute.
419

- 420 **29. INTERNATIONAL CONVENTIONS-**
421 The following shall not apply to this contract: -
422 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
423 International Sales Act 1967;
424 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
425 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
426 Protocol of 1980.
427 (d) Incoterms
428 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
429 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR TRANSHIPMENT OF FEEDINGSTUFFS IN BULK TO THE UNITED KINGDOM PARCELS OR CARGOES TALE QUALE - CIFFO TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean
7 goods of the contractual description.

8
9 **1. GOODS-**

10 Broken cakes and/or meal to be taken and paid for as cakes. Goods in bulk but Buyers agree to accept up to 15% in stowage bags,
11 such bags to be taken and paid for as cakes and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or
12 part of the quantity in excess of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be
13 responsible for cutting the excess bags which remain their property.

14
15 **2. QUANTITY-**

16 Sellers have the option of shipping up to 5% more or less. In the event of the quantity contracted for being for a full and complete
17 cargo and/or cargoes the margin on the contract quantity to be up to 10% more or less. In the event of more than one shipment being
18 made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

19
20 **3. PRICE AND DESTINATION - At**

21 * per tonne 1000 kilograms }
22 } gross weight, cost, insurance and freight free out to
23 * per ton 1016 kilograms or 2240 lbs. }

24
25 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

26 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
27 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
28 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

29
30 **5. QUALITY-**

31 * **Warranted to contain** at time and place of discharge.

32
33 Not less than% of oil and protein combined, and not more than 2.50% of sand and/or silica.
34 Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or settled
35 by arbitration as provided for below, except that for any deficiency of oil and protein there shall be allowances to Buyers at the
36 following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted percentage; 2% of the
37 contract price for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and proportionately for any fraction
38 thereof. When the combined content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance
39 shall be made if the analysis ascertained as herein provided be not below the minimum, but if the analysis results are below the
40 minimum warranted the allowance for deficiency shall be computed from the mean of the warranted content.

41
42 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and
43 proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to
44 reject the goods, in which case the contract shall be null and void, for such quantity rejected.

45
46 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not
47 exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75%
48 of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
49 exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be
50 final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of
51 either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of
52 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected.
53 Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of
54 castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark shall stand as a
55 separate shipment. The right rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

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* **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to quality.

* **Sample**, at time and place of shipment about as per sealed sample marked, in possession of.....; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival sample.

Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition – Shipment shall be made in good condition.

6. PERIOD OF SHIPMENT- as per bill(s) of lading dated or to be dated
The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted as being in both halves of the month.

7. SALES BY NAMED VESSELS- For all sales by named vessels, the following shall apply:-

(a) Position of vessel is mutually agreed between Buyers and Sellers.

(b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause.

(c) Appropriation Clause cancelled if sold "shipped".

8. SHIPMENT AND CLASSIFICATION- Shipment from
by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

9. EXTENSION OF SHIPMENT- The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale:-

1 to 4 additional days, 0.50%;

5 or 6 additional days, 1%;

7 or 8 additional days 1.50% of the gross contract price.

If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

10. APPROPRIATION -

(a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the bill of lading.

(b) The notice of appropriation shall within 1 consecutive day from the date of the last bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.

(c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be deemed to be in time if served: -

(1) On the same calendar day, if received not later than 1600 hours on any business day, or

(2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

(d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

(e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

(f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

(g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be borne by Sellers.

(h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

11. PAYMENT-

(a) **Payment** % of invoice amount by cash in

* In exchange for and on presentation of shipping documents;

* In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after consecutive days from the date of the bill(s) of lading.

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(b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

(c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.

(e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.

(f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.

(g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

(h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

12. DUTIES, TAXES, LEVIES, ETC.- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

13. DISCHARGE- Vessel to discharge according to the custom of the port at Buyers' expense. Vessel to discharge afloat or safely aground; -

(a) within running hours, weather permitting, or

(b) at an average rate of per tonne per weather working day of 24 consecutive hours, plus any balance of time not used in loading, if reversible, whether in berth or not. Time between last working hours Friday/Saturday according to regulations governing discharging port(s) and 0800 hours next working day, or between 1700 hours on the last working day preceding a legal holiday and 0800 hours on the first working day thereafter, not to count in discharging unless used or the guaranteed laytime has expired. If laytime is exceeded, Buyers shall pay demurrage at the rate stipulated in the charter party. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers to be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted, unless specifically excluded at time of contract.

14. WEIGHING- the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).

15. DEFICIENCY- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS- the terms and conditions of GAFTA Sampling Rules No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

17. INSURANCE- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.: -

(a) Risks Covered: -

Cargo Clauses (WA), with average payable, with 3% franchise or better terms	- Section 2 of Form 72
War Clauses (Cargo)	- Section 4 of Form 72
Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

196 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
 197 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
 198 process in London, but for whose solvency Sellers shall not be responsible.
 199 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
 200 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
 201 Buyers.
 202 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
 203 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
 204 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
 205 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
 206 if the C.I.F. value plus 2% were insured from the time of shipment.
 207 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly
 208 stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
 209 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
 210 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
 211 recognised bank, or by any other guarantor who is acceptable to Buyers.
 212 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
 213 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies)
 214 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
 215 (g) Currency of Claims - Claims to be paid in the currency of the contract.
 216 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
 217 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
 218 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
 219 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
 220 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
 221 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.
 222 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
 223 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
 224 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
 225 in respect of such matters.
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227 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
 228 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
 229 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
 230 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
 231 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
 232 therefor and, if required, Sellers must produce proof to justify the cancellation.
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234 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
 235 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire,
 236 or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the
 237 Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
 238 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
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240 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later
 241 than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods
 242 were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
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244 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
 245 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
 246 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
 247 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
 248 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
 249 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment. For the sole purpose of
 250 the application of this clause, it is agreed between Buyers and Sellers that a theoretical period of shipment from origin shall be deemed
 251 to precede the contract period of shipment from the transshipment port(s) by the following number of days if shipped from: -

252	Mexican Pacific, West Coast North America, China, Indonesia, Japan and other	
253	Far Eastern Ports	45 days
254	Burma, Malaysia, Thailand, Bangladesh, Australasia	40 days
255	India West/East, South American, Pakistan, East Africa	35 days
256	Iran, Iraq, Southern Africa, Angola, Zaire	30 days
257	U.S. Gulf, U.S. South of Cape Hatteras, Canadian/U.S. Lakes, Mexican Gulf, West African Ports,	
258	Gabon to Ivory Coast, Red Sea Area	20 days
259	Canadian Atlantic, St. Lawrence, Churchill, U.S. North of Cape Hatteras, Mediterranean,	
260	Morocco to Liberia	15 days
261	Baltic, Iberian Atlantic	7 days
262	Other European Ports	3 days

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 264 **20. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be rapidly communicated in legible form.
 265 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
 266 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if
 267 receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,
 268 establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice
 269 was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on
 270 their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been

received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

21. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

22. **PRO RATA-**

(a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction shall be necessary.

(b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

(c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to those Receivers who did not receive their full invoiced quantity.

(d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers without taking into consideration the above pro-rata apportionment between Receivers.

(e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance resulting from this settlement.

(f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

(g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port of destination, such price to be fixed by arbitration unless mutually agreed.

(h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities.

Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

23. **CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.

24. **DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

(a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

(d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

(e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the

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mean contract quantity.

(f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service of the appropriation, or if notice of appropriation has not been served by the 4th business day after the last day for appropriation laid down in the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.

25. INSOLVENCY- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

26. DOMICILE- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

27. ARBITRATION-
(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.
(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

28. INTERNATIONAL CONVENTIONS-
The following shall not apply to this contract: -
(a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;
(b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
(c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.
(d) Incoterms
(e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF FEEDINGSTUFFS IN BULK TO THE UNITED KINGDOM TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean
7 goods of the contractual description.

8
9 **1. GOODS-**

10 Broken cakes and/or meal to be taken and paid for as cakes. Goods in bulk but Buyers agree to accept up to 15% in stowage bags,
11 such bags to be taken and paid for as cakes and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or
12 part of the quantity in excess of 15% in bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be
13 responsible for cutting the excess bags which remain their property.

14
15 **2. QUANTITY-** Sellers have the option of shipping up to 5% more or less.

16 In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean
17 quantity sold shall not be affected thereby.

18
19 **3. PRICE AND DESTINATION - At**

20 *per tonne of 1000 kilograms }
21 } gross weight, cost, insurance and freight to
22 *per ton of 1016 kilograms or 2240 lbs. }

23
24 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
25 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
26 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
27 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

28
29 **5. QUALITY-**

30 * **Warranted to contain** at time and place of discharge

31
32 Not less than% of oil and protein combined, and not more than 2.50% of sand and/or silica. Should the whole, or
33 any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or settled by arbitration as
34 provided for below, except that for any deficiency of oil and protein there shall be allowances to Buyers at the following rates,
35 viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted percentage; 2% of the contract price
36 for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and proportionately for any fraction thereof.

37 When the combined content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance shall be made
38 if the analysis ascertained as herein provided be not below the minimum, but if the analysis results are below the minimum
39 warranted the allowance for deficiency shall be computed from the mean of the warranted content.

40 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and
41 proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to
42 reject the goods, in which case the contract shall be null and void, for such quantity rejected.

43 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not
44 exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75%
45 of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
46 exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be
47 final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of
48 either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of
49 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected.
50 Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of
51 castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark shall stand as a
52 separate shipment. The right of rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

53
54 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to quality.
55

56 * **Sample**, at time and place of shipment about as per sealed sample marked , in possession of; the
57 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival sample.
58 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
59 referred to in the Arbitration Rules specified in the Arbitration Clause.
60 **Condition** – Shipment shall be made in good condition.

61
62 **6. PERIOD OF SHIPMENT**- As per bill(s) of lading dated or to be dated
63 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of date of
64 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
65 as being in both halves of the month.

66
67 **7. SALES BY NAMED VESSELS**- For all sales by named vessels, the following shall apply: -
68 (a) Position of vessel is mutually agreed between Buyers and Sellers:
69 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause:
70 (c) Appropriation Clause cancelled if sold "shipped".
71

72 **8. SHIPMENT AND CLASSIFICATION** - Shipment from
73 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
74 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at
75 the time of shipment.

76
77 **9. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional
78 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
79 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
80 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
81 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 82 1 to 4 additional days, 0.50%;
83 5 or 6 additional days, 1%;
84 7 or 8 additional days 1.50% of the gross contract price.

85 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
86 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
87 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
88 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

89
90 **10. APPROPRIATION**-

91 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
92 bill of lading.

93 (b) The notice of appropriation shall within consecutive days from the date of the bill(s) of lading be served
94 by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business
95 Days Clause shall not apply.

96 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
97 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers
98 on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation shall be
99 deemed to be in time if served: -

100 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

101
102 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

103 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
104 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
105 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
106 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

107 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
108 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

109 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
110 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

111 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
112 borne by Sellers.

113 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

114 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
115 for sampling, analysis and lighterage incurred thereby at port of discharge.

116
117 **11. PAYMENT**-

118 (a) **Payment** % of invoice amount by cash in

119 * In exchange for and on presentation of shipping documents;

120 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

121 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
122 consecutive days from the date of the bill(s) of lading.

123 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
124 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,

125 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
126 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
127 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
128 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

129 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
130 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
131 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
132 are eventually available.

133 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
134 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
135 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
136 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
137 shipping documents are eventually available.

138 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
139 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
140 countersigned, if required by Buyers, by a recognised bank.

141 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
142 that event any additional collection costs shall be borne by Buyers.

143 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
144 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
145 respect thereto.

146 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
147 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
148 Rules.

149 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
150 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
151 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
152 clause do not override the parties' contractual obligation under sub-clause (a).

154 **12. DUTIES, TAXES, LEVIES, ETC.**- All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
155 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

157 **13. DISCHARGE**- Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
158 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of
159 the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers'
160 account. If documents are tendered which do not provide for discharging as above, or contain contrary stipulations, Sellers shall be
161 responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted unless specifically excluded at
162 time of contract.

164 **14. WEIGHING**- the terms and conditions of GAFTA Weighing Rules No. 123, are deemed to be incorporated into this contract.
165 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at
166 buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers
167 or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage.
168 If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in
169 which case the Deficiency Clause will not apply).

171 **15. DEFICIENCY**- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
172 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

174 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**-the terms and conditions of GAFTA Sampling Rules No. 124,
175 are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the
176 ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place
177 of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
178 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

180 **17. INSURANCE**- Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
181 GAFTA Insurance Terms No.72 viz.:-

182 (a) Risks Covered: -

183 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72

184 War Clauses (Cargo) - Section 4 of Form 72

185 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72

186 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in
187 the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of
188 process in London, but for whose solvency Sellers shall not be responsible.

189 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on
190 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
191 Buyers.

192 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
193 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for

194 the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
195 that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as
196 if the C.I.F. value plus 2% were insured from the time of shipment.

197 (e) Certificates/Policies - Sellers shall serve all policies and/or certificates and/or letters of insurance provided for in this contract,
198 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
199 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
200 certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a
201 recognised bank, or by any other guarantor who is acceptable to Buyers.

202 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
203 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy(ies)
204 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

205 (g) Currency of Claims - Claims to be paid in the currency of the contract.

206 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
207 exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such
208 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
209 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later,
210 otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
211 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

212 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which
213 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
214 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
215 in respect of such matters.

216
217 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
218 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
219 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
220 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
221 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
222 therefor and, if required, Sellers must produce proof to justify the cancellation.

223
224 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
225 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
226 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
227 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
228 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
229 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2
230 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were
231 intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
232 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
233 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
234 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
235 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
236 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
237 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

238
239 **20. PRO RATA-**

240 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of bags of
241 the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation or distinction
242 shall be necessary.

243 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
244 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of this not
245 being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the other(s) on a
246 pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market value. The pro-rata
247 statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or their Representatives.

248 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers and
249 for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as delivered to
250 those Receivers who did not receive their full invoiced quantity.

251 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the market
252 price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate Sellers
253 without taking into consideration the above pro-rata apportionment between Receivers.

254 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the excess
255 and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for any balance
256 resulting from this settlement.

257 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall be
258 deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all questions
259 and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the Arbitration
260 Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers shall be
261 responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

262 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the port
263 of destination, such price to be fixed by arbitration unless mutually agreed.

264 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under any of
265 the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the pro-rata
266 weight.

(i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA shall, where applicable, take precedence over sub-clauses (b) to (h) above.

(j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by more than one shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the terms of this clause, the Shipper shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

21. **CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest amount shall be replaced by the market price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.

22. **NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

23. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.

24. **DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
- (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
- (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
- (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
- (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
- (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract quantity.
- (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service of the appropriation, or if notice of appropriation was not served by the 4th business day after the last day for appropriation laid down in the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.

25. **INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such

338 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
339 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
340 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
341 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
342 ruling on the first business day after the date when the Act of Insolvency occurred.
343 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
344 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
345 receivable under this contract.
346

347 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
348 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose
349 of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive
350 jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration
351 proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the
352 Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to
353 be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any
354 party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or
355 if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of
356 proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the
357 posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the
358 contrary notwithstanding.
359

360 **27. ARBITRATION-**
361 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
362 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
363 shall be deemed to be cognisant.
364 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
365 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
366 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
367 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
368 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
369 any such dispute.
370

371 **28. INTERNATIONAL CONVENTIONS-**
372 The following shall not apply to this contract: -
373 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
374 Sales Act 1967;
375 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
376 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
377 of 1980.
378 (d) Incoterm
379 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
380 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF FEEDING FISHMEAL IN BULK TALE QUALE - CIF TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS**

9 in bulk. Buyers agree to accept up to 15% in stowage bags, such bags to be taken and paid for as goods and any cutting to be
10 paid for by Buyers. Sellers have the option of shipping the whole or part of the quantity in excess of 15% in bags, in which case
11 the excess over 15% shall be delivered in bulk and Sellers shall be responsible for cutting the excess bags which remain their
12 property.

13

14 **2. QUANTITY-** Sellers have the option of shipping up to 5% more or less.

15 In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the
16 mean quantity sold shall not be affected thereby.

17

18 **3. PRICE AND DESTINATION - At**

19 * per tonne of 1000 kilograms }

20 } gross weight, cost, insurance and freight to

21 * per ton of 1016 kilograms or 2240 lbs. }

22

23 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

24 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
25 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the
26 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

27

28 **5. QUALITY-**

29 * **Warranted to contain:** -

30 % of moisture, % of protein, basis % of fat/oil,

31 % of salt, % of sand and/or silica, at time and place of discharge.

32

33

34

35 * **Official**.....certificate of inspection, or certificate of inspection of.....at time and place

36 of loading into the ocean carrying vessel, shall be final as to quality.

37

38 * **Sample** at time and place of shipment about equal as per sealed sample marked in possession of

39 ; the word "about" when referring to quality shall mean the equivalent of 0.50% on contract

40 price.

41

42 * **Allowances for excess and deficiency** -

43 Any deficiency in protein below the warranty stated herein shall be allowed at the rate ofper unit of
44 protein with a proportional allowance for each fraction of a unit if not sold on a "price per unit of protein basis", for this
45 purpose the value of a unit of protein shall be determined by dividing the contract price by the warranted percentage of
46 protein. Any excess of salt, sand, oil or moisture above the warranties stated herein shall be allowed at the rate of 1% of the
47 contract price for each unit in excess, with a proportional allowance for each fraction of 1%.

48 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may
49 be, referred to in the Arbitration Rules specified in the Arbitration Clause.

50 **Condition-** Shipment shall be made in good condition.

51

52 **6. PERIOD OF SHIPMENT-** As per bill(s) of lading dated or to be dated

53 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
54 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
55 shall be accepted as being in both halves of the month.

56

57 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

- 58 (a) Position of vessel is mutually agreed between Buyers and Sellers;
59 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
60 (c) Appropriation Clause cancelled if sold "shipped".
61

62 **8. SHIPMENT AND CLASSIFICATION-** Shipment from
63 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
64 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in
65 force at the time of shipment.
66

67 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional
68 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day
69 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
70 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
71 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 72 1 to 4 additional days, 0.50%;
73 5 or 6 additional days, 1%;
74 7 or 8 additional days 1.50% of the gross contract price.

75 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract
76 shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and
77 any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price
78 shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the
79 basis of such reduced price.
80

81 **10. APPROPRIATION-**

82 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
83 of the bill of lading.

84 (b) The notice of appropriation shall withinconsecutive days from the date of the bill(s) of lading be
85 served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The
86 Non-Business Days Clause shall not apply.

87 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
88 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
89 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
90 appropriation shall be deemed to be in time if served: -

91 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

92
93 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

94 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
95 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
96 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
97 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
98 Brokers.

99 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
100 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
101 prevail.

102 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
103 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

104 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
105 shall be borne by Sellers.

106 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

107 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
108 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
109

110 **11. PAYMENT-**

111 (a) **Payment** % of invoice amount by cash in

112 * In exchange for and on presentation of shipping documents;

113 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

114 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
115 consecutive days from the date of the bill(s) of lading.
116

117 (b) **Shipping documents** - shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
118 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
119 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
120 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
121 recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept
122 documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause. (c)
123 In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
124 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be
125 made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping
126 documents are eventually available.

127 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,

128 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.
129 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
130 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
131 contract when shipping documents are eventually available.
132 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents
133 be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
134 countersigned, if required by Buyers, by a recognised bank.
135 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice,
136 in that event any additional collection costs shall be borne by Buyers.
137 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
138 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
139 guarantee in respect thereto.
140 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other
141 that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
142 Arbitration Rules.
143 (i) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
144 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
145 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
146 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
147
148 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for
149 Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
150
151 **13. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of
152 shipment being made under a liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the
153 terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail
154 overboard for Buyers' account. If documents are tendered which do not provide for discharging as above, or contain contrary
155 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be
156 permitted unless specifically excluded at time of contract.
157
158 **14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
159 contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place
160 of discharge at buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses
161 incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water
162 and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at
163 Sellers' choice and expense, (in which case the Deficiency Clause will not apply).
164
165 **15. DEFICIENCY-** Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
166 weight shall be paid for by Buyers at contract price, (unless the Pro-rata Clause applies).
167
168 **16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
169 No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
170 removal from the ship or quay, unless the parties agree that the quality final at loading applies, in which event samples shall
171 be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and
172 sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed
173 from the GAFTA Register of Analysts.
174
175 **17. INSURANCE** - Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
176 in GAFTA Insurance Terms No.72 viz.: -
177 (a) Risks Covered: -
178 Cargo Clauses (All Risks) - Section 1 of Form 72
179 War Clauses (Cargo) - Section 4 of Form 72
180 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
181 Spontaneous combustion - Section 7 of Form 72
182 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
183 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
184 address for service of process in London, but for whose solvency Sellers shall not be responsible.
185 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
186 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
187 payable by Buyers.
188 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
189 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
190 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
191 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
192 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.
193 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
194 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
195 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
196 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
197 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
198 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the

199 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the
200 policy(ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

201 (g) Currency of Claims - Claims to be paid in the currency of the contract.

202 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
203 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
204 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
205 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
206 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
207 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
208 London at time of shipment.

209 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
210 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
211 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
212 against the Insurers in respect of such matters.

213
214 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
215 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
216 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
217 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
218 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
219 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

220
221 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
222 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery,
223 fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above
224 reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive
225 days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the
226 anticipated delay.

227
228 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later
229 than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the
230 goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so
231 nominated.

232
233 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
234 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after
235 the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended
236 for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days
237 extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this
238 clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or
239 non-fulfilment.

240
241 **20. PRO RATA-**

242 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period of shipment of
243 bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to more than one port, no separation
244 or distinction shall be necessary.

245 (b) All loose collected, damaged goods and sweepings shall be shared by and apportioned pro-rata in kind between the various
246 Receivers thereof at the port of discharge named in the contract, buying under contracts containing this clause. In the event of
247 this not being practicable or any of them receiving more or less than his pro-rata share or apportionment, he shall settle with the
248 other(s) on a pro-rata basis in cash at the market price and each Receiver shall bear his proportion of the depreciation in market
249 value. The pro-rata statement shall be established by the Sellers or their Representatives in conjunction with the Receivers or
250 their Representatives.

251 (c) The above pro-rata apportionment between Receivers shall have no bearing on the establishment of final invoices with Sellers
252 and for the purpose of these invoices, the total quantity of loose collected, damaged goods and sweepings shall be regarded as
253 delivered to those Receivers who did not receive their full invoiced quantity.

254 (d) In the case of excess or deficiency, the difference between the invoiced and the total delivered quantity shall be settled at the
255 market price by final invoices to be rendered by Receivers, who have received more or less than that paid for, to their immediate
256 Sellers without taking into consideration the above pro-rata apportionment between Receivers.

257 (e) If an excess quantity is delivered to one or more Receiver and a deficient quantity is delivered to one or more Receiver, the
258 excess and deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers for
259 any balance resulting from this settlement.

260 (f) All Shippers, Sellers and Buyers of any part of such larger quantity as aforesaid under contracts containing this clause shall
261 be deemed to have entered into mutual agreements with one another to the above effect, and to agree to submit to arbitration all
262 questions and claims between them or any of them in regard to the execution of this clause as aforesaid in accordance with the
263 Arbitration Clause of this contract. Sellers and Buyers shall give all reasonable assistance in execution of this clause. All Sellers
264 shall be responsible for the settlement by the respective Buyers in accordance with this clause within a reasonable time.

265 (g) The market price wherever mentioned in this clause shall be the market price on the last day of discharge of the vessel in the
266 port of destination, such price to be fixed by arbitration unless mutually agreed.

267 (h) In the event of this clause being brought into operation, any allowances payable in respect of condition, or quality, or under
268 any of the other guarantees contained in this contract, shall be based upon the actual weight received by the Buyers and not on the
269 pro-rata weight.

270 (i) In the event of any conflict in terms of apportionment applicable to the port of discharge the method published by GAFTA
271 shall, where applicable, take precedence over sub-clauses (b) to (h) above.

272 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods were shipped by
273 more than one Shipper and destined for one or more ports of discharge then, after the adjustment between Receivers under the

274 terms of this clause, the Shippers shall settle pro-rata between themselves in proportion to their bill of lading quantities. Such
275 settlements shall be made in cash and in the event of two or more discharging ports being involved, then the settlement price
276 shall be the average of the market prices on the last day of discharge in the respective ports.
277

- 278 **21. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
279 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
280 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
281 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
282 during the same period of shipment). Different currencies shall not invalidate the circle.

283 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
284 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
285 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in
286 the circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not
287 be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
288 ascertained.

289 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
290 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
291 payment of the differences between the market price and the relative contract price in currency of the contract.

292 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in
293 accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
294 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
295 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all
296 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
297 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
298 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
299 contract price.
300

- 301 **22. NOTICES-**All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
302 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either
303 telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to
304 the proviso that if receipt of any notice is contested by the addressee, the burden of proof of transmission shall be on the
305 sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed
306 pursuant to the Arbitration Clause, that the notice was actually transmitted. In case of resales/repurchases all notices shall be
307 served without delay by sellers on their respective buyers or vice versa, any notice received after 1600 hours on a business
308 day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed
309 a notice under this contract.
310

- 311 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
312 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
313 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
314 business day thereafter. The period of shipment shall not be affected by this clause.
315

- 316 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

317 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter to sell or
318 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

319 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
320 mutually agreed, then the assessment of damages shall be settled by arbitration.

321 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
322 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
323 above.

324 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
325 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

326 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
327 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
328 favour of the mean contract quantity.

329 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
330 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
331 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after
332 the last day for appropriation laid down in the contract, where the Appropriation Clause provides for 7 or more days for service
333 of the appropriation, or if notice of appropriation has not been served by the 4th business day after the last day for appropriation
334 laid down in the contract where the Appropriation Clause provides for less than 7 days for service of the appropriation, the
335 Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.
336

- 337 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
338 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
339 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
340 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
341 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
342 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
343 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
344 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
345 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
346 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If

347 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
348 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
349 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
350 Act of Insolvency occurred.
351 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
352 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
353 amount payable or receivable under this contract.
354

355 **26. DOMICILE-** Buyers and Sellers agree This contract shall be deemed to have been made in England and to be performed in
356 England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws
357 of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the
358 Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of
359 the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
360 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal
361 proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed
362 Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have
363 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to
364 be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the
365 offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside
366 England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
367

368 **27. ARBITRATION-**
369 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
370 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
371 parties hereto shall be deemed to be cognisant.
372 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
373 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
374 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
375 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
376 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
377 the other of them in respect of any such dispute.
378

379 **28. INTERNATIONAL CONVENTIONS-**
380 The following shall not apply to this contract: -
381 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
382 International Sales Act 1967;
383 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
384 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
385 Protocol of 1980.
386 (d) Incoterms
387 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
388 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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GAFTA
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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FULL CONTAINER LOADS (F.C.L.s) FEEDINGSTUFFS

**delete/specify as applicable*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS** of origin

9

10 in bags/bulk. Broken cakes and/or meal to be taken and paid for as cakes

11

12 **2. QUANTITY-** full containers each estimated to

13

14 contain

15

16 **3. PRICE AND DESTINATION-** At

17 * per tonne of 1000 kilograms }
18 } gross/net weight including cost, insurance and freight to

19 * per ton of 1016 kilograms or 2240 lbs. }
20 }

21 direct or indirect with or without transhipment to

22

23 container terminal/base/or to

24

25 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost or

26 not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms

27 of the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the

28 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

29

30 **5. QUALITY-**

31 * Final at point of packing the container

32

33 * At time and place of acceptance about as per sealed sample marked

34

35 in the possession of

36

37 * Warranted to contain not less than % of oil and protein combined, and not more than

38

39 % of sand and/or silica. Should the whole, or any portion, not turn out equal to warranty, the

40 goods must be taken at an allowance to be agreed or settled by arbitration as provided for below, except that for any deficiency

41 of oil and protein there shall be allowances to Buyers at the following rates, viz.: 1% of the contract price for each of the first 3

42 units of deficiency under the warranted percentage; 2% of the contract price for the 4th and 5th units and 3% of the contract

43 price for each unit in excess of 5 and proportionately for any fraction thereof and for any excess of sand and/or silica an

44 allowance of 1% of the contract price for each unit in excess and proportionately for any fraction thereof. When the combined

45 content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance shall be made if the analysis

46 ascertained as herein provided be not below the minimum; but if the analysis be below the minimum warranted the allowance for

47 deficiency shall be computed from the mean of the warranted content. The cake and/or meal is guaranteed free from castor seed

48 and/or castor seed husk, and not to contain more than 5% of sand and/or silica. Should the cake and/or meal, or any portion

49 thereof, be rejected by Buyers owing to the presence of castor seed and/or castor seed husk, or excess of sand and/or silica over

50 5%, the contract shall be null and void for such quantity rejected.

51

52 **6. PERIOD OF HANDING OVER-** Bill or bills of lading dated, or to be dated
53 The bill/s of lading shall be dated when the goods are handed over to the Container Consortia or their Agents.
54

55 **7. PLACE OF ACCEPTANCE-** At point of packing or container depot, base or terminal in

56

57 **8. FREIGHT-** Basic Service Rate (BSR) payable when due on or before arrival at terminal. U.K./Europe Zone charges if
58 applicable payable when due on or before arrival at terminal. The term "freight" is used to cover costs of movement of the
59 goods from the place of acceptance to place of delivery. Where place of delivery is other than a container terminal, a
60 U.K./Europe zone charge is payable to cover any onward movement. There is no guarantee that the containers will be stowed
61 below deck during their sea passage.
62

63 **9. EXTENSION OF HANDING OVER** The contract period for handing over, if such be 31 days or less, shall be extended by an
64 additional period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business
65 day following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.
66 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
67 which the originally stipulated period is exceeded, in accordance with the following scale: -
68 1 to 4 additional days, 0.50%;
69 5 or 6 additional days, 1%;
70 7 or 8 additional days 1.50% of the gross contract price.
71 If, however, after having served notice to Buyers as above, Sellers fail to hand over within such 8 days, then the contract shall
72 be deemed to have called for acceptance during the originally stipulated period plus 8 days, at contract price less 1.50%, and any
73 settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be
74 deemed to be the original contract price less the allowance and any other contractual differences shall be settled on the basis of
75 such reduced price.
76

77 **10. APPROPRIATION-**
78 (a) Notice of appropriation stating the vessel's name, or the intended ocean going vessel's name, the approximate weight
79 shipped, the number of containers and the date or the presumed date of the bill of lading.
80
81 (b) The notice of appropriation shall within consecutive from the date of the bill(s) of lading be served by
82 or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business
83 Days Clause shall not apply.
84 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on
85 their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
86 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
87 appropriation shall be deemed to be in time if served: -
88
89 (1) On the same calendar day, if received not later than 1600 hours on any business day, or
90
91 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
92 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
93 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
94 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on
95 the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
96 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
97 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
98 prevail.
99 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender
100 is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
101 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
102 shall be borne by Sellers.
103 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
104 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
105 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.
106

107 **11. PAYMENT-**
108 (a) **Payment**shall be by cash in.....in
109
110 exchange for all contractual documents, on or before arrival of the ship at terminal, at Buyers' option, but if the ship shall not
111 have arrived withindays from the date of bill of lading, payment, unless already
112
113 made, shall be made on or after the day from bill of lading date when required by Sellers.
114 (b) If these documents have not been sighted at time of ship's arrival at terminal, Sellers must provide other documents entitling
115 Buyers to obtain collection, and, without prejudice to Buyers' rights under the contract, payment must be made in exchange for
116 same, provided that if such payment be made, any charges incurred by reason of such non-sighting of documents shall be borne
117 by Sellers. When payment is due on a non-business day, Buyers shall have the option of taking up the shipping documents on
118 the previous business day - payment to be made not later than 12 noon. Any balance to be settled on rendering final invoice.
119

120 Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
121 event any additional collection costs shall be for the account of the Buyers.

122 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other
123 that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
124 Arbitration Rules.

125 (d) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
126 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
127 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
128 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
129

130 **12. WAR DEVIATION-** Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clauses and/or
131 other recognised official War Risk Clause.
132

133 **13. WEIGHING** – the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
134 * (a) Established at place of acceptance, or
135 * (b) at place of delivery. If the place of delivery is other than a container terminal then Buyers agree to pay the extra
136 expenses for following incurred by Sellers or their superintendents for such weighing.
137

138 **14. SAMPLING ANALYSIS AND CERTIFICATES OF ANALYSIS-**the terms and conditions of GAFTA Sampling Rules No.
139 124 are deemed to be incorporated into this contract. The parties shall appoint from superintendents for the purposes of
140 supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall
141 be appointed from the GAFTA Registered Analysts.
142 * (a) samples to be taken at place of acceptance, or
143 * (b) at place of delivery. If the place of delivery is other than a Container Terminal then Buyers agree to pay the extra
144 expenses for following incurred by Sellers or their superintendents for such sampling
145

146 **15. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail
147 in GAFTA Insurance Terms No. 72, viz.: -
148 (a) Risks Covered: -
149 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
150 War Clauses (Cargo) - Section 4 of Form 72
151 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
152 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on
153 business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an
154 address for service of process in London, but for whose solvency Sellers shall not be responsible.
155 (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is
156 payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium
157 payable by Buyers.
158 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does
159 not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes
160 payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and
161 shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put
162 in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.
163 (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract,
164 (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a
165 certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when
166 required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall
167 be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
168 (f) Total loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
169 insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the
170 policy(ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
171 (g) Currency of Claims - Claims to be paid in the currency of the contract.
172 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance
173 not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by
174 underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no
175 case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters,
176 whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable.
177 Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
178 London at time of shipment.
179 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and
180 which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return
181 to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim
182 against the Insurers in respect of such matters.
183

184 **16. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
185 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
186 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
187 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means

188 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
189 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

190

191 **17. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
192 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery,
193 fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above
194 reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive
195 days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the
196 anticipated delay.

197

198 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later
199 than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the
200 goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so
201 nominated.

202

203 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
204 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after
205 the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended
206 for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days
207 extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this
208 clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or
209 non-fulfilment.

210

211 **18. INTERNATIONAL CONVENTIONS-**

212 The following shall not apply to this contract: -

213 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
214 International Sales Act 1967;

215 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

216 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
217 Protocol of 1980.

218 (d) Incoterms

219 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
220 under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of it.

221

222 **19. OTHER TERMS-** All other terms and conditions as per GAFTA Contract No:....., including the Arbitration Rules No. 125
223 (of which both parties admit the existence and agree the conditions) but the following clauses are deemed to be deleted: Period of
224 Shipment; Shipment and Classification; Sales by Named Vessels; Shipping Documents; Weighing; Sampling and Analysis; Pro
225 Rata; any other clauses which are clearly not relevant to the movement of goods by container. Where in the above-mentioned
226 GAFTA contract the term "shipment" is used this shall be deemed to mean "acceptance/handing over".

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

SHORT FORM CONTRACT FOR FULL CONTAINER LOADS (F.C.Ls) FEEDINGSTUFFS IN BULK OR BAGS

* delete/specify as applicable

Date

1 **SELLERS**

2

3 **(INTERVENING AS BROKERS)**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-** in bulk/bags

9

10 **2. QUANTITY-** full containers each estimated to contain

11

12 **3. PRICE-** At

13 * per tonne of 1000 kilograms }
14 } gross/net

15 * per 1016 kilograms or 2240 lbs. }
16 }

17 **4. QUALITY-**

18

19 **5. PERIOD OF HANDING OVER-**

20

21 **6. PLACE OF ACCEPTANCE-**

22

23 **7. APPROPRIATION-**

24

25 **8. PAYMENT-**

26

27 **9. WEIGHING-**

28

29 **10. SAMPLING-**

30

31 **11. SPECIAL CONDITIONS-**

32

33 The contract is made upon the terms, conditions and rules of the contract for Full Container Loads contract

34 No. 107 including the GAFTA Arbitration Rules No. 125 (of which the parties admit they have knowledge and

35 notice) and the above details shall be taken as having been written into such contract form in their appropriate

36 place. All other terms and conditions as per GAFTA contract No..... Both parties to this contract admit

37 the existence and agree the conditions of the two contract forms referred to above

Sellers Buyers

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.109

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION
CONTRACT FOR FEEDING STUFFS
IN BULK EX STORE/SILO

*delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean
7 goods of the contractual description.

8
9 **1. GOODS**

10 Broken cakes and/or meal to be taken and paid for as cakes.

11
12 **2. QUANTITY-** per tonne of 1000 kilograms, plus or minus 1%.

13
14 **3. PRICE - At** per tonne of 1000 kilograms, ex store/silo

15
16
17
18 **4. BROKERAGE- At** % of the contract price,

19 to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-
20 fulfilment is due to the cancellation of the contract under the terms of the Prohibition or Force Majeure Clause. Brokerage shall be
21 due on the last day of the period of delivery.

22
23 **5. QUALITY-**

24
25 Warranted to contain not less than % of oil and protein combined and
26 not more than 2.50% of sand and/or silica.

27
28 Within 14 consecutive days of receipt of the official analysts' certificate of the goods of which this parcel forms a part or the whole, or
29 not later than 7 days prior to the first day of the delivery period, whichever is later, Sellers shall send a true copy thereof to Buyers
30 which shall be final for the purpose of the contractual allowances. The certificate of analysis shall show the name of the importing
31 vessel, the total quantity of the goods of the contractual description discharged, together with all other relevant information required
32 under GAFTA Sampling Rules No. 124. If the certificate of analysis has not been received by Buyers within 30 consecutive days
33 after the last day of the contract period for delivery, Sellers shall, within 3 business days of Buyers' written request, provide the name
34 of the importing vessel from which the goods were supplied. Should the certificate of analysis be dated more than six months prior to
35 the first day of the delivery period, Buyers shall have the option of requiring Sellers to have further samples drawn and analysed by the
36 official analysts at Sellers' expense, in which event such analysis shall apply.

37 The goods are not intended for sale or sold for direct feed, but are only suitable as raw materials for further processing and mixture
38 with other materials as to which no warranty is given or to be implied as to the percentage of these goods to be used in any such
39 operations which are at Buyers' sole risk. Should the whole or any portion not turn out equal to warranty, the goods shall be subject
40 to an allowance as provided in the Quality Clause in the appropriate GAFTA C.I.F. contract.

41 Notwithstanding the particulars of the Statutory Declaration provided in accordance with the Feedingstuffs Regulations 1995, and as
42 amended, any contractual analysis allowances shall be in accordance with the terms of the Quality Clause of the contract.

43 **Condition** - delivery shall be made in good condition.

44
45 **6. SALMONELLA -**

46 (a) The goods shall be available for delivery as required under the Period of Delivery Clause irrespective of salmonella
47 sampling/monitoring/testing.

48 (b) In the event however, that a Governmental Order is issued preventing the movement of the contractual goods prior to the expiry of
49 the delivery period, Sellers shall serve a notice on Buyers within 2 business days of the order and the delivery shall then be delayed
50 until the order is lifted, provided this does not exceed 30 consecutive days.

51 If the order delays delivery in excess of 30 consecutive days then Buyers shall have the option of cancelling the delayed portion of the
52 contract. Such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
53 extended delivery period. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
54 period of 30 consecutive days. If delivery be prevented for more than the 30 consecutive days extension, the contract shall be
55 cancelled.

56 In the event that payment has been made as required under the Payment Clause and the goods are then subject to the provisions of the
57 Government Order preventing the movement of the contractual goods during the delivery period, then any monies paid for goods
58 forming part of this order shall be returned to Buyers for that portion of the contract so cancelled. Any monies due to be repaid under

this clause shall be made within 7 days of notification that the contract or any portion of the contract has been cancelled. Buyers shall have no claim against Sellers for delay or non-fulfilment under this clause provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay.

7. PERIOD OF DELIVERY-

If sold "prompt" the delivery period shall be deemed to be 14 consecutive days from the date of the contract. Sellers shall have the goods available for delivery in good condition when required by Buyers during the contract period. Each delivery period shall be considered a separate contract.

8. INVOICE AND DELIVERY ORDERS- Invoice and delivery orders shall be for the mean contract quantity.

9. INSURANCE- Sellers shall provide insurance cover for 14 days from the first date of the delivery period or from the expiry of 3 days' notice under the Payment Clause, whichever be the later, at their cost. Thereafter for the account of Buyers. The goods are to be held covered for the invoice value of each delivery order plus 2% against any risk or loss due to fire/lightning/explosion. The insurance to be effected with first class underwriters and/or companies who are domiciled in the United Kingdom, or who for the purpose of any legal proceedings accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible. In the event of any loss or damage, Sellers shall provide Buyers without delay, on demand, evidence of such insurance as needed to recover any such loss from underwriters. Sellers and Buyers shall serve each other all reasonable assistance in the prosecution of claims.

Rent: For 14 days from due date of payment rent shall be for account of Sellers. Thereafter rent shall be for Buyers' account at the rate of

10. PAYMENT -

(a) Payment shall be by cash in on first presentation of and in exchange for Sellers' invoice, (serving delivery order reference number, location and description of goods), at the request of either party having served notice not less than 3 business days on or after the first day of the delivery period.

(b) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(c) **Interest** - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).

11. STORAGE- the parties agree that imported dry bulk goods may only be stored in an approved GAFTA/UKASTA Store.

12. DELIVERY WEIGHTS- the terms and conditions of GAFTA Weighing Rules No.123, are deemed to be incorporated into this contract.

Ex store/silo weights shall be final. If the delivery exceeds or is deficient of the mean contract quantity by less than 1% then settlement shall be based on the delivered quantity at the contract price. If the delivery exceeds the mean contract quantity by more than 1% then settlement of the total excess shall be based on the price ruling on the date of the last collection. If Sellers fail to provide goods when called for by Buyers during the delivery period to within 1% less than the mean contract quantity the deficiency shall be dealt with in accordance with the provisions of the Default Clause.

Collection of goods: -

If Buyers do not collect the goods within the delivery period then Sellers shall carry the goods at the rates set out in the Rent and Insurance Clauses. If however, after payment, the goods or any part thereof, are not in store when Buyers elect to collect them from the store the default shall be that date and the deficiency shall be settled in accordance with the Default Clause.

If Buyers, having paid for the goods, fail to collect within 30 consecutive days after the last day of the contractual delivery period, Sellers shall be entitled at any time after the said 30 days to serve 14 days notice in writing to deliver the quantity due for collection or delivery, either in whole or in part, to a third party store/warehouse at Buyers' risk with all charges for Buyers' account. For that portion thus moved the weight so established shall be the weight for final invoice purposes under this contract.

13. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS- the terms and conditions of GAFTA Sampling Rules No. 124 are deemed incorporated into this contract. The parties shall appoint superintendents, for the purposes of supervision and sampling of goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

14. PROHIBITION- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate or of any country from which the contractual goods are normally shipped, restricting export, whether partially or otherwise, during the deemed period of shipment as defined in Clause 15, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

15. LOADING STRIKE- For the sole application of this clause and the Prohibition Clause, it is agreed between Buyers and Sellers that the period of delivery under this contract shall be preceded by the theoretical number of voyage days as set out below, and for the purposes of this contract, a deemed period of shipment of 31 days at origin shall precede those days:

If shipped from: -

Mexican Pacific, West Coast North America, China, Indonesia,	
Japan and other Far Eastern Ports	45 days
Burma, Malaysia, Thailand, Bangladesh, Australasia	40 days
India West/East, Pakistan, East Africa	35 days
Iran, Iraq, Southern Africa, Angola, Zaire	30 days

133	South America	25 days
134	U.S. Gulf, U.S. South of Cape Hatteras, Canadian/U.S. Lakes,	
135	Mexican Gulf, West African Ports, (Gabon to Ivory Coast),	
136	Red Sea Area, Black Sea/Sea of Azov	20 days
137	Canadian Atlantic, St. Lawrence, Churchill, U.S. North of Cape Hatteras,	
138	Mediterranean, Morocco to Liberia	15 days
139	Baltic, Iberian Atlantic Ports	7 days
140	Other European Ports	3 days
141	Should shipment of the goods or any part thereof be prevented during the last 28 days of the deemed period of shipment by reason of	
142	civil and/or military commotion, strikes or lockouts at port(s) of loading or elsewhere preventing the forwarding of the goods to such	
143	port(s) then the Shipper/Sellers shall be entitled at the resumption of work after termination of such civil and/or military commotion,	
144	strikes or lockouts, to as much time, not exceeding 28 days, for shipment from such port(s) as was left under the contract prior to the	
145	outbreak of the civil and/or military commotion, strikes or lock-outs, and in the event of time left for shipment under the contract	
146	being 14 days or less, a minimum of 14 days shall be allowed. In the event of further civil and/or military commotion, strikes or	
147	lockouts occurring during the time by which the deemed period of shipment has been extended by reason of the operation of the	
148	provisions of this clause, any additional extension shall be limited to the actual duration of such further civil and/or military	
149	commotion, strikes or lockouts. Should the Shipper/Sellers invoke this clause, then they shall serve a notice on Buyers within 7 days	
150	of the last date of the deemed period of shipment, nominating the port(s) of shipment from which shipment was intended to be made	
151	and shipment after that period shall be limited to that port or ports. If required by Buyers, Sellers must provide documentary evidence	
152	to establish any claim for extension under this clause.	
153		
154	16. FORCE MAJEURE, STRIKES ETC. - Sellers shall not be responsible for any loss or delay occasioned by the prevention of	
155	forwarding the goods to the store/silo (including damage to, or breakdown/loss of ocean vessel) the unloading there, the failure or	
156	delay of the store/silo to deliver to Buyers due to breakdown of machinery, strike etc., or any cause comprehended in the term "force	
157	majeure". If delay in delivery is likely to occur for any of the above reasons, Sellers shall serve a notice on Buyers within 7	
158	consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever	
159	is later. If delivery be delayed for more than 30 consecutive days after the expiry of the original contract delivery period, Buyers shall	
160	have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received	
161	by Sellers not later than the first business day after the expiry of the extended delivery period. If Buyers do not exercise this option,	
162	such delayed portion shall be automatically extended for a further period of 30 consecutive days. If delivery under this clause be	
163	prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against	
164	Sellers for delay or non-fulfilment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory	
165	evidence justifying the delay.	
166		
167	17. CIRCLE- Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle shall be	
168	considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the	
169	purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,	
170	of the same delivery period and, where applicable, of the same analysis warranty). Different currencies shall not invalidate the circle.	
171	Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered, invoices based on the mean contract	
172	quantity (or if the goods have been delivered, on the invoice quantity) shall be settled by all Buyers and their Sellers in the circle by	
173	payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.	
174	Payment shall be due not later than 15 consecutive days after the last day for delivery, or, should the circle not be ascertained before	
175	the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.	
176	Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price	
177	on the first day for contractual delivery and invoices shall be settled between each buyer and his seller in the circle by payment of the	
178	differences between the market price and the relative contract price in currency of the contract.	
179	All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance	
180	with this clause same shall be binding on all parties to the circle. Should any party in the circle prior to the due date of payment	
181	commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at	
182	the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice	
183	amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to	
184	their Buyers of the difference between the closing out price and the contract price.	
185		
186	18. NOTICES- All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.	
187	Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if	
188	delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if	
189	receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute,	
190	establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was	
191	actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their	
192	respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received	
193	on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.	
194		
195	19. NON-BUSINESS DAYS- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any	
196	days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for	
197	doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day	
198	thereafter. The period of delivery shall not be affected by this clause.	
199		
200	20. DEFAULT- In default of fulfilment of contract by either party, the following provisions shall apply: -	
201	(a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,	
202	as the case may be, against the defaulter, and such sale or purchase shall establish the default price.	
203	(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually	
204	agreed, then the assessment of damages shall be settled by arbitration.	
205	(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price	

206 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
207 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
208 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
209 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
210 his/their sole and absolute discretion think fit.
211 (e) Damages, if any, shall be computed on the mean contract quantity.
212

213 **21. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
214 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
215 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
216 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
217 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
218 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
219 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
220 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
221 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
222 price ruling on the business day following the serving of the notice. If such notice be not served as aforesaid, then the other party, on
223 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
224 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
225 ruling on the first business day after the date when the Act of Insolvency occurred.
226 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
227 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
228 receivable under this contract.
229

230 **22. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
231 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
232 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
233 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
234 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
235 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
236 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
237 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
238 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
239 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
240 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
241 service, any rule of law or equity to the contrary notwithstanding.
242

243 **23. ARBITRATION-**
244 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
245 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
246 shall be deemed to be cognisant.
247 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
248 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
249 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
250 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
251 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
252 any such dispute.
253

254 **24. INTERNATIONAL CONVENTIONS-**
255 The following shall not apply to this contract: -
256 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
257 Sales Act 1967;
258 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
259 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
260 of 1980.
261 (d) Incoterms.
262 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
263 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by
GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.110

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR GRAIN IN BULK EX STORE/SILO

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9
10 **2. QUANTITY-** per tonne of 1000 kilograms, plus or minus 1%.

11
12 **3. PRICE - At** per tonne of 1000 kilograms, ex store/silo

13
14

15
16 **4. BROKERAGE- At** % of the contract price,
17 to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-
18 fulfilment is due to the cancellation of the contract under the terms of the Prohibition or Force Majeure Clause. Brokerage shall be
19 due on the last day of the period of delivery.

20
21 **5. QUALITY-**
22 *Official certificate of
23 inspection shall be final as to quality. Sellers to provide a photostat copy of the original Official Certificate of Inspection which must
24 either be endorsed by, or accompanied with, a certification by the Elevator Company or other Independent Party/Superintendent at the
25 port of transshipment/reshipment, where applicable, that the identity of the goods has been preserved at such port. These certificates to
26 be final as to quality. The Buyers under this contract shall not be entitled to reject a tender of a higher grade of grain of the same
27 colour and description.

28
29 *
30 Where storage conditions preclude inspection prior to delivery, Sellers shall, upon written request from Buyers, permit their scrutiny
31 of the sample sealed and certified upon the carrying vessel's arrival.
32 **Condition**, delivery shall be made in good condition.

33
34 **6. PERIOD OF DELIVERY-**
35 If sold "prompt" the delivery period shall be deemed to be 14 consecutive days from the date of the contract. Sellers shall have the
36 goods available for delivery in good condition against delivery orders/transfer orders/warehouse warrants when required by Buyers
37 during the contract period. Each delivery period shall be considered a separate contract.

38
39 **7. DELIVERY ORDERS-** Delivery orders/transfer orders/warehouse warrants shall be for the mean contract quantity.

40
41 **8. INSURANCE AND RENT-**
42 **Insurance**
43 Sellers shall provide insurance cover for 14 days from the first date of the delivery period or from the expiry of 3 days' notice under
44 the Payment Clause, whichever shall be the later, at their cost. Thereafter for the account of Buyers. The goods are to be held
45 covered for the invoice value of each delivery order/transfer order/warehouse warrant, plus 2% against any risk or loss due to
46 fire/lightning/explosion.
47 The insurance to be effective with first class underwriters and/or companies who are domiciled in the United Kingdom, or who for the
48 purpose of any legal proceedings accept a British domicile and provide an address for service of process in London, but for whose
49 solvency Sellers shall not be responsible. In the event of any loss or damage, Sellers to provide Buyers without delay, on demand,
50 evidence of such insurance as needed to recover any such loss from underwriters. Sellers and Buyers shall serve each other all
51 reasonable assistance in the prosecution of claims.

52 **Rent**
53 For 14 days from due date of payment, rent shall be for the account of Sellers. Thereafter it shall be for Buyers' account at the rate of
54
55

56
57 **PAYMENT-**

58 (a) Payment shall be by cash in on presentation of and in exchange for delivery orders/transfer
59 orders/warehouse warrants, at the request of either party having served not less than 3 business day's notice on or after the first day of
60 the delivery period.

61 (b) Where certificates final are applicable, the copy certificates as required in the Quality Clause shall accompany the relevant
62 documents. Should one or more of the copy certificates be missing, payment shall be made provided that delivery within 28 days of
63 such missing certificates is guaranteed.

64 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
65 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

66 (d) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
67 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
68 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
69 clause do not override the parties' contractual obligation under sub-clause (a).
70

71 **9. DELIVERY WEIGHTS-** the terms and conditions of GAFTA Weighing Rules No. 123, are deemed to be incorporated onto this
72 contract.

73 **Ex-store/silo** weights shall be final. If the delivery exceeds or is deficient of the mean quantity by less than 1% then settlement shall
74 be based on the deemed quantity at the contract price. If the delivery exceeds the mean contract quantity by more than 1% then
75 settlement of the total excess shall be based on the price ruling on the date of the last collection.

76 If Sellers fail to provide goods when called for by Buyers during the delivery period to within 1% less than the mean contract quantity
77 the deficiency shall be dealt with in accordance with the provisions of the Default Clause.

78 **Collection of Goods** - If Buyers do not collect the goods within the delivery period then Sellers shall carry the goods at the rates set
79 out in the Rent and Insurance Clauses. If, however, after payment, the goods or any part thereof, are not in store when the Buyers
80 elect to collect them from the store, the default date shall be that date and the deficiency shall be settled in accordance with the Default
81 Clause. If Buyers, having paid for the goods, fail to collect within 30 consecutive days after the last day of the contractual delivery
82 period, Sellers shall be entitled at any time after the said 30 days to serve 14 days notice in writing to deliver the quantity due for
83 collection or delivery, either in whole or part, to a third party store/warehouse at Buyers' risk with all charges for Buyers' account.
84 For the portion thus moved the weight so established shall be the weight for final invoice purposes under this contract.
85

86 **11. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS** –the terms and conditions of GAFTA Sampling Rules No.124
87 are deemed incorporated into this contract. The parties shall appoint superintendents for the purposes of supervision and sampling of
88 goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register
89 of Analysts.
90

91 **12. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
92 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, or
93 of the country from which the contractual goods are normally shipped, restricting export, whether partially or otherwise, during the
94 deemed period of shipment as defined in Clause 13, any such restriction shall be deemed by both parties to apply to this contract and
95 to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
96 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
97 therefor and, if required, Sellers must produce proof to justify the cancellation.
98

99 **13. LOADING STRIKE-** For the sole application of this clause and the Prohibition Clause, it is agreed between Buyers and Sellers that
100 the period of delivery under this contract shall be preceded by the theoretical number of voyage days as set out below, and for the
101 purposes of this contract, a deemed period of shipment of 31 days at origin shall precede those days.

102 If shipped from:

103 Mexican Pacific, West Coast North America, China, Indonesia	
104 Japan and other Far Eastern Ports	45 days
105 Burma, Malaysia, Thailand, Bangladesh, Australasia	40 days
106 India West/East, Pakistan, East Africa	35 days
107 Iran, Iraq, Southern Africa, Angola, Zaire	30 days
108 South American	25 days
109 U.S. Gulf, U.S. South of Cape Hatteras, Canadian/U.S. Lakes, 110 Mexican Gulf, West African Ports, Gabon to Ivory Coast, 111 Red Sea Area	20 days
112 Canadian Atlantic, St. Lawrence, Churchill, U.S. North of Cape Hatteras, 113 Mediterranean, Morocco to Liberia	15 days
114 Baltic, Iberian Atlantic	7 days
115 Other European Ports	3 days

116 Should shipment of the goods or any part thereof be prevented at any time during the last 28 days of deemed period of shipment by
117 reason of civil and/military commotion, strikes or lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods
118 to such port or ports, then the Shipper/Sellers shall be entitled at the resumption of work after termination of such civil and/military
119 commotion, strikes or lock-outs to as much time, not exceeding 28 days, for shipment from such port or ports as was left for shipment
120 under the contract prior to the outbreak of the civil and/military commotion, strikes or lock-outs, and in the event of the time left for
121 shipment under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In the event of further civil
122 and/military commotion, strikes or lock-outs occurring during the time by which the deemed time of shipment has been extended by
123 reason of the operation of the provisions of this clause, any additional extension shall be limited to the actual duration of such further
124 civil and/military commotion, strikes or lock-outs. Should the Shipper/Sellers invoke this clause, then they shall serve notice on Buyer
125 within 7 days of the last date of the deemed period of shipment, nominating the port(s) of shipment from which the shipment was
126 intended to be made and shipment after that period shall be limited to that port or ports. If required by Buyers, Sellers must provide
127 documentary evidence to establish any claim for extension under this clause.
128

129 **14. FORCE MAJEURE, STRIKES ETC.** - Sellers shall not be responsible for any loss or delay occasioned by the prevention of
130 forwarding the goods to the store/silo (including damage to, or breakdown/loss of ocean vessels) the unloading there, the failure or
131 delay of the store/silo to deliver to Buyers due to breakdown of machinery, strike etc., or any cause comprehended in the term "force

majeure". If delay in delivery is likely to occur for any of the above reasons, Sellers shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is later. If delivery be delayed for more than 30 consecutive days after the expiry of the original contract delivery period, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the expiry of the extended delivery period. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If delivery under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against sellers for delay or non-fulfilment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay.

15. **CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality, and, where applicable, of the same analysis warranty and of the same period of delivery). Different currencies shall not invalidate the circle.

Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered, invoices based on the mean contract quantity (or if the goods have been delivered, on the invoiced quantity) shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for delivery, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price on the first day for contractual delivery and invoices shall be settled between each buyer and his seller in the circle by payment of the differences between the market price and the relative contract price in currency of the contract.

All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.

16. **NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

17. **NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day thereafter. The period of delivery shall not be affected by this clause.

18. **DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
(a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
(b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.
(c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
(d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
(e) Damages, if any, shall be computed on the mean contract quantity.

19. **INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.

204 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
 205 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
 206 receivable under this contract.
 207

208 **20. DOMICILE**-This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
 209 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose
 210 of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive
 211 jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration
 212 proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the
 213 Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to
 214 be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any
 215 party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or
 216 if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of
 217 proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the
 218 posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to
 219 the contrary notwithstanding.
 220

221 **21. ARBITRATION**-
 222 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
 223 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
 224 shall be deemed to be cognisant.
 225 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
 226 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
 227 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
 228 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
 229 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
 230 any such dispute.
 231

232 **22. INTERNATIONAL CONVENTIONS**-
 233 The following shall not apply to this contract: -
 234 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
 235 Sales Act 1967;
 236 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
 237 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
 238 of 1980.
 239 (d) Incoterms
 240 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
 241 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers.....Buyers.....

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.111

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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FOR GOODS TO BE DELIVERED AT DESTINATION

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-** (in bulk or bags)

9 **Packing-** bags to be suitable to withstand ordinary wear and tear to destination, such bags to be taken and paid for as goods.

10
11 **2. QUANTITY-**tonnes of 1000 kilograms.

12 Sellers have the option of delivering up to 2% more or less at contract price. In the event of more than one delivery being made, each
13 delivery shall be considered a separate contract, but the margin on the mean quantity sold shall not be affected thereby. Each
14 mark/parcel shall stand as a separate parcel.

15
16 **3. PRICE-** per tonne of 1000 kilograms, delivered to

17 Unless otherwise agreed all across border duties, taxes, levies, present or future are for Sellers' account.

18
19 **4. BROKERAGE-** At per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

20 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
21 Prohibition or Force Majeure Clause. Brokerage shall be due on the last day of the period of delivery.

22
23 **5. QUALITY-**

24 Specifications

25 Quality and condition warranted at the time of delivery at destination.

26 **Condition.** Delivery shall be made in good condition.

27
28 **6. PERIOD OF DELIVERY AT DESTINATION-**

29
30 **7. EXTENSION OF DELIVERY-**The contract period of delivery shall, if required by Sellers, be extended by an additional period of

31 not more than 8 consecutive days, provided Sellers serve notice claiming extension not later than the next business day following the
32 last day of the originally stipulated period. The notice need not state the number of additional days claimed.

33 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
34 which the originally stipulated period is exceeded, in accordance with the following scale: -

35
36 1 to 4 additional days, 0.50%;

37 5 or 6 additional days, 1%;

38 7 or 8 additional days 1.50% of the gross contract price.

39
40 If, however, after having served notice to Buyers as above, Sellers fail to make delivery within such 8 days, then the contract shall be
41 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
42 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
43 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

44
45 **8. PAYMENT-**

46 (a) By cash within of receipt of the invoice or, if not stated, within 14 days from the date of delivery.

47 (b) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
48 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

49 (c) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
50 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
51 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
52 override the parties' contractual obligation under sub-clause (a).

53
54 **9. INSURANCE-** Sellers shall be responsible for insurance cover up to the point of the delivery at destination, thereafter insurance shall

55 be for account of Buyers.

56
57 **10. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
58 Buyers shall weigh the goods on delivery, such weights shall be accepted as final and advised to Sellers without delay. Buyers
59 shall give a copy of the weight note to the driver.

60
61 **11. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS** - the terms and conditions of GAFTA Sampling Rules No.
62 124, are deemed to be incorporated into this contract. The parties shall appoint superintendents, for the purposes of supervision and
63 sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from
64 the GAFTA Register of Analysts.

65
66 **12. DEMURRAGE-** In the event of there being any unreasonable delay by Buyers in discharging vehicles, Sellers shall be entitled to
67 recover from Buyers any proved additional expenses.

68
69 **13. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
70 behalf of the government of the country of origin of the goods, or of the country from which the goods are to be shipped, restricting
71 export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of
72 such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this
73 contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if
74 required, Sellers must produce proof to justify the cancellation.

75
76 **14. FORCE MAJEURE-** Neither Buyers nor Sellers shall not be responsible for delay in delivery of the goods or any part thereof
77 occasioned by any Act of God, action by any Government, strike, lockout, combination of workmen, breakdown of machinery, power
78 failure, or fire, provided that written notice is served to reach Buyers/Sellers within 7 consecutive days of the other party's knowledge
79 of the occurrence (in case of resale such information shall be passed on without delay), but if the delivery shall be delayed by more than
80 30 consecutive days from the last day of the original contract period, the party who has suffered the delay shall have the option of
81 cancelling the delayed portion of the contract if not already in course of transit, by serving to the other party on the next business day
82 notice to that effect, but shall not be entitled to any compensation for non-fulfilment. If this option is not exercised, the delivery period
83 for such delayed portion shall be extended by a further 30 consecutive days.

84
85 If delivery under this clause be prevented during the further 30 days extension the contract shall be considered void. Neither Buyers
86 nor Sellers shall have a claim against the other of them for delay or non-delivery under this clause, provided that they have supplied to
87 the other, if required, satisfactory evidence justifying the delay or non-fulfilment.

88
89 **15. CIRCLE** - Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle shall
90 be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For
91 the purpose of this clause the same goods shall mean goods of the same description, from the same county of origin, of the same
92 quality and, where applicable, of the same analysis warranty and of the same delivery period). Different currencies shall not invalidate
93 the circle.

94 Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered, invoices based on the mean contract
95 quantity, (or if the goods have been delivered, on the invoice quantity), shall be settled by all Buyers and their Sellers in the circle by
96 payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
97 Payment shall be due not later than 15 consecutive days after the last day for delivery, or should the circle not be ascertained before
98 the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

99 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
100 on the first day for contractual delivery and invoices shall be settled between each buyer and his seller in the circle by payment of the
101 differences between the market price and the relative contract price in the currency of the contract. All Sellers and Buyers shall give
102 every assistance to ascertain the circle and when the circle shall have been ascertained in accordance with this clause same shall be
103 binding on all parties to the circle. Should any party in the circle prior to the due date of payment commit any act comprehended in the
104 Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in
105 the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event
106 respective Buyers shall make payment to their Sellers or respective Seller shall make payment to their Buyers of the difference between
107 the closing out price and the contract price.

108
109 **16. NOTICES** - All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
110 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
111 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt
112 of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to
113 the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually
114 transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective
115 buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the
116 business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.

117
118 **17. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
119 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
120 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
121 thereafter. The period of delivery shall not be affected by this clause.

122
123 **18. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
124 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
125 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

126 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually

127 agreed, then the assessment of damages shall be settled by arbitration.

128 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
129 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

130 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
131 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
132 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
133 his/their sole and absolute discretion think fit.

134 (e) Damages, if any, shall be computed on the mean contract quantity.

135
136 **19. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
137 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
138 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
139 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
140 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
141 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall serve a notice of the
142 occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the
143 Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus
144 served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on
145 the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the
146 occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first
147 business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the
148 first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of
149 ascertaining the settlement price on the closing out of the contract by re-purchase or re-sale, and the difference between the contract
150 price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

151
152 **20. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
153 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose
154 of enforcing any award made in pursuance of the Arbitration Clause of the contract, the Courts of England shall have exclusive
155 jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration
156 proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the
157 Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to
158 be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any
159 party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or
160 if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of
161 proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting
162 of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
163 notwithstanding.

164
165 **21. ARBITRATION-**

166 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the Arbitration Rules, No. 125,
167 in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be
168 deemed to be cognisant.

169 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
170 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
171 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
172 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
173 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
174 any such dispute.

175
176 **22. INTERNATIONAL CONVENTIONS-**

177 The following shall not apply to this contract: -

178 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
179 Sales Act 1967;

180 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

181 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
182 of 1980.

183 (d) Incoterms

184 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
185 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers.....

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.112

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FEEDINGSTUFFS IN BULK TALE QUALE FREE OUT ALONGSIDE BUYERS BERTH (TO DENMARK)

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions. Wherever the word "cakes" is used, this is agreed to mean goods
7 of the contractual description.

8
9 **1. GOODS-**

10 Broken cakes and/or meal in a proportion, having regard to the characteristics of the goods and methods of handling to be taken and
11 paid for as cakes. Goods in bulk, but Buyers agree to accept up to 15% in stowage bags, such bags to be taken and paid for as cakes
12 and any cutting to be paid for by Buyers. Sellers have the option of shipping the whole or part of the quantity in excess of 15% in
13 bags, in which case the excess over 15% shall be delivered in bulk and Sellers shall be responsible for cutting the excess bags which
14 remain their property.

15
16 **2. QUANTITY-** 2% more or less.

17 Sellers shall have the option of shipping a further 3% more or less than the contract quantity. The excess above 2% or the deficiency
18 below 2% shall be settled on the quantity thereof at shipment at market value on the last day of discharge of the vessel at the port of
19 destination, the value to be fixed by arbitration, unless mutually agreed. Should Sellers exercise the option to ship up to 5% more, the
20 excess over 2% shall be paid for provisionally at contract price. The difference between the contract price and the market price
21 calculated in accordance with the provisions of this clause shall be adjusted in a final invoice. In the event of more than one shipment
22 being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
23 thereby.

24
25 **3. PRICE AND DESTINATION - At**

26 * per tonne of 1000 kilograms }
27 } gross weight, cost, insurance and freight in/to
28 * per ton of 1016 kilograms or 2240 lbs. }

29
30 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

31 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
32 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are
33 not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

34
35 **5. QUALITY-**

36 * **Warranted to contain** at time and place of discharge.

37
38 Not less than % of oil and protein combined, and not more than 2.50% of sand and/or silica.
39 Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be agreed or settled
40 by arbitration as provided for below, except that for any deficiency of oil and protein there shall be allowances to Buyers at the
41 following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency under the warranted percentage; 2% of the
42 contract price for the 4th and 5th units and 3% of the contract price for each unit in excess of 5 and proportionately for any fraction
43 thereof. When the combined content of oil and protein is warranted within a margin (as for example 40%/42%) no allowance
44 shall be made if the analysis ascertained as herein provided be not below the minimum, but if the analysis results are below the
45 minimum warranted the allowance for deficiency shall be computed from the mean of the warranted content.

46
47 For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and
48 proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the Buyers shall be entitled to
49 reject the goods, in which case the contract shall be null and void, for such quantity rejected.

50
51 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not

52 exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75%
53 of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not
54 exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be
55 final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of
56 either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of
57 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected.
58 Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of
59 castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each parcel shall stand as a
60 separate shipment. The right rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

61
62 * **Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to quality.

63
64 * **Sample**, at time and place of shipment about as per sealed sample marked, in possession of; the
65 word "about" when referring to quality shall mean the equivalent of 0.50% on contract price. Analysis as per arrival sample.

66 Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be,
67 referred to in the Arbitration Rules specified in the Arbitration Clause.

68 **Condition** - Shipment shall be made in good condition.

69
70 **6. PERIOD OF SHIPMENT**- as per bill(s) of lading dated or to be dated
71 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
72 shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be accepted
73 as being in both halves of the month.

74
75 **7. SALES BY NAMED VESSELS**- For all sales by named vessels, the following shall apply: -
76 (a) Position of vessel is mutually agreed between Buyers and Sellers;
77 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
78 (c) Appropriation Clause cancelled if sold "shipped".

79
80 **8. SHIPMENT AND CLASSIFICATION**- Shipment from
81 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
82 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at
83 the time of shipment. In case of grab discharge, the vessel to be suitable for grab discharge. Vessel's owners shall be Members of a
84 P. & I. Club and vessel shall be less than 25 years of age. Loading in wing, deep and ballast tanks are not allowed.

85
86 **9. EXTENSION OF SHIPMENT**- The contract period for shipment, if such be 31 days or less, shall be extended by an additional
87 period of not more than 8 days, provided that Sellers serve notice claiming extension not later than the next business day following the
88 last day of the originally stipulated period. The notice need not state the number of additional days claimed.
89 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
90 which the originally stipulated period is exceeded, in accordance with the following scale: -

- 91 1 to 4 additional days, 0.50%;
92 5 or 6 additional days, 1%;
93 7 or 8 additional days 1.50% of the gross contract price.

94 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days, then the contract shall be
95 deemed to have called for shipment during the originally stipulated period plus 8 days, at contract price less 1.50%, and any settlement
96 for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract price shall be deemed to be
97 the original contract price less the allowance and any other contractual differences shall be settled on the basis of such reduced price.

98
99 **10. APPROPRIATION**-
100 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
101 bill of lading.
102 (b) The notice of appropriation shall within (i) 10 consecutive days if shipped from the U.S. Gulf and/or U.S. and/or Canadian
103 Atlantic/Lake Ports, (ii) 14 consecutive days if shipped from any other port, from the date of the bill(s) of lading be served by or
104 on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
105 Clause shall not apply.
106 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on
107 their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent
108 Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of appropriation
109 shall be deemed to be in time if served: -

110
111 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

112
113 (2) Not later than 1600 hours on the next business day, if received after 1600 hours on a non-business day.

114 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
115 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
116 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
117 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

118 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
119 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

- 120 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
121 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
122 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
123 borne by Sellers.
124 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
125 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses
126 for sampling, analysis and lighterage incurred thereby at port of discharge.
127

128 **11. PAYMENT-**

- 129 (a) **Payment** by cash inin exchange for shipping
130 documents on or before arrival of the vessel at destination at Buyers' option. In the case of non-arrival of vessel at destination on
131 account of events listed below, Buyers shall pay on presentation of documents on the originally estimated day of arrival.
132 (i) Ship lost
133 (ii) Discharge at/deviation to other than contractual destination in case of (i) War. (ii) Strikes. (iii) Liberties Clauses as
134 per bill of lading or Charter Party.
135 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
136 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
137 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
138 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
139 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
140 Shipping War Deviation Clause and/or other recognised official War Risk Clause.
141 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination,
142 Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made
143 by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents
144 are eventually available.
145 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers
146 may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any
147 recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to
148 provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when
149 shipping documents are eventually available.
150 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
151 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
152 countersigned, if required by Buyers, by a recognised bank.
153 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
154 event any additional collection costs shall be borne by Buyers.
155 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
156 for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in
157 respect thereto.
158 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
159 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
160 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
161 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
162 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
163 clause do not override the parties' contractual obligation under sub-clause (a).
164

165 **12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
166 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
167

168 **13. DISCHARGE-** the cost of discharge shall be for Buyers' account.
169

170 Discharge shall be at the average rate of tonnes per weather working day
171 of 24 consecutive hours, Fridays from 1700 hours to Monday at 0700 hours and holidays excluded, unless used, in which case actual
172 time used to count. NOR in first or sole discharging port shall be tendered on arrival of the vessel WIPON WIBON WIIFPON
173 WCCON. Time used before commencement of laytime shall not count, even if used. Laytime shall commence at 0700 hours on next
174 working day if NOR received after noon during ordinary working hours, or at 1400 hours on the same working day if NOR received
175 during ordinary office hours before noon. Laytime in Buyers' second or third port of discharge in Denmark to count immediately on
176 arrival at the port(s). Whenever the vessel discharges simultaneously to more than one Receiver, at the same berth, the time taken to
177 discharge will be pro-rated among all the buyers/receivers at that berth. Rate of demurrage as per Charter Party/Booking
178 Note/Despatch half demurrage. If documents are tendered which do not provide for discharge as above, or contain contrary
179 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by grab(s) shall be permitted
180 unless specifically excluded at the time of contract. If shipment is effected by lash barge, then the last day of discharge shall be the
181 day of discharging the last lash barge at the port of destination.
182

183 **14. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
184 GAFTA Insurance Terms No. 72 viz.: -

185 (a) Risks Covered: -

- 186 Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
187 War Clauses (Cargo) - Section 4 of Form 72

(b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.

(c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.

(d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a particular or general average claim the Buyers shall be put in the same position as if the C.I.F. value plus 2% were insured from the time of shipment.

(e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.

(f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

(g) Currency of Claims - Claims to be paid in the currency of the contract.

(h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the provisional invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

(i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

15. WEIGHING- the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense, (in which case the Deficiency Clause will not apply).

16. DEFICIENCY- Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).

17. SAMPLING ANALYSIS AND CERTIFICATES OF ANALYSIS- the terms and conditions of GAFTA Sampling Rules No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that the quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

18. PROHIBITION- In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

19. FORCE MAJEURE, STRIKES, ETC- Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.

If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.

If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further

256 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
257 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
258 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
259

260 **20. PRO RATA-** Pro-rata arrangements in accordance with the Regulations applicable in Denmark, published by DAKOFO and
261 GAFTA in the edition current at the time of discharge.
262

263 **21. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
264 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
265 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
266 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
267 shipment). Different currencies shall not invalidate the circle.

268 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
269 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
270 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.
271 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained
272 before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

273 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
274 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
275 differences between the market price and the relative contract price in currency of the contract.

276 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
277 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
278 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
279 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
280 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
281 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
282 make payment to their Buyers of the difference between the closing out price and the contract price.
283

284 **22. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
285 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
286 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt
287 of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to
288 the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually
289 transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers on their respective
290 buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed to have been received on the
291 business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
292

293 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
294 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
295 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
296 thereafter. The period of shipment shall not be affected by this clause.
297

298 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-

299 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
300 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

301 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
302 agreed, then the assessment of damages shall be settled by arbitration.

303 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
304 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

305 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
306 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

307 (e) Damages, if any, shall be computed on the quantity circumstanced if any, but if no such quantity has been appropriated then on the
308 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
309 mean contract quantity.

310 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
311 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
312 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the last
313 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
314 business day thereafter.
315

316 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
317 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
318 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
319 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
320 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of
321 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
322 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
323 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such

324 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
325 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
326 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
327 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
328 ruling on the first business day after the date when the Act of Insolvency occurred.
329 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
330 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
331 receivable under this contract.
332

333 **26. DOMICILE-** This contract shall be deemed to have been made in England, notwithstanding any contrary provision, and this contract
334 shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in
335 pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any
336 application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other
337 than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration
338 clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on
339 business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business
340 in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have
341 submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party
342 by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to
343 his address outside England, shall be deemed good service, any rule of law to the contrary notwithstanding.
344

345 **27. ARBITRATION-**
346 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
347 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
348 shall be deemed to be cognisant.
349 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
350 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
351 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
352 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
353 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
354 any such dispute.
355

356 **28. INTERNATIONAL CONVENTIONS-**
357 The following shall not apply to this contract: -
358 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
359 Sales Act 1967;
360 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
361 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
362 of 1980.
363 (d) Incoterms
364 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
365 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.113

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR UNITED KINGDOM PRODUCED FEEDINGSTUFFS OF MARINE AND ANIMAL ORIGIN IN BAGS OR BULK.

**delete/specify as applicable*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS -**

9 If in bags, such bags to be taken and paid for as goods.

10

11 **2. QUANTITY-**

12

13 **3. PRICE AND TERMS-** At

14 per tonne of 1000 kilograms

15

16 **4. BROKERAGE-** At per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,

17 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the

18 Force Majeure Clause. Brokerage shall be due on the last day of the period of delivery.

19

20 **5. QUALITY**

21 * (a) **Sample**, about equal to sample marked

22

23 in the possession of

24 * (b) **warranted to contain:**

25 % Protein, % of Oil

26

27 % of Phosphorous, equal to

28

29 % of Bone % phosphate of Lime

30

31 % of Moisture

32

33 * **Allowances for excess and/or deficiency**

34

35 **Undesirable Substances-** These goods are not intended for sale nor sold as being suitable for straight feedingstuffs, but are only

36 suitable as raw materials for further processing and mixture with other materials as to which no warranty is given or to be

37 implied as the percentage of these goods to be used in any such operation which are at Buyers sole risk.

38 **Salmonella-**

39 (a) The goods shall be available for delivery as required under the Period of Delivery Clause irrespective of salmonella

40 sampling/monitoring/testing.

41 (b) In the event however that the Government issues an order preventing the movement of the contractual goods prior to the

42 expiry of the delivery period, Sellers shall serve a notice on Buyers within 2 business days of the order and the delivery shall

43 then be delayed until the order is lifted, provided this does not exceed 30 consecutive days.

44 If the order delays delivery in excess of 30 consecutive days then Buyers shall have the option of cancelling the delayed portion

45 of the contract. Such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business

46 day after the extended delivery period. If Buyers do not exercise this option, such delayed portion shall be automatically

47 extended for a further period of 30 consecutive days.

48 If delivery be prevented for more than the further 30 consecutive days extension, the contract shall be cancelled.

49 In the event that payment has been made for the delivery orders/transfer orders/warehouse warrants as required under the

50 Payment Clause and the goods are then subject to the provisions of the Government Order preventing the movement of the
51 contractual goods during the delivery period, then any monies paid for goods forming part of this order shall be returned to
52 Buyers for that portion of the contract so cancelled. Any monies due to be repaid under this clause shall be made within 7 days
53 of notification that the contract or any portion of the contract has been cancelled.
54 Buyers shall have no claim against Sellers for delay or non-fulfilment under this clause provided that Sellers have supplied to
55 Buyers, if required, satisfactory evidence justifying the delay.
56

57 **6. DELIVERY PERIOD -**
58

59 **7. PART DELIVERIES-** Each delivery shall stand as a separate contract.
60

61 **8. PAYMENT-**
62 (a) By Cash in

63 (b) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
64 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
65 (c) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
66 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall
67 be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do
68 not override the parties' contractual obligation under sub-clause (a).
69

70 **9. WEIGHING-**
71

72 **10. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules
73 No. 124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before
74 removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be
75 taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling
76 of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the
77 GAFTA Register of Analysts.
78

79 **11. FORCE MAJEURE-** Neither Buyers nor Sellers shall be responsible for delay in delivery of the goods or any part thereof
80 occasioned by any Act of God, action by any Government, strike, lockout, combination of workmen, breakdown of machinery,
81 power failure or fire, provided that notice is served in accordance with the Notices Clause to reach the Buyers/Sellers within 7
82 consecutive days of the other party's knowledge of the occurrence, but if the delivery shall be delayed for more than 30
83 consecutive days, the party who has suffered the delay shall have the option of cancelling the delayed portion of the contract, if
84 not already in course of transit, by serving the other party notice to that effect, but shall not be entitled to any compensation for
85 non-fulfilment. If this option is not exercised the delivery period for such delayed portion shall be extended by 30 consecutive
86 days. If delivery under this clause be prevented during the further 30 days extension, the contract shall be considered void.
87 Buyers shall have no claim against Sellers for delay or non-delivery under this clause, provided that Sellers shall have supplied
88 to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
89

90 **12. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
91 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
92 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
93 origin, of the same quality, and, where applicable, of the same analysis warranty, for delivery from the same port(s) of loading
94 during the same period of delivery). Different currencies shall not invalidate the circle.
95 Subject to the terms of the Prohibition Clause in the contract, if the circle is established before the goods are delivered or if the
96 goods are not delivered, invoices based on the mean contract quantity, or if the goods have been delivered invoices based on the
97 delivered quantity, shall be settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the
98 excess of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15
99 consecutive days after the last date for delivery, or, should the circle not be ascertained before the expiry of this time, then
100 payment shall be due not later than 15 consecutive days after the circle is ascertained.
101 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
102 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
103 payment of the differences between the market price and the relative contract price in currency of the contract.
104 Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
105 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
106 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the
107 circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all
108 parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a
109 basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to
110 their Sellers or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the
111 contract price.
112

113 **13. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
114 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
115 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
116 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a

117 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
118 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
119 on their respective buyers or vice versa, any notice received after 1600 hours on a business day shall be deemed to have been
120 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
121

122 **14. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
123 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
124 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
125 business day thereafter. The period of delivery shall not be affected by this clause.
126

127 **15. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

128 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or
129 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

130 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
131 mutually agreed, then the assessment of damages shall be settled by arbitration.

132 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
133 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
134 above.

135 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result
136 in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any
137 sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special
138 circumstances, shall in his/their sole and absolute discretion think fit.

139 (e) Damages, if any, shall be computed on the mean contract quantity.
140

141 **16. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
142 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
143 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
144 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
145 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
146 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
147 Insolvency shall serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by
148 either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
149 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
150 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
151 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
152 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
153 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
154 Act of Insolvency occurred.

155 In all cases the other party to the contract shall have the option of ascertaining the settlement price - on the closing out of the
156 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
157 amount payable or receivable under this contract.
158

159 **17. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
160 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
161 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
162 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
163 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
164 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
165 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
166 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
167 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
168 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
169 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
170 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
171 notwithstanding.
172

173 **18. ARBITRATION-**

174 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
175 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
176 parties hereto shall be deemed to be cognisant.

177 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
178 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
179 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
180 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
181 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
182 the other of them in respect of any such dispute.
183

- 184 **19. INTERNATIONAL CONVENTIONS-**
185 The following shall not apply to this contract: -
186 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
187 International Sales Act 1967;
188 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
189 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
190 Protocol of 1980.
191 (d) Incoterms
192 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this
193 contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

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Gafta No. 114

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FERTILISER IN BULK OR BAGS PARCELS OR CARGOES TALE QUALE - CIF/CIFFO TERMS

*delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS- Bulk**

9
10 **Bags**

11 If in bags, in new and/or secondhand bags of suitable strength to withstand ordinary wear and tear to port of destination.
12 Bags of each mark shall be of uniform weight and shall be properly marked.

13
14 **2. QUANTITY-** 10% more or less at Sellers' option.

15 In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean
16 quantity sold shall not be affected thereby.

17
18 **3. PRICE AND DESTINATION - At** per 1000 kilograms

19
20 *net weight, cost, insurance and freight,

21
22 *net weight cost insurance, freight free out to

23
24 **4. BROKERAGE** per tonne, to be paid by Sellers on the mean contract quantity, goods lost
25 or not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
26 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods
27 are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

28
29 **5. QUALITY-**

30 *

31 * As per Manufacturer's Certificate of Analysis to be final at loading. Tolerance as per EC Rules in force at the date of the Contract.

32 **Condition.** Shipment shall be made in good condition.

33
34 **6. COUNTRY OF ORIGIN-**

35
36 **7. PERIOD OF SHIPMENT-** As per Bill(s) of Lading dated or to be dated

37 The Bill(s) of Lading to be dated when the goods are actually on board. Date of the Bill(s) of Lading shall be accepted as proof of date
38 of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day shall be
39 accepted as being in both halves of the month.

40
41 **8. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

42 (a) Position of vessel is mutually agreed between the Buyers and Sellers;

43 (b) The word 'now' to be inserted before the word 'classed' in the Shipment and Classification Clause;

44 (c) Appropriation Clause cancelled if sold 'shipped'.

45
46 **9. SHIPMENT & CLASSIFICATION** Shipment from

47 direct or indirect, with or without transshipment by first class mechanically self propelled vessel(s) suitable for the carriage of the
48 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force
49 at the time of shipment. In case of grab discharge, vessel to be suitable for grab discharge. Vessel's owners shall be Members of a
50 P & I Club, and vessel shall be less than 20 years of age.

52 **10. APPROPRIATION-**

53 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date of the
54 last bill of lading.

55 (b) The notice of appropriation shall within 2 business days if shipped from European and North African Ports, or 5 business days if
56 shipped from Black Sea Ports, or 8 business days if shipped from any other ports, from the date of the bill(s) of lading be served by
57 or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
58 Clause shall not apply.

59 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their
60 Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on
61 the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be
62 deemed to be in time if served: -

63
64 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

65
66 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

67
68 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation
69 served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in
70 accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the
71 Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.

72 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing
73 the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.

74 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is
75 not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

76 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses shall be
77 borne by Sellers.

78 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

79
80 **11. PAYMENT-**

81 (a) By cash in of full invoice amount against presentation of shipping documents.

82 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
83 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers,
84 to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance Certificate(s) and/or
85 Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required
86 by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of
87 Shipping War Deviation Clause and/or other recognised official War Risk Clause.

88 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers
89 may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in
90 exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
91 available.

92 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers may
93 take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any recoverable extra
94 expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents,
95 shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are
96 eventually available.

97 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing,
98 payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required
99 by Buyers, by a recognised bank.

100 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that
101 event any additional collection costs shall be borne by Buyers.

102 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for
103 all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect
104 thereto.

105 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
106 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

107 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
108 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall
109 be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do
110 not override the parties' contractual obligation under sub-clause (a).

111
112 **12. DUTIES, TAXES, LEVIES-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers'
113 account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

114
115 **13. DISCHARGE-**

116 (a) Vessel to discharge according to the custom of the port at Buyers' expense,
117 or,

118 (b) Sellers guarantee a minimum of running hours, weather permitting for discharge, plus any
119 balance of time not used in loading, if reversible, whether in berth or not. Laytime of vessel not to count during weekend unless used

120 or vessel already on demurrage, whether on berth or on a layby berth. Time between last working hours Friday/Saturday according to
121 regulations governing discharging port(s) and 8 a.m. next working day, or between 5 p.m. on the last working day preceding a local
122 holiday and 8 a.m. on the first working day thereafter, not to count in discharging unless used or the guaranteed number of hours has
123 expired,

124 or,

125 (c) Vessel to discharge at the rate of as per charterparty. Notice of readiness and time to count as per charterparty.
126 Despatch/demurrage rate as per charterparty.

127 Vessel to discharge afloat or safely aground. If documents are tendered which do not provide discharging as above, or contain
128 contrary stipulations, Sellers shall be responsible to Buyers for extra expenses incurred thereby. Discharge by grab(s) shall be
129 permitted unless specifically excluded at time of contract.

130
131 **14. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in
132 GAFTA Insurance Terms Form No. 72 viz.: -

133 (a) Risks Covered: -

134 Cargo Clauses All Risks with - Section 1 of Form No: 72

135 War Clauses (Cargo) - Section 4 of Form No: 72

136 Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form No: 72

137 (b) Insurers - The insurance to be effected with first class Underwriters and/or Companies who are domiciled or carrying on business
138 in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service
139 of process in London, but for whose solvency Sellers shall not be responsible.

140 (c) Insurable Value - Insured amount to be for not less than 10% over the invoice amount, including freight when freight is payable on
141 shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by
142 Buyers.

143 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not
144 include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for
145 the amount of the freight plus 10%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake
146 that their policies are so worded that in the case of particular or general average claim the Buyers shall be put in the same position as if
147 the C.I.F. value plus 10% were insured from the time of shipment.

148 (e) Certificates/Policies - Sellers shall serve all policies and/or certificates and/or letters of insurance provided for in this contract (duly
149 stamped if applicable), for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of
150 insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such
151 certificate shall state on its face that it is so exchangeable. If required by Buyers, Letter(s) of Insurance shall be guaranteed by a
152 recognised Bank, or by any other guarantor who is acceptable to Buyers.

153 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the
154 insured amount in excess of 10% over the invoice amount shall be for Sellers' account and the party in possession of the policy(ies)
155 shall collect the amount of insurance and shall thereupon settle with the other party on that basis.

156 (g) Currency of Claims - Claims to be paid in the currency of the contract.

157 (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to
158 exceed the rate ruling in London at time of shipment or date of vessel's sailing, whichever may be adopted by Underwriters. Such
159 excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of
160 vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with Underwriters, whichever may be the later,
161 otherwise such claim shall be void unless, in the opinion of arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk
162 Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.

163 (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms (and which
164 risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers
165 the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers
166 in respect of such matters.

167
168 **15. WEIGHING-** the goods shall be weighed at time and place of discharge at port of destination herein named at Buyers' expense.
169 Sellers have the right to superintend. If discharge is carried out by grab, the method of weighing is to be mutually agreed between
170 Buyers and Sellers and/or their respective agents. In case of damage the discharged weight shall be determined on the basis of an
171 analysis made of samples of the damaged and undamaged part of the goods.

172
173 **16. EXCESS/DEFICIENCY-** Any deficiency over 0.5% on Bill of Lading weight to be paid for by Sellers and any excess over 0.5% of
174 Bill of Lading weight to be paid for by Buyers at Contract Price. Excess/Deficiency to be supported by a certificate from an
175 independent superintendent company.

176
177 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** Samples required for the purposes of the contract shall be taken
178 at time of discharge on or before removal from the ship or quay, and analytical instructions shall be given in accordance with the
179 GAFTA Sampling Rules No.124.

180
181 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
182 behalf of the government of the country of origin, or of the territory where the port or ports of shipment named herein is/are situate,
183 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
184 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
185 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
186 therefor and, if required, Sellers must produce proof to justify the cancellation.

188 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
189 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire, or
190 any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper
191 shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
192 commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
193

194 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later
195 than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods
196 were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated.
197

198 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
199 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after the
200 additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further
201 period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the
202 contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that
203 Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
204

205 **20. CIRCLE-** Where Sellers repurchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
206 considered to exist as regards the particular goods so repurchased, and the provisions of the Default Clause shall not apply. (For the
207 purpose of this Clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
208 and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination during the same period of
209 shipment). Different currencies shall not invalidate the Circle.

210 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
211 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the circle
212 by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the circle.

213 Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle be ascertained before
214 the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

215 Where the Circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
216 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the Circle by
217 payment of the differences between the market price and the relative contract price in the currency of the contract. All Sellers and
218 Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this
219 Clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
220 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due
221 date of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the circle shall
222 be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement,
223 instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or
224 respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.
225

226 **21. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
227 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
228 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
229 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
230 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
231 notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served without delay by sellers
232 on their respective buyers or vice versa, any notice received after 1600 hours on a business day shall be deemed to have been
233 received on the business day following. A notice to the Brokers or Agent shall be deemed a notice under this contract.
234

235 **22. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
236 days, which GAFTA declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time limit for doing
237 any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first Business Day
238 thereafter. The period of shipment shall not be affected by this clause.
239

240 **23. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

241 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, and such sale or
242 purchase, shall establish the default price.

243 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
244 agreed, then the assessment of damages shall be settled by arbitration.

245 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
246 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

247 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
248 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

249 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then on the
250 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the
251 mean contract quantity.

252 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
253 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the
254 provisions stated in the appropriation clause) if notice of appropriation has not been served by the 10th consecutive day after the last
255 day for appropriation laid down in the contract, the Sellers shall be deemed to be in default, and the default date shall then be the first
256 business day thereafter.

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24. INSOLVENCY- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for reconstruction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the Notice. If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred.
In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by repurchase or resale, and the difference between the contract price and the repurchase or resale price shall be the amount payable or receivable under this contract.

25. DOMICILE- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

26. ARBITRATION-

(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules, Form No.125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.

(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board of appeal, as the case may be, in accordance with the Arbitration Rules, and it is expressly agreed and declared that the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any such dispute.

27. INTERNATIONAL CONVENTIONS- The following shall not apply to this contract: -

(a) the Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;

(b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and

(c) the United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.

(d) Incoterms

(e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

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THE GRAIN AND FEED TRADE ASSOCIATION

MOLASSES CONTRACT F.O.B. TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS AND ORIGIN** crop year.

9
10 **2. QUANTITY** % more or less at Buyers' option at contract price.

11
12 **3. PRICE - At**

13 *per tonne of 1000 kilograms, }

14 }gross weight, delivered Free on Board Buyers' vessel(s) at

15 *per ton of 1016 kilos or 2240 lbs. }

16
17 **4. BROKERAGE** per 1000 kilograms to be paid by Sellers on the mean contract quantity, goods lost or not lost,
18 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
19 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the goods are
20 not delivered then the brokerage shall be due on the 30th consecutive day after the last day for delivery.

21
22 **5. QUALITY - Sound and merchantable as it came from the centrifugals, free from all adulteration or contamination and without the**
23 **addition of steam, water and any other foreign substances prior to or at time of loading.**

24
25 *Containing minimum.....total sugars or total sugars as invert, and maximum % invert sugars,

26
27 and minimum degrees Brix, and/or maximum % moisture.

28 **Condition.** Delivery shall be made in good condition.

29
30 **6. SHIP'S CLASSIFICATION.** Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract
31 goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of
32 shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as
33 "Ore/Oil" vessels.

34
35 **7. LOADING, LAYTIME AND DEMURRAGE - Buyers shall tender vessel(s) in readiness to load,**
36
37 **between** **and** **both dates inclusive.**

38
39 Sellers shall be entitled to receive at least.....consecutive days' notice of probable readiness of vessel and of the
40 estimated tonnage required. Buyers shall be allowed to make substitution of a vessel. Upon arrival of the vessel at the port(s) of
41 loading, the Master or authorised representative shall serve Sellers six (6) hours notice of readiness to commence loading of the
42 cargo, berth or no berth, and laytime is deemed to commence upon expiry of such notice or upon all fast on berth, whichever
43 takes place first. Sellers shall load the cargo as fast as the vessel can receive, working continuously day and night for seven (7)

44
45 days a week, holidays included at no less than the minimum loading rate oftonne per hour as agreed between
46 Buyers and Sellers. In the event of failure, for whatever reason, to load the cargo as described above, Sellers shall pay demurrage
47 to Buyers at the rate specified in the Charter Party. All other terms as per IMOL '78 Charter Party.

48
49 **8. BERTH - Sellers shall nominate at a date not later than the first day of the delivery period stated in the Loading, Laytime and**
50 **Demurrage Clause above, a safe berth which will accommodate vessels with a maximum length of**

metres and with a maximum draft of metres at the declared port(s), to which Buyers' vessel may proceed, lie at during and depart from after loading, always safely afloat.

9. EXTENSION OF DELIVERY- The contract period of delivery shall be extended by an additional period of not more than 30 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and other such normal carrying expenses shall be for Buyers' account. Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply. Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring Buyers to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less current FOB charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete delivery of the contract on the part of Sellers.

10. PAYMENT -

* (a) **By cash in**

on presentation of documents at

No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved guarantee in respect thereto.

* (b) **By Letter of Credit.** Buyers shall open an irrevocable letter of credit, in favour of Sellers, not later than

prior to the commencement of the contractual delivery period, for the % of the total contract value, plus the tolerance, if any. The Letter of Credit shall include provisions to cover the extension clause of the Contract. The Letter of Credit shall include provisions to cover the extension clause of the Contract including carrying charges and payment against warehouse warrants, and shall be valid at least for 30¹ consecutive days after the expiration of the delivery period. Buyers and Sellers will bear their respective bank charges.

(c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.

(d) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clauses (a) and (b).

11. TAXES - Taxes, dues, duties, levies and any other charges on the molasses contracted shall be for Sellers' account if imposed by the country of origin and/or loading port. Sellers will be responsible for obtaining whatever export permits are necessary. Freight tax, if levied, shall be for Buyers' account.

12. INSURANCE/RISK - Marine insurance shall be covered by Buyers. Buyers shall supply Sellers with confirmation thereof at least 5 consecutive days prior to the expected readiness of the vessel(s). If Buyers fail to provide such confirmation Sellers shall have the right to place such insurance at Buyers' risk and expense. Risk of loss and/or damage to the molasses contracted shall transfer from Sellers to Buyers at the time when the molasses passes the permanent hose connection of the receiving vessel at the port(s) of loading.

13. WEIGHT - The weight of molasses loaded shall be established and agreed jointly by Buyers' and Sellers' representatives at the port(s) of loading by means of pneumercator readings of shore tank(s) or, in absence or inaccuracy of same, by means of vessel's displacement and deadweight figures and/or by gauging of lighter(s) before and after loading, or as otherwise agreed. The molasses loading pipeline is to be full before loading commences. If any loss of molasses occurs between point(s) of weight gauging and Buyers' vessel's permanent hose connections, due to leakage and/or damage to pipelines, pumps and/or other equipment at port(s) of loading, an independent surveyor will be appointed by Buyers and Sellers to ascertain the quantity of molasses so lost, which will then be deducted from the overall weight measured.

14. TEMPERATURE OF MOLASSES - Not to exceed 41 degrees Celsius at any stage before and during the loading operation.

15. SAMPLING - Every hour throughout the loading, a half-litre sample shall be drawn in the presence of Buyers' and Sellers' representatives from the sample points in all loading pipelines at the vessel's manifold(s). A composite sample of these half-litre samples will be thoroughly mixed on completion of loading and split into six (6) samples of approximately one (1) litre each, jointly sealed by Buyers' and Sellers' representatives and numbered. Nos. 1 and 2 of these shall be for the Buyers and Nos. 3 & 4 for the Sellers. Nos. 5 & 6 are to be held by Buyers' representative for future reference. Jointly sealed samples may also be taken from the tanks of Buyers' vessel for verification purposes.

16. ANALYSIS - Buyers and Sellers shall each send one loading sample to an independent laboratory of their choice for the determination of total sugars (sucrose and invert) and Brix degrees and/or moisture content. The results shall be exchanged as soon as possible and where possible not later than 1 month after loading. If these results differ by one percent (1.0%) or less for total sugars content or by one degree (1.0) or less for Brix and/or by one percent (1.0%) or less for moisture, the mean of the respective results shall be taken to represent the total sugars content and Brix degrees and/or moisture content of the molasses loaded. If the results differ by more than one percent (1.0%) for total sugars or by more than one degree (1.0) for Brix and/or by more than one percent (1.0%) for moisture,

121 loading sample No: 5 shall be sent without delay to Central Scientific Laboratories, London for third analysis where necessary. In
122 each case, out of the three results so obtained, the average of the two closest will be final and binding for Buyers and Sellers. Buyers
123 and Sellers will pay for their respective analyses and share equally the cost of any third test. Methods of Analysis to be prescribed by
124 GAFTA Methods of Analysis No.130 for the time being in force. Analysts shall state on the certificate of analysis what methods they
125 have used.
126

127 **17. PROHIBITION** - In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
128 behalf of the government of the country of origin, or of the territory where the port or ports of shipment named herein is/are situate,
129 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
130 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
131 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
132 therefor and, if required, Sellers must produce proof to justify the cancellation.
133

134 **18. LOADING STRIKES/FORCE MAJEURE, ETC. -**

135 (a) Should the delivery of the goods or any part thereof be prevented at any time during the guaranteed time of delivery by reason of
136 riots, strikes or lock-outs or by an Act of God, fire or any cause comprehended in the term "force majeure" at port(s) of loading or
137 elsewhere preventing the forwarding of the goods to such port(s) then Sellers shall be entitled at the resumption of work after
138 termination of such riots, strikes or lock-outs or force majeure occurrence to as much time not exceeding 30 days, for delivery from
139 such port(s) as was left for delivery under the contract prior to the outbreak of the riots, strikes or lock-outs and in the event of time
140 left for delivery under the contract being 14 days or less, a minimum of 14 days shall be allowed.

141 (b) In event of further riots, strikes or lock-outs, or force majeure occurrence occurring during the time by which the guaranteed time
142 of delivery has been extended by reason of the operation of the provisions of paragraph (a), the additional extension shall be limited to
143 a further 30 days. In case of non-delivery under the above circumstances, and if Sellers have claimed an extension under this clause
144 the date of default shall be similarly deferred.

145 (c) If delay in delivery is likely to occur for any of the above reasons, Sellers shall serve a notice on Buyers within 7 consecutive days
146 of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is later, if they
147 intend to claim an extension of delivery, such notice shall limit the port(s) for delivery after expiry of contract period to those for
148 which an extension is claimed.

149 (d) If required by Buyers, Sellers shall provide documentary evidence to establish any claim for extension under this clause
150

151 **19. NOTICES** - All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
152 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: either telex, or
153 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
154 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
155 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
156 notice was actually transmitted to the addressee. For the purpose of serving notices in a string, any notice received after 1600
157 hours on a business day shall be deemed to have been received on the business day following. In case of resales/repurchases all
158 notices shall be served without delay by sellers on their respective buyers or vice versa. A notice to the Brokers or Agent shall be
159 deemed a notice under this contract.
160

161 **20. NON-BUSINESS DAYS** - Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
162 days which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time limit
163 for doing any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first Business
164 Day thereafter. The period of delivery shall not be affected by this clause.
165

166 **21. NO WAIVER OF RIGHTS**- The waiver by either party of any particular right under this contract shall not be construed as a waiver
167 of any other rights.
168

169 **22. DEFAULT** - In default of fulfilment of contract by either party, the following provisions shall apply: -

170 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
171 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

172 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
173 agreed, then the assessment of damages shall be settled by arbitration.

174 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
175 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.

176 (d) In all cases damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
177 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
178 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
179 his/their sole and absolute discretion think fit.

180 (e) Damages, if any, shall be computed on the quantity called for, but, if no such quantity has been declared then on the mean contract
181 quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean contract
182 quantity
183

184 **23. INSOLVENCY** - If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
185 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
186 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
187 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
188 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of

189 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall serve a notice of the
190 occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or the
191 Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus
192 served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on
193 the business day following the serving of the notice. If such notice has not been served, then the other party, on learning of the
194 occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first
195 business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the
196 first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of
197 ascertaining the settlement price on the closing out of the contract by repurchase or re-sale, and the difference between the contract
198 price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.
199

200 **24. DOMICILE** - This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
201 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
202 purpose of enforcing any award made in pursuance of the Arbitration clause of this contract, the Courts of England shall have
203 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
204 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
205 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
206 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
207 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
208 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
209 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
210 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
211 any rule of law or equity to the contrary notwithstanding.
212

213 **25. ARBITRATION** -
214 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
215 no.127, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall
216 be deemed to be cognisant.
217 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
218 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
219 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
220 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
221 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
222 any such dispute.
223

224 **26. INTERNATIONAL CONVENTIONS** -
225 The following shall not apply to this contract: -
226 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
227 Sales Act 1967;
228 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
229 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
230 of 1980.
231 (d) Incoterms
232 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
233 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

SellersBuyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No. 117

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THE GRAIN AND FEED TRADE ASSOCIATION

MODEL COMPUTER CONTRACT

The Council of GAFTA has introduced the following form as a "Model" contract for parties to follow if they use their own house computer contract forms and make reference to a GAFTA contract.

Contract Reference No Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS** Brokerage.....per tonne

4

5 **BUYERS**

6

7 **QUANTITY**

8

9 **GOODS**

10

11 **QUALITY**

12

13 **SHIPMENT**

14

15 **DESTINATION**

16

17 **PRICE** per tonne

18

19 **PAYMENT**

20

21 **OTHER TERMS**

22

23

24

25

26

All the above terms, conditions and rules contained in Form Noof The Grain and Feed Trade Association (GAFTA), of which the parties admit that they have knowledge and notice, apply to this transaction, and the details above given shall be taken as having been written into such Form in the appropriate places.

31 Arbitration Clause: -

32 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration

33 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both

34 parties hereto shall be deemed to be cognisant.

35 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against

36 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)

37 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the

38 obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of

39 either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against the other

40 of them in respect of any such dispute.

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FEEDING FISHMEAL FOB TERMS IN BAGS OR BULK FOB TERMS

* delete/specify as applicable

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS**

9 If in bags, of suitable strength to withstand ordinary wear and tear to port of destination. Bags of each mark shall be of uniform
10 weight and shall be properly marked. If in bulk, Buyers may call for up to 15% in stowage bags, such bags to be taken and paid for as
11 Goods. Bags shall not at any time have contained asbestos or any other potentially injurious material.

12
13 **2. QUANTITY-** up to 5% more or less at Buyers' option.

14 Each mark/parcel shall stand as a separate delivery and each delivery shall stand as a separate contract.

15
16 **3. PRICE- At**

17 * per tonne of 1000 kilograms }
18 } gross weight, delivered Free on Board, stowed/trimmed at
19 * per ton of 1016 kilograms or 2240 lbs. }

20
21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
22 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of the
23 Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the goods are
24 not delivered then the brokerage shall be due on the 30th consecutive day after the last day for delivery.

25
26 **5. QUALITY-**

27 * (a) Sample -about equal to sealed sample marked
28
29 in the possession of

30
31 * (b) Certificates of to be final as to quality and analysis

32 * (c) **To contain:** -
33 **Warranted:** % of protein,
34
35 **Basis** % of fat/oil, % of salt
36 % of sand and/or silica % of moisture

37
38
39 **6. ALLOWANCES FOR EXCESS AND DEFICIENCY** - Any deficiency in protein below the warranty stated herein shall

40 be allowed at the rate of per unit of protein with a proportional
41 allowance for each fraction of a unit. If not sold on a "price per unit of protein basis", for this purpose the value of a unit of protein
42 shall be determined by dividing the contract price by the warranted percentage of protein. Any excess of salt, sand, oil or moisture
43 above the warranties stated herein shall be allowed at the rate of 1% of the contract price for each unit in excess, with a proportional
44 allowance for each fraction of 1% .
45 **Condition.** Delivery shall be made in good condition.

46
47
48 **7. PERIOD OF DELIVERY**

49 **Delivery during-** at Buyers' call.

50
51 **Nomination of Vessel-** Buyers shall serve not less thanconsecutive days notice of the name and
52 probable readiness date of the vessel and the estimated tonnage required.

53 Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension shall not

54 be affected thereby. Provided the vessel is presented at the loading port in readiness to load within the delivery period, Sellers
55 shall if necessary complete loading after the delivery period and carrying charges shall not apply. In case of re-sales a provisional
56 notice shall be passed on without delay, where possible, by telephone and confirmed on the same day in accordance with the
57 Notices Clause.
58

59 **8. SHIP'S CLASSIFICATION.** Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract
60 goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of
61 shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as
62 "Ore/Oil" vessels.
63

64 **9. LOADING -** Vessel(s) to load in accordance with the custom of the port of loading unless otherwise stipulated. Bill of lading shall
65 be considered proof of delivery in the absence of evidence to the contrary.
66

67 **10. EXTENSION OF DELIVERY-** The contract period of delivery shall be extended by an additional period of not more than 15
68 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day of
69 the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest, insurance and
70 other such normal carrying expenses shall be for Buyers' account, unless the vessel presents in readiness to load within the contractual
71 delivery period.
72

73 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying
74 during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the
75 amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.
76

77 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring Buyers
78 to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less current FOB
79 charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete delivery of the contract
80 on the part of Sellers.
81

82 **11. ICE-** If delivery within the stipulated time be prevented by ice in the port of shipment, this contract or any unfulfilled portion thereof
83 so prevented shall be
84
85

86 **12. PAYMENT-**

- 87 (a) By cash against Bill of Lading or Mate's Receipt on presentation of
- 88 (b) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible
89 for all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved
90 guarantee in respect thereto.
- 91 (c) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
92 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
93 Rules.
- 94 (d) Interest - If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
95 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
96 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
97 clause do not override the parties' contractual obligation under sub-clause (a).

98 **13. EXPORT LICENCE-** if required, to be obtained by Sellers.
99

100 **14. DUTIES AND TAXES ON GOODS-** All export duties and taxes, present or future, in country of origin or of the territory where the
101 port or ports of shipment herein is/are situate, shall be for Sellers' account, unless otherwise provided.
102
103

104 **15. INSURANCE-** Marine and War Risk insurance including strikes, riots, civil commotions, mine risks, heating, sweating and
105 spontaneous combustion to be effected by Buyers with first class underwriters and/or approved companies. Buyers shall supply
106 Sellers, at their request, with confirmation thereof at least 5 consecutive days prior to expected readiness of vessel(s). If Buyers fail to
107 provide such confirmation Sellers shall have the right to place such insurance at Buyers' risk and expense.
108

109 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No.123 are deemed to be incorporated into this contract.
110 Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and expense. Buyers
111 have the right to attend at loading.
112

113 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
114 124,are deemed to be incorporated into this contract. Samples shall be taken at time and place of loading. The parties shall appoint
115 superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless
116 otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
117

118 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
119 behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate,
120 restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to
121 the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that
122 extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons
123 therefor and, if required, Sellers must produce proof to justify the cancellation.
124

- 125 **19. LOADING STRIKES-**
126 (a) Should delivery of the goods or any part thereof be prevented at port or ports of loading or elsewhere, at any time during the last
127 28 days of guaranteed time of delivery or at any time during guaranteed contract period if such be less than 28 days, by reason of
128 riots, strikes or lock-outs at port(s) of loading or elsewhere preventing the forwarding of the goods to such port(s), then Sellers shall be
129 entitled at the resumption of work after termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for
130 delivery from such port(s) as was left for delivery under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the
131 event of the time left for delivery under the contract being 14 days or less, a minimum extension of 14 days shall be allowed.
132 (b) In the event of further riots, strikes or lock-outs occurring during the time by which the guaranteed time of delivery has been
133 extended by reason of the operation of the provisions of paragraph (a), the additional extension shall be limited to the actual duration
134 of such further riots, strikes or lock-outs. In case of non-delivery under the above circumstances and if Sellers have claimed an
135 extension under paragraph (c) of this clause, the date of default shall be similarly deferred.
136 (c) If delay in delivery is likely to occur for any of the above reasons, Sellers shall serve a notice on Buyers nominating the port(s)
137 within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period,
138 whichever is later, if he intends to claim an extension of time for delivery, such notice shall limit the port(s) for delivery after expiry
139 of contract period to those for which an extension is claimed.
140 (d) If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.
141
- 142 **20. FORCE MAJEURE-**
- 143
- 144 **21. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle shall be
145 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
146 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality,
147 and, where applicable, of the same analysis warranty, for delivery from the same port(s) of loading during the same period of
148 loading). Different currencies shall not invalidate the circle.
149 Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered invoices based on the mean contract
150 quantity, or if the goods have been delivered invoice based on the delivered quantity, shall be settled by all Buyers and their Sellers in
151 the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
152 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
153 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
154 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market price
155 on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by payment of the
156 differences between the market price and the relative contract price in currency of the contract.
157 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
158 with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
159 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date
160 of payment commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be
161 calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of
162 the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall
163 make payment to their Buyers of the difference between the closing out price and the contract price.
164
- 165 **22. NOTICES-** All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible form.
166 Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or letter if
167 delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso that if receipt
168 of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a dispute, establish, to
169 the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the notice was actually
170 transmitted to the addressee. For the purpose of serving notices in a string, any notice received after 1600 hours on a business day
171 shall be deemed to have been received on the business day following. In case of resales all notices shall be served without delay by
172 Buyers on their respective Sellers or vice versa. A notice to the Brokers or Agent shall be deemed a notice under this contract.
173
- 174 **23. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
175 days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for
176 doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first business day
177 thereafter. The period of delivery shall not be affected by this clause.
178
- 179 **24. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
180 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase,
181 as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
182 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
183 agreed, then the assessment of damages shall be settled by arbitration.
184 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default price
185 established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b) above.
186 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
187 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
188 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
189 his/their sole and absolute discretion think fit.
190 (e) Damages, if any, shall be computed on the quantity called for if any but, if no such quantity has been declared then on the mean
191 contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of the mean
192 contract quantity
193
- 194 **25. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
195 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of
196 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
197 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation) become
198 subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of

199 which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
200 notice of the occurrence of such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the
201 contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
202 notice was thus served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market
203 price ruling on the business day following the serving of the notice. If such notice has not been served, then the other party, on
204 learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price
205 on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
206 ruling on the first business day after the date when the Act of Insolvency occurred.

207 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by
208 re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
209 receivable under this contract.

210
211 **26. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
212 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
213 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
214 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
215 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
216 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
217 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, (GAFTA),
218 England, and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself to
219 the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
220 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
221 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good
222 service, any rule of law or equity to the contrary notwithstanding.

223
224 **27. ARBITRATION-**
225 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
226 No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto
227 shall be deemed to be cognisant.

228 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
229 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
230 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
231 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
232 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
233 any such dispute.

234
235 **28. INTERNATIONAL CONVENTIONS-**
236 The following shall not apply to this contract: -

237 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is served by the Uniform Laws on International
238 Sales Act 1967;

239 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

240 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
241 of 1980.

242 (d) Incoterms

243 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right
244 under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers..... Buyers

Printed in England and issued by

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GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

No: 119

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THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FOR FEEDINGSTUFFS IN BAGS OR BULK FOB TERMS

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS-**

9 If in bags, in new and/or secondhand bags of suitable strength to stand ordinary wear and tear to port of destination. Bags of
10 each mark shall be of uniform weight and shall be properly marked. If in bulk, Buyers may call for up to 10% in stowage bags,
11 such bags to be taken and paid for as goods and any cutting to be paid for by Buyers. Buyers have the option of calling for an
12 additional quantity to be shipped in bags, in which case they will be responsible for providing the extra bags and any additional
13 costs incurred, but shall not be required to pay for the extra bags as goods.

14 **2. QUANTITY-** 5% more or less at Buyers' option.

15 In the event of the quantity contracted being a full and complete cargo and/or cargoes the margin of contract quantity shall be
16 10% more or less, any excess or deficiency over 5% shall be settled at the F.O.B. price on date of last bill of lading; value shall
17 be fixed by arbitration unless mutually agreed. In the event of more than one delivery being made each delivery shall be
18 considered a separate contract, but the margin on the mean quantity sold shall not be affected thereby. Each mark/parcel shall
19 stand as a separate delivery.

20
21 **3. PRICE-** at

22 * per tonne of 1000 kilograms)
23) delivered free on board Buyers' vessel(s)
24 * per ton of 1016 kilograms or 2240 lbs.)

25
26 **4. BROKERAGE** per tonne,

27 to be paid by Sellers on the mean contract quantity, contract fulfilled or not fulfilled unless such non-fulfilment is due to the
28 successful application of the Prohibition Clause or the Force Majeure Clause. Brokerage shall be due on the day shipping
29 documents are exchanged or, if the goods are not delivered then the brokerage shall be due on the 30th consecutive day after the
30 last day for delivery.

31
32 **5. QUALITY-**

33 * At time of loading to be fair average of the season's shipments.
34 * At time and place of shipment to be about as per sealed sample marked

35
36 in the possession of
37 Delivery to be made in good condition.

38 Warranted to contain not less than % of oil and protein combined and not more than
39 2.50% of sand and/or silica. Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an
40 allowance to be agreed or settled by arbitration as provided for below, except that for any deficiency of oil and protein there
41 shall be allowances to Buyers at the following rates, viz: 1% of the contract price for each of the first 3 units of deficiency
42 under the warranted percentage; 2% of the contract price for the 4th and 5th units and 3% of the contract price for each unit in
43 excess of 5 and proportionately for any fraction thereof. When the combined content of oil and protein is warranted within a
44 margin (as for example 40%/42%) no allowance shall be made if the analysis ascertained as herein provided be not below the
45 minimum, but if the analysis results below the minimum warranted the allowance for deficiency shall be computed from the
46 mean of the warranted content. For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for
47 each unit of excess and proportionately for any fraction thereof. Should the goods contain over 5% of sand and/or silica the
48 Buyers shall be entitled to reject the goods, in which case the contract shall be null and void for such quantity rejected.

49 The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show a percentage of castor seed
50 husk not exceeding 0.005%, Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances:

* delete/specify as applicable

51 0.75% of contract price if not exceeding 0.001%, 1% of contract price if no exceeding 0.002%, and 1.50% of contract price if
52 not exceeding 0.005%.

53 Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be final but in the
54 event of the first analysis showing castor seed husk to be present a second sample may be analyzed at the request of either party
55 and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of 0.005% Buyers
56 shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected. Nevertheless,
57 should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of castor seed
58 husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark/parcel shall stand as a
59 separate shipment. The right of rejection provided by this Clause shall be limited to the mark/parcel or marks/parcels found to
60 be defective.

61

62 **6. DELIVERY-** Buyers shall tender vessel(s) in readiness to load between
63 both dates inclusive.
64
65

66 Sellers shall be entitled to receive at least consecutive days notice of
67 probable readiness of vessel and of the estimated tonnage required. Vessel(s) to load in accordance with the custom at the port
68 of loading unless otherwise stipulated. Bill of lading shall be considered proof of delivery in the absence of evidence to the
69 contrary. Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension
70 shall not be affected thereby.

71 **7. EXTENSION OF DELIVERY-** The contract period for delivery, shall, if desired by Buyers, be extended by an additional
72 period of 30 consecutive days, provided that Buyers give notice in accordance with the Notices Clause not later than the next
73 business day following the last day of the delivery period. In this event Sellers shall carry the goods for Buyers' account and all
74 charges for storage, interest, insurance and other such normal carrying expenses shall be for Buyers' account. Any difference in
75 export duties, taxes, levies, etc, between those applying during original delivery period and those applying during the period of
76 extension shall be for the account of Buyers and Sellers shall produce evidence on the amounts paid for if required by Buyers
77 and in such cases the Duties, Taxes, Levies, Etc. Clause shall not apply. Should Buyers fail to present a vessel in readiness to
78 load under the extension period, Sellers shall have the option of declaring the Buyers to be in default or shall be entitled to
79 demand payment at contract price, plus such charges as stated above, less current F.O.B. charges, against warehouse warrants
80 and the tender of such warehouse warrants shall be considered complete delivery of the contract on the part of the Sellers.

81

82 **8. ICE -**

83

84 **9. SHIPMENT AND CLASSIFICATION-** Shipment from.....
85 Shipment to be made in good condition, direct or indirect, with or without transshipment by first class mechanically self-
86 propelled vessel(s) suitable for the carriage of the contract goods, classed Lloyds 100A1, or equivalent class, or in
87 accordance with the Institute Classification Clause of the Institute of London Underwriters, excluding tankers and vessels
88 which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.

89

90 **10. PAYMENT-** By cash in
91 No clerical error in the documents shall entitle the Buyers to reject them or delay payment, but Sellers shall be responsible for
92 all loss or expense caused to Buyers by reason of such error and Sellers shall on request of Buyers furnish an approved guarantee
93 in respect thereto.
94 **Final invoices** for monies due may be prepared by either party and shall be settled without delay. If not settled, either party may
95 declare that a dispute has arisen which may be referred to Arbitration as herein provided.

96 **11. INTEREST-** If there has been unreasonable delay in any payment interest appropriate to the currency involved shall be charged.
97 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
98 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
99 clause do not override the parties obligation under the Payment Clause.

100

101 **12. CERTIFICATES OF ORIGIN-**

102 **13. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, or of the
103 territory where the port or ports of shipment named herein is/are situate, shall be for Sellers' account.

104

105 **14. WEIGHING-**
106 Sellers and Buyers and/or their representatives shall have the right of supervision.

107 **15. SAMPLING AND ANALYSIS-** Samples required for the purposes of the contract shall be taken at the time and place of
108 shipment, in accordance with the GAFTA Sampling Rules Form No: 124 and analysis tests shall be carried out in accordance
109 with the GAFTA Methods of Analysis in Form No: 130. The parties shall appoint superintendents for the purposes of
110 supervision and sampling of the goods from the GAFTA Approved Register or Superintendents.

111 **16. INSURANCE-** Marine and war risk insurance including strikes, riots, civil commotions and mine risks to be effected by Buyers
112 with first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation thereof at least 5
113 consecutive days prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation, Sellers shall have the right
114 to place such insurance at Buyers' risk and expense.

115 **17. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
116 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
117 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this

118 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
119 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
120 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

121 **18. STRIKES-**

122 1. Should delivery of the goods or any part thereof be prevented at any time during the last 28 days of guaranteed time of
123 delivery or at any time during guaranteed contract period if such be less than 28 days, by reason of riots, strikes or lock-outs at
124 port(s) of loading or elsewhere preventing the forwarding of the goods to such port(s), then Sellers shall be entitled at the
125 resumption of work after termination of such riots, strikes or lock-outs to as much time, not exceeding 28 days, for delivery
126 from such port(s) as was left for delivery under the contract prior to the outbreak of the riots, strikes or lock-outs, and in the
127 event of the time left for delivery under the contract being 14 days or less, a minimum extension of 14 days shall be allowed. In
128 the event of further riots, strikes or lock-outs occurring during the time by which the guaranteed time of delivery has been
129 extended by reason of the operation of the provisions of the foregoing, the additional extension shall be limited to the actual
130 duration of such further riots, strikes or lock-outs. In case of non-delivery under the above circumstances the date of default
131 shall be similarly deferred.

132 2. If delay in delivery is likely to occur for any of the above reasons, Sellers shall give notice to their Buyers by telegram or
133 telex or by similar advice within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the
134 commencement of the contract period, whichever is later.

135 3. If required by Buyers, Sellers must provide documentary evidence to establish any claim for extension under this clause.
136

137 **19. FORCE MAJEURE -**

138 **20. NOTICES-**All Notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
139 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as:- either telex,
140 or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the
141 proviso that if receipt of any notice is contested by the addressee, the burden of proof of transmission shall be on the sender
142 who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to
143 the Arbitration Clause, that the notice was actually transmitted. Any notice received after 1600 hours on a business day shall
144 be deemed to have been received on the business day following. In case of resales all notices shall be passed on without
145 delay by Buyers to their respective Sellers or vice versa. A notice to the Brokers or Agent shall be deemed a notice under
146 this contract.

147 **21. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
148 any days which The Grain and Feed Trade Association may declare as non-business days for specific purposes, shall be
149 non-business days. Should the time limit for doing any act or giving any notice expire on a non-business day, the time so limited
150 shall be extended until the first business day thereafter. The period of delivery shall not be affected by this clause.

151 **22. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply:-

152 (a) The party other than the defaulter shall, at their discretion have the right, after giving notice by letter, telegram or telex to the
153 defaulter to sell or purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

154 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
155 mutually agreed, then the assessment of damages shall be settled by arbitration.

156 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
157 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
158 above.

159 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result
160 in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any
161 sub-contracts made by the party defaulted against or others unless the Arbitrator(s) or Board of Appeal, having regard to special
162 circumstances, shall in his/their sole and absolute discretion think fit.

163 (e) Damages, if any, shall be computed on the quantity called for if any but, if no such quantity has been declared then on the
164 mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in favour of
165 the mean contract quantity.

166 **23. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
167 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
168 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of origin,
169 of the same quality, and, where applicable, of the same analysis warranty, for delivery to the same port(s) of destination during
170 the same period of delivery). Different currencies shall not invalidate the circle. Subject to the terms of the Prohibition Clause
171 in the contract, if the circle is established before the goods are delivered, or if the goods are not delivered invoices based on the
172 mean contract quantity, or if the goods have been delivered invoices based on the delivered quantity, shall be settled by all
173 Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over
174 the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for delivery,
175 or, should the circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive
176 days after the circle is ascertained. Where the circle includes contract(s) expressed in different currencies the lowest invoice
177 amount shall be replaced by the market price on the first day for contractual delivery and invoices shall be settled between each
178 Buyer and his Seller in the circle by payment of the differences between the market price and the relative contract price in the
179 currency of the contract. All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have
180 been ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers and Sellers
181 in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract.

182 Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this
183 contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency
184 Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective

185 Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between
186 the closing out price and the contract price.

187 **24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
188 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
189 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
190 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
191 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
192 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
193 Insolvency shall forthwith transmit by telex or telegram or by other method of rapid written communication a notice of the
194 occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the contract
195 or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such
196 notice was thus given within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the
197 market price ruling on the business day following the giving of the notice. If such notice be not given as aforesaid, then the other
198 party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either
199 the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or
200 at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other
201 party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by re-purchase or
202 re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or
203 receivable under this contract.

204 **25. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
205 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
206 for the purpose of enforcing any award made in pursuance of the Arbitration clause of this contract, the Courts of England
207 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
208 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
209 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
210 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain
211 and Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to
212 have prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the
213 jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by
214 leaving the same at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such
215 proceedings to his address outside England, shall be deemed good service, any rule of law or equity to the contrary
216 notwithstanding.

217 **26. ARBITRATION-**
218 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the Arbitration Rules, No.
219 125, of The Grain and Feed Trade Association, in the edition current at the date of this contract, such Rules forming part of this
220 contract and of which both parties hereto shall be deemed to be cognisant.
221 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
222 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the Arbitrator(s)
223 or a Board of Appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
224 the obtaining of an award from the Arbitrator(s) or a Board of Appeal, as the case may be, shall be a condition precedent to the
225 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
226 the other of them in respect of any such dispute.

227 **27. INTERNATIONAL CONVENTIONS-**
228 The following shall not apply to this contract:-
229 (a) the Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
230 Sales Act 1967;
231 (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and
232 (c) the United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
233 Protocol of 1980.
234 (d) Incoterms

Sellers..... Buyers.....

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THE GRAIN AND FEED TRADE ASSOCIATION

FOB CONTRACT FOR THAI RICE IN BAGS OR BULK FOB TERMS

Date

1 **SELLERS**

2
3 **(INTERVENING AS BROKERS)**

4
5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7
8 **1. GOODS**

9 If in bags to be in uniform bags suitable for export and able to withstand ordinary wear and tear to port of destination.

10
11 **2. QUANTITY-** 5% more or less at Buyers'

12 option at contract price, for vessel's stowage purpose. The quantity required to be declared 2 days before commencement of
13 loading. In the event of more than one delivery being made, each delivery shall be considered a separate contract, but the margin
14 on the mean quantity sold shall not be affected thereby. Each mark/parcel shall stand as a separate parcel.

15
16 **3. PRICE- US\$** (US Dollars) per tonne of 1000 kilograms

17 FOB stowed and trimmed Bangkok net shipped weight, 1 or 2 Safe Berths. Buyers have the option of requesting all or part of
18 the quantity FOB Kosichang stowed and trimmed, in which case a premium of US\$2.00 per tonne shall be added for the
19 quantity so loaded.

20
21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

22 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of
23 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged, or if the
24 goods are not delivered then the brokerage shall be due on the 30th consecutive day after the last day for delivery.

25
26 **5. QUALITY - rice** broken of crop/s year.

27 The rice shall be of fair average quality and free from live infestation at the time of shipment. The rice shall strictly conform to
28 the specifications as per Thai format standards.

29 **Condition.** Delivery shall be made in good condition.

30
31 **6. PERIOD OF DELIVERY**

32 **Delivery during-** at Buyers' call.

33
34 **Nomination of Vessel-** Buyers shall serve not less thanconsecutive days notice of the name
35 and probable readiness date of the vessel and the estimated tonnage required.

36 Buyers have the right to substitute the nominated vessel, but in any event the original delivery period and any extension shall
37 not be affected thereby. Provided the vessel is presented at the loading port in readiness to load within the delivery period,
38 Sellers shall if necessary complete loading after the delivery period and carrying charges shall not apply. In case of re-sales
39 a provisional notice shall be passed on without delay, where possible, by telephone and confirmed on the same day in
40 accordance with the Notices Clause.

41
42 **7. EXTENSION OF DELIVERY-** The contract period of delivery shall be extended by an additional period of not more than 21

43 consecutive days, provided that Buyers serve notice claiming extension not later than the next business day following the last day
44 of the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage, interest,
45 insurance and other such normal carrying expenses shall be for Buyers' account, unless the vessel presents in readiness to load
46 within the contractual delivery period.

47
48 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and those applying
49 during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall produce evidence of the
50 amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.

51
52 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of declaring

53 Buyers to be in default, or shall be entitled to demand payment at the contract price plus such charges as stated above, less
54 current FOB charges, against warehouse warrants and the tender of such warehouse warrants shall be considered complete
55 delivery of the contract on the part of Sellers.
56

57 **8. INSPECTION AND FUMIGATION-** The inspection and supervision in respect of the quality, weight, condition, and packing
58 of the rice shall be carried out by an independent superintendent registered in Thailand, in the port warehouses or at the wharves
59
60 prior to loading, by the at the expense of Sellers.
61
62 Quality, weight, condition and packaging shall be final at port of loading according to the certificate issued by

63
64 **Fumigation** shall be carried out at the rate of at least 2 lbs. of methyl bromide per 1,000 cubic feet, or at least 2 grams of
65 phosphine per cubic metre.
66

67 **9. SHIPMENT AND CLASSIFICATION-** Shipment by first class mechanically self-propelled vessel(s) classed in accordance
68 with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment, excluding
69 tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" vessels.
70 Buyers shall arrange for fully geared ocean going vessels to lift the rice purchased under this contract.
71

72 **10. LOADING-** Sellers shall load, stow and trim the rice into the vessel's holds at the port of shipment, free of expense to the
73 vessel, at the average rate of 1,200 tonnes, basis 5 workable hatches, or pro rata per weather working day of 24 hours, Saturday
74 afternoons, Sundays, and public holidays excluded even if used. Notification of the vessel's readiness to load at the port of
75 loading shall be served on Sellers at their office at the port between 08.00 and 17.00 hours on any day except Sundays and
76 holidays and between 08.00 and 12.00 hours on Saturdays. Vessel(s) to load in accordance with the custom of the port of
77 loading unless otherwise stipulated. Bill of lading shall be considered proof of delivery in the absence of evidence to the
78 contrary.
79

80 If vessel is unable to berth upon arrival on account of congestion the vessel shall be permitted to present NOR at the customary
81 place, Wipon, Wibon, Wicon, Wicon, Wifpon and laytime to count accordingly but time from berth becoming available until
82 vessel's arrival in berth and time used obtaining necessary passes is not to count as laytime.
83

84 In case no berth is available in Bangkok Sellers shall have right to load the entire contract goods at Kosichang at Buyers'
85 expense. However the premium of US\$ 2 per tonne shall not be added for the quantity so loaded. Time actually used for
86 loading before the commencement of laytime shall not count as laytime. The term holiday means those dates declared by port
87 authorities as official port holidays.
88

89 If required matting, dunnage and ventilation to be for Buyers' account. Opening and closing of hatches shall be done by owners
90 of the vessel at their own time and cost. Loading and stowage shall be free of charge to the vessel but the vessel shall give lights
91 and use of winches at any time without additional payment. Any overtime shall be for the account of the party ordering it, but
92 crew overtime shall be for account of owners. Time for on board fumigation, if any, not to be counted as laytime. Shifting
93 between berths and top off anchorage shall not count as laytime.
94

95 **Demurrage/Despatch**, if any, shall be as per Charter Party of the vessel, with a maximum of per day.
96 Rate of demurrage/despatch to be declared at time of nomination. Despatch half demurrage.
97

98 Any time lost at Port of Loading through riots, strikes or any cause whatsoever beyond Sellers' control, not to count as laytime.
99 In the event of the vessel and/or cargo being lost before completion of loading or if loading be stopped for any reason beyond
100 Sellers' control, Buyers shall pay Sellers for any quantity loaded on presentation of bill(s) of lading or mate's receipt or other
101 proof of shipment which Buyers shall accept as final.
102

103 **11. INSURANCE-** Marine and War Risk insurance including strikes, riots, civil commotions and mine risks to be effected by
104 Buyers with first class underwriters and/or approved companies and/or National or State Insurance companies. Buyers shall
105 supply Sellers with confirmation thereof at least five consecutive days prior to expected readiness of vessel(s). If Buyers fail to
106 prove such confirmation Sellers shall have the right to place such insurance at Buyers' risk and expense.
107

108 **12. PASSING OF RISK-** Goods to be at Buyers' risk upon delivery over the ship's rail.
109

110 **13. PAYMENT-**
111 (a) Buyers shall open an irrevocable, confirmed letter of credit payable at sight, for 100% of invoice value, in favour of Sellers
112
113 not later than business days after the date of the Contract,
114 and to be valid at least until the 30th day after expiration of the delivery period. The Letter of Credit shall include provisions to
115 cover the extension clause of the Contract including carrying charges and payment against warehouse warrants. All opening,
116 negotiating and confirming bank charges shall be for Buyers' account. Letter of credit shall be drawn and negotiation at Sellers'
117 nominated Bank in Bangkok against Sellers' sight draft supported by the following documents:
118 (i) Full set of Sellers' commercial invoices.
119 (ii) Full set of negotiable, clean on board, ocean vessel bill(s) of lading.
120 (iii) Certificate of weight, quality, condition and packing of the rice at time of loading.

121 (iv) Certificate of origin.
122 (v) Certificate of fumigation.
123 (vi) Phytosanitary certificate.
124 (b) The bill of lading shall be available to Sellers within 2 business days of completion of loading, if not Buyers to be
125 responsible for all extra expenses incurred thereby, which may include interest.
126 (c) No clerical error in the documents shall entitle the Buyers to reject them or delay payment, but Sellers shall be responsible
127 for all loss or expense caused to Buyers by reason of such error, and Sellers shall on request of Buyers furnish an approved
128 guarantee in respect thereto.
129 (d) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other
130 that a dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the
131 Arbitration Rules.
132 (e) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be
133 charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration.
134 Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an award of
135 arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause (a).
136
137 **14. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, or of the
138 territory where the port or ports of shipment named herein is/are situate, shall be for Sellers' account.
139
140 **15. EXPORT LICENCE** – if required, to be obtained by Sellers.
141
142 **16. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this
143 contract. Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and
144 expense. Buyers have the right to attend at loading.
145
146 **17. SAMPLING, ANALYSIS AND CERTIFICATE OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.
147 124, are deemed to be incorporated into this contract. Samples shall be taken at time and place of loading. Unless otherwise
148 agree the parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA
149 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts
150
151 **18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or
152 on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are
153 situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this
154 contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means
155 whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers
156 without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.
157
158 **19. FORCE MAJEURE, STRIKES ETC.-** Sellers shall not be responsible for delay in delivery of the goods or any part thereof
159 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire
160 or any cause comprehended in the term "force majeure". If delay in delivery is likely to occur for any of the above reasons,
161 Sellers shall serve notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive days before
162 the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay.
163
164 If after serving such notice an extension to the delivery period is required, then Sellers shall serve further notice not later than 2
165 business days after the last day of the contract period of delivery, if he intends to claim an extension of time for delivery, such
166 notice shall limit the port(s) for delivery after expiry of contract period to those for which an extension is claimed.
167
168 If delivery be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
169 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after
170 the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended
171 for a further period of 30 consecutive days. If delivery under this clause be prevented during the further 30 consecutive days
172 extension, the contract shall be considered void.
173
174 Buyers shall have no claim against Sellers for delay or non-delivery under this clause, provided that Sellers shall have supplied
175 to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.
176
177 **20. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
178 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
179 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
180 origin, of the same quality, and, where applicable, of the same analysis warranty, for delivery from the same port(s) of loading
181 during the same period of delivery). Different currencies shall not invalidate the circle.
182 Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered invoices based on the mean contract
183 quantity or having been delivered invoices based on the delivered quantity, shall be settled by all Buyers and their Sellers in the
184 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
185 circle. Payment shall be due not later than 15 consecutive days after the last day for delivery, or, should the circle not be
186 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
187 ascertained.
188 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
189 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by

190 payment of the differences between the market price and the relative contract price in currency of the contract. All Sellers and
191 Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with
192 this clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the
193 non-presentation of documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in
194 the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of this contract,
195 settlement by all parties in the circle shall be calculated at the closing out price as provided for in the Insolvency Clause,
196 which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective
197 Buyers shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
198 between the closing out price and the contract price.
199

200 **21. NOTICES**-All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
201 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either
202 telex, or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to
203 the proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in
204 the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the
205 Arbitration Clause, that the notice was actually transmitted to the addressee. For the purpose of serving notices in a string,
206 any notice received after 1600 hours on a business day shall be deemed to have been received on the business day following.
207 In case of resales/repurchases all notices shall be served without delay by sellers on their respective buyers or vice versa. A
208 notice to the Brokers or Agent shall be deemed a notice under this contract.
209

210 **22. NON-BUSINESS DAYS**- Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
211 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
212 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
213 business day thereafter. The period of delivery shall not be affected by this clause.
214

215 **23. DEFAULT**- In default of fulfilment of contract by either party, the following provisions shall apply: -

216 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or
217 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.

218 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
219 mutually agreed, then the assessment of damages shall be settled by arbitration.

220 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
221 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
222 above.

223 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result
224 in the ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any
225 sub-contracts made by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special
226 circumstances, shall in his/their sole and absolute discretion think fit.

227 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
228 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
229 favour of the mean contract quantity.
230

231 **24. INSOLVENCY**- If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
232 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
233 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
234 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
235 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
236 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
237 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
238 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
239 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
240 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice. If
241 such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
242 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
243 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
244 Act of Insolvency occurred.

245 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
246 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
247 amount payable or receivable under this contract.
248

249 **25. DOMICILE**- This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
250 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
251 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
252 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
253 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
254 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
255 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and
256 Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have
257 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction

258 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same
259 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
260 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.

261
262 **26. ARBITRATION-**

263 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
264 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
265 parties hereto shall be deemed to be cognisant.

266 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
267 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
268 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
269 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
270 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
271 the other of them in respect of any such dispute.

272
273 **27. INTERNATIONAL CONVENTIONS-**

274 The following shall not apply to this contract: -

275 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
276 International Sales Act 1967;

277 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and

278 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
279 Protocol of 1980.

280 (d) Incoterms

281 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
282 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR SHIPMENT OF RICE IN BAGS CIF TERMS

**delete/specify as applicable*

Date

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-**

9 In uniform bags suitable for export and to withstand ordinary wear and tear to port of destination.

10

11 **2. QUANTITY-**

12 5% more or less at Sellers' option at contract price for vessel's stowage purpose. In the event of more than one shipment being
13 made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected
14 thereby.

15

16 **3. PRICE AND DESTINATION - At**

17 * per tonne of 1000 kilograms }

18 } gross weight, cost, insurance and freight to

19 * per ton of 1016 kilograms or 2240 lbs. }

20

21 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not

22 lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the terms of

23 the Prohibition or Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the

24 goods are not appropriated then brokerage shall be due on the 30th consecutive day after the last day for appropriation.

25

26 **5. QUALITY- Specifications**

27 Final at loading as per certificate of a GAFTA Registered Superintendent.

28 **Condition.** Shipment shall be made in good condition.

29

30 **6. PERIOD OF SHIPMENT-** as per bill(s) of lading dated or to be dated

31 The bill(s) of lading to be dated when the goods are actually on board. Date of the bill(s) of lading shall be accepted as proof of
32 date of shipment in the absence of evidence to the contrary. In any month containing an odd number of days, the middle day
33 shall be accepted as being in both halves of the month.

34

35 **7. SALES BY NAMED VESSELS-** For all sales by named vessels, the following shall apply: -

36 (a) Position of vessel is mutually agreed between Buyers and Sellers;

37 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;

38 (c) Appropriation Clause cancelled if sold "shipped".

39

40 **8. SHIPMENT AND CLASSIFICATION-** Shipment from

41 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the
42 contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association.

43

44 **9. EXTENSION OF SHIPMENT-** The contract period for shipment, if such be 31 days or less, shall be extended by an additional

45 period of not more than 15 days, provided that Sellers serve notice claiming extension not later than the next business day
46 following the last day of the originally stipulated period. The notice need not state the number of additional days claimed.

47 Sellers shall make an allowance to Buyers, to be deducted in the invoice from the contract price, based on the number of days by
48 which the originally stipulated period is exceeded, in accordance with the following scale: -

49 1 to 7 additional days, no allowance;

50 8 to 11 additional days, 0.50%;

51 12 or 13 additional days, 1%;

52 14 or 15 additional days 1.50% of the gross contract price.

53 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 15 days, then the contract

54 shall be deemed to have called for shipment during the originally stipulated period plus 15 days, at contract price less 1.50%,
55 and any settlement for default shall be calculated on that basis. If any allowance becomes due under this clause, the contract
56 price shall be deemed to be the original contract price less the allowance and any other contractual differences shall be settled on
57 the basis of such reduced price.

58
59 **10. APPROPRIATION-**

60 (a) Notice of appropriation shall state the vessel's name, the approximate weight shipped, and the date or the presumed date
61 of the bill of lading.

62 (b) The notice of appropriation shall within 14 consecutive days from the date of the bill(s) of lading be served by or on
63 behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days
64 Clause shall not apply.

65 (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers
66 on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by
67 subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the bill of lading, their notice of
68 appropriation shall be deemed to be in time if served: -

69
70 (1) On the same calendar day, if received not later than 1600 hours on any business day, or

71
72 (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.

73 (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an
74 appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of
75 appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of
76 appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the
77 Brokers.

78 (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in
79 fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall
80 prevail.

81 (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the
82 sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.

83 (g) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses
84 shall be borne by Sellers.

85 (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

86 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra
87 expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

88
89 **11. PAYMENT-**

90 (a) **Payment** % of invoice amount by cash in
91 in exchange for and on presentation of shipping documents.

92 (b) **Shipping documents** – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
93 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by
94 Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. Policy (ies) and/or Insurance
95 Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a
96 recognised bank if required by Buyers. 4. Phytosanitary certificate 5. Other documents as called for under the contract.
97 Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised
98 official War Risk Clause.

99 (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at
100 destination, Sellers may provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and
101 payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the
102 contract when shipping documents are eventually available.

103 (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery,
104 Buyers may take delivery under an indemnity provided by themselves and shall pay for the other documents when presented.

105 Any recoverable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of
106 Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the
107 contract when shipping documents are eventually available.

108 (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be
109 missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be
110 countersigned, if required by Buyers, by a recognised bank.

111 (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in
112 that event any additional collection costs shall be borne by Buyers.

113 (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be
114 responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved
115 guarantee in respect thereto.

116 (h) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a
117 dispute has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration
118 Rules.

119 (i) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged.
120 If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest
121 shall be payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this
122 clause do not override the parties' contractual obligation under sub-clause (a).

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- 12. DUTIES, TAXES, LEVIES, ETC.-** All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.
- 13. DISCHARGE-** Discharge shall be as fast as the vessel can deliver in accordance with the custom of the port, but in the event of shipment being made under liner bill(s) of lading, discharge shall be as fast as the vessel can deliver in accordance with the terms of the bill(s) of lading. The cost of discharge from hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers' account. If documents are tendered which do not provide for discharging as above or contain contrary stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby.
- 14. WEIGHING-** the terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract. Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of discharge at Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight occasioned by water and/or oil during the voyage. If final at time and place of loading, as per GAFTA registered superintendents' certificate at Sellers' choice and expense.
- 15. DEFICIENCY-** any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall be paid for by Buyers at contract price.
- 16. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No.124, are deemed to be incorporated into this contract. Samples shall be taken at the time of discharge on or before removal from the ship or quay, unless the parties agree that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.
- 17. INSURANCE-** Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.: -
- (a) Risks Covered: -
 - Cargo Clauses (WA), with average payable, with 3% franchise or better terms - Section 2 of Form 72
 - War Clauses (Cargo) - Section 4 of Form 72
 - Strikes, Riots and Civil Commotions Clauses (Cargo) - Section 5 of Form 72
 - (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be responsible.
 - (c) Insurable Value - Insured amount to be for not less than 2% over the invoice amount, including freight when freight is payable on shipment or due in any event, ship and/or cargo lost or not lost, and including the amount of any War Risk premium payable by Buyers.
 - (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of particular or general average claim the Buyers shall be put in the same position as if the c.i.f. value plus 2% were insured from the time of shipment.
 - (e) Certificates/Policies - Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who is acceptable to Buyers.
 - (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the other party on that basis.
 - (g) Currency of Claims - Claims to be paid in the currency of the contract.
 - (h) War and Strike Risks/Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment.
 - (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.
- 18. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

195 **19. FORCE MAJEURE, STRIKES, ETC-** Sellers shall not be responsible for delay in shipment of the goods or any part thereof
196 occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery,
197 fire, or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above
198 reasons, the Shipper shall serve a notice on Buyers within 7 consecutive days of the occurrence, or not less than 21 consecutive
199 days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the
200 anticipated delay.
201

202 If after serving such notice an extension to the shipping period is required, then the Shipper shall serve a further notice not later
203 than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the
204 goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so
205 nominated.
206

207 If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the
208 contract, such option to be exercised by Buyers serving notice to be received by Sellers not later than the first business day after
209 the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended
210 for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days
211 extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this
212 clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or
213 non-fulfilment.
214

215 **20. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle
216 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not
217 apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the same country of
218 origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the same port(s) of destination
219 during the same period of shipment). Different currencies shall not invalidate the circle.
220

221 Subject to the terms of the Prohibition Clause in the contract, if the goods are not appropriated, or, having been appropriated
222 documents are not presented, invoices based on the mean contract quantity shall be settled by all Buyers and their Sellers in the
223 circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
224 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the circle not be
225 ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is
226 ascertained.
227

228 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market
229 price on the first day for contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
230 payment of the differences between the market price and the relative contract price in currency of the contract. All Sellers and
231 Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance with this
232 clause same shall be binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of
233 documents by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due
234 date of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the circle
235 shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for
236 settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall make payment to their Sellers
237 or respective Sellers shall make payment to their Buyers of the difference between the closing out price and the contract price.
238

239 **21. NOTICES-**All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
240 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex,
241 or letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the
242 proviso that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the
243 case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration
244 Clause, that the notice was actually transmitted to the addressee. In case of resales/repurchases all notices shall be served
245 without delay by sellers on their respective buyers or vice versa, and any notice received after 1600 hours on a business day
246 shall be deemed to have been received on the business day following. A notice to the Brokers or Agent shall be deemed a
247 notice under this contract.
248

249 **22. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and
250 any days, which GAFTA may declare as non-business days for specific purposes, shall be non-business days. Should the time
251 limit for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the first
252 business day thereafter. The period of shipment shall not be affected by this clause.
253

254 **23. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -
255 (a) The party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or
256 purchase, as the case may be, against the defaulter, and such sale or purchase shall establish the default price.
257 (b) If either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be
258 mutually agreed, then the assessment of damages shall be settled by arbitration.
259 (c) The damages payable shall be based on, but not limited to, the difference between the contract price and either the default
260 price established under (a) above or upon the actual or estimated value of the goods, on the date of default, established under (b)
261 above.
262 (d) In no case shall damages include loss of profit on any sub-contracts made by the party defaulted against or others unless the
263 arbitrator(s) or board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.
264 (e) Damages, if any, shall be computed on the quantity appropriated if any but, if no such quantity has been appropriated then
265 on the mean contract quantity, and any option available to either party shall be deemed to have been exercised accordingly in
266 favour of the mean contract quantity.
267 (f) Default may be declared by Sellers at any time after expiry of the contract period, and the default date shall then be the first
268 business day after the date of Sellers' advice to their Buyers. If default has not already been declared then (notwithstanding the

269 provisions stated in the Appropriation Clause) if notice of appropriation has not been served by the 10th consecutive day after the
270 last day for appropriation laid down in the contract, the Sellers shall be deemed to be in default and the default date shall then be
271 the first business day thereafter.
272

273 **24. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he
274 is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a
275 meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have
276 a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or
277 amalgamation) become subject to an Interim Order under Section 252 of the Insolvency Act 1986, or have a Bankruptcy Petition
278 presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of
279 Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the contract and upon
280 proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party
281 committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of the Act of
282 Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the notice.
283

284 If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
285 option of declaring the contract closed out at either the market price on the first business day after the date when such party first
286 learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the
287 Act of Insolvency occurred.
288

289 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the
290 contract by re-purchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the
291 amount payable or receivable under this contract.
292

293 **25. DOMICILE-** This contract shall be deemed to have been made in England and to be performed in England, notwithstanding
294 any contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except
295 for the purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England
296 shall have exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in
297 relation to the arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of
298 arbitrators or board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any
299 legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and
300 Feed Trade Association, (GAFTA), England, and any party residing or carrying on business in Scotland shall be held to have
301 prorogated jurisdiction against himself to the English Courts or if in Northern Ireland to have submitted to the jurisdiction
302 and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same
303 at the offices of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his
304 address outside England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
305

306 **26. ARBITRATION-**
307 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration
308 Rules, No. 125, in the edition current at the date of this contract, such Rules forming part of this contract and of which both
309 parties hereto shall be deemed to be cognisant.
310 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against
311 the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s)
312 or a board of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that
313 the obtaining of an award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the
314 right of either party hereto or of any persons claiming under either of them to bring any action or other legal proceedings against
315 the other of them in respect of any such dispute.
316

317 **27. INTERNATIONAL CONVENTIONS-**
318 The following shall not apply to this contract: -
319 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on
320 International Sales Act 1967;
321 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980; and
322 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending
323 Protocol of 1980.
324 (d) Incoterms
325 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no
326 right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Gafta No.200

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION

SUPPLY CONTRACT GENERAL TERMS IN BULK OR BAGS

**delete/specify as applicable*

Date.....

1 **SELLERS**

2

3 **INTERVENING AS BROKERS**

4

5 **BUYERS**

6 have this day entered into a contract on the following terms and conditions.

7

8 **1. GOODS-** (in bulk or in bags)

9

10 **Packing/marks-** if in bags, to be uniform weight bags suitable to withstand ordinary wear and tear to destination, such bags to be

11 taken and paid for as goods.

12

13 **2. QUANTITY-**tonnes of 1000 kilograms, plus or minus 2%.

14 Each mark/parcel shall stand as a separate parcel. In the event of more than one delivery being made, each delivery shall be

15 considered a separate contract, but the margin on the mean contract quantity sold shall not be affected thereby.

16

17 **3. PRICE -** per tonne of 1000 kilograms gross weight.

18

19 *** Collected from**

20

21 *** Delivered to**

22 *** (Complete as applicable)**

23

24 **4. BROKERAGE-** At per tonne,

25 to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-

26 fulfilment is due to the cancellation of the contract under the terms of the Prohibition or Force Majeure Clause. Brokerage shall be

27 due on the last day of the period of delivery.

28

29 **5. QUALITY-**

30

31 Clauses of Addendum No. 93 to apply.

32

33 **6. PERIOD OF DELIVERY/DESPATCH/COLLECTION - (DELIVERY PERIOD).**

34

35 Period of Delivery/Despatch/Collection

36 (a) **If Collection:** Sellers shall have the goods available for collection within the collection period at Buyers' call

37

38 with business day(s) pre-advance. Sellers shall load in good condition, free on to Buyers'

39 transport within the collection period. Each lorry/barge/wagon load to be considered a separate contract, but the margin on the mean

40 contract quantity shall not be affected thereby. All costs and risk to the point of collection shall be for Sellers' account, thereafter for

41 Buyers' account.

42 (b) **If Delivery/Despatch:** Sellers shall deliver/despatch to Buyers' nominated destination at time(s) agreed between the parties,

43 otherwise at Buyers' call within the delivery/despatch period. All costs and risk to the point of delivery/despatch shall be for Sellers'

44 account, thereafter for Buyers' account.

45 (c) **If Delivered at Frontier:** Sellers shall deliver to Buyers' nominated destination at time(s) agreed between the Parties,

46 otherwise at Buyers' call, within the delivery period. Sellers shall pay the costs of customs formalities necessary for exportation of

47 the goods as well as all duties, taxes and other official charges payable upon exportation, and where necessary for their transit

48 through another country. Buyers shall pay all duties, taxes and other official charges as well as the costs of carrying out customs

49 formalities payable upon importation of the goods

50

51 **7. EXTENSION-**

52

- 53 **8. PAYMENT-**
54 (a) Payment shall be by cash in
55
56 against the following documents
57 (b) Amounts payable under this contract shall be settled without delay. If not so settled, either party may notify the other that a dispute
58 has arisen and serve a notice stating his intention to refer the dispute to arbitration in accordance with the Arbitration Rules.
59 (c) **Interest** – If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall be charged. If
60 such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be
61 payable only where specifically provided in the terms of the contract or by an award of arbitration. The terms of this clause do not
62 override the parties' contractual obligation under sub-clause (a).
63
- 64 **9. PROPRIETARY RIGHTS-** the contract goods shall become the property of Buyers only after the contractual terms of payment have
65 been fulfilled. Buyers shall co-operate with Sellers in respect of any means the latter may intend to pursue in order to protect their
66 proprietary rights to the goods contracted. If third parties try to assert or substantiate right to the goods in which Sellers still have
67 proprietary rights, Buyers will immediately inform Sellers of any such action.
68
- 69 **10. INSURANCE-** Sellers shall be responsible for insurance cover up to the point of the delivery/despatch/collection, thereafter insurance
70 shall be for the account of Buyers.
71
- 72 **11. WEIGHTS-** the goods shall be weighed as agreed between the parties and such weights shall be final. Sellers and Buyers have the
73 right to superintend.
74
- 75 **12. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS-** the terms and conditions of GAFTA Sampling Rules No. 124,
76 are deemed to be incorporated in the contract. The parties shall appoint superintendents for the purposes of supervision and sampling of
77 the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA
78 Register of Analysts.
79
- 80 **13. PROHIBITION-** In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on
81 behalf of the government of the country of origin of the goods, or of the country from which the goods are to be loaded restricting
82 export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of
83 such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this
84 contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if
85 required, Sellers must produce proof to justify the cancellation.
86
- 87 **14. FORCE MAJEURE-** Should the execution of this contract or any unfulfilled portion thereof be prevented by any cause comprehended
88 in the term "Force Majeure", provided that notice has been served by Sellers or Buyers, as appropriate, within 7 consecutive days of
89 the occurrence, or not later than 21 days before the commencement of the delivery period, whichever is later, the time for delivery shall
90 be extended for a period of one calendar month. After the additional period of one calendar month the contract shall be void for the
91 unfulfilled portion so prevented. Sellers and/or Buyers shall have no claim against the other for delay or non-fulfilment under this
92 clause, provided that they shall have supplied, if required, satisfactory evidence to justify the delay or non-fulfilment.
93
- 94 **15. CIRCLE-** Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle shall be
95 considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause shall not apply. (For the
96 purpose of this clause the same goods shall mean goods of the same description, from the same country of origin, of the same quality
97 and of the same delivery period, and where applicable, of the same analysis warranty). Different currencies shall not invalidate the
98 circle.
99 Subject to the terms of the Prohibition Clause in the contract, if the goods are not delivered/despatched/collected, invoices based on the
100 mean contract quantity (or if the goods have been delivered/despatched/collected the invoice quantity), shall be settled by all Buyers
101 and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest
102 invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last day for the
103 delivery/despatch/collection, or should the circle not be ascertained before the expiry of this time, then payment shall be due not later
104 than 15 consecutive days after the circle is ascertained.
105 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by the market rice on
106 the first day for the contractual delivery period and invoices shall be settled between each buyer and his seller in the circle by payment
107 of the differences between the market price and the relative contract price in the currency of the contract.
108 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been ascertained in accordance
109 with this clause same shall be binding on all parties to the circle. Should any party in the circle prior to the due date of payment
110 commit any act comprehended in the Insolvency Clause of this contract, settlement by all parties in the circle shall be calculated at the
111 closing out price as provided for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice
112 amount in the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make payment to
113 their Buyers of the difference between the closing out price and the contract price.
114
- 115 **16. NOTICES** -All notices required to be served on the parties pursuant to this contract shall be communicated rapidly in legible
116 form. Methods of rapid communication for the purposes of this clause are defined and mutually recognised as: - either telex, or
117 letter if delivered by hand on the date of writing, or telefax, or E-mail, or other electronic means, always subject to the proviso
118 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in the case of a
119 dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to the Arbitration Clause, that the
120 notice was actually transmitted to the addressee. For the purpose of serving notices in a string, any notice received after 1600

121 hours on a business day shall be deemed to have been received on the business day following. In case of resales/repurchases all
122 notices shall be served without delay by sellers on their respective buyers or vice versa. A notice to the Brokers or Agent shall be
123 deemed a notice under this contract.
124

125 **17. NON-BUSINESS DAYS-** Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
126 days, which GAFTA may declare as Non-Business Days for specific purposes, shall be Non-Business Days. Should the time limit for
127 doing any act or serving any notice expire on a Non-Business Day, the time so limited shall be extended until the first business day
128 thereafter. The period of delivery/despatch/collection shall not be affected by this Clause.
129

130 **18. DEFAULT-** In default of fulfilment of contract by either party, the following provisions shall apply: -

131 (a) the party other than the defaulter shall, at their discretion have the right, after serving notice on the defaulter, to sell or purchase, as
132 the case may be, against the defaulter, and such sale or purchase shall establish the default price.

133 (b) if either party be dissatisfied with such default price or if the right at (a) above is not exercised and damages cannot be mutually
134 agreed, then the assessment of damages shall be settled by arbitration.

135 (c) the damages payable shall be based on, but not limited to the difference between the contract price and either the default price
136 established under (a) above or upon the actual or estimated value of the goods on the date of default established under (b) above.

137 (d) in all cases the damages shall, in addition, include any proven additional expenses which would directly and naturally result in the
138 ordinary course of events from the defaulter's breach of contract, but shall in no case include loss of profit on any sub-contracts made
139 by the party defaulted against or others unless the arbitrator(s) or board of appeal, having regard to special circumstances, shall in
140 his/their sole and absolute discretion think fit.

141 (e) damages, if any, shall be computed on the mean contract quantity.
142

143 **19. INSOLVENCY-** If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
144 unable to meet debts or that he has suspended or that he is about to suspend payment of his debts, convene, call or hold a meeting of
145 creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or
146 manager appointed, convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation), or have a
147 Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party
148 committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act of Insolvency on the other party to the
149 contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person
150 representing the party committing the Act of Insolvency) that such notice was thus served within 2 business days of the occurrence of
151 the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the serving of the
152 Notice. If such Notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the
153 option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt
154 of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of
155 Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing
156 out of the contract by repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be
157 the amount payable or receivable under this contract.
158

159 **20. DOMICILE-**This contract shall be deemed to have been made in England and to be performed in England, notwithstanding any
160 contrary provision, and this contract shall be construed and take effect in accordance with the laws of England. Except for the
161 purpose of enforcing any award made in pursuance of the Arbitration Clause of this contract, the Courts of England shall have
162 exclusive jurisdiction to determine any application for ancillary relief, the exercise of the powers of the Court in relation to the
163 arbitration proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or board of appeal
164 of the Association pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party shall be
165 deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, England,
166 (GAFTA), and any party residing or carrying on business in Scotland shall be held to have prorogated jurisdiction against himself
167 to the English Courts or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
168 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade
169 Association, together with the posting of a copy of such proceedings to his address outside England, shall be deemed good service,
170 any rule of law or equity to the contrary notwithstanding.
171

172 **21. ARBITRATION-**

173 (a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the GAFTA Arbitration Rules,
174 No.125, in the edition current at the date of this Contract, such Rules forming part of this Contract and of which both parties hereto
175 shall be deemed to be cognisant.

176 (b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the
177 other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrator(s) or a board
178 of appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an
179 award from the arbitrator(s) or a board of appeal, as the case may be, shall be a condition precedent to the right of either party hereto
180 or of any persons claiming under either of them to bring any action or other legal proceedings against the other of them in respect of
181 any such dispute.
182

183 **22. INTERNATIONAL CONVENTIONS-**The following shall not apply to this contract: -

184 (a) The Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International
185 Sales Act 1967;

186 (b) The United Nations Convention on Contracts for the International Sales of Goods of 1980; and

187 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol
188 of 1980.

189
190

- (d) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.

Sellers Buyers

Printed in England and issued by

**GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH**

Gafta Charter Party No.1

Part 1 of 3 part contract

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THE GRAIN AND FEED TRADE ASSOCIATION

SHORT VOYAGE CHARTER PARTY TERMS

- 1 Place and Date of Charter Party
- 2
- 3 (a) Owners guarantee that vessel is tight, staunch and strong and in every way fitted and suitable for the intended voyage and
- 4 will be maintained in that condition, perils with the sea excepted. M.V.
- 5
- 6 (b) Current position
- 7
- 8 (c) *Registered/*Disponent Owners/Place of Business
- 9
- 10
- 11
- 12 (d) Charterers/Place of Business
- 13
- 14
- 15
- 16 (e) Cargo
- 17
- 18 (f) Load Port
- 19
- 20 (g) Discharge Port
- 21
- 22 (h) Commencement of Laydays
- 23
- 24 (i) Cancelling Date and Time
- 25
- 26 (j) Freight
- 27
- 28
- 29
- 30
- 31
- 32 (k) Loading Rate
- 33
- 34 (l) Discharging Rate
- 35
- 36 (m) Demurrage/Despatch
- 37
- 38 (n) Broker & Brokerage
- 39
- 40 (o) Address Commission
- 41
- 42 (p) P&I Cover
- 43 **Terms of Incorporation**- All the terms and conditions contained in Part 3 of this contract (of which the parties admit that they have
- 44 knowledge and notice) including the law and arbitration clause, shall apply to this transaction, unless expressly amended and the details
- 45 given above shall be taken as having been written into such form in the appropriate places.

Owners Charterers

* delete/specify as applicable.

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Gafta Charter Party No. 1

Part 2 – VESSEL DESCRIPTION of 3 part contract

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THE GRAIN AND FEED TRADE ASSOCIATION

SHORT VOYAGE CHARTER PARTY TERMS

Vessel name:.....		Ex-Name(s):.....	
Flag:		INMARSAT No:	
Call Sig:		Port of Registry:	
IMO No:		Details of three previous cargoes:	
Type of Vessel:			
Summer Dwt	MT on SSW	Beam	
Winter Dwt	MT on WSW	Grt/Nrt	
Built		Holds/Hatches	
Class	No.	Type Hatchcover	
Subjects on Class	YES / NO	Hatch Covers Open	Fore/Aft or Thwartships
LOA		Gear	
Dwt on FW		Grain/Bale cubic feet total	
(1) Grain / Bale		(2) Hatch Size	
Holds at tank top lxbxh (m)			
No.1			
No.2			
No.3			
No.4			
No.5			
Type of Tanktop:	Ventilation:	Natural / Mechanical
If mechanical No. of changes per hour:.....			
W/L to hatch coaming (or open hatch cover) in ballast condition (lightship/ballast water only):	Suitable Grab Discharge	YES / NO
W/L to top mast in Ballast Condition (lightship/ballast only)	Wing / Shoulder Tank	YES / NO
Distance from stern to Fwd Hatch coaming:.....		Deep Tanks:	YES / NO
Distance stern to aftmost hatch coaming:			
ITF accepted:	YES /NO	Holds CO ² fitted	YES / NO
TPI or TPC:			

Terms of Incorporation- All the terms and conditions contained in Part 3 of this contract (of which the parties admit that they have knowledge and notice) including the law and arbitration clause, shall apply to this transaction, unless expressly amended and the details given above shall be taken as having been written into such form in the appropriate places.

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Gafta Charter Party No.1

Part 3 of 3 part contract

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THE GRAIN AND FEED TRADE ASSOCIATION

SHORT VOYAGE CHARTER PARTY TERMS

Date

1 **OWNERS**

2
3 **CHARTERERS**

4 have this day entered into a charter party on the following terms and conditions.

5
6 **1. SHIP/VESSEL-**

7 as stated in Part 1 (a), and as described in Part 2.

8
9 **2. CARGO-**

10 as stated in Part 1 (e).

11 **3. PORT OF LOADING-** The said vessel shall proceed directly with utmost despatch to the port of loading as
12 stated in Part 1 (f), and there
13 load the cargo as stated in Part 1(e).

14 **4. PORT OF DISCHARGE-** The said vessel shall proceed directly with utmost despatch to the port of discharge
15 as stated in Part 1 (g) or so near thereto as she may safely get and lie always afloat or safely aground and there
16 deliver the cargo, or as ordered on signing Bills of Lading.

17 **5. LOADING / DISCHARGING COSTS-**

18 F.I.O. and Free Stowed/Trimmed - The cargo shall be brought into the holds, loaded, stowed and, unless
19 otherwise agreed, trimmed and taken from the holds and discharged by the Charterers or their Agents, free of
20 any expense to the Owners, but always to the satisfaction of and under the supervision and responsibility of the
21 Master.

22 The Owners shall provide and pay for winches, motive power and winchmen from the Crew if requested and
23 permitted; if not, the Charterers will provide and pay for cranes and/or winchmen from the shores, if required.
24 (This provision shall not apply if vessel is gearless and stated as such in Part 2).

25 Furthermore, if stowage bags have specifically been agreed, the following shall apply:

26 (a) Charterers shall supply for stowage purposes only a quantity of bagged cargo not exceeding

27 per cent of the total.

28 (b) The number of bags stated on the signed Bills of Lading to be binding on vessel and Owners, unless error
29 or fraud be proved.

30 The whole cargo shall be carried and stowed under deck.

31 **6. LAYTIME-** (Delete (a) or (b) as required)

32 (a) Separate laytime for loading and discharging - The cargo shall be loaded within the number of weather
33 working hours as stated in Part 1 (k), Saturdays, Sundays and holidays excepted, unless used in which event
34 time actually used shall count.

35 The cargo shall be discharged within the number of weather working hours as stated in Part 1 (l), Saturdays,
36 Sundays and holidays excepted, unless used, in which event time actually used shall count.

37 (b) Total laytime for loading and discharging - The cargo shall be loaded and discharged within the number of
38 total weather working hours as indicated in Part 1 (k) and (l), Saturdays, Sundays and holidays excepted, unless
39 used, in which event time actually used shall count.

40 (c) Commencement of laytime (loading and discharging) - Laytime for loading and discharging shall commence
41 at 14.00 hrs if notice of readiness is given at or before noon on a working day, and at 08.00 hrs the next
42 working day if notice given during office hours after noon on a working day.

43 The Notice of Readiness may be given from the usual place WIPON, WIBON, WIFPON, customs cleared or

44 not. Time actually used before commencement of laytime shall count.
45 Should the vessel still be unable to tender a Notice of Readiness after the expiry of 48 hours after its arrival at
46 the port of loading Charterers have the option to cancel this Charter Party and claim all reasonable damages
47 arising from any such failure.
48 Charterers may extend the period of 48 hours at their option.
49 If Owners dispute that holds are not clean, dry, odourless, and in all respects ready to receive the contracted
50 cargo, an independent surveyor, mutually agreed upon, will decide if the vessel is ready to load with the
51 Owners bearing all costs of his appointment and associated fees if any.

52 **7. CANCELLING-** Should the vessel not be ready to load (whether in berth or not) on or before the date stated
53 in Part 1 (i), Charterers have the option of cancelling this contract. Should the vessel be delayed on account of
54 average or otherwise, Charterers to be informed as soon as possible, and if the vessel is delayed for more than
55 10 days after the day she is stated to be expected ready to load, Charterers have the option of cancelling this
56 contract, unless a new cancelling date has been agreed upon, and claiming damages.

57 **8. FREIGHT-** The freight is payable per metric tonne on intaken weight at the following rate(s):
58
59
60
61
62 Payment of Freight:
63 The freight shall be paid in (state currency) as follows:
64
65
66
67
68 The full freight is deemed earned upon the safe arrival of the vessel and cargo at the first or sole discharge
69 port. Any advance on freight to Owners made in order to obtain freight prepaid Bills of Lading is not
70 recoverable from the shipowners if vessel and/or cargo is lost by reason or as a consequence of any of the
71 excepted perils as listed in Art IV.2 of the Hague Visby Rules.

72 **9. DEMURRAGE/DESPATCH-** Demurrage at the rate stated in Part 1 (m) per day or pro rata for any part of a
73 day to be allowed. Half demurrage for despatch.

74 **10. BROKERAGE-** A brokerage commission at the rate stated in Part 1 (n) on the advance of freight, freight
75 earned, dead freight and demurrage is due to the party mentioned in Part 1 (n), to be paid by owners to
76 brokers.

77 **11. INSURANCE-**
78 (a) Owners guarantee that the vessel is fully insured for hull and machinery risks, and will remain fully insured
79 for the duration of this voyage.
80 (b) Owners guarantee that vessel is entered for cargo claims with
81
82 , as stated in Part 1 (p), and that the vessel will remain fully entered for the duration of this voyage.
83 (c) Owners guarantee that vessel will not change flag/class/ownership/Managers/P&I Club coverage during the
84 currency of this Charter Party without Charterer's prior consent.

85 **12. EXTRA INSURANCE-** Any extra insurance on cargo due to vessel's age and/or flag and/or class shall be for
86 Owners' account; such extra insurance calculated at the Institute Classification Clause rate shall be covered by
87 Charterers for Owners' account and shall be deducted from settlement of final freight account.

88 **13. DEVIATION-** Deviation in saving or attempting to save life and/or property at sea or for reasonable bunkering
89 purposes, to be advised to Charterers and together with any other reasonable deviation shall not be deemed an
90 infringement of this Charter Party or bill of lading, and the Owners shall not be liable for any loss or damage
91 resulting therefrom.

92 **14. LIEN-** Owners shall have a lien on the cargo for freight, dead-freight and demurrage. Charterers shall remain
93 responsible for dead-freight, if any.

94 **15. BILLS OF LADING-** The Master is to sign Bills of Lading in the form as presented by Charterers without
95 prejudice to the terms, conditions and exceptions of this Charter Party. If the Master delegates the signing of
96 the Bills of Lading to his Agents, he shall give them authority to do so in writing, copy of which is to be
97 furnished to Charterers, if requested.
98 Where Bills of Lading marked "FREIGHT PAID" and/or "FREIGHT PREPAID" are required, same shall be
99 released by Owners immediately upon receipt of a telex from Charterers'/Owners' Bank confirming that the
100 advance on freight has been sent to/received by Owners.

101 **16. GENERAL AVERAGE-** General average to be settled in London according to York-Antwerp Rules 1994 or
102 later amendments.

103 **17. DUES, DUTIES, CHARGES & TAXES-**
104 (a) On the vessel: - The Owners shall pay all dues, duties, charges and taxes customarily levied on the vessel,

105 due vessel's flag/class/ownership with or without the cargo on board.

106 (b) On the cargo: - The Charterers shall pay all dues, duties, charges and taxes customarily levied on the cargo.

107 **18. AGENCY-** the Owners shall appoint and be responsible for Charterer's nominated Agent both at the port of
108 loading and the port of discharge.

109 **19. FUMIGATION-** Charterers have the liberty to fumigate the cargo on board at loading and discharging port(s)
110 or place(s) or en route at their risk and expense. The Officers and Crew, as well as all other persons on board
111 the vessel will follow the instructions of a qualified fumigator, during and after the fumigation. Charterers
112 undertake to pay Owners all direct costs incurred because of fumigation and time lost thereby shall count as
113 laytime or time on demurrage. Where the vessel is responsible for any infestation, fumigation is to be carried
114 out at Owner's risk and expense including crew costs as above, and no time lost shall count as laytime or time
115 on demurrage.

116 **20. STOWAWAYS-** any time lost including but not limited to demurrage and any losses, liabilities and costs
117 incurred by reason of stowaways on board shall be for owners' account.

118 **21. SEPARATIONS-** the cost of cargo separations, including labour used for laying same, shall be for Charterers'
119 account unless required by the Owners, in which case all resultant expenses, including time lost or time on
120 demurrage to be for Owners' account.

121 **22. STRIKES-** If the cargo cannot be loaded by reasons of Riots, Civil Commotion or of a Strike or Lockout of
122 any class of workmen essential to the loading of the cargo or by reason of obstructions or stoppages beyond the
123 control of the Charterers caused by Strikes, Lockout, Riots or Civil Commotions on the Railways, or in the
124 Docks, or other loading places or if the cargo cannot be discharged by reason of Riots, Civil Commotions, or
125 of a Strike or Lockout of any class of workmen essential to the discharge, the time for loading or discharging
126 as the case may be, shall not count during the continuance of such causes, provided that a Strike or Lockout of
127 the Shippers' and/or Receivers' men shall not prevent demurrage accruing if by the use of reasonable diligence
128 they could have obtained other suitable labour at current rates before the Strike or Lockout. In case of any
129 delay by reasons of the aforementioned causes, no claim for damages or demurrage shall be made by the
130 Charterers or Shippers or Receivers of the cargo, or by Owners of the vessel. For the purpose, however, of
131 the settling of despatch money accounts, any time lost by the vessel through any of the above mentioned causes
132 shall be counted as time used in loading or discharging, as the case may be.

133 In the event the vessel is delayed or rendered inoperative due to I.T.F. restrictions, strikes, labour stoppages,
134 boycott or any other difficulties due to vessel's flag or crew, such time lost shall not count as laytime or time
135 on demurrage.

136 **23. WAR RISKS-** If the Nation under whose flag the vessel sails, shall be at war whereby the free navigation of
137 the vessel is endangered, or in case of blockade or prohibition of export of agri-products from the loading
138 port(s), this Charter Party shall be null and void at the last outward port of delivery or at any subsequent stage
139 when the difficulty may arise, previous to cargo being shipped.

140 (a) No Bills of Lading to be signed for any blockaded port and if the port of discharge be declared blockaded
141 after Bills of Lading have been signed, or if the port to which the ship has been ordered to discharge either on
142 signing Bills of Lading or thereafter be one to which the ship is or shall be prohibited from going by the
143 Government of the Nation under whose flag the ship sails or by any other Government, the Owner shall
144 discharge the cargo at any other port covered by this Charter Party as ordered by the Charterers (provided such
145 other port is not a blockaded or prohibited port as above mentioned) and shall be entitled to freight as if the
146 ship had discharged at the port or ports of discharge to which she was originally ordered.

147 (b) The ship shall have liberty to comply with any orders or directions as to departure, arrival, routes, ports of
148 call, stoppages, destination, delivery or otherwise however given by the Government of the Nation under
149 whose flag the vessel sails or any department thereof, or by any other Government of any department thereof,
150 or any person acting or purporting to act with the authority of such Government or of any department thereof,
151 or by any committee or person having under the terms of the War Risks Insurance on the ship, the right to give
152 such orders or directions and if by reason of and in compliance with any such orders or directions anything is
153 done or is not done, the same shall not be deemed a deviation, and delivery in accordance with such orders or
154 directions shall be a fulfilment of the contract voyage and the freight shall be payable accordingly.

155 **24. GENERAL ICE-** Should ice prevent the vessel from reaching the port of loading or discharge, the Receivers
156 shall have the option of keeping the vessel waiting until the reopening of navigation and paying detention costs
157 at the rate of demurrage, or ordering the vessel to proceed to a safe and nearest accessible port where she can
158 safely load or discharge without risk of detention by ice. Such orders to be given within 48 hours after the
159 Master or the Owners have given notice to Charterers of the impossibility of reaching port or place of
160 destination.

161 If before or during loading or discharging the Master for fear of the vessel being frozen in deems it advisable to
162 leave, he has the liberty to do so with what cargo he has on board and proceed to the nearest safe and
163 accessible port. Such port to be nominated by Charterers and/or receivers as soon as possible, but not later than
164 24 running hours, Sundays and Holidays excluded, upon receipt of owners' request to nominate a substitute
165 loading or discharging port or place, failing which, the Master will himself choose such port or place.

166 On delivery of the cargo at such port or place, all conditions of the Bill(s) of Lading shall apply and the vessel
 167 shall receive the same freight as if she had discharged at the original port of destination, except that if the
 168 distance to the substitute port or place exceeds 100 nautical miles, the freight on the cargo delivered at the
 169 substitute port or place shall be increased proportionally.

170 **25. RESPONSIBILITIES AND IMMUNITIES-** This Charter Party and any Bills of Lading issued pursuant
 171 thereof is to be subject to the Hague-Visby Rules.
 172 If any provision of this Charter Party and of any Bill of Lading issued pursuant to it shall be repugnant to the
 173 said rules to any extent, such provision shall be void to that extent, but no further.
 174 The Owners shall in no case be responsible for loss of or damage to cargo howsoever arising prior to loading
 175 into and after discharge from the vessel.
 176 Save to the extent otherwise in this Charter Party expressly provided, neither party shall be responsible for any
 177 loss or damage or delay or failure in performance hereunder resulting from Act of God, war, civil commotion,
 178 quarantine, strikes, lockouts, arrest or restraint of princes, rulers and peoples or any other similar event.

179 **26. LAW AND ARBITRATION-**
 180 That the Charter Party shall be deemed to have been made in England and to be performed in England and
 181 shall be construed and take effect in accordance with the laws of England.
 182 Any dispute arising out of or under this Charter Party or any bill of lading issued thereunder shall be referred
 183 to Arbitration in accordance with the Arbitration Rules Form No: 127 of the Grain and Feed Trade
 184 Association, in the edition current at the date of this Charter Party, such Rules forming part of this Charter
 185 Party and of which the parties shall be deemed cognisant.

186 **27. SPECIAL PROVISIONS-** Owners guarantee that the description of the vessel is correct and any breach by
 187 Owners of any term forming part of the description of the vessel will give Charterers the option to terminate
 188 this Charter Party and/or claim damages.

Owners Charterers

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THE GRAIN AND FEED TRADE ASSOCIATION

INSURANCE TERMS

Sellers shall provide insurance in accordance with English law in respect of the subject matter in question against loss or damage, including sue and labour expenses, arising from perils of the sea, war, fire, pirates, arrests, restraints and detainments, barratry by crew, acts of thieves and all other similar losses or damage. Such insurance cover to be in the proportions and manner agreed pursuant to the sale contract, including whenever incorporated by reference the clause(s) set out in the following sections.

SECTION 1—CARGO CLAUSES (ALL RISKS)

1. This insurance attaches from the time the subject matter leaves the warehouse or place of storage at the place named in the policy for the commencement of the transit, continues during the ordinary course of transit and terminates either on delivery
 - (a) to the Consignees' or other final warehouse or place of storage at the destination named in the policy,
 - (b) to any other warehouse or place of storage, whether prior to or at the destination named in the policy, which the Assured elects to use either
 - (i) for storage other than in the ordinary course of transit
 - or
 - (ii) for allocation or distribution,
 - or (c) on the expiry of 60 days after completion of discharge oversea of the subject matter hereby insured from the oversea vessel at the final port of discharge, whichever shall first occur.If, after discharge oversea from the oversea vessel at the final port of discharge, but prior to termination of this insurance, the subject matter is to be forwarded to a destination other than that to which they are insured hereunder, this insurance whilst remaining subject to termination as provided for above, shall not extend beyond the commencement of transit to such other destination.

This insurance shall remain in force (subject to termination as provided for above and to the provisions of Clause 2 below) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transhipment and during any variation of the adventure arising from the exercise of a liberty granted to shipowners or charterers under the contract of carriage.

Transit Clause (incorporating Warehouse to Warehouse Clause)
2. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the adventure is otherwise terminated before delivery of the subject matter as provided for in Clause 1 above, then, subject to prompt notice being given to insurers/underwriters and to an additional premium if required, this insurance shall remain in force until either
 - (i) the subject matter is sold and delivered at such port or place, or, unless otherwise specially agreed, until the expiry of 60 days after completion of discharge oversea of the subject matter hereby insured from the oversea vessel at such port or place, whichever shall first occur,
 - or (ii) if the subject matter is forwarded within the said period of 60 days (or any agreed extension thereof) to the destination named in the policy or to any other destination, until terminated in accordance with the provisions of Clause 1 above.

Termination of Adventure Clause
3. Including transit by craft raft or lighter to or from the oversea vessel. Each craft raft or lighter to be deemed a separate insurance. The Assured is not to be prejudiced by any agreement exempting lightermen from liability.

Craft and C. Clause
4. Held covered at a premium to be arranged in case of change of voyage or of any omission or error in the description of the subject matter insured, carrying vessel or voyage.

Change of Voyage Clause
5. This insurance is against all risks of loss of or damage to the subject matter insured but shall in no case be deemed to extend to cover loss damage or expense proximately caused by delay or inherent vice or nature of the subject matter insured. Claims recoverable here under shall be payable irrespective of percentage.

All Risk Clause
6. No claim for Constructive Total Loss shall be recoverable hereunder unless the subject matter is reasonably abandoned either on account of their actual total loss appearing to be unavoidable or because the cost of recovering, reconditioning and forwarding the subject matter to the destination to which they are insured would exceed their value on arrival.

Constructive Total Loss Clause
7. General Average and Salvage Charges payable according to Foreign Statement or to York-Antwerp Rules if in accordance with the contract of carriage.

G.A. Clause
8. The seaworthiness of any carrying vessel as between the Assured and insurers/underwriters is hereby admitted. In the event of loss the Assured's right of recovery hereunder shall not be prejudiced by the fact that the loss may have been attributable to the wrongful act or misconduct of the shipowners or their servants, committed without the privity of the Assured.

Seaworthiness Admitted Clause
9. It is the duty of the Assured and their Agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss and to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised. Should expenses be incurred thereby insurers/underwriters will re-imburse the Assured for such expenditure provided the loss or damage falls within the provisions of this insurance.

Bailee Clause

10. This insurance shall not inure to the benefit of the carrier or other bailee. *Not to Inure Clause*
11. This insurance is extended to indemnify the Assured against such proportion of liability under the contract of carriage "Both to Blame Collision" Clause as is in respect of a loss recoverable hereunder.
In the event of any claim by shipowners under the said Clause, the Assured agree to notify the insurers/underwriters who shall have the right, at their own cost and expense, to defend the Assured against such claim.
"Both to Blame Collision" Clause
12. Warranted free of capture, seizure, arrest, restraint or detention, and the consequences thereof or any attempt thereat; also from the consequences of hostilities or warlike operations, whether there be a declaration of war or not; but this warranty shall not exclude collision, contact with any fixed or floating object (other than a mine or torpedo), stranding, heavy weather or fire unless caused directly (and independently of the nature of the voyage or service which the vessel concerned or, in the case of collision, any other vessel involved therein, is performing) by a hostile act by or against a belligerent power; and for the purpose of this warranty "power" includes any authority maintaining naval, military or air forces in association with a power.
Further warranted free from the consequences of civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy.
F.C. and S. Clause
Should Clause No. 12 be deleted, or the relevant War Clauses as set out in Section 4 be specifically included then the same shall be deemed to form part of this insurance.
13. Warranted free of loss or damage
(a) caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions;
(b) resulting from strikes, lock-outs, labour disturbances, riots or civil commotions. *F.S.R and C.C. Clause*
Should Clause No. 13 be deleted, or the relevant Strikes, Riots and Civil Commotions Clauses as set out in Section 5 be specifically included then the same shall be deemed to form part of this insurance.
14. In the event of any additional insurance being placed by the Assured for the time being on the subject matter herein insured, the value stated in this policy shall, in the event of loss or claim, be deemed to be increased to the total amount insured at the time of loss or accident.
Where the insurance is on "Increased Value" the following Clause shall apply: -
£..... being increased value of the subject matter to be deemed to be part of the total amount insured on the subject matter valued at such total amount.
Where the original policies effected on the subject matter, also cover Advance Freight then the word "subject matter" in this policy shall be deemed also to include "Advance Freight".
In the event of any additional insurance being placed by the Assured for the time being on the subject matter herein insured, the value of the subject matter shall, in the event of loss or claim, be deemed to be increased to the total amount insured at the time of loss or accident.
Increased Value Clause
15. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.
Reasonable Despatch Clause
16. Where the benefit of this insurance has been passed to a party hereunder in good faith who has bought or agreed to buy or acquired an insurable interest in the subject matter insured, the insurers/underwriters shall not reject a claim or invalidate this insurance on grounds of breach of obligation of good faith, or non-disclosure or misrepresentation and/or breach of any statutory obligation by any third party or by any other previous assured or on grounds of breach of warranty (whether express or implied) unless the party claiming hereunder is privy to the said breach, non-disclosure, misrepresentation or breach of warranty.
"No Policy Defence Admitted" Clause

NOTE: It is necessary for the Assured when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters and the right to such cover is dependent upon compliance with this obligation.

SECTION 2—CARGO CLAUSES (W.A.)

1. This insurance attaches from the time the subject matter leaves the warehouse or place of storage at the place named in the policy for the commencement of the transit, continues during the ordinary course of transit and terminates either on delivery
(a) to the Consignee's other final warehouse or place of storage at the destination named in the policy,
(b) to any other warehouse or place of storage, whether prior to or at the destination named in the policy, which the Assured elects to use either
(i) for storage other than in the ordinary course of transit
or
(ii) for allocation or distribution,
or
(c) on the expiry of 60 days after completion of discharge overseas of the subject matter hereby insured from the overseas vessel at the final port of discharge, whichever shall first occur.
If, after discharge overseas from the overseas vessel at the final port of discharge, but prior to termination of this insurance, the subject matter is to be forwarded to a destination other than that to which they are insured hereunder, this insurance whilst remaining subject to termination as provided for above, shall not extend beyond the commencement of transit to such other destination.
This insurance shall remain in force (subject to termination as provided for above and to the provisions of Clause 2 below) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transhipment and during any variation of the adventure arising from the exercise of a liberty granted to shipowners or charterers under the contract of carriage, but shall in no case be deemed to extend to cover loss damage or expense proximately caused by delay or inherent vice or nature of the subject matter insured.
Transit Clause (incorporating Warehouse to Warehouse Clause)
2. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the adventure is otherwise terminated before delivery of the subject matter as provided for in Clause 1 above, then, subject to prompt notice being given to insurers/underwriters and to an additional premium if required, this insurance shall remain in force until either
(i) the subject matter is sold and delivered at such port or place, or, unless otherwise specially agreed, until the expiry of 60 days after completion of discharge overseas of the subject matter hereby insured from the overseas vessel at such port or place, whichever shall first occur,

- or (ii) if the subject matter is forwarded within the said period of 60 days (or any agreed extension thereof) to the destination named in the policy or to any other destination, until terminated in accordance with the provisions of Clause 1 above.

Termination of Adventure Clause

3. Including transit by craft raft or lighter to or from the oversea vessel. Each craft raft or lighter to be deemed a separate insurance. The Assured is not to be prejudiced by any agreement exempting lightermen from liability.

Craft and C. Clause

4. Held covered at a premium to be arranged in case of change of voyage or of any omission or error in the description of the subject matter insured, carrying vessel or voyage.

Change of Voyage Clause

5. Warranted free from average under the percentage specified in the policy, unless general average, or the oversea vessel or craft be stranded, sunk or burnt, but notwithstanding this warranty the insurers/underwriters are to pay the insured value of any bag or package forming part of the subject matter insured which may be totally lost in loading, transhipment or discharge, also for any loss of or damage to the subject matter insured which may reasonably be attributed to fire, explosion, collision or contact of the vessel and/or craft and/or conveyance with any external substance (ice included) other than water, or to discharge of the subject matter at a port of distress. This Clause shall operate during the whole period covered by the policy. *Average Clause*

6. No claim for Constructive Total Loss shall be recoverable hereunder unless the subject matter is reasonably abandoned either on account of their actual total loss appearing to be unavoidable or because the cost of recovering, reconditioning and forwarding the subject matter to the destination to which they are insured would exceed their value on arrival. *Constructive Total Loss Clause*

7. General Average and Salvage Charges payable according to Foreign Statement or to York-Antwerp Rules if in accordance with the contract of carriage. *G.A. Clause*

8. The seaworthiness of any carrying vessel as between the Assured and insurers/underwriters is hereby admitted. In the event of loss the Assured's right of recovery hereunder shall not be prejudiced by the fact that the loss may have been attributable to the wrongful act or misconduct of the shipowners or their servants, committed without the privity of the Assured. *Seaworthiness Admitted Clause*

9. It is the duty of the Assured and their Agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss and to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised. Should expenses be incurred thereby insurers/underwriters will re-imburse the Assured for such expenditure provided the loss or damage falls within the provisions of this insurance.

Bailee Clause

10. This insurance shall not inure to the benefit of the carrier or other bailee. *Not to Inure Clause*
11. This insurance is extended to indemnify the Assured against such proportion of liability under the contract of carriage "Both to Blame Collision" Clause as is in respect of a loss recoverable hereunder. In the event of any claim by shipowners under the said Clause, the Assured agree to notify the insurers/underwriters who shall have the right, at their own cost and expense, to defend the Assured against such claim.

"Both to Blame Collision" Clause

12. Warranted free of capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat; also from the consequences of hostilities or warlike operations, whether there be a declaration of war or not; but this warranty shall not exclude collision, contact with any fixed or floating object (other than a mine or torpedo), stranding, heavy weather or fire unless caused directly (and independently of the nature of the voyage or service which the vessel concerned or, in the case of collision, any other vessel involved therein, is performing) by a hostile act by or against a belligerent power; and for the purpose of this warranty "power" includes any authority maintaining naval, military or air forces in association with a power.

Further warranted free from the consequences of civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy.

F.C. and S. Clause

Should Clause No. 12 be deleted, or the relevant War Clauses as set out in Section 4 be specifically included then the same shall be deemed to form part of this insurance.

13. Warranted free of loss or damage
(a) caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions;
(b) resulting from strikes, lock-outs, labour disturbances, riots or civil commotions. *F.S.R and C.C. Clause*

Should Clause No. 13 be deleted, or the relevant Strikes, Riots and Civil Commotions Clauses as set out in Section 5 be specifically included then the same shall be deemed to form part of this insurance.

14. In the event of any additional insurance being placed by the Assured for the time being on the subject matter herein insured, the value stated in this policy shall, in the event of loss or claim, be deemed to be increased to the total amount insured at the time of loss or accident.

Where the insurance is on "Increased Value" the following Clause shall apply: -

£..... being increased value of the subject matter to be deemed to be part of the total amount insured on the subject matter valued at such total amount.

Where the original policies effected on the subject matter, also cover Advance Freight then the word "subject matter" in this policy shall be deemed also to include "Advance Freight".

In the event of any additional insurance being placed by the Assured for the time being on the subject matter herein insured, the value of the subject matter shall, in the event of loss or claim, be deemed to be increased to the total amount insured at the time of loss or accident.

Increased Value Clause

15. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.

Reasonable Despatch Clause

16. Where the benefit of this insurance has been passed to a party hereunder in good faith who has bought or agreed to buy or acquired an insurable interest in the subject matter insured, the insurers/underwriters shall not reject a claim or invalidate this insurance on grounds of breach of obligation of good faith, or non-disclosure or misrepresentation and/or breach of any statutory obligation by any third party or by any other previous assured or on grounds of breach of warranty (whether express or implied) unless the party claiming hereunder is privy to the said breach, non-disclosure, misrepresentation or breach of warranty. *"No Policy Defence Admitted" Clause*

NOTE: It is necessary for the Assured when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters and the right to such cover is dependent upon compliance with this obligation.

SECTION 3—CARGO CLAUSES (F.P.A.)

1. This insurance attaches from the time the subject matter leaves the warehouse at the place named in the policy for the commencement of the transit and continues until the subject matter is delivered to the Consignee's or other final warehouse at the destination named in the policy. *Transit Clause*
2. Subject to the provisions of Clause 3 hereunder this insurance shall remain in force during
 - (i) deviation, delay, beyond the control of the assured, forced discharge, re-shipment and transhipment
 - (ii) any other variation of the adventure arising from the exercise of a liberty granted to shipowners or charterers under the contract of carriage,but shall in no case be deemed to extend to cover loss damage or expense proximately caused by delay or inherent vice or nature of the subject matter insured. *Extended Cover Clause*
3. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the adventure is otherwise terminated before delivery of the subject matter into Consignees' or other final warehouse at the destination named in the policy, then, provided notice is given immediately after receipt of advices and subject to an additional premium if required, this insurance shall remain in force
 - (i) until the subject matter is sold and delivered at such port or place
 - (ii) if the subject matter is forwarded to the destination named in the policy or to any other destination, until the subject matter have arrived at Consignees' or other final warehouse at such destination. *Termination of Adventure Clause*
4. Including transit by craft, raft and/or lighter to and from the oversea vessel. Each craft, raft or lighter to be deemed a separate insurance. The Assured is not to be prejudiced by any agreement exempting lightermen from liability. *Craft and C. Clause*
5. Held covered at a premium to be arranged in case of change of voyage or of any omission or error in the description of the subject matter insured, carrying vessel or voyage. *Change of Voyage Clause*
6. Warranted free from particular average unless the vessel and/or craft be stranded, sunk, burnt, or in collision with another ship or vessel but notwithstanding this warranty the insurers/underwriters are to pay for loss of or damage to the subject matter hereby insured which may reasonably be attributed to fire, explosion or contact (other than collision with another ship or vessel) of the oversea vessel and/or craft and/or conveyance with any substance, ice included, other than water, or owing to discharge of the subject matter at a port of distress. Insurers/underwriters shall pay partial loss occurring during transhipment and to pay the insured value of any bag or package forming part of the total subject matter insured which may be totally lost in loading or discharge, and the insured value of any portion of the subject matter condemned at a port of distress owing to perils insured against. Insurers/underwriters shall also pay special charges for landing warehousing and forwarding if incurred at an intermediate port of call or refuge, for which insurers/underwriters would be liable hereunder with the Cargo Clauses (W.A.), (as set out in GAFTA Form 72), attached.
This Clause shall operate during the whole period covered by the policy. *F.P.A. Clause*
7. No claim for Constructive Total Loss shall be recoverable hereunder unless the subject matter is reasonably abandoned either on account of their actual total loss appearing to be unavoidable or because the cost of recovering, reconditioning and forwarding the subject matter to the destination to which they are insured would exceed their value on arrival. *Constructive Total Loss Clause*
8. General Average and Salvage Charges payable according to Foreign Statement or to York-Antwerp Rules if in accordance with the contract of carriage. *G.A. Clause*
9. The seaworthiness of any carrying vessel as between the Assured and the insurers/underwriters is hereby admitted. In the event of loss the Assured's right of recovery hereunder shall not be prejudiced by the fact that the loss may have been attributable to the wrongful act or misconduct of the shipowners or their servants, committed without the privity of the Assured. *Seaworthiness Admitted Clause*
10. It is the duty of the Assured and their Agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss and to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised. Should expenses be incurred thereby, insurers/underwriters will re-imburse the Assured for such expenditure provided the loss or damage reasonably falls within the provisions of this insurance. *Bailee Clause*
11. This insurance is extended to indemnify the Assured against such proportion of liability under the contract of carriage "Both to Blame Collision" Clause as is in respect of a loss recoverable hereunder.
In the event of any claim by shipowners under the said Clause the Assured agree to notify the insurers/underwriters who shall have the right, at their own cost and expense, to defend the Assured against such claim. *"Both to Blame Collision" Clause*
12. Warranted free of capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereof; also from the consequences of hostilities or warlike operations, whether there be a declaration of war or not; but this warranty shall not exclude collision, contact with any fixed or floating object (other than a mine or torpedo), stranding, heavy weather or fire unless caused directly (and independently of the nature of the voyage or service which the vessel concerned or, in the case of collision, any other vessel involved therein, is performing) by a hostile act by or against a belligerent power; and for the purpose of this warranty "power" includes any authority maintaining naval, military or air forces in association with a power.
Further warranted free from the consequences of civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy. *F.C. and S. Clause*
Should Clause No. 12 be deleted, or the relevant War Clauses as set out in Section 4 be specifically included then the same shall be deemed to form part of this insurance.
13. Warranted free of loss or damage
 - (a) caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions;
 - (b) resulting from strikes, lock-outs, labour disturbances, riots or civil commotions. *F.S.R and C.C. Clause***Should Clause No. 13 be deleted, or the relevant Strikes, Riots and Civil Commotions Clauses as set out in Section 5 be specifically included then the same shall be deemed to form part of this insurance.**
14. In the event of any additional insurance being placed by the Assured for the time being on the subject matter herein insured, the value stated in this policy shall in the event of loss or claim, be deemed to be increased to the total amount insured at the time of loss or accident.
Where the insurance is on "Increased Value" the following Clause shall apply: -

£..... being increased value of the subject matter to be deemed to be part of the total amount insured on the subject matter valued at such total amount.

Where the original policies effected on the subject matter also cover Advance Freight then the word "subject matter" in this policy shall be deemed also to include "Advance Freight".

In the event of any additional insurance being placed by the Assured for the time being on the subject matter herein insured, the value of the subject matter shall, in the event of loss or claim, be deemed to be increased to the total amount insured at the time of loss or accident.

Increased Value Clause

15. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.

Reasonable Despatch Clause

16. Where the benefit of this insurance has been passed to a party hereunder in good faith who has bought or agreed to buy or acquired an insurable interest in the subject matter insured, the insurers/underwriters shall not reject a claim or invalidate this insurance on grounds of breach of obligation of good faith, or non-disclosure or misrepresentation and/or breach of any statutory obligation by any third party or by any other previous assured or on grounds of breach of warranty (whether express or implied) unless the party claiming hereunder is privy to the said breach, non-disclosure, misrepresentation or breach of warranty.

"No Policy Defence Admitted" Clause

NOTE: It is necessary for the Assured when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters and the right to such cover is dependent upon compliance with this obligation.

SECTION 4—WAR CLAUSES (CARGO)

1. This insurance covers the risks otherwise excluded under the standard F.C. and S. Clauses above, except as provided in Clause 3 below, loss of or damage to the subject matter insured caused by
 - 1.1. war civil war revolution insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
 - 1.2. capture seize arrest restraint or detention, arising from risks covered under 1.1 above, and the consequences thereof or any attempt thereat
 - 1.3. derelict mines torpedoes bombs or other derelict weapons of war.
 2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from a risk covered under these clauses.
 3. This insurance excludes
 - 3.1. any claim based upon loss of, or frustration of, the insured voyage or adventure caused by arrests, restraints or detentions of Kings, Princes, Peoples, Usurpers or persons attempting to usurp power.
 - 3.2. loss, damage or expense arising from any hostile use of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radio-active force or matter
 - 3.3. loss or damage proximately caused by delay inherent vice or loss of market, or any claim for expenses arising from delay except such expenses as would be recoverable in principle under English law and practice under York-Antwerp Rules.
 4. Claims recoverable shall be payable irrespective of percentage.
 5. This insurance, except for the risks of mines and derelict torpedoes, floating or submerged, referred to in Clause 6 below
 - 5.1. attaches from the time the subject matter insured or part thereof is loaded on the board the oversea vessel and continue, subject to 5.3 and 5.4 below, until such time as the subject matter insured or part thereof is discharged from the oversea vessel at the final port or place of discharge, or on expiry of 15 days counting from midnight of the day of arrival of the oversea vessel at the final port or place of discharge, whichever shall first occur.
 - 5.2. nevertheless, subject to prompt notice to the insurers/underwriters and to an additional premium, such insurance reattaches when, without having discharged the subject matter at the final port or place of discharge, the oversea vessel sails therefrom, and terminates, subject to 5.3 and 5.4 below, either as the subject matter or part thereof is thereafter discharged from the oversea vessel at the final (or substituted) port or place of discharge, or on expiry of 15 days counting from midnight of the day of re-arrival of the oversea vessel at the final port or place of discharge or arrival of the oversea vessel at a substituted port or place of discharge, whichever shall first occur.
 - 5.3. If during the insured voyage the oversea vessel arrives at an intermediate port or place to discharge the subject matter for on-carriage by another oversea vessel, such insurance terminates on expiry of 15 days counting from midnight of the day of arrival of the first oversea vessel at the intermediate port or place, but reattaches as the subject matter or part thereof is loaded on the second on-carrying oversea vessel. During the period of 15 days such insurance remains in force after discharge only whilst the subject matter or part thereof is at such intermediate port or place of discharge. If the insurance reattaches, it thereafter terminates in accordance with 5.1.
 - 5.4. If the voyage in the contract of carriage is terminated at a port or place other than the destination agreed therein, such port or place shall be deemed the final port of discharge and such insurance terminates in accordance with 5.1. If the subject matter is subsequently reshipped to the original or any other destination, then, provided notice is given to the insurers/underwriters before the commencement of such further transit and subject to an additional premium, if any, such insurance reattaches.
 - (i) in the case of the subject matter having been discharged, as the subject matter or part thereof is loaded on the on-carrying oversea vessel for the voyage
 - (ii) in the case of the subject matter not having been discharged, when the oversea vessel sails from such deemed final port of discharge; thereafter such insurance terminates in accordance with 5.2.
- (For the purpose of Clause 5 "arrival" shall be deemed to mean that the oversea vessel is anchored moored or otherwise secured at a berth or place within the Harbour Authority area. If such a berth or place is not available, arrival is deemed to have occurred when the oversea vessel first anchors, moors or otherwise secures either at or off the intended port or place of discharge).
6. The insurance against the risks of mines and derelict torpedoes, floating or submerged,
 - 6.1. attaches as the subject matter or part thereof is first loaded on any carrying vessel or craft after such subject matter leaves the warehouse or place of storage at the place named in the insurance for the commencement of the transit and

- 6.2. terminates either
- 6.2.1. as the subject matter or part thereof is discharged finally from any carrying vessel or craft prior to delivery to the warehouse or place of storage at the destination named in the insurance, or at a substituted destination in the event of a change of voyage agreed to by the insurers/underwriters, or
- 6.2.2. when, before the subject matter is discharged finally from any carrying vessel or craft prior to delivery to the warehouse or place of storage at the destination named in the insurance, or at a substituted destination in the event of a change of voyage agreed to by the insurers/underwriters the voyage or transit in the contract of carriage is terminated at a port or place other than the destination agreed therein, nevertheless subject to prompt notice to the insurers/underwriters and to an additional premium being agreed if required, such insurance reattaches, and thereafter terminates either
- (i) as the subject matter or part thereof is discharged from any carrying vessel or craft prior to sale and delivery at such port or place, or
 - (ii) unless otherwise specifically agreed by the insurers/underwriters, on the expiry of 60 days whilst afloat after completion of discharge overseas of the subject matter from an overseas vessel at such port or place, whichever shall first occur. If the subject matter is forwarded within the 60 days (or any agreed extension thereof) to the destination named in the insurance or to any other destination, then, subject to prompt notice to the insurers/underwriters and to an additional premium being agreed if required, such insurance remains in force until terminated as the subject matter or part thereof is finally discharged from any such vessel or craft prior to delivery to the warehouse or place of storage at the destination named in the insurance, or at a substituted destination in the event of a change of voyage agreed to by the insurers/underwriters.

(For the purpose of Clause 5 and Clause 6 "oversea vessel" shall be deemed to mean the vessel carrying the subject matter from one port or place to another where such voyage involves a sea passage by that vessel.)

7. Anything contained in this contract which is inconsistent with Clauses 3.1, 3.2, 5 or 6 shall, to the extent of such inconsistency, be null and void.
8. Subject to prompt notice to the insurers/underwriters and to an additional premium being agreed, the subject matter is held covered within the provisions of these clauses in the case of
 - (i) change of or deviation from the voyage
 - (ii) variation of the adventure by reason of the exercise of any liberty granted to the shipowner or charterer under the contract of carriage.
9. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.

NOTE: It is necessary for the Assured when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters and the right to such cover is dependent upon compliance with this obligation.

SECTION 5—STRIKES, RIOTS AND CIVIL COMMOTIONS CLAUSES

1. This policy covers loss of or damage to the subject matter hereby insured caused by
 - (a) strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions;
 - (b) persons acting maliciously.
2. Warranted free of
 - (i) loss or damage proximately caused by
 - (a) delay, inherent vice or nature of the subject matter hereby insured;
 - (b) the absence, shortage or withholding of labour of any description whatsoever during any strike, lock-out, labour disturbance, riot or civil commotion;
 - (ii) any claim for expenses arising from delay except such expenses as would be recoverable in principle in English law and practice under York-Antwerp Rules;
 - (iii) loss or damage caused by hostilities war-like operations, civil war, or by revolution, rebellion, insurrection or civil strife arising therefrom.
3. This insurance attaches from the time the subject matter leaves the warehouse at the place named in the policy for the commencement of the transit and continues until the subject matter is delivered to the Consignees' or other final warehouse at the destination named in the policy.
4. Subject to the provisions of Clause 5 hereunder this insurance shall remain in force during
 - (i) deviation, delay beyond the control of the Assured, forced discharge, re-shipment and transhipment
 - (ii) any other variation of the adventure arising from the exercise of a liberty granted to shipowners or charterers under the contract of carriage.
5. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the adventure is otherwise terminated before delivery of the subject matter into Consignees' or other final warehouse at the destination named in the policy, then, provided notice is given immediately after receipt of advices and subject to an additional premium if required, this insurance shall remain in force
 - (i) until the subject matter is sold and delivered at such port or place
 - or (ii) if the subject matter is forwarded to the destination named in the policy or to any other destination, until the subject matter has arrived at Consignees' or other final warehouse at such destination.
6. General Average and Salvage Charges payable (subject to the terms of these clauses) according to Foreign Statement or York-Antwerp Rules if in accordance with the contract of carriage.
7. Claims for loss or damage within the terms of these clauses shall be payable without reference to conditions of average.
8. Held covered at a premium to be arranged in case of change of voyage or of any omission or error in the description of the subject matter insured, carrying vessel or voyage.
9. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.

NOTE: It is necessary for the Assured, when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters, and the right to such cover is dependent upon compliance with this obligation.

**SECTION 6—AUSTRALIAN, CANADIAN, SOUTH AFRICAN AND UNITED STATES OF AMERICA ACTS
(Relating to Carriage of Goods by Sea)**

The assured is held covered against "loss or damage arising or resulting from act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship" for which the "carrier" or "ship" is relieved of responsibility under:

Article 4 of the Commonwealth of Australia Sea Carriage of Goods Act, 1924, or

Article IV Section 2 of the Rules appended to the Water Carriage of Goods Act, 1936, of Canada, or

Chapter 8 Section 309 (2) of the Union of South Africa Merchant Shipping Act, No. 57, of 1951, or

Section 3 of the Act of Congress of the United States, approved 13th February, 1893, or

Section 4, sub-Section 2 of the Carriage of Goods by Sea Act, 1936, of the United States of America

but nothing in this clause contained shall limit or affect any rights which insurers/underwriters may have by subrogation or otherwise, against the owners of the said vessel.

Claims arising under this clause are not subject to the F.P.A. warranty.

NOTE: It is necessary for the Assured, when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters, and the right to such cover is dependent upon compliance with this obligation.

SECTION 7—SPONTANEOUS COMBUSTION

Notwithstanding anything to the contrary this insurance covers loss of or damage to the subject matter insured caused by heating, sweating or spontaneous combustion.

NOTE: It is necessary for the Assured, when they become aware of an event under which it is "held covered" under this insurance to give prompt notice to insurers/underwriters, and the right to such cover is dependent upon compliance with this obligation.

SECTION 8 - RADIOACTIVE CONTAMINATION

Irrespective of which conditions and clauses have been agreed the Institute Radioactive Contamination Exclusion Clause shall apply in any case.

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(THE GRAIN AND FEED TRADE ASSOCIATION)

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THE GRAIN AND FEED TRADE ASSOCIATION

WEIGHING RULES

For all contracts incorporating the terms and conditions of the Grain & Feed Trade Association (GAFTA), unless mutually agreed otherwise, weighing shall be in accordance with the following rules: -

1. GENERAL

- 1:1 Weighing to be done by the dock authorities or public sworn weighers or by weighers appointed or recognised by the local public or dock authorities, or approved by the superintendents, according to the custom of the port or location designated in the contract.
- 1:2 All parties to the contract or their representatives or their GAFTA approved superintendent to be given full access to the loading or discharge and weighing equipment and/or the conveying elements, and to carry out or oversee all checks made of the weighing equipment. All goods being loaded or discharged are to pass through the weighing equipment in a secure route. All weighing to be concurrent with discharge or loading or other handling operations.
- 1:3 The operator's manual for the weighing equipment being used to be available and accessible to all concerned parties as and when required.
- 1:4 The latest Manufacturer's and/or National Authorities check certificate and/or log on the weighing equipment being used to be made available on request for inspection by any concerned party at the loading and/or discharge installation.
- 1:5 Where National Authorities or other party as applicable in the country of use operate an approval system, then the Weighing equipment in use should be of an approved status.
- 1:6 All weighing equipment and/or conveying elements being used should, prior to commencement, be clean and empty.
- 1:7 All weighing to be performed within the port limits or other delivery location as agreed in the contract.
- 1:8 Where there is a National Authority tolerance level, that level is to apply as an acceptable tolerance.
- 1:9 All sweepings and/or spillage to be uplifted and weighed, or an allowance mutually agreed between the parties or their GAFTA approved superintendents.
- 1:10 If requested, all printouts or tickets of any weighing shall be at the disposal of any concerned party to the contract or their GAFTA approved superintendent.
- 1:11. Should any checks not be able to be made, or denied, or the checks show that the weighing equipment is operating outside of the acceptable tolerances, or found to be at fault, at the time of weighing or subsequently, then the parties to the contract are to mutually agree upon the loaded/discharged weight. If a mutual agreement cannot be reached, then such a dispute may be referred to arbitration in accordance with GAFTA Arbitration Rules No.125.

2. DISCONTINUOUS WEIGHERS (MECHANICAL OR AUTOMATIC HOPPER SCALES)

- 2:1 Prior to the commencement of loading and/or discharge, the weighing equipment should be balanced and/or zeroed when empty, either party has the right to secure the weighing equipment if such facility exists, and checked during the operation of weighing, as required by either party or their GAFTA approved superintendent.
- 2:2 Static checks, where appropriate, to be performed as required by any concerned party to the contract or their GAFTA approved superintendent so long as the number of tests requested are reasonable and do not unduly delay the handling operations.
- 2:4 During use of the weighing equipment, if fitted with checking means such as a deviation to a second scale or other method, checks are to be carried out with the actual commodity, as required by any concerned party to the contract or their GAFTA approved superintendent, so long as the number of tests requested are reasonable and in turn do not unduly delay the installation's operations.

3. DAMAGED GOODS

- 3:1 In case of damage the discharged weight shall be determined on the basis of an analysis made of the samples of the damaged and undamaged part of the goods. Additional weight due to damage not to be paid for, unless the rye terms

applies.

4. WEIGHBRIDGE - ROAD VEHICLES

4:1 Prior to the commencement of loading and/or discharge, the weighing equipment should be balanced and/or zeroed when empty, and checked during the operation of weighing, as required by either party or their GAFTA approved superintendent.

4:2 Static checks, where appropriate, to be performed as required by any concerned party to the contract or their GAFTA approved superintendent so long as the number of tests requested are reasonable and do not unduly delay the handling operations.

4:3 All road vehicles over a weighbridge should be weighed gross and tare. Double axle and Tri-axle weighing will not be accepted. For all loading or discharging procedures the vehicles should be weighed gross first, followed by tare, or tare first, followed by gross, as appropriate.

4:4 Any road vehicles having undergone only one weighing operation at the close of the working period, these vehicles must be re-weighed at the commencement of the next working period.

4:5 Any external circumstances that may cause variance to the weighing must remain consistent for both the gross and tare weighing operations.

5. WEIGHBRIDGE - RAIL WAGONS

5:1 Prior to the commencement of loading and/or discharge, the weighing equipment should be balanced and/or zeroed when empty, and checked during the operation of weighing, as required by either party or their GAFTA approved superintendent.

5:2 Static checks, where appropriate, to be performed as required by any concerned party to the contract or their GAFTA approved superintendent so long as the number of tests requested are reasonable and do not unduly delay the handling operations.

5:3 All rail wagons over a weighbridge must be static, uncoupled or coupled, and be weighed gross and tare. Double axle weighing will not be accepted. For all loading or discharging procedures the vehicles should be weighed gross first, followed by tare, or tare first, followed by gross, as appropriate. In motion weighing is not acceptable, unless otherwise mutually agreed by both parties to the contract in advance of the weighing operation.

5:4 If owing to restrictions at the place of handling and weighing it is not possible to establish an actual tare weight then the marked tare on each rail wagon may be taken, subject to them being properly legible.

5:5 Any rail wagons having undergone only one weighing operation at the close of the working period, these wagons must be re-weighed at the commencement of the next working period.

5:6 Any external circumstances that may cause variance to the weighing must remain consistent for both the gross and tare weighing operations.

6. LIQUIDS

6:1 Liquids to be weighed in accordance with the above Rules, otherwise in accordance with the custom of the trade/port.

7. BAGS

7:1 Bags to be weighed in accordance with the above Rules, otherwise in accordance with the custom of the port on weighbridges and/or platform scales.

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THE GRAIN AND FEED TRADE ASSOCIATION

SAMPLING RULES

**RULES FOR SAMPLING,
ANALYSIS INSTRUCTIONS AND
ANALYSIS CERTIFICATION**

(Including Natural Weight Rules and Allowances Scale)

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DEFINITIONS- TYPES OF SAMPLES

- **Increment Samples**
Samples taken by hand scoop (or whatever instrument appropriate) direct from the consignment of less than 1 kilo in weight, or if taken mechanically, weight appropriate to the equipment.
- **Bulk Sample**
Is the accumulation of all the increment samples.
- **Contractual Samples**
Samples reduced from the bulk sample sealed to 1 kilo containers each, in as many containers as required by Rule 5.
- **Analysis Samples**
Samples are reduced from the contractual samples, by the laboratories, to quantities appropriate for analysis tests.

1. GENERAL

For all contracts incorporating the terms and conditions of The Grain and Feed Trade Association (GAFTA), samples shall be drawn, mixed and sealed in accordance with the following rules: -

- 1:1** For the purpose of these Rules, the words "Buyers" and "Sellers" shall be deemed to be the parties to the contract and their respective superintendents at the port where the cargo is loaded and/or discharged and/or transshipped.
- 1:2** Pursuant to the contract terms and for the purposes of these Rules, superintendents shall be appointed from the GAFTA Approved Register of Superintendents.
- 1:3** If one of the parties is not represented for sampling or refuses to draw and/or seal samples as called for under the contract, the other party shall under advice to that party call upon a competent independent organisation for the appointment of a superintendent to act on their behalf to draw and/or seal samples according to these Rules. Extra expenses incurred in this connection shall be borne by the defaulting party.
- 1:4** The word "sealed" shall mean jointly sealed samples by the Buyers and Sellers or their superintendents and shall be sealed in such a manner as to prevent any access to the sample without breaking or removing the seal. The seal's mark should be clearly identifiable and clearly visible.

1:5 Sample Labels

Every contractual sample shall be sealed and shall bear the name of the ship, the quantity represented by the sample and the date the sample was sealed, and any other pertinent information which may be required on the label as follows:

Sender

M.V.

From

To

Commodity

Bags/Bulk

Marks

Shipper/Seller/Buyer

Set No Sample No.

Date and Place of Sealing

Quantity represented by this sample

Part Total Quantity of

Purpose of Sample

*Arbitration (Quality/Rye Terms), Natural Weight/Analysis

* delete as appropriate

D/O	Receiver	Quantity
B/L		
No.		
Seals		

(Labels may be purchased from Gafta)

- 1:6** For parties who have contracted in long tons, samples should be drawn for every 500 long tons, and for parties who have contracted in metric tons, samples should be drawn every 500 tonnes.

2. METHOD OF DRAWING SAMPLES

- 2:1** Samples shall be taken as required by the contract, in accordance with the following provisions of the Rules, during the discharge, and/or loading and/or transshipment operations as the case may be.

In the event that the operations preclude access to the hold or a mutually agreed acceptable sampling point, the superintendents may stop the operation in order to draw increment samples as required by these Rules. The parties are deemed to have agreed to this procedure. Sampling points have to be carefully selected, and agreed by the superintendents, at a point where the increment samples drawn are representative of the goods loaded and/or discharged and/or transshipped.

If samples are to be drawn outside of natural daylight they must be drawn under full and properly adequate ship's lighting and/or installation lighting. Irrespective of the time or place of sampling, the division, classification and sealing of contractual samples shall always be carried out in daylight or, in artificial light if considered adequate and mutually agreed by the superintendents.

2:2 Increment Samples

2:2:1 According to the rate of loading or discharge, increment samples shall be taken uniformly and systematically in order to achieve representative samples of the consignment, and placed in mutually agreed suitable container(s), to be kept closed and secure. As many increment samples as practically and physically possible shall be taken throughout discharge/loading, and where possible, each increment sample should not exceed 1 kilogram.

2:2:2 For contractual tonnage over 500 tonnes and under 5,000 tonnes a minimum of 20 kilogram, and over 5,000 tonnes a minimum of 10 kilogram, bulk sample of increments shall be taken for each 500 tonnes. However, if the contractual tonnage is less than 550 tonnes, the bulk sample of increments drawn shall be not less than 40 kilograms.

2:2:3 In any event, before the contractual sets of samples are prepared; increments shall be taken from the whole of the contract tonnage, except where the parties have agreed that the standing-in clause applies. In which event increments shall be taken from either the whole bill of lading quantity, or hold tonnage pursuant to Rule 5:2:1 and 5:2:3.

2:2:4 Security

If, due to the vast tonnage being loaded or discharged the bulk increment samples cannot be contained in one place, or at any cessation of work, and when full, the containers containing the increment samples must be sealed by the superintendents, and for safe custody, placed in a mutually approved secure place, until required to be divided and reduced for the contractual sets of samples.

2:2:5 Division of Increment Samples

Upon completion of the loading or the discharge of the contractual tonnage, all increment samples shall be emptied on to a well cleaned and flat surface (or for PP/PE bags into the approved mechanical division system - see Rules 3:3), in an area free from any possible contamination. The increment samples representing the total contractual quantity shall be thoroughly mixed into a bulk sample. Upon completion of the increment sampling, the bulk sample shall then be divided until reduced to the required quantity needed for the contractual sets of samples, and these samples shall be sealed without delay.

2:3 Bags

2:3:1 For goods in bags increment samples shall be drawn from original bags which are clearly identifiable with the appropriate markings; (a) for up to 100 bags, not less than 20 of the bags shall be sampled; (b) for up to 1000 bags, not less than 50 of the bags shall be sampled, and (c) over 1000 bags, not less than 3% with a minimum of 50 of the bags shall be sampled. Increment samples shall be drawn uniformly, by a piercing spear from the top, middle and bottom of each bag. If it is not possible to draw a sample by spear efficiently, then the original bags may be opened to sample by hand scoop. So far as is possible samples shall be drawn from the ends and middle of the bags in rotation.

2:3:2 Bags for cutting and starting (bleeding); when goods are loaded from bags to be cut and bled into the hold(s) of the vessel, increment samples shall be taken at the nearest point to the hold, either in accordance with Rule 2:4:1 for goods in bulk, or if not possible, samples shall be drawn from the bags as provided in Rule 2:3:1 for goods in bags.

2:3:3 Slab Cakes in bags; one cake to be taken from each of a number of bags selected at random but not less than 5 bags per 100 tonnes. Each cake to be broken into 8 pieces of about equal size. Each sample shall contain equal portions from each part of the cake.

2:4 Bulk

2:4:1 For goods in bulk at loading; increment samples shall be drawn uniformly and systematically, concurrently with loading at the nearest practicable point to the vessel. If increment samples are drawn from conveyor, or ex-vehicle, or ex-silo overside to vessel, they shall be drawn from a moving stream. If loading is by grab, increment samples shall be drawn from the quay or barge from the bulk, excluding the run. Increment samples shall be taken by ordinary hand scoop, spear, or by other mutually agreed equipment throughout loading.

2:4:2 For goods in bulk at discharge; increment samples shall be drawn uniformly and systematically, concurrently with discharge, from various parts of the hold in a fair proportion, excluding the run. If for any reason they cannot be drawn from the hold, increment samples shall be drawn uniformly and systematically, concurrently with discharge, at the nearest practicable point to the hold, preferably from a moving stream when discharging overside, or to silo, to craft or other means of transport. Increment samples shall be taken by ordinary hand scoop or by other mutually agreed equipment throughout discharge.

2:4:3 Slab Cakes in bulk; 5 cakes to be selected at random for each 100 tonnes. Each cake to be broken into 8 pieces of about equal size. Each contractual sample shall contain equal portions from each part of the cake.

2:5 Containers

Where goods are loaded, shipped or delivered in containers, in bulk or bags, increment samples shall be drawn in accordance with Rule 2:3 and 2:4 at the stuffing and unstuffing of the container, as the case may be, in accordance with the contract, by the most practical means possible agreed by the superintendents.

2:6 Contracts for Road and Rail Transport

Where grain samples are required to be taken from wagons or vehicles at loading, the increment samples shall be taken by spear from not less than 3 sampling points from each wagon or vehicle. Where feedingstuffs samples are required to be taken from wagons or vehicles at loading, the increment samples shall be drawn by ordinary hand scoop or by other mutually agreed equipment, from the moving stream at the outlet of the filling hopper. At discharge grain and feedingstuffs increment samples shall be drawn by ordinary hand scoop, or by any mutually agreed equipment, from the moving stream at the outlet(s) of the wagons or vehicles.

3. SAMPLE BAGS AND SAMPLE CONTAINERS

3:1 CB. (Containing Bags)

"CB" means the containing bags shall be new, made of non-toxic, odourless, unglazed, insewn, man-made or natural fibre or a mixture thereof, sufficiently tightly woven to retain all dust and/or foreign matter and prevent the moving apart of the warp and the weft of the material. They shall be tightly filled and securely tied before sealing.

3:2 MPC. (Moisture Proof Containers)

"MPC" means the containers shall be bottles, jars or tins with close fitting lids, or strong polythene of a minimum 250 gauge bags securely tied, and that such containers are labelled and shall be sealed, and if required by either superintendent, enclosed in a sealed "CB".

3:3 PP/PE. (Polypropylene/Polyethylene)

When the Council of GAFTA has given prior approval in writing to an operator to use an electrical/mechanical system for the division, packing and sealing samples, bags of sufficiently ventilating foil of PP/PE polypropylene/polyethylene material may be used in place of CB referred to in 3:1 above, or bags of non-ventilating foil of PP/PE polypropylene/polyethylene material may be used in place of containers MPC referred to in 3:2 above.

4. QUALITY CERTIFICATION AT TIME OF LOADING.

Where the contract provides that a certificate of inspection of a superintendent, government or authority at time of loading shall be final as to quality, then the superintendent, government or authority shall be solely responsible for drawing samples and Rules 1:3 and 5 do not apply.

An arbitration sample will be drawn only for those contract specifications, quality/condition/guarantees and warranties required under the contract and not covered by the certificate of inspection.

5. CONTRACTUAL SAMPLES REQUIRED FOR ANALYSIS TESTS AND ARBITRATION PURPOSES

5:1 Sets of Samples

A contractual set of samples is required for each 500 tonnes, or for any balance or contract for a lesser quantity, except where such balance does not exceed 50 tonnes, in which event a further sample is not required but the quantity shall be incorporated into the last samples drawn and so recorded on the sample labels. All contractual samples for any purpose shall be not less than 1 kilogram, except for natural weight tests where the samples shall be not less than 5 kilograms. Unless the contract stipulates otherwise, sets of samples of each parcel are required as follows: -

5:1:1 For Grain, Pulses, Seeds and Rice (except Malting Barley) at Loading sold on FOB Contracts or at

Discharge sold on CIF, CIFFO, C&F Contract Terms

One set of samples consists of the following: -

- CB - arbitration
- CB - analysis
- MPC - moisture when required by the contract
- CB - Natural Weight Tests - See Rule 7
- CB - FAQ Standard to be sent to GAFTA

Where the analysis for warranties and guarantees is to be determined by GAFTA, or their appointed analysts, or other accepted authority/analysts agreed by both parties, this set of samples and analysis instructions shall be sent to them within 14 consecutive days of sealing.

5:1:2 For Malting Barley at Loading sold on FOB Contracts or at Discharge sold on CIF, CIFFO, C&F Terms

Two sets of samples are required, to be marked "Set 1" and "Set 2" respectively, and each set consists of the following: -

- CB - arbitration
- CB - germination/admixture
- MPC - moisture/protein/calibration or screening
- CB - varietal purity
- CB - FAQ standard, to the sent to GAFTA

Where the analysis for warranties and guarantees is to be determined by GAFTA or their appointed Analysts or other accepted authority/analysts, both sets of samples and analysis instructions shall be sent to them by the last buyers within 21 consecutive days of sealing

For the second test, either party shall have the right, within 7 consecutive days from receipt of the first certificate to claim a second analysis in respect of the warranties or guarantees. Notification of such claim shall be given to GAFTA, or other accepted authority/analysts, as well as to the other party.

5:1:3 For Fertiliser at Loading sold on FOB Terms or at Discharge sold on CIF, CIFFO, C& F Terms

One set of samples consists of the following: -

- MPC - analysis
- MPC - analysis
- MPC - arbitration/analysis

Notwithstanding anything contrary in these Rules for parcels smaller than 1500 tonnes, samples shall be sealed per 250 tonnes. Buyers to arrange for analysis with an independent laboratory of their choice within 14 consecutive days after completion of discharge, and where no allowance is payable the costs will be for the account of Buyers. Sellers may accept the results of this test, or ask for a second test within 14 consecutive days after receipt of the certificate of analysis of the first test. In which case any allowances will be based on the results of the second test, but where no allowance is payable the costs of this test will be for the account of Sellers.

5:1:4 For Molasses sold on FOB Terms or at Discharge sold on CIF, CIFFO, C&F Terms

Every hour throughout loading/discharge half-litre samples shall be drawn from the sample points in all the loading/discharge pipelines. A composite sample of these half-litre samples shall be thoroughly mixed into 6 samples of approximately 1 litre each, jointly sealed and numbered;

- Nos. 1 and 2 to be held by Buyers
- Nos. 3 and 4 to be held by Sellers
- Nos. 5 and 6 to be held by Buyers for future reference.

Jointly sealed samples may also be taken from the tanks of Buyers' vessel for verification purposes. Buyers and Sellers shall each send one sample to an independent laboratory of their choice within 14 consecutive days of sealing.

5:1:5 For Feedingstuffs Sold on CIF, CIFFO, C&F Contract Terms at Discharge

One set of samples consists of the following: -

- MPC - analysis and where moisture is guaranteed
- * CB - analysis
- CB - analysis
- CB - arbitration purposes

For marine and animal products all above samples shall be contained in MPC's.

- * In the event the Standing-in-Clause applies, the 2nd analysis sample shall be in a MPC.

(For castor seed and/or castor seed husk and sand and/or silica analyses samples - see Rule 5:1:10)

a) First Analysis Test

If required by Buyers, the sealed samples in a MPC and analysis instructions shall, within 14 consecutive days of sealing be dispatched to one of the following analysts for analysis as required by the terms of the contract. In the event that this option is not decided at the time of the contract, the choice of analyst shall be that of the instructing party.

AGER,
or to Arbitrage-en Verzoeningskamer voor Granen en Zaden van Antwerpen,
or to Institut Europeen de L'Environnement de Bordeaux,
or to LabCo,
or to Salamon & Seaber,
or to Jordi Vidal,

Within 14 consecutive days of receipt of the certificate of analysis of this sample Buyers shall send a true copy thereof to Sellers stating whether they accept this analysis or whether they require a second analysis. Whereupon Sellers shall dispatch the samples and the instructions in accordance with par.b).

b) Second Analysis Test

Sellers have the right within 14 consecutive days of receipt by them of the true copy of the certificate of analysis to give notice to Buyers that they require a second analysis, and to dispatch another of the sealed samples and analysis instructions, without delay, to Eurofins for analysis. The mean of the two analyses shall be accepted as final if the variation does not exceed 0.50%. Should either party require further analysis but fail to make application therefor and to send samples within the time limit, then the mean of the two analyses then existing shall be deemed to be final.

c) Third Analysis Test

If the variation stated in Rule (b) above does exceed 0.50% then at the request of either party, made within 14 consecutive days of receipt (by them) of the true copy of the certificate of the second analysis, and on notice being given to the other party a third sealed sample shall be dispatched without delay to Eclipse for analysis, and the mean of the two analyses of all three tests nearest to each other shall be accepted as final and binding on both parties.

5:1:6 For Marine and Animal Products Sold on Contracts No.9 at Discharge and No.113 and for Feedingstuffs on Contract No.119 at Loading

One set of samples is required consisting of the following:-

- MPC - analysis
- MPC - arbitration

Buyers may accept Sellers' analysis but if required by Buyers, any one of the sealed samples together with instructions shall, within 14 consecutive days of sealing, be dispatched to Salamon & Seaber. In the event that this option is not decided at the time of arrival, the choice of analyst shall be that of the instructing party. This analysis shall be final and any claim arising from it shall be made within 14 consecutive days of the date thereof, accompanied by the certificate of analysis or a true copy.

5:1:7 For Ex-store Contracts Nos: 109 and 110

One set of samples in CB, is required for the purposes of the contractual warranties for analysis by Salamon &

Seaber. The party landing the goods shall appoint and instruct an independent GAFTA approved superintendent to draw and seal fully representative samples. Such samples will be drawn during the discharge of the importing vessel at the port in the country of the delivery place named in the contract. Notwithstanding the provisions of Rule 1:4, every sample shall be sealed and shall bear the name of the ship, quantity represented by the sample, together with the total quantity of which each sample forms part, the date the sample was sealed, a statement that the samples were sealed and taken in accordance with these Rules for analysis pursuant to Contracts Nos. 109 or No. 110 and any other pertinent information which may be required, in accordance with Rule 1:5. The laboratory shall record this information on the analysis certificate.

5:1:8 For Feedingstuffs and Fishmeal Sold on Contracts Nos. 10, 104, 112 and 118

The provisions of Rule No. 5:1:5 (a), (b), (c) and 5:1:11, apply, except that the first analysis test shall be carried out by Salamon & Seaber, the second analysis test by Eurofins and the third analysis test by Eclipse. (For fishmeal, samples shall be contained in MPC's). In addition, with regard to Contract No.112, Buyers have the option of requiring all analysis tests, for all or any of the contractual warranties, at the same time. In which case they shall be responsible for forwarding samples and giving the instructions to the analysts within 14 consecutive days of the sealing of samples. In that event the costs including analyses costs shall be for the account of the Buyers. Buyers shall send a notice to Sellers, at the same time as sending instructions to the analysts, that they have called on the analysts for all three tests at the outset.

5:1:9 For Goods Damaged and/or Out of Condition - "tale quale" and "rye terms"

For contracts on "tale quale" terms or terms other than "rye terms", without prejudice to Sellers' rights and responsibilities under the contract, Sellers' superintendents at Buyers request shall jointly seal samples of goods arriving damaged or out of condition in accordance with the provisions of this Rule.

For "rye terms" contracts samples shall in any event be drawn by the superintendents in accordance with the provisions of these Rules.

- a) Goods arriving damaged and/or out of condition, including "rye terms", shall be sampled on board the vessel at time of discharge, but in cases where both parties agree that it is not practicable for the classification and sampling to be carried out on board, then goods damaged and/or out of condition shall be landed on the quay or discharged to lighter for the purpose of such classification.

Sampling and sealing of classified sets of samples shall take place within the port area as soon as possible after the damaged goods are landed or discharged into lighter, always provided that all the damaged and/or out of condition and sound goods are classified. In the event of agreement not being reached, without prejudice to the parties rights and responsibilities under the contract, either party or both parties shall, after giving notice to the other party, apply to a competent independent organisation for the appointment of an independent superintendent to act on behalf of the other party and samples shall be drawn jointly under all reserves.

- b) The sets of sealed samples in classified lots shall be a fair and true indication of the degree of damage and/or out of condition goods, and the sample labels shall show the proportion of the tonnage so affected. Lumpy goods, if in bags, shall be sampled by cutting from top to bottom and withdrawing samples by hand if necessary.

The sample labels shall show the gross discharged weight of each classification it represents inclusive of any extraneous substance.

Sets of samples drawn and sealed pursuant to Rule 2:3 or 2:4 and 5 shall be taken for each classification as follows: -

- CB - lumpy/damaged/out of condition - For Buyers
- CB - lumpy/damaged/out of condition - For Sellers
- MPC - water, or oil, or liquid and/or chemical damaged goods - For Buyers
- MPC - water, or oil, or liquid and/or chemical damaged goods - For Sellers
- CB - sound goods for comparison purposes of 1 kilo irrespective of tonnage - For Buyers
- CB - sound goods for comparison purposes of 1 kilo irrespective of tonnage - For Sellers

- c) The "rye terms" samples (held by the Sellers and held by the Buyers) shall be forwarded to GAFTA within 7 consecutive days of discharge from the vessel or on completion of classification and sealing,

whichever happens later. The expenses incurred in sealing and forwarding of samples shall be paid half by Buyers and half by Sellers.

In the event of it being proved to the satisfaction of the arbitrators that one set of sealed samples, in part or whole, has been lost, damaged or destroyed prior to the expiration of the period for forwarding permitted under this clause, or that the said set having been forwarded in accordance with this clause has been lost, damaged or destroyed during transit, then either party shall be entitled to proceed to arbitration on the other complete set of sealed samples.

5:1:10 For Castor Seed and/or Castor Seed Husk, and/or for Sand and/or Silica Analyses

One set of samples consists of the following: -

- MPC - 1st analysis for castor seed and/or castor seed husk, and/or sand and/or silica analysis
- CB or MPC - 2nd analysis for castor seed and/or castor seed husk, and/or sand and/or silica analysis
- CB or MPC - 3rd analysis for sand and/or silica

a) First Analysis (For the ports of Belgium, Denmark, France, Italy, Netherlands, Norway, Spain, and Sweden)

For goods discharged at the above ports the first analysis for castor seed and/or castor seed husk and/or sand and/or silica shall be made by the following: -

- at Belgian Ports - Arbitrage-en Verzoeningskamer voor Granen en Zaden van Antwerpen,
- at Dutch Ports - LabCo,
- at French Ports - IEEB,
- at Italian Ports - AGER,
- at Norwegian, Swedish or Danish Ports - Steins Laboratorium As,
- at Spanish Ports - Jordi Vidal,

Within 14 consecutive days of sealing, the sealed samples in MPC's shall be dispatched to the appropriate analyst. If a second analysis for castor seed and/or castor seed husk and/or sand and/or silica is required such analysis shall be made by Salamon & Seaber on the sample already in their possession for a test of oil and protein or starch, as per Rule 5:1:5, but if a sample is not in their possession, on a sample sent to them without delay after receipt of the analysis certificate in respect of the first analysis for castor seed and/or castor seed husk, or sand and/or silica.

b) First Analysis (other ports)

For goods discharged at other ports the first analysis for castor seed and/or castor seed husk and/or sand and/or silica shall be made by Salamon & Seaber on one of the samples as per Rule 5:1:5 which shall, within 14 consecutive days of sealing, be dispatched to the analyst and which may also be used for other analyses if required.

c) Second Analysis (other ports)

If a second analysis for castor seed and/or castor seed husk and/or sand and/or silica is required, such analysis shall be made by Eurofins. If a sealed sample is not in the possession of Eurofins' laboratory when a second analysis is required as per Rule 5:1:5, another sealed sample, which shall also be used for other analyses if required, shall be sent to Eurofins' laboratory within 3 business days, after receipt of the analysis certificate in respect of the first analysis for castor seed and/or castor seed husk, or sand and/or silica as the case may be.

d) Third Analysis for Sand and/or Silica (all ports)

If a third analysis for sand and/or silica is required by either party such analysis shall be made by Eclipse. If a sealed sample is not in the possession of Eclipse's laboratory when a third analysis is required as per Rule 5:1:5, then another sealed sample, which shall also be used for other analyses if required, shall be sent to Eclipse within 3 business days, after receipt of the analysis certificate in respect of the second analysis for sand and/or silica.

5:1:11 Arbitration Sample

Any one of the sealed samples shall be retained for arbitration purposes, if required.

5:1:12 Moisture Guarantee

Where moisture is guaranteed, one set of samples in MPC's shall be drawn and the result of the first analysis

test shall be final.

5:1:13 For Bags and Sacks

If Buyers so request, Sellers' superintendent shall seal sample(s) of bags/sacks considered by Buyers' superintendent to be unsuitable and/or torn, but without prejudice to Sellers' rights and responsibilities under the contract. Samples of empty bags/sacks shall be sealed in four categories: - sound, lightly damaged, medium damaged, and heavily damaged. One bag to be selected to represent each category and the percentage of each category to be agreed by the superintendents and stated on the label(s).

5:2 Standing-in Provisions for Sampling Feedingstuffs

The provisions of Rule 5:1:5, 5:1:9 and Rule 5:1:11 apply except where they are modified by or inconsistent with the following Rules: -

5:2:1 For All Ports, excluding French Ports and excluding Dutch Ports for Goods of North and South American Origin

- a) If the goods concerned in the contract are sold under a standing-in clause and form part of a larger quantity in a hold, Buyers are deemed to have agreed, for their proportion, to abide by the samples drawn and sealed from that hold, for the purposes of analysis and/or arbitration. Goods from each hold shall be sampled and samples analysed separately in accordance with these Rules. If the goods are discharged simultaneously from more than one hold, but not more than two holds, through one discharging unit only, the standing-in quantity shall be the total tonnage of those holds for any receiver taking delivery from them.
- b) The CIF receiver(s) or their agents shall be responsible for forwarding samples and analytical instructions to both Salamon & Seaber and LabCo for all ports, (excluding Belgian and French ports), and for Belgian ports to both Salamon & Seaber and Arbitrage- en Verzoeningskamer voor Granen en Zaden van Antwerpen, and obtaining from the two analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall advise the analysts of the following: - the hold number, the bill of lading number, the delivery order number, the name of the vessel and the date of sealing, as well as the names of all receivers who have agreed to stand-in, together with their individual tonnages.
- c) Samples shall be drawn and sealed conjointly by the first CIF seller(s) and the CIF receiver(s) or their respective agents.
- d) Copies of the certificates of analysis showing the relevant details of his proportion shall be sent to any CIF receiver who has contractually requested an analysis. The mean of the two tests shall apply for the purpose of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.50%. Copies of the certificate of analyses shall be sent no later than 14 consecutive days from receipt of the last certificate by the Buyers to the Sellers.
- e) If the variation stated exceeds 0.50% then, at the request of either party under advice to their contractual party within 14 consecutive days of receipt by them of the last certificate of analysis, the third test shall be carried out by Eurofins and the mean of the two analysis tests nearest to each other shall be accepted as final and binding of the parties.
- f) The average of the first and second moisture test results shall be used as the calculating factor for the third test.

5:2:2 For French Ports

- a) If the goods concerned in this contract are sold under a standing-in clause, and form part of a larger parcel, Buyers are deemed to have agreed to abide by the samples drawn and sealed from the whole original parcel covered by the same bill of lading for the purposes of analysis and/or arbitration.
- b) The last CIF receiver(s) or their agents shall be responsible for forwarding samples and analytical instructions to both Salamon & Seaber and I.E.E.B, and obtaining from each of these analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall advise the analysts of the following: - the bill of lading number, the delivery order number, the name of the vessel and the date of sealing, as well as the names of all receivers who have agreed to stand-in, together with their individual tonnages.
- c) Samples shall be drawn and sealed conjointly by the first CIF seller(s) and the CIF receiver(s) or their

respective agents.

- d) Copies of the certificates of analysis showing the relevant details of his proportion shall be sent to any CIF receiver who has contractually requested an analysis. The mean of the two tests shall apply for the purpose of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.50%. Copies of the certificate of analyses shall be sent no later than 14 consecutive days from receipt of the last certificate by the Buyers to the Sellers.
- e) If the variation stated exceeds 0.50% then, at the request of either party under advice to their contractual party within 14 consecutive days of receipt by them of the last certificate of analysis, the third test shall be carried out by Eurofins and the mean of the two analysis tests nearest to each other shall be accepted as final and binding of the parties.
- f) The average of the first and second moisture test results shall be used as the calculating factor for the third test.

5:2:3 For Dutch Ports for Goods of North and South American Origin

- a) If the goods concerned in the contract are sold under a standing-in clause and form part of a larger quantity in a hold, Buyers are deemed to have agreed, for their proportion, to abide by the samples drawn and sealed from that hold, for the purposes of analysis and/or arbitration. Goods from each hold shall be sampled and samples analysed separately in accordance with these Rules. If the goods are discharged simultaneously from more than one hold, but not more than two holds, through one discharging unit only, the standing-in quantity shall be the total tonnage of those two holds for any receiver taking delivery from them.
- b) The first CIF seller or their agents shall be responsible for forwarding samples and analytical instructions within 14 consecutive days from sealing to both Salomon & Seaber and LabCo, and obtaining from the two analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall send copies to the respective CIF receivers or the agents and shall advise the analysts of the following; the hold number, the bill of lading number, the delivery order number, the name of the vessel and the date of sealing, as well as the names of all receivers who have agreed to stand-in, together with their individual tonnages.
- c) The first CIF seller(s) or their agents shall send photocopies of the analysis certificates to all CIF receivers or their agents who have agreed to stand-in as shown on the labels of the sample, within 14 consecutive days from receipt of the last certificate by the first CIF seller. In case the first CIF seller(s) or their agents should fail to do so within 14 consecutive days of sealing, then the CIF receiver(s) or their agents may forward samples and analytical instructions within 28 consecutive days of sealing. Copies of the analysis certificates shall be sent no later than 14 consecutive days from receipt of the last certificate by the CIF receiver or his agent to the first CIF seller or his agent as shown on the label and to all CIF receivers or their agents as shown on the label, who have agreed to stand-in.
- d) The mean of the two tests shall apply for the purposes of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.50%. If the variation exceeds 0.50%, the first CIF seller has the option to ask for a third test. This test shall be carried out by Eurofins. The first CIF seller shall advise the CIF receivers no later than 14 consecutive days from receipt of the last certificate of analysis, whether or not they require a third test. In case the first CIF sellers does not use this option, the CIF receiver(s) have the option to ask for a third test by Eurofins. CIF receiver(s) in that case shall advise the first CIF sellers whether or not a third test will be requested within 7 consecutive days of receipt of the notice from the first CIF sellers that the first CIF sellers does not require a third test will thereupon give instructions for the third test to be carried out. Certificates of analysis of the third test shall be sent by the first CIF sellers to the CIF receiver(s) within 7 consecutive days after receipt of the certificate from the analyst. In case a third test has been carried out, the mean of the two analysis tests nearest to each other shall be accepted as final.
- e) The average of the first and second moisture test results shall be used as the calculating factor for the third test.

6. DISPATCH OF SAMPLES, ANALYSIS INSTRUCTIONS AND CERTIFICATES

6:1 The party requiring any of the respective analyses pursuant to these Rules shall be responsible for the dispatch of the relative sample(s) and shall give directly, or through an agent or representative acting on their behalf, to the

analyst concerned, or to GAFTA when required by these Rules, instructions specifying what analyses are to be carried out, both to be done within the time limit stated in the foregoing Rules, and unless otherwise stated in these Rules, they shall send to the other party a copy of the relative certificate of analysis within 14 consecutive days of receiving it from the analyst.

Should the Buyers or any representatives acting on their behalf fail to both dispatch samples and to instruct the analyst, or GAFTA when required by these Rules, or fail to forward the certificate within the time limits within these Rules, then any claim for rejection or for an allowance in respect of any matters dealt with under the contract shall be deemed to be waived and absolutely barred, unless the arbitrators or board of appeal as the case may be, shall in their absolute discretion determine otherwise.

6:2 Feedingstuffs and Cereal By-Products in Bulk Discharged at Rotterdam and Amsterdam

For analysis of feedingstuffs and cereal by-products in bulk, discharged at Rotterdam and Amsterdam, contractual samples for standing-in purposes shall be forwarded to LabCo, to be divided and reduced. Contractual samples for other purposes may also be submitted to LabCo to be divided and reduced. The resulting sample(s) will be forwarded to the analyst in accordance with the provisions in these Rules.

7. NATURAL WEIGHT

7:1. Rules for Determining Natural Weight

7:7:1 When a natural weight is guaranteed at time of shipment or at discharge, samples of the sound portion of the cargo or parcel shall be taken in accordance with these Rules and forwarded as soon as possible GAFTA, or other agreed authority/analysts.

7:7:2 Upon receipt of the said samples GAFTA shall forthwith measure and weigh the same not less than five times on the Gravitron 3000 Counter-Machine and shall issue a certificate of the mean natural weight, which shall be final and binding on the parties. The whole of the samples to be weighed.

7:7:3 Any allowance due for deficiency in the guaranteed natural weight shall be paid only in respect to the sound portion of the cargo or parcel, but if the ascertained natural weight allowance is greater than the allowance given for "Rye Terms" on any portion, the difference shall be allowed to Buyers.

7:7:4 In every case in which an allowance for inferiority in quality is claimed, the Arbitrators shall, in determining the same, take into consideration the allowance (if any) already made for deficiency in guaranteed natural weight, according to the rule endorsed on the contract.

7:7:5 The cost of said certificates to be paid half by Buyer and half by Seller.

7:7:6 Where the natural weight is guaranteed at time of shipment or at discharge within a margin (as for example 66 kilograms - 67 kilograms) no allowance shall be made if the weight ascertained as herein provided be within the margin; but if the weight be below the minimum guaranteed, the allowance for deficiency shall be computed from the mean weight of the margin.

7:2. Allowances.

Any deficiency in the guaranteed natural weight shall be allowed for at 1% off the contract price per kilogram per hectolitre. Fractions of one kilogram, in proportion. If the deficiency exceeds 2.5 kilograms per hectolitre the allowance to be mutually agreed or settled by arbitration.

8. ANALYSIS REQUIREMENTS

8:1 Methods of Analysis; to be prescribed by GAFTA, being the GAFTA Rules No.130, for the time being in force. Where GAFTA does not prescribe a method, this has to be agreed by the parties who shall undertake to instruct the Analysts. Otherwise the test method to be decided by the Analyst. Analysts shall state on the certificate of analysis what methods they have used.

8:2 Calculating Factor - Moisture; Where a moisture test is part of the test method required to establish the analysis result, that moisture test result shall be recorded on the analysts certificate and shall apply as a calculating factor to any subsequent second or third test.

Formulae:

E.g.: Protein Result = A %
1st Moisture = Y %
2nd Moisture = X %

Result calculated to the 1st Moisture is
given by: $A \times 100 - Y$

- $\frac{\quad}{100 - X}$

- 8:3 Mixing;** when the contractual quantity is represented by more than one sample, the analyst shall mix the samples together in proportion to the weight represented by each sample. When arbitration samples are sent to GAFTA, the arbitrator(s) will be entitled to mix the samples together.
- 8:4** Where the difference between 3 analysis tests is the same, the average of the three results shall apply for the purposes of allowances.
- 8:5 Certificates;** irrespective of which party to the contract submits samples and gives instructions to the analysts, the analysts are entitled to supply to the other party a copy of the certificate upon application. Each analysis certificate shall state on it the relevant information from the sample label.
- 8:6 Costs;** the cost(s) of the analysis (es) for each separate warranty shall be borne by Buyers in cases where no allowance is payable, but by Sellers if Buyers are entitled to an allowance, in which case the analysts' administration and bulking costs shall also be for the account of Sellers.

9. NOTICES

In case of resales the notices clause in the contract shall apply, except that the certificates of analysis shall be passed by mail by the next business day following receipt.

10. NON-COMPLIANCE WITH THE RULES

In the event of non-compliance with the preceding provisions of these Rules being raised at arbitration as a defence, any quality and/or condition and/or rye terms arbitration claim shall be deemed to be waived and barred, unless the arbitrators or board of appeal as the case may be, shall in their absolute discretion determine otherwise.

11. RETENTION OF SAMPLES

11:1 The parties' superintendents shall dispose of samples drawn by them at the expiry of 3 months from the date of sealing. They may however retain samples for a longer period upon written request by either party to the contract.

11:2 Whilst GAFTA will make every effort to protect all samples entrusted to its care, neither the Association nor any of its servants or agents shall be under any liability whatsoever to any party having any interest in any samples received by it in pursuance of these Rules for any loss or damage to any such sample. The samples when delivered to GAFTA shall become its absolute property, and the Association shall not be responsible for the safe custody of any samples lodged. GAFTA shall be at liberty to dispose of samples at the expiry of 6 months from the date of receipt. GAFTA, however, may retain samples for a longer period upon written request.

11:3 All standard samples made up by and in the possession of GAFTA shall be the property of the Association, and may from time to time be inspected by Members at the premises of GAFTA on payment of the prescribed fee.

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THE GRAIN AND FEED TRADE ASSOCIATION

ARBITRATION RULES

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ARBITRATION RULES No. 125

Any dispute arising out of a contract or arbitration agreement, which incorporates or refers to these Rules, shall be referred to arbitration, and arbitrator(s) or board of appeal, as the case may be, will proceed to determine all issues put before them, in accordance with the following provisions: -

1. PRELIMINARY

1:1 The provisions of the Arbitration Act 1996, and of any statutory amendment, modification or re-enactment thereof for the time being in force, shall apply to every arbitration and/or appeal under these Rules save insofar as such provisions are expressly modified by, or are inconsistent with, these Rules.

1:2 The juridical seat of the arbitration shall be, and is hereby designated pursuant to section 4 of the Arbitration Act 1996 as, England.

1:3 Arbitration shall take place at the registered offices of The Grain and Feed Trade Association (GAFTA), London, or (but without prejudice to Rules 1:1 and 1:2 above), elsewhere if agreed by the parties in writing.

2. PROCEDURE AND TIME LIMITS FOR CLAIMING ARBITRATION

The claimant shall serve on the respondent a notice stating his intention to refer a dispute to arbitration within the following time limits. (The appointment of arbitrators shall be in accordance with Rule 3).

2:1 Disputes as to Quality and/or Condition

(a) In respect of disputes arising out of the "Rye Terms" clause not later than the 10th consecutive day after the date of completion of final discharge. (See Rule 6).

(b) In respect of claims arising out of certificates of analysis in respect of which allowances are not fixed by the terms of the contract, not later than the 21st consecutive day after the date on which the claimant receives the final certificate of analysis.

(c) In respect of all other quality and/or condition disputes, not later than the 21st consecutive day after the date of completion of final discharge, or delivery, or the unstuffing of the container(s), as the case may be.

2:2 Other Disputes

In respect of all other disputes relating to the sale of goods: -

(a) arising out of CIF, CIFFO, C & F and similar shipment contract terms, not later than one year after (i) the expiry of the contract period of shipment, including extension if any, or (ii) the date of completion of final discharge of the ship at port of destination, whichever period shall last expire,

(b) arising out of FOB terms, not later than one year after (i) the date of the last bill of lading or (ii) the expiry of the contract period of delivery, including extension if any, whichever period shall first expire,

(c) on any other terms, not later than one year after the last day of the contractual delivery, collection or arrival period, as the case may be.

(d) Irrespective of the time limits in (a), (b) and (c) above, in the event of non-payment of amounts payable, not later than 60 consecutive days from the notice that a dispute has arisen as provided for in the Payment Clause of the contract.

2:3 No award by the tribunal shall be questioned or set aside on appeal or otherwise on the ground that the

claim was not made within the time limits stipulated in this Rule if the respondent to the claim did not raise the matter in their submissions, so as to enable the tribunal to consider whether or not to exercise the discretion vested in it by Rule 21.

3. APPOINTMENT OF THE TRIBUNAL

The dispute shall be heard and determined by a tribunal of three arbitrators (appointed in accordance with Rule 3:2) or, if both parties agree, by a sole arbitrator (appointed in accordance with clause 3:1). This rule is without prejudice to Rule 6, which governs the appointment of the tribunal in relation to disputes arising out of the Rye Terms clause, and Rule 5.3, which governs the appointment of a tribunal for examination of samples.

3:1 Procedure for the Appointment of a Sole Arbitrator

- (a) If he requires the appointment of a sole arbitrator the claimant shall, before expiry of the time limit for claiming arbitration, serve a notice on the respondent seeking his agreement to the appointment of a sole arbitrator by GAFTA.
- (b) Not later than the 9th consecutive day after service of the notice referred to in (a) above, the respondent shall either; (i) serve a notice on the claimant stating that he agrees to the appointment of a sole arbitrator by GAFTA, or (ii) appoint an arbitrator to a tribunal of three arbitrators and serve on the claimant a notice of the arbitrator so appointed, in which case Rule 3:2(c) shall apply.
- (c) Where the parties have agreed to the appointment of a sole arbitrator, GAFTA shall appoint an arbitrator on receipt of the first statements and evidence submitted in accordance with Rule 4, or, where interlocutory or interim decisions are required of the tribunal, upon the application of either party.

3:2 Procedure for the Appointment of a Tribunal of Three Arbitrators

- (a) The claimant shall before the expiry of the time limit for claiming arbitration appoint an arbitrator and serve a notice on the respondent of the name of the arbitrator so appointed.
- (b) The respondent shall, not later than the 9th consecutive day after service of the notice of the name of the claimant's arbitrator, appoint a second arbitrator and serve a notice on the claimant of the name of the arbitrator so appointed.
- (c) If the respondent does not agree to the appointment of a sole arbitrator and has instead appointed an arbitrator and given written notice thereof pursuant to Rule 3:1 (b), the claimant shall not later than the 9th consecutive day after service of such notice of appointment, appoint a second arbitrator and serve a notice on the respondent of the name of the arbitrator so appointed.
- (d) Where two arbitrators have been appointed, GAFTA shall appoint a third arbitrator on receipt of the first statements and evidence submitted in accordance with Rule 4, or, where interlocutory or interim decisions are required of a tribunal, upon the application of either party. The third arbitrator shall be the chairman of the tribunal so formed and his name shall be notified to the parties by GAFTA.

3:3 Procedure for the Appointments of Arbitrators by GAFTA.

If either party fails to appoint an arbitrator or to give notice thereof within the above time limits, the other party may apply to GAFTA for the appointment of an arbitrator. Notice of such application must be served on the party who has failed to appoint. Upon such application being made, GAFTA will appoint an arbitrator on behalf of the party who has failed to do so, and give notice of the name of the arbitrator appointed to the parties.

Where the claimant has already sought the respondent's agreement to the appointment of a sole arbitrator pursuant to Rule 3:1, then GAFTA will appoint a sole arbitrator. Where either party has already appointed

an arbitrator, pursuant to Rule 3:1(b) or Rule 3:2, then GAFTA will appoint the second arbitrator of the tribunal.

3:4 Applications to GAFTA for the appointment of an arbitrator shall be accompanied by: -

- (a) prima facie evidence that the parties have entered into a contract subject to these Rules,
- (b) copies of the notices (i) claiming arbitration and (ii) stating that an application has been made to GAFTA for the appointment of an arbitrator,
- (c) the appropriate fee ruling at the date of application,

3:5 Appointments of arbitrators by GAFTA shall be made by any three of its Officers.

3:6 Any party making an application to GAFTA for the appointment of an arbitrator, may be required by GAFTA to pay a deposit of such sum as it may require on account of any fees and expenses thereafter arising.

3:7 An arbitrator appointed under these Rules shall be a GAFTA Qualified Arbitrator and shall not be interested in the transaction nor directly interested as a member of a company or firm named as a party to the arbitration, nor financially retained by any such company or firm, nor a member of nor financially retained by any company or firm financially associated with any party to the arbitration.

3:8 An appointment of an arbitrator shall be valid and effective for all purposes provided that he has signified his acceptance of the appointment to the party appointing him, or to GAFTA, as the case may be, at any time prior to the discharge of any arbitral function.

- 3:9**
- (a) If an arbitrator dies, refuses to act, resigns, or becomes incapable of acting, or if he fails to proceed with the arbitration, or is found to be ineligible, or his authority is revoked by the GAFTA pursuant to the GAFTA Rules and Regulations and Code of Conduct for Qualified Arbitrators, the party, or GAFTA as the case maybe, who originally appointed that arbitrator shall forthwith appoint a substitute and serve notice thereof on the other party.
 - (b) If a party fails, contrary to (a) above, to appoint a substitute arbitrator and to give notice thereof within 5 consecutive days of learning of the arbitrator's death, refusal to act, resignation, incapacity, failure to proceed, finding of ineligibility or revocation of authority, as the case may be, GAFTA shall, upon the application of either party, have the power to appoint a substitute arbitrator.

4. ARBITRATION PROCEDURE

4:1 The claimant shall draw up a clear and concise statement of his case, which, together with a copy of the contract and any supporting documents, shall be served as set out in Rule 4.4. The Claimant shall deposit with GAFTA such sum, as GAFTA considers appropriate on account of the costs, fees and expenses of the arbitration.

4:2 The respondent shall, on receipt of the claimant's case and documents, draw up a clear and concise statement of his defence (and counterclaim, if any) which, together with any supporting documents, shall be served as set out in Rule 4.4.

4:3 The claimant may submit further written comments and/or documents in reply, such to be served as set out in Rule 4.4.

4:4 All statements and evidence shall be served by sending them to the other party, with copies to GAFTA. In the case of a sole arbitrator 2 sets, or in the case of a tribunal of three arbitrators, 4 sets of statements and evidence, shall be delivered to GAFTA. Failure to send all sets to GAFTA will render the party responsible

liable for the costs of copying such documents for forwarding to the arbitrators.

- 4:5** The tribunal may vary or depart from the above procedure in order to give each party a reasonable opportunity of putting his case and dealing with that of his opponent, and shall adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters falling to be determined.
- 4:6** The timetable for the proceedings, including any steps to be taken pursuant to Rule 4 and/or determined by the tribunal, will be advised to the parties by GAFTA. It shall be the duty of the tribunal to ensure the prompt progress of the arbitration, including the making of orders where appropriate. Any delay in the proceedings may be notified to GAFTA.
- 4:7** Nothing in this Rule shall prevent the respondent from delivering his statement and documentary evidence before receiving documents/statements from the claimant.
- 4:8** Where the tribunal considers that an oral hearing is necessary, the date, time and place will be arranged by GAFTA. In which event the parties may be represented by one of their employees, or by a GAFTA Qualified Arbitrator or other representative, but they may not be represented by a solicitor or barrister, or other legally qualified advocate, wholly or principally engaged in private practice, unless legal representation is expressly agreed. The tribunal may call upon either party to deposit with GAFTA such sum or sums as the tribunal considers appropriate on account of fees, costs and expenses.

4:9 Lapse of Claim

If neither party submits any documentary evidence or submissions as set out in this Rule or as ordered by the tribunal, within 1 year from the date of the notice claiming arbitration, then, the claimant's claim shall be deemed to have lapsed on the expiry of the said period of 1 year unless before that date the claim is renewed:

- (a) by a notice served by either party on the other, such notice to be served during the 30 consecutive days prior to the expiry date, or
- (b) by the service of documentary evidence or submissions by either party,

in which case the claim and counterclaim are each renewed for a further year.

The claim may be thus renewed for successive periods of 1 year, but not to exceed more than 6 years from the date of the first notice served in accordance with Rule 2. Wherever a claim is renewed any counterclaim is also deemed to be renewed.

- 4:10** If the arbitration is abandoned, suspended or concluded, by agreement or otherwise, before the final award is made, the parties shall be jointly and severally liable to pay to GAFTA the tribunal's and GAFTA costs, fees and expenses.

5. SAMPLES

- 5:1** If either party wishes to submit samples for examination by the tribunal, those samples shall be drawn, sealed and despatched to GAFTA in accordance with the provisions of the GAFTA Sampling Rules No. 124, and shall be held at the disposal of the tribunal.
- 5:2** As soon as possible after receipt (and if necessary prior to the completion of the exchange of submissions and documents pursuant to Rule 4 and/or the order of the tribunal), the samples shall be examined by the tribunal. In particular,
- (a) in the case of claims arising out of the "rye terms" clause, the samples shall be examined not later than 21 consecutive days after the date of completion of final discharge of the ship at port of destination, and

- (b) where the claim involves comparison with a f.a.q. (fair average quality) standard, the samples shall be examined not later than 21 consecutive days after the date of publication by GAFTA that the standard has been, or will not be, made.

5:3 Upon the joint application of both parties, GAFTA may arrange for the examination of the contract goods to take place at the port of destination, by a sole arbitrator or (in the case of a dispute arising out of the “rye terms” clause) three arbitrators, such arbitrator or arbitrators to be appointed by GAFTA. This provision does not over-ride the parties’ obligations to take, seal and despatch samples where required by the GAFTA Sampling Rules No. 124. The tribunal so appointed shall determine all matters in dispute between the parties.

5:4 All samples sent to GAFTA for arbitration, testing and/or other purposes shall become and be the absolute property of GAFTA.

6. ARBITRATION PROCEDURE FOR CLAIMS ARISING OUT OF THE “RYE TERMS” CLAUSE

6:1 When the claimant has served on the respondent notice of its intention to refer the dispute to arbitration in accordance with Rule 2:1(a) he shall send a copy of the notice to GAFTA, together with sufficient information to identify the samples relating to the claim.

6:2 Notwithstanding anything to the contrary in these Rules, upon receipt of the notice as above, GAFTA shall appoint a tribunal of three arbitrators.

6:3 Any documentary submissions or evidence to be submitted by the parties shall be provided in accordance with Rule 4.

6:4 An award made pursuant to this Rule shall be final and binding and no appeal shall lie to a board of appeal.

7. STRING ARBITRATIONS – CONSOLIDATED ARBITRATIONS AND CONCURRENT HEARINGS

7:1 Quality and Condition

If a contract forms part of a string of contracts which contain materially identical terms (albeit that the price may vary under each contract), a single arbitration determining a dispute as to quality and/or condition may be held between the first seller and the last buyer in the string as though they were parties who had contracted with each other.

Any award made in such proceedings shall, subject only to any right of appeal pursuant to Rule 10, be binding on all the parties in the string and may be enforced by an intermediate party against his immediate contracting party as though a separate award had been made pursuant to each contract.

7:2 Other Cases

In all other cases, if all parties concerned expressly agree, the tribunal may conduct arbitral proceedings concurrently with other arbitral proceedings, and, in particular, concurrent hearings may be held, but separate awards shall be made pursuant to each contract.

8. ISSUES OF SUBSTANTIVE JURISDICTION, PROVISIONAL ORDERS AND AWARDS ON DIFFERENT ASPECTS

8:1 Issues of Substantive Jurisdiction

(a) The tribunal may rule on its own jurisdiction, that is, as to whether there is a valid arbitration agreement, whether the tribunal is properly constituted and what matters have been submitted to arbitration in accordance with the arbitration agreement.

(b) In the event that the tribunal determines it has no jurisdiction, GAFTA will notify the parties of the

tribunal's decision. Such decision shall be final and binding upon the parties subject to any right of appeal to a board of appeal pursuant to Rule 10. GAFTA will invoice the claimant for any costs, fees and expenses incurred. In the event that the tribunal determines that it has jurisdiction, no appeal shall lie to a board of appeal.

- (c) If the board of appeal upholds the tribunal's determination that it has no jurisdiction, the board of appeal shall order accordingly and GAFTA shall notify the parties and the tribunal and will invoice the appellants for any costs, fees and expenses incurred.
- (d) If the board of appeal reverses the tribunal's determination that it has no jurisdiction, the board of appeal shall order accordingly, and GAFTA shall notify the parties and the tribunal, and shall order that the dispute be referred to arbitration afresh, whereupon: -
 - (i) The dispute shall be deemed to be one arising out of a contract embodying these Rules.
 - (ii) The tribunal formerly appointed shall thereupon cease to act and shall not be re-appointed when the dispute is referred as aforesaid.
 - (iii) The provisions of Rule 3 shall apply, the time limits for appointment running from the date of the board of appeal's order.
 - (iv) The board of appeal may in its absolute discretion extend the time limits in these Rules, and no objection that time has expired shall be taken if the requirements of Rules were previously complied with.

8:2 Provisional Orders

Where the tribunal decides at any time to order on a provisional basis any relief which it would have power to grant in a final award, no appeal shall lie to a board of appeal until the tribunal has issued a final award determining the issues between the parties.

8:3 Awards on Different Aspects

Where the tribunal decides during the course of an arbitration to make an award dealing finally with one or more aspects of the dispute, but which leaves to be decided by the tribunal other aspect(s) of the dispute, it may make an award which shall be final and binding as to the aspect(s) with which it deals, subject to any right of appeal pursuant to Rule 10.

9. AWARDS OF ARBITRATION

- 9:1** All awards shall be in writing and shall be signed by the sole arbitrator or, in the case of an award made by a three-man tribunal, by all three arbitrators. The tribunal shall have the power to assess and award the costs of and connected with the reference, including the fees and/or expenses of GAFTA, (which shall be those for the time being in force as prescribed by the Council of GAFTA) and also the fees and/or expenses incurred by the tribunal. The tribunal will assess and award costs at the conclusion of the arbitration.
- 9:2** The tribunal shall, on the application of either party, made before the arbitration award is made, have the power to extend the time for appealing in any case in which it considers it just or necessary so to do. Any such extension must be stated in the award.
- 9:3** The tribunal shall submit the award to GAFTA. Upon receipt of the signed award GAFTA shall give notice to the parties named in the award that the award is at their disposal upon payment of the fees and expenses incurred by the tribunal and GAFTA. If payment is not received by GAFTA within 14 days from such notice, GAFTA may call upon any one or more of the parties to take up the award and in such case the party or parties so called upon shall pay the fees and expenses as directed. Upon receipt of the fees and/or expenses, GAFTA shall date and issue the award to the parties, which date shall for the purpose of the Arbitration Act 1996 and these Rules be deemed to be the date on which the award was made.
- 9:4** Subject to any right of appeal pursuant to Rule 10 awards of arbitration shall be conclusive and binding on

the parties with respect both to the matters in dispute and as to costs.

9:5 No award shall be questioned or invalidated on the ground that an arbitrator was not qualified to act unless such objection was made at the outset of the arbitration.

10. RIGHT OF APPEAL

10:1 Save as provided in Rules 6:4, 8:1(b), 8:2, and 21, either party may appeal against an award to a board of appeal provided that the following conditions are complied with: -

- (a) Not later than 12 noon on the 30th consecutive day after the date on which the award was made the appellant shall: -
 - (i) ensure that a written notice of appeal is received by GAFTA,
 - (ii) serve a notice of his intention to appeal on the other party and ensure receipt of a copy by GAFTA.
 - (iii) and (subject to the provisions of Rule 19) make payment to GAFTA of the appeal deposit stated on the award of arbitration on account of the costs, fees and expenses of the appeal.
- (b) The fees and expenses of the arbitration award incurred by the tribunal and/or GAFTA shall be paid to GAFTA before the appeal is heard.
- (c) The appellants shall pay such further sum or sums on account of fees, costs and expenses as may be called for by GAFTA or the board of appeal at any time after the lodging of the appeal (as defined in (a) and (b) above) and prior to the publication of the award by the board of appeal. The fees charged by the board of appeal shall be in accordance with the scale of fees laid down by the Council from time to time.

10:2 If appeals are lodged by both parties to the award GAFTA shall have the power to consolidate such appeals for hearing by the same board of appeal.

10:3 If neither the appeal fee required under Rule 10:1 nor evidence from a bank as required by Rule 19 has been received by GAFTA within 35 consecutive days of receipt of the notice of appeal, such notice shall be deemed to have been withdrawn and the right of appeal waived unless, prior to the expiry of that period of 35 consecutive days, the appellant has applied to the board of appeal for an extension, in which case the board of appeal may, in its absolute discretion on hearing evidence and/or submissions from each party, grant an extension.

11. BOARDS OF APPEAL

11:1 Boards of appeal shall be elected and constituted in accordance with the GAFTA Rules and Regulations and Code of Conduct for Qualified Arbitrators and each board of appeal shall, when so elected, appoint one of its members to be chairman. Where the first tier arbitration award was made by a sole arbitrator the board of appeal will comprise of three members. Where the first tier award was made by a tribunal of three arbitrators, then the board of appeal shall comprise of five members. GAFTA will notify the parties of the names of the members of the board of appeal.

11:2 If a member of the board of appeal dies, refuses to act, resigns, or becomes incapable of acting, or if he fails to proceed with the appeal, or is found to be ineligible, or his authority is revoked by GAFTA pursuant to the GAFTA Rules and Regulations and Code of Conduct for Qualified Arbitrators, the next member of the Committee of Appeal duly appointed for this purpose shall thereupon become a member of the board of appeal in his place.

12. APPEAL PROCEDURE

- 12:1** The parties shall, in conformity with Rule 12:2, serve their statements of case and documentary evidence in accordance with the timetable which will be notified to the parties by GAFTA on behalf of the Appeal Board. The timetable will require the service of pleadings in the following order: -
- (a) The Appellant shall issue a concise statement of his case together with supporting documents.
 - (b) The Respondent shall, on receipt of the Appellant's statement and any documents, issue a concise statement of his case together with supporting documents.
 - (c) The Appellant then has the right, on receipt of Respondent's statement and documents, to issue a statement in reply.
- 12:2** Statements of case and documentary evidence (which may include new evidence not before the arbitrators) shall be served by sending them to the other party with copies to GAFTA. Where the appeal is against the award of a sole arbitrator 3 copies, or where the appeal is against the award of a tribunal of three arbitrators 5 copies, shall be sent to GAFTA. Failure to send all copies to GAFTA will render the party responsible liable to GAFTA for the costs of copying such documents for forwarding to the board of appeal.
- 12:3** GAFTA will set down the appeal for hearing having due regard to the above timetable or any other timetable which the board of appeal may decide. In the event of an oral hearing the parties may be represented by one of their employees, or by a qualified arbitrator (who has not previously acted in the case) or by a representative, but they may not be represented by a solicitor or barrister, or other legally qualified advocate, wholly or principally engaged in private practice, unless legal representation is expressly agreed.
- 12:4** An appeal involves a new hearing of the dispute and the board of appeal may confirm, vary, amend or set-aside the award of the tribunal. In particular (but not by way of restriction), the board of appeal may;
- (a) vary an award by increasing or reducing the liability of either party,
 - (b) correct any errors in the award or otherwise alter or amend it,
 - (c) award the payment of interest,
 - (d) award the payment of costs, fees and expenses of and incidental to the hearing of the arbitration and the appeal. Such costs, fees and expenses will normally follow the event.
- 12:5** An award shall be confirmed unless the board of appeal decides by a majority to vary, amend or set it aside.
- 12:6** The award of the board of appeal, whether confirming, varying, amending or setting aside the original award of arbitration, shall be signed by the chairman of the board of appeal, and, when so signed, shall be deemed to be the award of the board of appeal, and shall be final, conclusive and binding. Rule 9:3 shall apply to awards of the board of appeal.
- 12:7**
- (a) If the appellant, on receiving notice of the date fixed for the hearing of the appeal, requests a postponement of more than 14 days, or at the first or any subsequent hearing of the appeal requests an adjournment, then in such event the board of appeal may in its absolute discretion direct that as a condition of granting an adjournment all or any part of the money required by the terms of the award of arbitration to be paid by either party to the other shall be deposited in such bank and in such currency (either in the United Kingdom or abroad) as the board of appeal may direct. Such money shall be held by such bank in an account in the name of GAFTA, or on such terms as the board of appeal may direct. The board of appeal shall, where such money has been deposited, direct in its award how and to which of the parties the amount so held shall be paid out.
 - (b) If the appellant fails to make such payment as aforesaid in accordance with the directions of the board of appeal, and within such time as the board of appeal stipulates, then (subject to the

provisions of Rule 19) the appeal shall be deemed to be withdrawn.

- (c) If in the opinion of the board of appeal the appellant has been guilty of undue delay in proceeding with his appeal the board of appeal shall give due warning to the appellant that he should proceed with due despatch. If the appellant continues, thereafter, to delay the progress of the appeal, the board of appeal may (after giving both parties a reasonable opportunity to make submissions) order that the appeal is deemed to have been withdrawn, in which event the money on deposit (with interest if any, less any tax deductible) shall immediately become due and payable to the party and/or parties entitled thereto under the terms of the award of arbitration.

12:8 No award of a board of appeal or decision by a board of appeal on any issue or aspect, shall be questioned or invalidated on the ground that any of its members was not qualified to act unless objection is made within a reasonable period of the notification of the members of the board of appeal.

13. WITHDRAWALS OF APPEALS

13:1 The appellant shall have the right, at any time before the board of appeal makes an award, to withdraw his appeal by giving notice of such withdrawal to GAFTA, and in such case GAFTA shall forthwith notify all parties to the arbitration that the appeal has been withdrawn. If notice of withdrawal is received by the Association within 10 consecutive days of the date on which the appeal was lodged in accordance with Rule 10:1, two thirds of the deposit shall be returned. If notice of withdrawal is received by GAFTA not later than 48 hours before the time of the first scheduled hearing of the appeal a third of the deposit shall be returned. No part of the deposit shall be returned following receipt of notice of withdrawal at any later date.

13:2 In the event of withdrawal the respondent shall continue to have the right of appeal against the award to a board of appeal in accordance with the provisions of Rule 10, save that the time limit laid down in Rule 10:1 shall be 12 noon on the 30th consecutive day after the date of service of notice by GAFTA to that party of the aforesaid withdrawal.

14. APPEALS ON STRING CONTRACTS – Quality and/or Condition

14:1 Where a “string” award is made pursuant to Rule 7:1, then, unless it is an award determining a dispute arising out of the “Rye Terms” clause, each party in the string shall be entitled to appeal against that award to a board of appeal, provided that each of the following provisions, in addition to the provisions of Rule 10, are complied with: -

- (a) If the appellant is an intermediate party he shall state in his notice of appeal whether he is appealing as a buyer or as seller.
- (b) If the appellant is the first seller or the last buyer he shall, within the time limits set out in Rule 10:1(a)(ii), serve written notice of his intention to appeal on the party in immediate contractual relationship with him.
- (c) If the appellant is an intermediate party and is appealing as buyer or seller he shall, within the time limits set out in Rule 10:1(a)(ii), serve notice of his intention to appeal on both the respondent to the appeal and also his own immediate seller or buyer.
- (d) The recipient of a notice served pursuant to the above provisions may, if it wishes to commence appeal proceedings against its own immediate contracting party, pass on a like notice upon the next party in the string. Such notice shall be passed on with due despatch, in which case the time limit in Rule 10 shall be deemed to have been complied with.

14:2 All appeals to which this Rule applies and to all awards made pursuant to this Rule shall be binding on every appellant and respondent. Non-compliance with any provisions of Rule 14:1(d) shall in no way limit or affect the jurisdiction of the board of appeal.

15. APPEAL AWARDS

GAFTA may call upon either of the disputing parties to take up the award of the board of appeal and in such case the party so called upon shall take up the award and pay the fees, costs and expenses of the board of appeal and/or GAFTA. Upon receipt of the fees, costs and expenses, GAFTA shall then date and issue the award to the parties, which date shall, for the purposes of the Arbitration Act 1996, be deemed to be the date upon which the award is made.

16. LEGAL REPRESENTATION AND COSTS

16:1 The parties may expressly agree that they may engage legal representatives (i.e. solicitors, and/or a barrister and/or other legally qualified advocate or advisor wholly or principally engaged in private practice,) to represent them in the arbitration and/or in any appeal proceedings and to appear on their behalf at any oral hearings. The tribunal, and/or the board of appeal, shall determine the recoverable costs of engaging legal representatives.

16:2 Where there is no such agreement between the parties they are nevertheless free to engage legal representatives to represent them in the written proceedings but not to appear on their behalf at oral hearings. The costs of engaging legal representatives in such circumstances shall not be recoverable.

17. TRIBUNAL'S OR BOARD OF APPEAL'S OWN EVIDENCE

If at any time prior to the close of the proceedings the tribunal or the board of appeal deem it appropriate, they may take steps to ascertain the facts and the law on their own initiative, provided that they give both parties reasonable opportunity to comment on and/or provide evidence in response.

18. FEES AND EXPENSES

Each party engaging in an arbitration or an appeal pursuant to these Rules, whether or not a Member of GAFTA, is deemed thereby to agree to abide by these Rules and to agree with the Association to be liable to GAFTA (jointly and severally with the other parties to the arbitration or appeal) for all fees and expenses incurred in connection with the arbitration or appeal or any remissions, which said fees and expenses shall, upon notification by GAFTA be and become a debt due to GAFTA.

19. CURRENCY REGULATIONS

If an appellant is precluded by currency regulations from paying any money due to be paid by him as required under Rule 10, and notifies GAFTA in writing (a) in the case of inability to pay the appeal fee when giving notice of appeal, and (b) in the case of inability to pay any further sum directed to be paid under Rules 10 and/or 12, within 9 consecutive days of the money being demanded, accompanied in every case by evidence from a bank that he has already made application for the transfer of the required sum, he shall be entitled to an extension of up to 35 consecutive days from the date when the said payment became due in which to pay such sum.

20. NOTICES

20:1 Service on parties

All notices to be served on the parties pursuant to these Rules shall be served by letter, telex, telegram or by other method of rapid written communication. For the purposes of time limits, the date of despatch shall, unless otherwise stated, be deemed to be the date of service.

Service on the brokers or agents named in the contract shall be deemed proper service under these Rules. So far as concerns such notices, this Rule over-rides any other provisions of the contract.

20:2 Service on Tribunals and Appeal Boards

Unless the tribunal or board of appeal otherwise directs, all notices, proceedings and documents to be served on arbitrators and members of a board of appeal pursuant to these Rules shall be served by letter, telex, telegram or other method of rapid written communication on the Secretary of the Association at the offices of GAFTA. For the purposes of any time limits receipt of such notices by GAFTA shall be deemed to be the date of service.

20:3 Computation of Time

Where these Rules require service not later than a specified number of consecutive days after a specified date or occurrence, that specified date or occurrence shall not count as one of the consecutive days.

21. NON-COMPLIANCE WITH TIME LIMITS AND RULES

If any time limit or provisions imposed by these Rules are not complied with, and when such matters are raised as a defence to the arbitration claim, then, subject only to the discretion of the tribunal or board of appeal conferred by this Rule, the claimant's claims and/or appellant's appeal as the case may be, shall be deemed to be waived and absolutely barred, except: -

- (a) where the tribunal may in its discretion admit a claim if satisfied that the circumstances were outside the reasonable contemplation of the parties when they entered into the contract and that it would be just to extend the time, or when the conduct of one party makes it unjust to hold the other party to the strict terms of the time limit in question. Otherwise the tribunal may determine that the claim is waived and barred and refuse to admit it. There shall be no appeal to the board of appeal against the decision of the tribunal to exercise its discretion to admit a claim. If a tribunal decides not to admit the claim, then the claimant shall have the right to appeal pursuant to Rule 10, and the board of appeal shall have the power in its absolute discretion to overturn that decision and to admit the claim;
- (b) upon appeal if any of the provisions of Rules 10 to 20 have not been complied with, then the board of appeal may, in its absolute discretion, extend the time for compliance (notwithstanding that the time may already have expired) or dispense with the necessity for compliance and may proceed to hear and determine the appeal as if each and all of those Rules had been complied with. Any decision made pursuant to this Rule shall be final, conclusive and binding.

22. DEFAULTERS

22:1 In the event of any party to an arbitration or an appeal held under these Rules neglecting or refusing to carry out or abide by a final award of the tribunal or board of appeal made under these Rules, the Council of GAFTA may post on the GAFTA Notice Board, Web-site, and/or circulate amongst Members in any way thought fit notification to that effect. The parties to any such arbitration or appeal shall be deemed to have consented to the Council taking such action as aforesaid.

22:2 In the event that parties do not pay the costs, fees or expenses of the arbitration or appeal when called upon to do so by GAFTA in accordance with these Rules, the Council may post on the GAFTA Notice Board, Web-site, and/or circulate amongst Members in any way thought fit notification to that effect. The parties to any such arbitration or appeal shall be deemed to have consented to the Council taking such action as aforesaid.

References to the masculine include references to the feminine and also to companies, corporations or other legal persons.

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH. UK

Effective for contracts dated from 1st January 2003

Gafta No. 126

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THE GRAIN AND FEED TRADE ASSOCIATION

SIMPLE DISPUTE ARBITRATION RULES

**GAFTA HOUSE
6 CHAPEL PLACE
RIVINGTON STREET
LONDON EC2A 3SH**

Tel: +44 20 7814 9666 Facsimile: +44 20 7814 8383 Telex: 886984

E-mail Address: post@gafta.com

1: PLACE OF ARBITRATION

Arbitration shall take place in the domicile of the Arbitrator, or elsewhere when considered appropriate with the agreement of the Parties, in which case, any travel expenses or related costs incurred by the Arbitrator shall be added to the costs, fees and expenses of the arbitration.

2: CLAIM

In the event of non-compliance with the time limit for claiming arbitration as laid down in GAFTA Arbitration Rules No.125 and of such non-compliance being raised by the Respondents as a defence, claims shall be deemed to be waived and absolutely barred, unless the Arbitrator shall in his absolute discretion, otherwise determine.

3: ARBITRATOR: APPOINTMENT AND PROCEDURE

3:1 Where the Parties agree that the arbitration shall be held in accordance with the GAFTA Simple Dispute Arbitration Rules Form No: 126, they shall send to GAFTA the signed Arbitration Agreement, together with a copy of the Contract and a note of the issue at dispute, by letter, post or by hand, and/or by facsimile, and where agreed the name of the sole arbitrator.

3:2 Upon receipt, unless otherwise agreed by the Parties, GAFTA will appoint an arbitrator who shall be the sole Arbitrator. GAFTA will notify the Arbitrator, and the Parties, of his appointment, together with the date of the Arbitration.

3:3 An Arbitrator appointed under these Rules shall be a GAFTA Qualified Arbitrator and shall not be interested in the transaction nor directly interested as a member of a company or firm named as a party to the Arbitration, nor financially retained by any such company or firm, nor a member of nor financially retained by any company or firm financially associated with any party to the arbitration.

3:4 If an Arbitrator dies, or refuses to act, or becomes incapable of acting, or fails to proceed with the arbitration, or is found to be ineligible, GAFTA shall forthwith appoint a substitute.

4: ARBITRATION AND HEARING

4:1 Not later than 7 business days from receipt of the notice of the appointment of the Arbitrator, the Claimants shall submit a clear and concise statement of his case and supporting documents to GAFTA and to the Respondents.

4:2 Not later than 7 business days from receipt of the Claimants statement and documents, the Respondents shall submit a clear and concise statement of his case and supporting documents to GAFTA and to the Claimants.

4:3 The Claimants have 7 business days from receipt of the Respondents' case to respond in writing to the Respondents and to GAFTA on any new points which had been raised.

4:4 The Arbitrator will consider the documents submitted as above and will proceed with the Arbitration on the date set down by GAFTA.

4:5 If either Party wishes to present their case at an oral hearing, they should notify the other party and GAFTA that they will attend on the date notified by the Association under Rule 3:2.

4:6 The Arbitrator has discretion to re-schedule the date of the arbitration, or oral hearing and GAFTA will notify the Parties accordingly.

5: REPRESENTATION

The Parties may be represented at the arbitration by an agent engaged in the Trade, but they may not be represented by, nor may they engage for the purposes of the presentation or preparation of their case, a solicitor/barrister or other legally qualified advocate or advisor wholly or principally engaged in private practice.

6: COSTS, FEES AND EXPENSES

The total costs and fees for the Arbitration shall be laid down by the Council from time to time, and will be published by GAFTA. In the event that the Arbitrator and/or GAFTA anticipate incurring expenses in connection with the Arbitration, GAFTA will notify the Parties accordingly.

7: AWARD

At the conclusion of the Arbitration, the Arbitrator's decision, including brief reasons, will be available for publication to the Parties, and will be dated and issued to the Parties wherever possible within 7 days. Or, if not previously paid to GAFTA, upon receipt of the costs, fees and expenses. The Arbitrator's Award will be final and binding on the Parties with no right of appeal either to GAFTA or to the Courts.

8: GENERAL

8:1 Arbitrators Appointed Under Form No: 125

If prior to the Agreement to refer the dispute to the GAFTA Simple Disputes Arbitration, either Party had

appointed an Arbitrator as required by the rules in GAFTA Arbitration Rules No.125; such appointment(s) shall be rendered void upon the signing of the Simple Disputes Agreement.

8:2 Definition of a Simple Dispute

Any issue of disagreement between the contracting Parties, which to the best of their knowledge does not contain complicated legal issues, lengthy contentions or arguments, and which they also consider requires a quick, simple answer without a fully reasoned award.

If, however, during the course of the arbitration, the Arbitrator finds that the contentions before him contain more complicated issues than he considers falls within the simple dispute definition, he will proceed with the arbitration, but will notify GAFTA. In which event GAFTA may re-assess the costs and fees laid down for the arbitration and notify the Parties accordingly.

8:3 Notices

8:3:1 All notices to be given under these Rules shall be given by letter, telex, telegram or by facsimile or by other method of rapid written communication and shall be deemed to be properly given if proved to have been despatched within the required time limits.

A notice to the Brokers or Agents named in the contract shall be deemed a notice under these Rules. So far as concerns such notices, this Rule over-rides, in relation to them, any provisions as to notices that may be contained in the contract.

8:3:2 All Notices, Proceedings and Documents to be served on the Arbitrator shall be given by the means specified in Rule 8:3:1 to the Secretary of the Association at the GAFTA offices and when so given shall be deemed to be properly served. For the purposes of any time limits receipt of such notices by the Association shall be deemed to be the date of receipt by the Arbitrator.

Printed in England and issued by

GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

ARBITRATION AGREEMENT

TO: The Grain & Feed Trade Association
GAFTA House,
6 Chapel Place,
Rivington Street,
LONDON EC2A 3SH

Telephone: +44 20 7814 9666
Facsimile: +44 20 7814 8383
Telex: 886984

CLAIMANTS:

Name

Address

.....

Telephone Facsimile Telex

RESPONDENTS:

Name

Address

.....

Telephone Facsimile Telex

The above Parties agree that for the purposes of arbitration, resulting from a dispute which has arisen from their contract

..... dated,, incorporating the terms and conditions of a GAFTA standard form of Contract and/or GAFTA Arbitration Rules Form No: 125, that the GAFTA Simple Dispute Arbitration Rules shall apply (in place of the arbitration rules contained in Form No: 125), as set out in detail in the Simple Dispute Arbitration Rules Form No: 126.

The parties further agree to exclude recourse to the English Courts for a possible Judicial Review and to exclude the right of appeal to the GAFTA Committee of Appeal as provided in Form No. 125.

Up to such time as the parties enter into this Agreement the time limits in Form No: 125 shall apply.

Sellers Buyers

Signed Signed

Dated

Printed in England and issued by

GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Printed 1st January 2003

Effective for Charter Parties dated from 1st January 2003

Gafta No. 127

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THE GRAIN AND FEED TRADE ASSOCIATION

ARBITRATION RULES FOR USE WITH CHARTER PARTIES OR OTHER FORMS OF MARITIME TRANSPORT

**GAFTA HOUSE
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References to the masculine include references to the feminine and also to companies, corporations or other legal persons.

ARBITRATION RULES No.127

Any dispute arising out of a charter-party, which incorporates these Rules, shall be referred to arbitration in accordance with the following provisions: -

PRELIMINARY

1:1 The provisions of the Arbitration Act 1996, and of any statutory amendment, modification or re-enactment thereof for the time being in force, shall apply to every arbitration under these Rules save insofar as such provisions are expressly modified by, or are inconsistent with, these Rules.

1:2 The juridical seat of the arbitration shall be, and is hereby designated pursuant to section 4 of the Arbitration Act 1996 as, England.

1:3 Arbitration shall take place at the registered offices of The Grain and Feed Trade Association (GAFTA), London, or (but without prejudice to Rules 1:1 and 1:2 above), elsewhere if agreed by the parties in writing.

2. PROCEDURE AND TIME LIMITS FOR CLAIMING ARBITRATION

The claimant shall serve on the respondent a written notice stating his intention to refer a dispute to arbitration within 12 months of the last day of discharge, or in the case of non-performance, from the date of the charter-party.

3. APPOINTMENT OF THE TRIBUNAL

The dispute shall be heard and determined by a tribunal of three arbitrators (appointed in accordance with Rule 3:2) or, if both parties agree, by a sole arbitrator (appointed in accordance with clause 3:1). The time limits imposed by this Rule for the appointment of the tribunal shall run from the date of service pursuant to Rule 2 of a notice referring a dispute to arbitration.

3:1 Procedure for the Appointment of a Sole Arbitrator

(a) If he requires the appointment of a sole arbitrator the claimant shall, not later than the 9th consecutive day after service of the notice referring a claim to arbitration, serve a notice on the respondent seeking his agreement to the appointment of a sole arbitrator by GAFTA.

(b) Not later than the 9th consecutive day after service of the notice referred to in (a) above, the respondent shall either; (i) serve a notice on the claimant stating that he agrees to the appointment of a sole arbitrator by GAFTA, or (ii) appoint an arbitrator to a tribunal of three arbitrators and serve on the claimant a notice of the arbitrator so appointed, in which case Rule 3:2(c) shall apply.

(c) Where the parties have agreed to the appointment of a sole arbitrator by GAFTA, the Association shall then appoint an arbitrator on receipt of the first statements and evidence submitted in accordance with Rule 4, or, where interlocutory or interim decisions are required of the tribunal, upon the application of either party.

3:2 Procedure for the Appointment of a Tribunal of Three Arbitrators

(a) The claimant shall not later than the 9th consecutive day after service of the notice referring a claim to arbitration appoint an arbitrator and serve a notice on the respondent of the name of the arbitrator so appointed.

(b) The respondent shall, not later than the 9th consecutive day after service of the notice with the name of the claimants' arbitrator, appoint a second arbitrator and serve a notice on the claimant of the name of the arbitrator so appointed.

(c) If the respondent does not agree to the appointment of a sole arbitrator and has instead appointed an arbitrator and given written notice thereof pursuant to Rule 3:1 (b), the claimant shall not later than the 9th consecutive day after service of such notice of appointment, appoint a second arbitrator and serve a notice on the respondent of the name of the arbitrator so appointed.

(d) Where two arbitrators have been appointed, GAFTA shall appoint a third arbitrator on receipt of the first statements and evidence submitted in accordance with Rule 4, or, where interlocutory or interim decisions are required of a tribunal, upon the application of either party. The third arbitrator shall be the chairman of the tribunal so formed and his name shall be notified to the parties by GAFTA.

3:3 Appointments of Arbitrators by GAFTA

If either party fails to appoint an arbitrator or to give notice thereof within the above time limits, the other party may apply to GAFTA for the appointment of an arbitrator. Notice of such application must be served on the party who has failed to appoint. Upon such application being made, GAFTA will appoint an arbitrator on behalf of the party who has failed to do so, and give notice of the arbitrator appointed to the parties.

Where the claimant has already sought the respondent's agreement to the appointment of a sole arbitrator pursuant to Rule 3:1 then GAFTA will appoint a sole arbitrator. Where either party has already appointed an arbitrator, pursuant to Rule 3:1 (b) or Rule 3:2, then GAFTA will appoint the second arbitrator of the tribunal.

3:4 Applications to GAFTA for the appointment of an arbitrator shall be accompanied by,

- (a) prima facie evidence that the parties have entered into a contract subject to these Rules,
- (b) copies of the notices to the other party (i) claiming arbitration and (ii) stating that an application has been made to GAFTA for the appointment of an arbitrator,
- (c) the appropriate fee ruling at the date of application.

3:5 An arbitrator appointed under these rules shall be a Qualified Maritime Arbitrator Member of the GAFTA, and shall not be interested in the transaction nor directly interested as a member of a company or firm named as a party to the arbitration, nor financially retained by any such company or firm, nor a member of nor financially retained by any company or firm financially associated with any party to the arbitration.

3:6 An appointment of an arbitrator shall be valid and effective for all purposes provided that he has signified his acceptance of the appointment to the party appointing him, or to GAFTA, as the case may be, at any time prior to the discharge of any arbitral function

3:7 (a) If an arbitrator dies, refuses to act, resigns, or becomes incapable of acting, or if he fails to proceed with the arbitration, or is found to be ineligible, or his authority is revoked by GAFTA pursuant to the Association's Rules and Regulations, the party, or GAFTA as the case may be, who originally appointed that arbitrator shall forthwith appoint a substitute and serve notice thereof on the other party.

(b) If a party fails, contrary to (a) above, to appoint a substitute arbitrator and to give notice thereof within 5 consecutive days of learning of the arbitrator's death, refusal to act, resignation, incapacity, failure to proceed, finding of ineligibility or revocation of authority, as the case may be, GAFTA shall, upon the application of either party, have the power to appoint a substitute arbitrator.

3:8 Any party making an application to GAFTA for the appointment of an arbitrator may be required by the Association to pay a deposit of such sum as GAFTA may require on account of any fees and expenses thereafter arising. In addition the tribunal may call upon either party to deposit with GAFTA such sum or sums as it considers appropriate on account of fees, costs and expenses prior to the commencement of the arbitration hearing.

4. ARBITRATION PROCEDURE

4:1 The claimant shall draw up a clear and concise statement of his case, which, together with a copy of the contract and any supporting documents, shall be served as set out in Rule 4.4.

4:2 The respondent shall, on receipt of the claimant's case and documents, draw up a clear and concise statement of his defence (and counterclaim, if any) which, together with any supporting documents, shall be served as set out in Rule 4.4.

4:3 The claimant may submit further written comments and/or documents in reply, such to be served as set out in Rule 4.4.

4:4 All statements and evidence shall be served by sending them to the other party, with copies to GAFTA. In the case of sole arbitrator 2 sets, or in the case of a tribunal of three arbitrators, 4 sets of statements and evidence shall be delivered to GAFTA. Failure to send all sets to GAFTA will render the party responsible liable to GAFTA for the costs of copying such documents for forwarding to the arbitrators.

4:5 The tribunal may vary or depart from the above procedure in order to give each party a reasonable opportunity of putting his case and dealing with that of his opponent, and shall adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters falling to be determined.

4:6 The timetable for the proceedings, including any steps to be taken pursuant to Rule 4 and/or determined by the tribunal, will be advised to the parties by GAFTA. It shall be the duty of the tribunal to ensure the prompt progress of the arbitration, including the making of orders where appropriate. Any delay in the proceedings may be notified to GAFTA.

4:7 Nothing in this Rule shall prevent the respondent from delivering his statement and documentary evidence before receiving documents/statements from the claimant.

4:8 Where the tribunal considers that an oral hearing is necessary, the date, time and place will be arranged by GAFTA. In which event the parties may be represented by one of their employees, or by a GAFTA Qualified Maritime Arbitrator, or other representative, but they may not be represented by a solicitor or barrister or qualified advocate, wholly or principally engaged in private practice, unless legal representation is expressly agreed.

4:9 If the arbitration is abandoned, suspended or concluded, by agreement or otherwise, before the final award is made, the parties shall be jointly and severally liable to pay to GAFTA the tribunals and the Association's costs, fees and expenses.

5. CONSOLIDATED ARBITRATIONS AND CONCURRENT HEARINGS

If all parties concerned expressly agree, the tribunal may conduct arbitral proceedings concurrently with other arbitral proceedings, and, in particular, concurrent hearings may be held, but separate awards shall be made pursuant to each contract.

6. ISSUES OF SUBSTANTIVE JURISDICTION, PROVISIONAL ORDERS AND AWARDS ON DIFFERENT ASPECTS

6:1 Issues of Substantive Jurisdiction

(a) The tribunal may rule on its own jurisdiction, that is, as to whether there is a valid arbitration agreement, whether the tribunal is properly constituted and what matters have been submitted to arbitration in accordance with the arbitration agreement.

(b) In the event that the tribunal determines it has no jurisdiction, GAFTA will notify the parties of the tribunal's decision. Such decision shall be final and binding upon the parties. GAFTA will invoice the claimant for any costs, fees and expenses incurred. In the event that the tribunal determines that it has jurisdiction there will be no appeal against that decision.

6:2 Provisional Orders

The tribunal may decide at any time to order on a provisional basis any relief, which it would have power to grant in a final award.

6:3 Awards on Different Aspects

Where the tribunal decides during the course of an arbitration to make an award dealing finally with one or more aspects of the dispute, but which leaves to be decided by it other aspect(s) of the dispute, it may make an award which shall be final and binding as to the aspect(s) with which it deals.

7. AWARDS OF ARBITRATION

All awards shall be in writing and shall be signed by the sole arbitrator or, in the case of an award made by a three-man tribunal, by all three arbitrators. The tribunal shall have the power to assess and award the costs of and connected with the reference, including GAFTA's fees and/or expenses (which shall be those for the time being in force as prescribed by the Council) and also the fees and/or expenses incurred by the tribunal. The tribunal will assess and award costs at the conclusion of the arbitration.

8. LEGAL REPRESENTATION AND COSTS

8:1 The parties may expressly agree that they may engage legal representatives (i.e. solicitors and/or a barrister and/or other legally qualified advocate or advisor wholly or principally engaged in private practice) to represent them in the arbitration proceedings and to appear on their behalf at any oral hearings.

8:2 Where there is no such agreement between the parties they are nevertheless free to engage legal representatives to represent them in the written proceedings but not to appear on their behalf at oral hearings. The costs of engaging legal representatives in such circumstances shall not be recoverable unless the tribunal considers that such costs were reasonably incurred.

9. TRIBUNAL'S OWN EVIDENCE

If at any time prior to the close of the proceedings the tribunal deem it appropriate, it may take steps to ascertain the facts and the law on its own initiative, provided that both parties are given reasonable opportunity to comment on and/or provide evidence in response.

10. FEES AND EXPENSES

Each party engaging in an arbitration pursuant to these Rules, whether or not a Member of the Association, is deemed thereby to agree to abide by these Rules and to agree with GAFTA to be liable to GAFTA (jointly and severally with the other parties to the arbitration) for all fees and expenses incurred in connection with the arbitration or any remissions, which said fees and expenses shall, upon notification by GAFTA be and become a debt due to the Association.

11. NOTICES

11:1 Service on parties

All notices to be served on the parties pursuant to these Rules shall be served by letter, telex, telegram or by other method of rapid written communication. For the purposes of time limits, the date of despatch shall, unless otherwise stated, be deemed to be the date of service. Service on the brokers or agents named in the charter-party shall be deemed proper service under these Rules. So far as concerns such notices, this Rule over-rides any other provisions of the contract.

11:2 Service on Tribunals

Unless the tribunal otherwise directs, all notices, proceedings and documents to be served on arbitrators pursuant to these Rules shall be served by letter, telex, telegram or other method of rapid written communication on the Secretary of the Association at GAFTA's Offices. For the purposes of any time limits receipt of such notices by the Association shall be deemed to be the date of service.

11:3 Computation of Time

Where these Rules require service not later than a specified number of consecutive days after a specified date or occurrence, that specified date or occurrence shall not count as one of the consecutive days.

12. NON-COMPLIANCE WITH TIME LIMITS AND RULES

If any time limit or provisions imposed by these Rules are not complied with then, subject only to the discretion of the tribunal conferred by this Rule, the claimant's claims shall be deemed to be waived and absolutely barred, except that such matters shall be raised as a defence to the arbitration claim, whereupon the tribunal may in its absolute discretion admit a claim upon such terms as it may think fit, or it may determine that the claim is waived and barred and refuse to admit it.

13. DEFAULTERS

13:1 In the event of any party to an arbitration held under these Rules neglecting or refusing to carry out or abide by a final award of the tribunal made under these Rules, the Council of the Association may post on GAFTA's Notice Board and/or circulate amongst Members in any way thought fit notification to that effect. The parties to any such arbitration shall be deemed to have consented to the Council taking such action as aforesaid.

13:2 In the event that parties do not pay the costs, fees or expenses of the arbitration when called upon to do so by GAFTA in accordance with these Rules, the Council may post on GAFTA's Notice Board and/or circulate amongst Members in any way thought fit notification to that effect. The parties to any such arbitration shall be deemed to have consented to the Council taking such action as aforesaid.

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Effective for contracts dated from 1st January 2003

Gafta No.128

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THE GRAIN AND FEED TRADE ASSOCIATION

MEDIATION RULES

**GAFTA HOUSE
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E-mail Address: post@gafta.com

MEDIATION RULES No. 128

1. GENERAL

Upon receipt by GAFTA of the parties' written agreement to refer their dispute and/or differences to mediation, the Association shall appoint a GAFTA Qualified Mediator.

2. PLACE OF MEDIATION

Mediation shall take place at GAFTA's offices or such place, as the parties shall agree.

3. APPOINTMENT OF MEDIATOR

3:1 GAFTA shall notify the Mediator, and the Parties, of his/her appointment.

3:2 A Mediator shall not be interested in the transaction nor directly interested as a member of a company or firm named as a party to the mediation, nor financially retained by any such company or firm, nor a member of nor financially retained by any company or firm financially associated with any party to the mediation

3:3 If the Mediator dies, or refuses to act, or becomes incapable of acting, or fails to proceed with the mediation, or is found to be ineligible, GAFTA shall forthwith appoint a substitute.

4. PROCEDURE

4:1 The Mediator will be responsible for progressing the mediation, which shall be completed no later than 45 days, or by such extended period as the parties may agree, from the date of receipt of the on account payment by the Association

4:2 The parties agree to commence the mediation session with all parties present, and by each party submitting 5 days in advance, a succinct opening statement in writing, summarising their position with regard to the dispute in question.

4:3 The parties agree that their representatives at the mediation session will be authorised to commit and bind that party to any agreement that may result from the mediation session.

4:4 The parties may expressly agree that they may engage legal representatives (i.e. solicitors, and/or a barrister or other legally qualified advocate) to assist them in the mediation session.

4:5 Where there is no such express agreement between the parties they are nevertheless free to engage legal representatives to assist them, but such representatives will not be allowed to be present at the mediation session.

4:6 The Mediator may at his sole discretion meet with either or both parties separately if and when he decides that private meetings are appropriate.

4:7 Any information made available to the Mediator in a private session shall be treated in strict confidence, and will only be disclosed if it is information that is already in the public domain, or, if the Mediator is expressly permitted to disclose that information to the other party.

4:8 The whole of the mediation session is held on a without prejudice basis and is therefore without prejudice to the rights of either party. All and any information, statements, documentation or material exchanged, made available or disclosed in any form within the mediation session by either party shall remain private and confidential and be exchanged, made available or disclosed for the use of that mediation process only and shall not prejudice the rights of either party if the mediation process fails. Accordingly, on the

termination of the mediation all such information, statements, documentation and materials shall be returned to the originating party unless otherwise agreed in writing.

4:9 The Mediator shall cause the fact that the Mediation has failed to be entered on the record by date and time at GAFTA. It is then up to the Claimant to resolve the dispute by completing the arbitration if already claimed or, if the arbitration has not yet been claimed, to claim arbitration in accordance with the GAFTA Arbitration Rules. However, where under the GAFTA Arbitration Rules the period left for claiming arbitration is 14 days or less, arbitration can be claimed within 14 days from the date the mediator has caused the fact that the mediation failed to be entered on the record by date and time at GAFTA.

5. COSTS, FEES AND EXPENSES

5:1 The costs and fees for the mediation shall be laid down by the Council from time to time, and will be published by GAFTA.

5:2 With the notification of the appointment of the Mediator, the Association will call on each party to deposit such sums as GAFTA may require on account of the costs, fees and expenses of the mediation.

5:3 If the parties agree to hold the mediation at a place other than London, GAFTA shall subsequently call for additional deposits as may be required from time to time.

6. AGREEMENT RESULTING FROM MEDIATION

At the conclusion of the Mediation session, the Mediator will draw up the Parties' settlement agreement in writing, which will be signed by the parties. A copy of the agreement will be lodged with GAFTA by the Mediator

All correspondence to be given under these Rules shall be given by letter, telex, telegram or by facsimile or by other method of rapid written communication.

References to the masculine include references to the feminine and also to companies, corporations or other legal persons.

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GAFTA
(THE GRAIN AND FEED TRADE ASSOCIATION)
GAFTA HOUSE, 6 CHAPEL PLACE, RIVINGTON STREET, LONDON EC2A 3SH

MEDIATION AGREEMENT

**To: The Grain & Feed Trade Association,
GAFTA House,
6 Chapel Place,
Rivington Street.
LONDON EC2A 3SH.**

**Telephone: + 44 20 7814 9666
Facsimile: + 44 20 7814 8383
Telex: 886984
E-mail: post@gafta.com**

CLAIMANTS:

Name.....
Address.....
Telephone..... Facsimile.....
Telex..... E-mail.....

RESPONDENTS:

Name.....
Address.....
Telephone..... Facsimile.....
Telex..... E-mail.....

With regard to their dispute arising out of: -

Contract dated.....
Tonnage Commodity.....

incorporating the terms and conditions of the Grain & Feed Trade Association, (GAFTA) standard contract

form..... and/or GAFTA Arbitration Rules form No. 125, or 127, the Parties hereby agree to refer the same to mediation and hereby apply to the Association for the appointment of a mediator for resolution in accordance with the GAFTA Mediation Rules No.128.

The Parties agree that the arbitration will be stayed for a period of 45 days from the date when GAFTA receives payment on account of the costs, fees and expenses of the mediation.

Should the mediation not result in a settlement agreement within this period of 45 days or such extended period as the Parties may agree before the mediator, it is up to the Claimant, after the Mediator has declared that the mediation failed within such period, to resolve the dispute by completing the arbitration if already claimed, or if arbitration has not yet been claimed to claim arbitration within 14 days, in accordance with the GAFTA Arbitration Rules.

Signatures: -

Sellers..... Buyers.....

Dated.....

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**GAFTA
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GAFTA House, 6 Chapel Place, Rivington Street, London EC2A 3SH**

Gafta No. 129

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THE GRAIN AND FEED TRADE ASSOCIATION

LOADING TERMS FOR UNITED KINGDOM PORTS

Date

- 1 **1.** Vessel type - vessel to be self-trimming, single deck bulk carrier. Main hold loading only via main hatches.
2
3 - wing tanks, deep tanks or any other restricted spaces to be excluded.
4 - twin hatch vessels not suitable.
5 - vessel to be suitable for spout trimming. Bulk only. No bags.
6
- 7 **2.** Grain certificates - vessel shall be in possession of current and authenticated grain certificate and loading plan
8 approved by the government of vessel's flag and fully suitable for loading the cargo in the manner agreed in
9 conformity with British D.T.I. requirement.
10
- 11 **3.** I.T.F. approved - vessels to be fully I.T.F. approved for trading to U.K. ports.
12
- 13 **4.** Ship's Agents - Sellers should nominate ship's Agents at load port, latest on declaration of port of loading unless
14 already given.
15
- 16 **5.** Load guarantee - vessel to be loaded and spout trimmed at an average rate of tonne
17 per weather working day of 24 consecutive hours, providing vessel can receive at this rate. Time from 5.00 p.m.
18 on Fridays until 8.00 a.m. on Mondays and from 5.00 p.m. on days preceding holidays until 8.00 a.m. on the next
19 working day not to count even if used.
20
21 Sellers to pay demurrage at Charter Party rates but subject to a maximum of US\$
22 per day or pro rata for all time used in excess of allowed laytime. Buyers to pay despatch for all laytime saved at
23 half the demurrage rate as above.
24
- 25 **6.** Time lost by opening hatches not to count as laytime.
26
- 27 **7.** Any delays caused by ice, floods, fog, quarantine or by cases of force majeure not to count as laytime unless vessel
28 is already on demurrage.
29
- 30 **8. TURN CLAUSE**
31 In the event of Buyers nominating more than one vessel against the contract, laytime not to count on the second
32 and subsequent vessels until the berth has become available after completion of loading of the preceding contractual
33 vessel. If, however, laytime has expired on the preceding vessel then laytime to count on subsequent vessel(s)
34 from the first working period on the next business day after expiry of laytime of preceding vessel(s).
35
- 36 **9. LAYTIME COUNTING**
37 Time to count from the first working period on the next business day following vessel's Customs clearance and
38 receipt at the office of Shipper/Shippers' Agents of written notice of readiness (NOR) accompanied by pass of any
39 national and/or regulatory bodies as may be required, and/or independent surveyor as selected by charterers
40 (attesting to the fact that the vessel is clean, ready in every respect in all compartments and in possession of valid
41 document of authorisation in compliance with the Merchant Shipping (Grain) Regulations 1980 as amended),
42 during ordinary office hours of Shipper/Shippers' Agents from 09.00 hours to 16.00 hours from Monday to
43 Friday, unless a holiday. If vessel is unable to berth upon arrival on account of congestion the vessel shall be
44 permitted to present NOR at the customary place, Wibon, Wifpon, Wicon, Wipon and laytime to count
45 accordingly but time from berth becoming available until vessels arrival in berth and time used obtaining necessary

46 passes is not to count as laytime.

47
48 **10.** Acceptance and rotation of vessels in port at all times to be according to local port authority terms and conditions.

49
50 **11.** Sailing draft at Owners/Buyers risk.

51
52 **12. DELIVERY PERIOD**

53 In the Delivery Period Clause paragraph (a) GAFTA contract 79A, the following schedule shall determine the
54 number of consecutive hours which must remain from presentation of a contractual vessel to the end of the
55 contractual delivery period:

56					
57	For quantities up to		4000 tonne	-	36 consecutive hours
58	For quantities between	4001	-	8000 tonne	- 48 consecutive hours
59	For quantities between	8001	-	12000 tonne	- 72 consecutive hours
60	For quantities in excess of		12000 tonne	-	96 consecutive hours

61
62 **13.** It is understood by Buyers that the Notice of Readiness does not become effective under the terms of this contract
63 before the expiry of the 8 clear day's notice:

64
65 **14.** Minimum size of vessel(s)

66
67 **15. NOMINATION OF VESSEL CLAUSE**

68 **a) Nomination of Vessels**

69 The last FOB Buyers shall give 8 clear days notice of the name of the vessel(s) and the probable readiness date and
70 the estimated quantity to be loaded. This notice to be served by the last FOB Buyers to their Sellers and to the
71 Ship's Agents nominated by the Sellers by latest 10.00 hours on a business day. Such notice shall be served and
72 passed on by any means of rapid written communication or by telephone and confirmed in writing on the same
73 day.

74
75 **b) Substitution of Vessels**

76 Having nominated, as above, the last FOB Buyers are entitled to substitute the last named vessel provided that they
77 serve a notice to the Sellers of the name of the substitute vessel. The substitute vessel shall present at the loading
78 port in readiness to load in compliance with the Delivery Period Clause no later than 3 days from the expected
79 probable readiness date of the vessel nominated in accordance with paragraph (a) above.

80
81 A notice to the Brokers or Agents shall be deemed a notice under this clause.

82
83 The Notices and the Non-Business Days Clauses of the contract shall not apply.

Sellers Buyers

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GAFTA

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GAFTA HOUSE, 6 CHAPEL COURT, CHAPEL PLACE, RIVINGTON ST, LONDON EC2A 3SH

Effective 1st January 2003

Gafta No: 130

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THE GRAIN AND FEED TRADE ASSOCIATION

GAFTA REGISTER OF ANALYSIS METHODS

**GAFTA HOUSE
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LONDON EC2A 3SH**

**Tel: + 44 20 7814 9666 Facsimile: + 44 20 7814 8383 Telex: 886984
E-mail Address: post@gafta.com**

ANALYSIS METHODS FORM NO: 130

For all contracts incorporating the terms and conditions of the Grain & Feed Trade Association (GAFTA), analyses tests shall be carried out in accordance with the following methods listed in these Rules: -

ANALYSIS METHODS

The following is a list of Methods prescribed by the Association, used by the Analysts named in GAFTA Contracts for tests required by GAFTA Contract terms. The detailed methods are contained in a Register lodged at GAFTA's Offices and available on CD-rom.

Method Number and Title of Tests: -

- 1.0 PREPARATION OF SAMPLE FOR ANALYSIS**
- 2. MOISTURE**
 - 2:1 In Feedingstuffs
 - 2:2 In Cereals and Pulses, except for malting barley
 - 2:3 In Malting Barley
 - 2:4 Water by Vacuum Sand Drying
- 3:0 OIL PROCEDURE A - SOLVENT EXTRACTION FOR ALL FEEDINGSTUFFS**
- 4:0 CRUDE PROTEIN FOR ALL FEEDINGSTUFFS**
- 5:0 DIGESTIBLE CRUDE PROTEIN**
 - 5:1 Proteins Soluble in Pepsin and Hydrochloric Acid
 - 5:2 Pepsin Activity
- 6:0 UREA**
- 7:0 URIC ACID**
- 8:0 AMMONIA AND VOLATILE NITROGENOUS BASES**
- 9:0 PHOSPHORUS**
- 10:0 CRUDE FIBRE FOR ALL FEEDINGSTUFFS**
- 11:0 SUGARS:**
 - 11:1 Sugar – Luff Schoorl Method
 - 11:2 Reducing Sugars (Invert) in Cane and Beet Molasses – Sucrose Calculation
 - 11:3 Reducing Sugars (Invert) in Beet Molasses
 - 11:4 Reducing Sugars (Invert) in Cane Molasses
 - 11:5 Preparation and Standardisation of Fehling's Solution
 - 11:6 Lactose in all Feedingstuffs
- 12:0 CRUDE ASH**
- 13:0 ASH INSOLUBLE IN HYDROCHLORIC ACID (Sand and/or Silica)**
- 14:0 SAND ONLY**
- 15:0 WATER-SOLUBLE CHLORIDES**
- 16:0 CALCIUM**
 - 16:1 Calcium - Volumetric Method
 - 16:2 Calcium Atomic Absorption Method

- 17:0 COPPER - DIETHYLDITHIOCARBAMATE SPECTROPHOTOMETRIC METHOD**
- 18:0 MAGNESIUM**
 18:1 Magnesium – Gravimetric Method
 18:2 Magnesium – Atomic Absorption Method
- 19:0 VITAMINS**
 19:1 Vitamin A (Retinol)
 19:2 Thiamine Hydrochloride (Vitamin B₁ Aneurine)
 19:3 Ascorbic Acid and Dehydroascorbic Acid (Vitamin C)
 19:4 Menadione (Vitamin K₃)
- 20:0 HYDROCYANIC ACID**
- 21:0 VOLATILE MUSTARD OIL**
- 22:0 GLUCOSINOLATES (EC/18/64 Method)**
- 23:0 FREE AND TOTAL GOSSYPOL**
- 24:0 AFLATOXIN DETERMINATION**
 24:1 For the Determination of Aflatoxin B₁ in Compound Animal Feed and all Feedingstuffs, or
 24:2 Aflatoxin B₁ – For certain Straight Feedingstuffs, or
 24:3 Aflatoxin B₁ – For all other Feedingstuffs
- 25:0 CARBONATES**
- 26:0 SODIUM**
- 27:0 UREASE ACTIVITY**
- 28:0 STARCH**
 28:1 Starch - Polarimetric Method
 28:2 Starch – Pancreatic Method
- 29:0 ISOBUTYLIDENEDIUREA**
- 30:0 CASTORSEED HUSK**
- 31:0 HARD FLINT, DENTED MAIZE**
- 32:0 NATURAL WEIGHT TESTS**
- 33:0 MICROBIOLOGY – GENERAL GUIDELINES ON METHODS FOR THE DETECTION OF SALMONELLA**
- 34:0 WET GLUTEN IN WHEAT FLOUR**
 34:1 Determination of Wet Gluten in Wheat Flour – Hand Washing
 34:2 Mechanical Determination of the Wet Gluten Content of Wheat Flour (Glutomatic)
- 35.0 ADMIXTURE**

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THE GRAIN AND FEED TRADE ASSOCIATION

OPTIONAL CLAUSES

1. STANDING-IN CLAUSE-GENERAL

1. If the goods concerned in the contract are sold under the standing-in clause and form part of a larger quantity in a hold, Buyers are deemed to have agreed, for their proportion, to abide by the samples drawn and sealed from that hold, for the purposes of analysis and/or arbitration. Goods from each hold shall be sampled and samples analysed separately in accordance with the GAFTA Sampling Rules No.124. If the goods are discharged simultaneously from more than one hold, but not more than two holds, through one discharging unit only, the standing-in quantity shall be the total tonnage of those two holds for any receiver taking delivery from them.

2. Samples shall be drawn and sealed jointly by the first CIF seller(s) and the CIF receiver(s) or their respective agents.

3. The CIF receiver(s) or their agents shall be responsible for forwarding samples and analytical instructions to both Salamon & Seaber and LabCo for all ports (excluding Belgian and French ports) and obtaining from each of these analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall advise the analysts of the following: - the hold number, the bill of lading number, the delivery order number, the name of the vessel and the date of sealing, as well as the names of all receivers who have agreed to stand-in, together with their individual tonnages.

4. Copies of the certificates of analysis showing the relevant details of his proportion shall be sent to any CIF receiver who has contractually requested an analysis. The mean of the two tests shall apply for the purpose of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.5%. Copies of the certificate of analyses shall be sent no later than 14 consecutive days from receipt of the last certificate by the Buyers to the Sellers. In case of resales the Notices Clause in the contract shall apply, except that the certificates of analysis shall be passed by mail by the next business day following receipt.

5. If the variation stated in paragraph 4, exceeds 0.5% then at the request of either party under advice to their contractual party within 14 consecutive days of receipt by them of the last certificate of analysis, the third test shall be carried out by Eurofins and the mean of the two analysis tests nearest to each other shall be accepted as final. The average of the 1st and 2nd moisture test results shall be used as the calculating factor for the 3rd test.

6. The cost of drawing and sealing samples shall be borne by the first CIF seller(s) and the CIF receiver(s).

7. Analysis costs shall be shared between those Receivers who receive the certificate(s) of analysis, unless they are entitled to allowances under the contract, in which event, such costs shall be borne by the Sellers and shall be limited to the cost of the analysis applicable to each appropriation and/or hold under this contract.

8. Where not in contradiction with the above, all terms and conditions in accordance with the Sampling and Analysis Clause of the contract shall apply.

9. If arbitration is claimed and shippers or receivers appoint more than one arbitrator in respect of disputes covered by this clause, the parties hereby agree that the Officers of GAFTA shall have the power and authority, upon the request of any shipper or receiver concerned, to appoint one arbitrator out of the arbitrators appointed by the receivers to represent all the receivers who have claimed arbitration and/or one arbitrator out of the arbitrators appointed by the shipper to represent all shippers, notwithstanding anything contained in the GAFTA Arbitration Rules No. 125 for the appointment of arbitrators, or any prior appointment made thereunder.

10. Any allowances given in arbitration shall apply only to the parties who are named in the award(s) of arbitration as principals.

11. In case the agent mentioned in this clause is a superintendent, this superintendent should be listed in the GAFTA Register of Superintendents.

2. STANDING-IN CLAUSE TO APPLY TO BELGIAN PORTS

1. If the goods concerned in this contract are sold under the standing-in clause and form part of a larger quantity in a hold, Buyers are deemed to have agreed, for their proportion, to abide by the samples drawn and sealed from that

hold, for the purposes of analysis and/or arbitration. Goods from each hold shall be sampled and samples analysed separately in accordance with the GAFTA Sampling Rules No. 124. If the goods are discharged simultaneously from more than one hold, but not more than two holds, through one discharging unit only, the standing-in quantity shall be the total tonnage of those two holds for any receiver taking delivery from them.

2. Samples shall be drawn and sealed conjointly by the first CIF seller(s) and the CIF receiver(s) or their respective agents.

3. The CIF receiver(s) or their agents shall be responsible for forwarding samples and analytical instructions to both Salamon & Seaber and Arbitrage - en Verzoeningskamer Voor Granen en Zaden van Antwerpen, and obtaining from each of those analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall advise the analysts of the following: - the hold number, the bill of lading number, the delivery order number, the name of the vessel and the date of sealing, as well as the names of all receivers who have agreed to stand in, together with their individual tonnages.

4. Copies of the certificates of analysis showing the relevant details of his proportion shall be sent to any CIF receiver who has contractually requested an analysis. The mean of the two tests shall apply for the purpose of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.5 %. Copies of the certificate of analyses shall be sent no later than 14 consecutive days from receipt of the last certificate by the Buyers to the Sellers. In case of resales the Notices Clause in the contract shall apply, except that the certificates of analysis shall be passed by mail by the next business day following receipt.

5. If the variation stated in paragraph 4, exceeds 0.5% then at the request of either party under advice to their contractual party within 14 consecutive days of receipt by them of the last certificate of analysis, the third test shall be carried out by Eurofins and the mean of the two analysis tests nearest to each other shall be accepted as final. The average of the 1st and 2nd moisture test results shall be used as the calculating factor for the 3rd test.

6. The cost of drawing and sealing samples shall be borne by the first CIF sellers(s) and the CIF receiver(s).

7. Analysis costs shall be shared between those receivers who receive the certificate(s) of analysis, unless they are entitled to allowances under the contract, in which event, such costs shall be borne by the sellers and shall be limited to the cost of the analysis applicable to each appropriation and/or hold under this contract.

8. Where not in contradiction with the above, all terms and conditions in accordance with the Sampling and Analysis Clause of the contract shall apply.

9. If arbitration is claimed and shippers or receivers appoint more than one arbitrator in respect of disputes covered by this clause, the parties hereby agree that the Officers of GAFTA shall have the power and authority, upon the request of any shipper or receiver concerned, to appoint one arbitrator out of the arbitrators appointed by the receivers to represent all the receivers who have claimed arbitration and/or one arbitrator out of the arbitrators appointed by the shippers to represent all shippers, notwithstanding anything contained in the GAFTA Arbitration Rules No. 125 for the appointment of arbitrators, or any prior appointment made thereunder.

10. Any allowances given in arbitration shall apply only to the parties who are named in the award(s) of arbitration as principals.

11. In case the agent mentioned in this clause is a superintendent, this superintendent should be listed in the GAFTA Register of Superintendents.

3. STANDING-IN CLAUSE TO APPLY TO FRENCH PORTS

1. If the goods concerned in the contract are sold under a standing-in clause, and form part of a larger parcel, Buyers are deemed to have agreed for their proportion to abide by the samples drawn and sealed from the whole original parcel covered by the same bill of lading for the purposes of analysis and/or arbitration. Goods referring to each bill of lading shall be sampled and samples analysed in accordance with the GAFTA Sampling Rules No: 124.

2. Samples shall be drawn and sealed conjointly by the first CIF seller(s) and the CIF receiver(s) or their respective agents.

3. The last CIF receiver(s) or their agents shall be responsible for forwarding samples and analytical instructions to both Salamon & Seaber and I.E.E. Bordeaux, and obtaining from each of these analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall advise the analysts of the following: - the bill of lading number, the delivery order number, the name of the vessel and date of sealing, as well as the names of all receivers who have agreed to stand-in, together with their individual tonnages.

4. Copies of the certificates of analysis showing the relevant details of his proportion shall be sent to any CIF receiver who has contractually requested an analysis. The mean of the two tests shall apply for the purpose of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.5 %. Copies of the certificate of analyses shall be sent no later than 14 consecutive days from receipt of the last certificate by the buyers to the sellers. In case of resales the Notices Clause in the contract shall apply, except that the certificate of analysis shall be passed by mail by the next business day following receipt.

5. If the variation stated in paragraph 4 exceeds 0.5% then at the request of either party under advice to their contractual party within 14 consecutive days of receipt by them of the last certificate of analysis, the 3rd test shall be carried out by Eurofins and the mean of the two analysis tests nearest to each other shall be accepted as final. The average of the 1st and 2nd moisture test results shall be used as the calculating factor for the 3rd test.
6. The cost of drawing and sealing samples shall be borne by the first CIF seller(s) and the last CIF receiver(s).
7. Analysis costs shall be shared between those receivers who receive certificate(s) of analysis, unless they are entitled to allowances under the contract, in which event such costs shall be borne by the seller(s) and shall be limited to the cost of the analysis applicable to each appropriation and/or bill of lading under this contract.
8. Where not in contradiction with the above, all terms and conditions in accordance with the Sampling and Analysis Clause of the contract shall apply.
9. If arbitration is claimed and shippers or receivers appoint more than one arbitrator in respect of disputes covered by this clause, the parties hereby agree that the Officers of GAFTA, shall have the power and authority, upon the request of any shipper or receiver concerned, to appoint one arbitrator out of the arbitrators appointed by the receivers to represent all the receivers who have claimed arbitration and/or one arbitrator out of the arbitrators appointed by the shippers to represent all shippers, notwithstanding anything contained in the GAFTA Arbitration Rules No. 125 for the appointment of arbitrators, or any prior appointment made thereunder.
10. Any allowances given in arbitration shall apply only to the parties who are named in the award(s) of arbitration as principals.
11. In case the agent mentioned in this clause is a superintendent, this superintendent should be listed in the GAFTA Register of Superintendents.

4. STANDING-IN CLAUSE TO APPLY TO DUTCH PORTS IMPORTING GOODS OF NORTH AND SOUTH AMERICAN ORIGIN

1. If the goods concerned in the contract are sold under the standing-in clause and form part of a larger quantity in a hold, Buyers are deemed to have agreed, for their proportion, to abide by the samples drawn and sealed from that hold, for the purposes of analysis and/or arbitration. Goods from each hold shall be sampled and samples analysed separately in accordance with the GAFTA Sampling Rules No. 124. If the goods are discharged simultaneously from more than one hold, but not more than two holds, through one discharging unit only, the standing-in quantity shall be the total tonnage of those two holds for any receiver taking delivery from them.
2. Samples shall be drawn and sealed conjointly by the first CIF seller(s) and the CIF receiver(s) or their respective agents.
3. The first CIF seller(s) or their agents shall be responsible for forwarding samples and analytical instructions within 14 consecutive days from sealing to both Salamon & Seaber and LabCo, and obtaining from each of these analysts a certificate of analysis. When sending instructions to the analysts the instructing party shall send copies to the respective CIF Receivers or their agents and shall advise the analysts of the following: - the hold number, the bill of lading number, the delivery order number, the name of the vessel and the date of sealing, as well as the names of all receivers, who have agreed to stand-in, together with their individual tonnages.
4. The first CIF seller(s) or their agents shall send (photo) copies of the analysis certificates to all CIF receivers or their agents who have agreed to stand-in as shown on the labels of the sample, within 14 consecutive days from receipt of the last certificate by the first CIF seller.
5. In case the first CIF seller(s) or their agents should fail to act in accordance with paragraph 3 of this clause within 14 consecutive days of sealing, then the CIF receiver(s) or their agents may forward samples and analytical instructions in accordance with paragraph 3 of this clause, but must do so within 28 consecutive days of sealing. Copies of the analysis certificate shall be sent no later than 14 consecutive days from receipt of the last certificate by the CIF receiver or his agent to the first CIF seller or his agent as shown on the label and to all CIF receivers or their agents as shown on the label, who have agreed to stand-in.
6. The mean of the two tests shall apply for the purpose of allowances or arbitration and shall be accepted as final if the variation does not exceed 0.50%. If the variation exceeds 0.50%, the first CIF seller has the option to ask for a third test. This test shall be carried out by Eurofins. The first CIF seller shall advise the CIF receivers no later than 14 consecutive days from receipt of the last certificate of analysis, whether or not they require a third test. In case the first CIF seller does not use his option, the CIF receiver(s) have the option to ask for a third test by Eurofins. The CIF receiver(s) in that case shall advise the first CIF seller whether or not a third test will be requested within 7 consecutive days of receipt of the notice from the first CIF sellers that the first CIF seller does not require a third test and the first CIF seller will thereupon give instructions for the third test to be carried out. Certificates of analysis of the third test shall be sent by the first CIF seller to the CIF receiver(s) within 7 consecutive days after receipt of the certificate from the analyst. In case a third test has been carried out, the mean of the two analysis tests nearest to each other shall be accepted as final. When the difference between 3 analysis tests is the same, the average of the three

results shall apply for the purpose of allowances. The average of the 1st and 2nd moisture test results shall be used as the calculating factor for the third test.

7. The cost of drawing and sealing samples shall be borne by the first CIF seller(s) and the CIF receiver(s).

8. The costs for forwarding, dividing, reducing and analysing samples are for sellers' account.

9. invoices accompanied by (photo) copies of the certificates of analysis and, in case the variance between the first and second test exceeds 0.50%, by evidence that neither the first CIF seller nor the CIF receiver(s) did request a third test, to be sent by each buyer to his seller.

10. Where not in contradiction with the above, all terms and conditions in accordance with the Sampling and Analysis Clause of the contract shall apply.

11. If arbitration is claimed and shippers or receivers appoint more than one arbitrator in respect of disputes covered by this clause, the parties hereby agree that the Officers of GAFTA shall have the power and authority, upon the request of any shipper or receiver concerned, to appoint one arbitrator out of the arbitrators appointed by the receivers to represent all the receivers who have claimed arbitration and/or one arbitrator out of the arbitrators appointed by the shipper to represent all shippers, notwithstanding anything contained in the GAFTA Arbitration Rules No.125 for the appointment of arbitrators, or any prior appointment made thereunder.

12. Any allowances given in arbitration shall apply only to the parties who are named in the award(s) of arbitration as principals.

13. In case the agent in this clause is a superintendent, this superintendent should be listed in the GAFTA Register of Superintendents.

5. GENERAL CHARTER PARTY ARBITRATION AGREEMENT

Any dispute arising from this Charter Party shall be subject to English law and to arbitration in London, which jurisdiction is recognised and accepted by both parties to this agreement.

One arbitrator shall be appointed by each party and the arbitrators so appointed shall appoint a third arbitrator who will act as Chairman of the Tribunal. All arbitrators so appointed shall be members of a recognised maritime association or GAFTA and shall be persons who are or who have been engaged in the shipping and/or commodity trades.

The party claiming arbitration shall notify, in writing, the name of his arbitrator to the other party who shall, within 14 consecutive days, appoint an arbitrator, failing which the appointed arbitrator shall act as a sole arbitrator.

Any arbitration claim must be made, as above, within 12 months of the last day of discharge of the chartered vessel or, in case of non-performance of charter party, within 12 months of charter party cancellation date. In case of non-performance under a contract of affreightment for future carriage of goods by vessel(s), to be nominated (TBN), any arbitration claim must be made within 12 months of the last date for vessel nomination. In the event of non-compliance with the arbitration time limit set down herein, any claim shall be deemed waived and be absolutely barred.

6. DIRECTIVE 96/25/EC AND AS AMENDED

It is agreed by the Buyers that they do not require the Sellers to produce the information and particulars referred to in Article 5(1)(c) and (d) of Council Directive 96/25/EC, and as amended, on the Circulation of Feed Materials and points 2 and 3 of Heading V of Part A of the Directive, or any amendment thereto, in respect of any part of the goods.

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GAFTA

(THE GRAIN AND FEED TRADE ASSOCIATION)

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GAFTA

GUIDELINES FOR APPROPRIATIONS

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GAFTA

GUIDELINES FOR APPROPRIATIONS

UNDER THE APPROPRIATION CLAUSES OF GAFTA CIF, CIFFO, C&F CONTRACTS

These notes have been prepared as a simple guide for Members trading under the terms and conditions of GAFTA Contracts containing an appropriation clause. They serve only as a means to assist Members in the practical execution of their obligations under the appropriation clause by highlighting the intentions contained in the various paragraphs in the clause. The notes are not intended, nor should they be taken as being a contractually binding interpretation of all or part of the paragraphs contained in the clause. The definitive appropriation clause is contained in the specific contract form negotiated between the parties and many clauses in the GAFTA range of contracts have a number of differences. Whilst every care has been taken in the preparation of these notes which are believed to be accurate, neither the Association nor its officers can accept any liability whatsoever resulting from any error, mis-statement or omission therein.

THE NOTICE OF APPROPRIATION

INTRODUCTION:

The appropriation clauses in GAFTA CIF contract forms vary in accordance with the geographical and logistic requirements of the individual contract forms. The giving and receiving of notices of appropriation should be performed by the parties to the contract with all due consideration of the appropriation clause in the applicable contract form. There is clear distinction to be observed between the obligations of the first seller/shipper and those of the subsequent sellers. The obligations of subsequent sellers (string sellers) are dealt with under the sub-heading "STRING SELLERS".

(NB: In some markets it is customary to describe the notice of appropriation as a "tender").

OBJECTIVE:

The notice of appropriation serves primarily to ascertain or identify previously unascertained goods. It is to confirm to the buyer that the shipper has fulfilled his obligation to provide, identify and ship the goods described in the contract within the quantity and time constraints of that contract. The prime practical purpose is to provide the last CIF buyer/receiver with sufficient information to enable them to be in a position to take delivery of the goods on arrival of the appropriated vessel.

The notice does not pass ownership of the goods or property; that will generally pass when the shipping documents are taken up and paid for.

CONTENT:

The appropriation clauses require the notice issued by the shipper to state the vessel's name and the approximate quantity loaded. The date of bill(s) of lading and port(s) of shipment may be required to be given by the clause in some contracts, where not required the clause will normally contain a paragraph that the date or presumed date of the bill of lading should be stated in the notice, but that it will be for information only and shall not be binding.

VESSEL'S NAME:

The correct vessel's name must be given in the notice, however, an error in transmission of the vessel's name will normally be acceptable. In addition, the vessel named must have been in the port of loading and have loaded the goods described in the contract at the time indicated by the bill of lading.

APPROXIMATE QUANTITY LOADED:

The weight loaded has to fall between the quantity tolerance margins defined in the contract. Where the weight is outside of those tolerance margins the buyer can reject the notice. An exception to this would be where a contract has been traded on “*parcel*” terms and the quantity appropriated is below the lower tolerance margin, but the shipper has stated that the quantity appropriated is in “*part fulfillment*” of the contract quantity. Such a notice would indicate to the buyer that the shipper intends to appropriate a further quantity against the contract, either on the same vessel or another vessel. As stated in the contracts, in the case of more than one shipment being made against the contract, each shipment is considered a separate contract, but the tolerance margins of the mean quantity sold are not affected.

BILL OF LADING:

The bill of lading date is not binding in the sense that it is being stated for information only in the appropriation. However, it does fix the start of the time limit by which the notice must be despatched, and for this the actual date of the bill of lading will prevail. The date also identifies to the buyer that the shipper has complied with his obligations to ship within the contractual period for shipment. In the case of contracts under cargo/part cargo terms, the date of the last bill of lading is the effective date. The actual date of the bill will become known when the shipping documents are passed, and it is then that it will be seen finally whether the appropriation has been despatched by the shipper within the time limit.

TIME LIMITS:

a) The sending of the notice of appropriation by the first seller/shipper is bound by time limitations, that is say, by a stipulated number of days from the date of the bill of lading. As a general principle, the time limits are based on the approximate length of the sea voyage. The non-business days’ clause does not apply to these time limits. In the event of a notice not being within the time limits, the buyer can reject the appropriation. The time limits are imposed to try and ensure that the information contained in the notice reaches the last buyer/receiver prior to the vessel arriving at the contract destination. When the vessel arrives before receipt of the notice, any extra expenses incurred by the last buyer/receiver will be borne by the seller.

b) There are additional time limit provisions pertaining to subsequent sellers i.e. parties in a “*string*”, those time limits are dealt with in the paragraphs referring to “*STRING SELLERS*”.

DESPATCH OF NOTICE:

The notice of appropriation must be despatched by the first seller/shipper to his buyer either direct, or to the selling agent or broker named in the contract. Where a notice is despatched to the selling agent, such selling agent may despatch that notice either direct to the buyers or to the broker.

A notice despatched to the broker is considered as an appropriation despatched to the buyer. It should be noted that the emphasis is on “*despatch*”. To comply with the time limits, the notice must be “*despatched*” within those time limits. The time of the notice being received only comes into play when the first buyer is also a subsequent seller and is required to pass that notice on within the time limits laid down in the clause for subsequent sellers.

The means of despatch must be by way of a telegram, telex or other rapid written communication, or by letter if delivered by hand on day of writing. The notice is open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission that has been repeated in good faith.

VALIDITY:

A buyer receiving an appropriation that does not comply with the terms of the contract can reject the invalid appropriation. A seller, having given an invalid appropriation, can re-appropriate always providing the new appropriation itself is valid and in particular, complies with all the time limits laid down in the appropriation clause. A valid notice of appropriation, once given, cannot be withdrawn, except by consent of the buyer.

NAMED VESSEL SALES:

In the event that a CIF sale is made on a named vessel on a “*shipped*” or “*afloat*” basis, the contract provides

that the appropriation clause is cancelled as the goods have already been effectively identified and loaded. On the other hand, if a sale has been made by a named vessel with expected to load dates or on a “shipping/shipped or about to be shipped” basis, then it is necessary for a timely notice of appropriation to be given to indicate that the goods have indeed been loaded.

ARRIVAL PERIODS:

Members are reminded, that to trade basis “arrival” periods as opposed to “shipment” periods on conventional contract forms, is a dangerous practice as the appropriation clause and other notice giving clauses of these contracts are drafted only in the context of shipment periods. There are contracts in the GAFTA range of forms, whose specific purpose is to provide for CIF trades on an arrival basis. (See *Contracts Nos.: 94, 94A, 95, 112*).

STRINGS:

Very often there will be a number of intermediate buyers and sellers, collectively known as the “string” intervening between the first seller/shipper and the last buyer/receiver. The strings can be of indeterminate length and where long strings are involved in the more volatile markets they can be a constant source of problems.

In many cases it will be the passage of the notice of appropriation that will establish the string. When the first seller/shipper originates the notice, there will usually be no way of knowing the length of the string, nor how long it will take for the notice to finally arrive with the last buyer/receiver. The situation where the notice of appropriation has not been received by the time the vessel arrives can cause considerable problems and will often mean extra expense is incurred by the last buyer/receiver. This extra expense is to be borne by the intermediate sellers and in a string situation this will normally be the seller who received the notice before arrival of the vessel, but did not pass it on to his buyer until after the arrival of the vessel.

In markets where the length of string frequently means the appropriation is not received until after arrival of the vessel, it may be advantageous if the participants mutually agree to the voluntary provision of their sellers’

names at time of appropriation. This would enable the parties in the string to establish if circles existed, thus saving time and expense not only for the last buyer/receiver, but for the parties in string as well.

The following is a suggested clause, which could be negotiated between the parties to be added to a notice of appropriation

“Identification of String:

To assist in establishing circles, and to enable efficient processing of shipping documents on or before arrival of the vessel at destination in order to save administration/presentation costs, please add name of your seller to list below and pass on to your buyer.

The above list is for information only and shall not be contractually binding. Any absence or error in the list given above shall not invalidate the appropriation.”

NB: Ideally, the inclusion of this addendum should be agreed at the time of trade. Such a clause is used in some markets, but all parties in a string have to co-operate in its use, otherwise it could be unworkable.

STRING SELLERS:

Where the parties to a contract are neither a first seller/shipper nor a last buyer/receiver, they are effectively parties to a string. Although not actually originating the notice of appropriation, the parties to a string must each take on the role of subsequent sellers which requires very careful observance of their obligations under the appropriation clause of their respective contracts, particularly the passing on of notices.

Subsequent sellers are initially bound by the same time limits as the first seller/shipper, that is to say, the notice of appropriation must be sent within the stipulated number of days from the date of the bill of lading. However, bearing in mind the potential length of strings, provision is made for the situation where subsequent

sellers may receive an appropriation on or after the last day for appropriation. In such a situation, the notice the subsequent seller passed on to his buyer is only deemed to be in time if it is passed on without delay. In most contract forms, the period of delay is clearly defined and depends on when the notice has been received by the subsequent seller. If received before 1600 hours on a business day, the notice will be deemed in time if despatched to the buyer on the same calendar day.

If received after 1600 hours or on the next business day or on a non-business day, the notice will be deemed in time if despatched to the buyer not later than 1600 hours on the next business day.

Apart from these additional time limits, the subsequent seller is bound by the same obligations as the first seller/shipper described in previous paragraphs above. The only difference is that the subsequent seller is passing on a notice that has been originated by the first seller/shipper and at the time of receipt has no way of confirming the accuracy of the information in it. The contract protects the subsequent seller from any errors not of his making and any errors in transmission which he repeats in good faith.

REJECTION:

A buyer wishing to reject an invalid notice of appropriation should do so as soon as possible after receipt, by giving written notice of rejection to the seller, such notice should state the reason for rejection. Where a buyer in a string receives an invalid or a suspected invalid appropriation, but wishes to preserve his string status by not initiating the rejection himself, but in turn passing the appropriation on to his buyer, he will be well advised to give notice to the seller that he accepts the appropriation under reserve and subject to its acceptance

by the subsequent buyer(s). However, the presentation of shipping documents will follow and each buyer in the string must make a decision to take up and pay for the documents or reject them. To reject documents on the basis that an appropriation was invalid and which subsequently turns out to be valid, will, of course, put the buyer himself in a default situation and liable to a possible claim for damages. The buyer, even though he may be in a string, will usually need to make a positive decision on whether an appropriation is valid or not, by the time the documents are presented.

PROOF OF STRING:

Non-compliance with time limits, is the most common cause for invalidating appropriations.

Any notice received outside the specified number of days may be suspect, depending on the length of the string. To establish validity from a time point of view, the party receiving a suspect appropriation can request the seller to provide a proof of string. If it is felt necessary to make such a request it should be done so without delay. The request should be in the form of a rapid written communication, asking for names of previous

sellers, the times they received the appropriation and the times they despatched it to their respective buyers. In considering the validity of these times it should be borne in mind that an appropriation despatched to the broker is considered as being despatched to the buyers. The request for proof of string can only be passed back to the point where it gets to the party who received the appropriation on the last day of the specified period, that party must show that he despatched it timely to his buyer. Provided the first seller/shipper passed the appropriation on within the specified period from the date of the bill of lading, it is of no consequence who or how many passed it on within that period. However, after that period has expired, each subsequent seller in the string must show that they passed the appropriation on timely.

Whilst every effort should be made by all parties in a string expeditiously to provide proof of string, if proof is not available at time of documents presentation, in itself this lack of proof is not sufficient reason for the buyer to reject the documents. In such a situation, the buyer may ask for a guarantee that a valid proof of string document will be provided in due course and he should pay for the documents under reserve.

VESSEL SINKS:

The notice of appropriation does not give title/ownership of the goods under a CIF contract, but at the time of receipt by the buyer, it does identify to him that the goods are his, "they are appropriated to him", and that he will have to take ownership of them when the seller presents him with the shipping documents for payment.

In situations where the appropriated vessel sinks, or suffers some sort of marine accident en route to the contractual destination, the buyer must still take up and pay for those shipping documents. The buyer is effectively paying for documents giving title rather than for the goods themselves.

Where there is a mishap at sea the insurance certificate provided with the documents and/or the provisions in the contract form should provide sufficient cover for any loss that may be incurred by the CIF buyer. The receipt of a valid notice of appropriation under the CIF contract obliges the buyer to take up and pay for contractual shipping documents, even if the vessel sinks prior to receipt of the valid notice of appropriation.

The appropriation is valid if it correctly represents the situation at the time the goods were shipped, that is at time the loading of that parcel/cargo was completed. An event that could subsequently lead to the rejection of the appropriation is if it is passed on out of time. An accident at sea will not, in itself, invalidate the appropriation, and in such a situation a buyer would have to accept a valid appropriation.

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GAFTA
ARBITRATION A to Z GUIDELINES

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A – Z OF ARBITRATION

These Guidelines have been prepared as a simple guide for arbitrators and parties, particularly those approaching arbitration for the first time. It does not pretend to form a definitive or exhaustive handling of the subject, for which reference should be made to GAFTA Contract Forms, and GAFTA Rules of Arbitration Form No. 125, Simple Dispute Rules No. 126 or Maritime Arbitration Rules Form No. 127. (For legal text books, see attached Bibliography). While every care has been taken in the preparation of these notes which are believed to be accurate, neither GAFTA nor its Officers can accept any liability whatsoever resulting from any error, mis-statement or omission therein.

A

ADDUCE: *Cite as proof*

ADR: *Alternative Dispute Resolution*

A means of resolving a dispute under GAFTA contracts by arbitration or by mediation, which does not involve court litigation.

AMIABLE COMPOSITEUR

A person who has the power to judge equitably without complying with the rules and procedures applicable to arbitrations and can be empowered by the parties to judge the issue without having to apply the rules of law with regard to the substance of the matter. This would not exempt the parties from their obligations in law and contract. This is not a service offered by GAFTA.

ANTON PILLAR ORDERS: *Search and Seizure Orders*

ARBITRATION ACT: *Arbitration Act 1996 (replaces the Acts of 1950, 1975, and 1979)*

ARBITRATION AGREEMENT: *The written agreement to arbitrate*

When parties enter into a contract which incorporates the terms and conditions of one of GAFTA's 80 standard contract forms they have also agreed that their disputes will be heard and determined by arbitrators in accordance with the GAFTA Arbitration Rules Form No: 125. The Arbitration Clause in GAFTA standard forms, is the parties' arbitration agreement, and is common to the entire range of contracts. (See also Arbitration Rules No.127, Maritime Rules for disputes arising out of GAFTA Charter Party No.1 and Simple Dispute Rules No.126).

A comprehensive arbitration agreement is a combination of the full arbitration and domicile clauses contained in a GAFTA contract form. However often the parties' own in-house forms of contract make reference to the appropriate GAFTA contract form. The Contracts Committee has provided a suitable form of wording for house forms by a "Model Computer Contract No: 117".

Some disputes arise out of special contracts terms agreed by the parties, which do not rely on a GAFTA standard form of contract and which only incorporate reference to the Arbitration Rules Form No: 125.

English Law applies to all of these contracts and to the Arbitration Rules.

When entering into a contract it is up to each party to ensure it has in its possession up-to-date copies of the applicable contract form and rules (quite often copies are sought from GAFTA long after the dispute occurs).

ARBITRATOR: *An arbitrator is a person appointed to adjudicate impartially in a dispute between two parties and shall not take on the role of an advocate. Any Member wishing to qualify as an arbitrator must comply with CPDP, (Continuing Professional Development Programme).*

GAFTA Arbitration Rules provide that where the parties agree, the dispute shall be determined by a sole arbitrator, or failing their agreement, by a tribunal of three. In the event that the parties agree to a sole arbitrator GAFTA will appoint a GAFTA qualified arbitrator.

If the parties prefer a tribunal of three arbitrators then the two parties each appoint an arbitrator and GAFTA will appoint the third member of the tribunal as chairman. In the absence of such appointments by the parties GAFTA can be called upon to make the appointment.

An arbitrator has a duty at all times to act impartially and fairly, and has a duty to hear and determine the dispute as a "judge", not as an advocate or representative for either party. A breach of this duty is a ground for setting aside an award. It is also important for the satisfactory enforcement of a final award that an arbitrator has and is seen to have at all times acted fairly, impartially and without bias.

The Council of GAFTA understands that parties prefer to choose the arbitrators at first tier arbitration, as opposed to, say, panel arbitration. (An example of panel arbitration is GAFTA's second tier arbitration system 'appeals', when the Association/Appeal Committee appoint an appeal board.) Some parties may be under the impression that appointments made by them imply that they have appointed an arbitrator to look after their interests and fight their case at the arbitration. This is not so. All arbitrators understand the need for impartiality and fairness to both parties.

ARBITRATION ASSISTANCE: *Consultants/trade representatives*

In the event that a party is unable to prepare its statement of case it can seek the assistance of an arbitrator (not involved in the case), to prepare and present their case to the tribunal, or if they wish, they may seek legal advice. The tribunal may require the parties to attend a hearing. The parties may attend the hearing personally or they may nominate a representative to do this for them. If they do not attend, then the arbitration is judged on the documentation presented. Lawyers may not represent them unless both parties expressly agree. All GAFTA arbitrators have to qualify under the CPDP.

If a Member of GAFTA gives advice or a personal opinion on a problem arising between two contracting parties, he must not accept an appointment as an arbitrator in the case.

While the Secretariat of GAFTA will be pleased to provide assistance with the progress and administration of an arbitration, it is not their policy to interpret contract terms or rules that are the subject of the dispute, or to assist to the advantage or disadvantage of either party.

ASSESSMENT PANEL

Is a panel of 5 persons appointed annually by the Council as required by the CPDP (Continuing Professional Development Programme).

ASSOCIATION: *GAFTA, The Grain and Feed Trade Association*

AWARD PUBLICATION

When the arbitrators have signed the completed award, GAFTA will, upon receipt of the fees, date and send it to the parties.

AWARD WRITING

At the conclusion of the case the arbitrators will prepare a draft award and will send it to GAFTA for printing. The completed award will be signed by all arbitrators (or chairman of the board of appeal) and returned to the Association.

Each award should be written in plain English, self-explanatory and clear as to its meaning.

If it is impractical to recite relevant parts of a document in an award, a copy of the document may be annexed to the award. An award should not refer to contract prices or delivered weights etc., without stating what these are. Wherever possible damages and/or monies awarded should be expressed in the currency of the contract with the calculation clearly shown.

The Council has instructed the Secretariat to scrutinise the wording of the draft awards and reasons, and where necessary, to recommend improvements to style.

AWARDS ON DIFFERENT ASPECTS

The arbitrators may decide to issue an award during the course of the arbitration on a certain aspect, leaving other aspects of the dispute to be decided by them at a future time. For example, such an award may be given in answer to the parties' submissions on a time limit issue if a claim is late. If the tribunal admits the claim and awards on that basis, this will mean that the same arbitrators will issue a further award at a later time on the substantive issue(s) in dispute. In such cases the arbitrators should clearly state that they have not dealt with all the aspects of the case and that a further award is envisaged on any outstanding issues.

Since each award issued is final as to the matters with which it deals, if a party is dissatisfied, then they may, when entitled to do so under the Rules, lodge an appeal against the tribunal's award. In such event the first tier arbitrators do not proceed until the board of appeal has published its award. Depending on the outcome of the appeal, the tribunal will then proceed with a new timetable for the production of submissions.

C

CHAIRMAN'S /SOLE ARBITRATOR'S DUTIES

The chairman at the first tier arbitration shall upon receipt of the claimants' submissions and documents convene the tribunal and if the tribunal decides it is necessary GAFTA will set down a date for an oral hearing and dates for any subsequent hearings. It is the duty of the chairman/sole arbitrator to ensure that the documents/submissions required under the Arbitration Rules, Form No: 125/126 are presented without delay and if necessary to give orders for this to be done.

The chairman of the appeal board is responsible for the conduct and procedures at the appeal hearing.

CIRCULATION OF AWARDS TO MEMBERS

Where both parties agree, GAFTA may publish the final award to Members. The parties and arbitrators' names and other references that identify them or the contract will be deleted before publication.

CLAIM

Wherever possible it is desirable for contracting parties to arrive at a mutual settlement of problems. However there should be no loss of "goodwill" or "good customer relationship" if a party claims arbitration to protect its interests since that is the mechanism the trade has adopted for many years to solve its problems.

A party with a potential arbitration claim must bear in mind the strict time limits laid down for notifying the other party of its intention to refer the matter to arbitration under the Arbitration Rules, Form No: 125 and 127. It is also to be remembered that the other party may "lie-low" waiting for a time limit to expire and any negotiations during the time limit period do not stop the clock running. Failure to comply with the time limits will result in the arbitration being time barred, unless the arbitrators are persuaded and entitled to admit the claim, which they may do in accordance with the Arbitration Rules.

The notification of the arbitration claim can be a simple statement, by means of a notice served in accordance with the Notices Clause of the Rules, that the claimant intends referring the dispute for settlement by arbitration. It is helpful to give the relevant contract details and any other relevant details in order to identify the dispute/contract.

In this notice the party making the claim may advise the other party of the name of the arbitrator, such notice to be within the time limit laid down in the Rules.

COMMON LAW

The body of law established by the decisions of the Courts and set out in the reported judgments.

CONCILIATION

An alternative form of dispute resolution where the mediator attempts to reconcile the differences between disputing parties.

CONFIDENTIALITY

Arbitrators must not disclose details of awards nor of any documents submitted in the arbitration at any time prior to, or after the publication and issuance of their awards by GAFTA.

Arbitration awards are private and confidential to the parties. Every agreement to arbitrate (including all GAFTA contract forms) is deemed to include a term imposing a duty on both parties to keep the arbitration award confidential from third parties. The scope of the duty extends not only to the award itself, but also to the reasons and all other documentary materials relating to the arbitration. This principle was confirmed by Mr. Justice Colman in *Insurance Company -V- Lloyds Syndicate*.

It is open to the parties to consent to the award being made public and in which case it may then be reported by GAFTA. However, in the absence of any such agreement, then neither party can disclose the award to a third party unless disclosure was necessary to enable that party to defend a claim against him or to bring a claim against another. As was made clear in the case before the Court, the duty of confidentiality was quite capable of being enforced by way of an Injunction preventing disclosure of the award to a third party.

CONSOLIDATION: (Amalgamating disputes arising out of strings of contracts into one arbitration).

a) Consolidation of Quality and/or Condition Disputes

For quality/conditions cases, the Rules provide for the issue of one award of arbitration to all parties in a string of contracts, but only for quality and/or condition disputes. Quality arbitrations will be heard by one tribunal at the one hearing. The award will name the first seller and the last buyer with other buyers and sellers shown as intervening principals. The contracts in the string have to be identical in all material terms, with the possible exception of the contract price. Following the examination of the samples by the arbitrators, if they decide an award should be given for any inferiority of, or damage to, the goods, the damages will often be awarded in the form of an allowance as a percentage of each respective contract price per tonne, and each buyer and seller in the string will settle the differences between them. The fees for the arbitration will be paid by the unsuccessful principal, either the first seller or the last buyer as the case may be.

b) Consolidation of Other Disputes

The Arbitration Act 1996 provides the possibility to consolidate, with the agreement of the parties, other types of disputes than quality or condition. In the majority of cases this would create more problems than it solves, particularly where not all parties take the same action if there is a breach of contract and where their responsibilities possibly differ. Therefore an award will be issued to each buyer and seller as principals to a contract, and the fees follow the event. However to cut down on time and expense, arrangements can be made for the arbitrations to be dealt with together and at the same hearing, and by the same tribunal. This is best achieved by the efforts of the respective parties in the string by agreeing with each other that the matter should be handled in this way.

The above procedures apply at both tiers, arbitration and appeal, except that not all of the parties in the string may elect to go to appeal.

COUNTER-CLAIM

When a party initiates a claim in arbitration and the other party (respondent) also has a claim arising out of the same contract, the respondent's claim in the same reference is called a counter-claim. All claims admitted by the arbitrators will be dealt with in the same arbitration.

COURTS

The High Court in England does not intend interfering during the course of an arbitration but to be of assistance and supportive of the arbitral process.

Appeals to the High Court on Questions of Law

When a final award is issued by GAFTA, it is final and binding on the parties and should be settled as directed unless one of the parties is successful in persuading a Judge to allow an appeal. This is why it is essential for the board of appeal to give a sufficiently reasoned award for the Judge to be satisfied whether or not the determination of the question of law will substantially affect the rights of one or more of the parties or on the basis of the findings of fact in the award the decision of the tribunal was obviously wrong or open to serious doubt.

If a party is successful in obtaining leave to submit its case to the High Court, a further restriction is that there can be no appeal from the High Court Judge to the Court of Appeal, unless he, or the Court of Appeal, gives leave.

CPDP: Continuing Professional Development Programme

The syllabus for this programme was introduced by GAFTA in 1996 and is updated from time to time by the Council. It is for the training and education of Members' employees in general and of arbitrators in particular for them to achieve and maintain GAFTA Qualified Arbitrator status.

DRAFTING OF SUBMISSIONS

The purpose of the submissions (statement of case) presented by each party is to state and explain its case concerning the dispute which has been referred to arbitration. Submissions should be written in plain, clear language. It is neither necessary nor helpful to use formal or quasi-legal language in the submissions.

Lawyers should particularly note that submissions are not pleadings. Therefore the formal rules of pleadings do not apply and, unlike pleadings, submissions should refer not only to matters of fact but also to matters of evidence and to matters of law.

Parties should avoid using personal or emotional language in submissions and in presenting a case. The purpose of arbitration is to resolve a commercial dispute in a fair and rational way

Any submissions should contain a full statement of the party's case. The tribunal can only decide upon the case as presented in the submissions. The tribunal cannot make a case for a party where one is not presented fully or at all in the submissions. While the tribunal will assist the parties and may invite them to deal with relevant matters, which they have failed to deal with in their submissions, the tribunal cannot and will not make the submissions on a party's behalf.

Basic Structure of Submissions. The basic structure of any set of submissions should usually be as follows:

- a) A statement of the relevant contract terms
- b) A statement of the relevant facts
- c) A summary of the case and a statement of the award which the party is seeking from the tribunal

The statement of the contract terms should state only the basic terms of the contract and emphasise any other terms relevant to the particular dispute. The contract itself should always be included in the documents, which are served with the claim submissions. It is not usually necessary to include a further copy with the defence submissions unless there is some dispute about the contract terms and the respondent is relying upon a different document as containing the terms of the contract.

The statement of the facts should again set out the basic facts and then only such other facts as are relevant to the dispute. It is not necessary to recite all communications between the parties. It is only necessary to refer to communications relevant to the dispute. Where there is a dispute about the facts, it is in this part of the submissions that a party should refer to the evidence that supports its case as to the facts. This evidence may be in the form of copies of documents, such as e-mails or faxes, or other communications between the parties, shipping documents, analysis or survey reports or statements of witnesses.

The first part will be the submissions where the claimant will lay down the reasons why he believes that the respondent owes a liability under the contract to the claimant. The claimant will usually submit that the respondent is in breach of a particular term of the contract. It is the breach of the contractual obligations under the contract that gives rise to claim and puts the respondent under a liability to the claimant. The second part will be submissions, which will lay down the claimant's calculation of the value of that breach. In legal terms, this is known as quantum of the damages and will be the amount for which, if it is claimed, the respondent will be liable to the claimant. A party should identify the relevant contract provisions or legal principles upon which it relies in support of its case. The relevant contract provisions can be proved by reference to the contract. The relevant legal principles can be established by reference to legal textbooks or reports of previous decided cases.

The party should then explain why the contract provisions and legal principles support its case. A party should always remember that it is the purpose of the submissions not only to state its case but also to explain it fully to the tribunal.

The summary of the case and statement of the award that the party is seeking from the tribunal should be as brief and clear as possible for example: *"We submit that the goods were not shipped within the contract shipment period. Therefore we ask the tribunal to find that Sellers were in default and to award us damages of"*

Where a dispute is complicated, the summary may be longer and may include a statement setting out the findings of fact and law that the party is asking the tribunal to make. This statement should set out the requested findings in simple terms. It is not necessary to set out the precise wording of the findings.

Claim Submissions

The claimant will usually serve the first set of submissions. The claim submissions should begin with a statement of the contract terms. This should be followed by a statement of the facts giving rise to the dispute. This should be followed by submissions stating the basis for the claim and a calculation of the claim. The claim submissions should conclude with a summary of the case and statement of the award, which the claimant is seeking. If necessary ask that the tribunal find "as a question of fact" that certain things happened. Establishing the facts will allow the arbitrators to properly analyse the problem.

Defence Submissions

The respondent in the arbitration will usually serve the second set of submissions. It is unnecessary to restate the contract terms and the facts. In the defence submissions the respondent should only identify where it disagrees with the claimant's statement of the facts or where it is relying on additional facts. Where the respondent wishes to rely on a different document or contract than that submitted by the claimant then that document or contract should be submitted with a statement clearly identifying the differences.

This should be followed by the respondent's submissions stating the basis for its defence. The respondent should state what its answer is to every argument made in the claim submissions. If the respondent only puts forward an answer to the first or main point in the claimant's case on the basis that if this answer is accepted by the tribunal the rest of the claimant's case is irrelevant, and the tribunal does not accept that answer the respondent will have placed itself in the position of putting forward no answer to the claimant's other arguments. This means that those arguments may well be accepted by the tribunal.

If the respondent has a counter-claim the respondent should, following its submissions in defence, state the additional facts giving rise to the counter-claim, the counter-claim submissions and the calculation of the counter-claim.

The defence submissions should conclude with a summary of the case and a statement of the award which the respondent is seeking, if necessary, setting out the findings of fact and law which the respondent is asking the arbitrators to make. Where the respondent has a counter-claim the defence and counter-claim submissions should conclude with, first, a summary of case and statement of award sought for the defence and, second, a separate summary and statement of award sought for the counter-claim.

Reply Submissions

The claimant should only serve detailed reply submissions to the defence submissions if: -

- a) The defence submissions raise new matters not dealt with in the claim submissions, or
- b) The defence submissions include a counter-claim in which case the reply submissions should include defence to counter-claim submissions. Defence to counter-claim submissions should be similar to the defence submissions described in the previous section. If the defence submissions do not raise new matters and do not include a counter-claim, the claimant should simply state in its reply submissions that it disputes the defence submissions and asks the tribunal to proceed to make an award. The claimant should not simply repeat its claim submissions in the reply

Further Submissions

After the service of reply submissions, the process envisaged under the Arbitration Rules has been completed, except that further submissions may be necessary where new matters were raised in reply submissions and/or defence to counter-claim submissions. Moreover, if either party considers that a point(s) raised has/have not been adequately covered in the other party's submissions, a request may be made for further details. In which event the arbitrators should be advised without delay, with a view to making an appropriate order.

Evidence

A party must also remember that the tribunal can only decide upon the case as presented in the submissions and this case must include a party's evidence. Where there is a dispute about facts it is not enough for a party simply to state what it believes are the facts. Otherwise that party has not given the tribunal a basis for finding in its favour and

where one party puts forward evidence while the other party does not the tribunal will usually accept the only evidence which is put forward. In the event that an arbitrator has personal knowledge or experience of a particular issue raised during the course of arbitration, he should share that with the parties in order for them to comment.

Documents

Documents are the most common form of evidence. It is usual for a file or a bundle containing copies of documents referred to in the submissions to be served with the submissions. Typically the bundle will contain a copy of the contract, copies of telexes or other communications between the parties, shipping documents if relevant, analysis or survey reports if relevant and written statements of witnesses. If the submissions contain reference to legal textbooks or reports of previously decided cases these should also be included in the bundle. The bundle should be numbered in the right hand bottom corner. It is preferable to number each page rather than each document.

The respondent should not include in its bundle; copies of documents already included in the claimant's bundle. Where it also relies on the same documents it should simply refer to the documents in the claimant's bundle.

Legal Authorities

A party may wish to support submissions by reference to either legal textbooks or reports of previous decided cases. Where this is the case, the party should include a copy of the section of the textbook or of the case report in the documents' bundle, drawing attention to the relevant part.

ENFORCEMENT

Overall GAFTA awards have to be settled under many countries' jurisdictions, and if a final award is not paid, then it has to be enforced through courts in the country where the debtor resides. Not all countries have signed either the New York Convention 1958, or Geneva Convention 1927 for the enforcement of arbitral awards. It is a sensible precaution to include in the contract a specific reference in writing to the GAFTA Arbitration Rules No. 125, for enforcement when faced with a party who is reluctant to comply with a final award.

EVIDENCE

Admissibility of Evidence

An arbitrator's prime duty is to ascertain facts from the evidence presented and in any subsequent appeal to the High Court, an arbitrator's finding of facts will rarely be challenged, on the basis that such findings are final. Facts are elucidated by evidence, either from documents or from witnesses so that an arbitrator needs to ascertain all the facts first before he can begin to make a decision on them.

An arbitrator is to a large extent master of his own procedures and is allowed a good deal of flexibility as to what he should admit as evidence, compared to strict rules of evidence designed to avoid a jury being unfairly influenced by evidence which turned out to be inadmissible. Thus, if there is doubt, it is usual for an arbitrator to admit evidence on the basis that an arbitrator's function is to weigh and accept or reject the evidence according to his reading of it.

The best evidence is always original documents and original evidence from the person who was involved in what was happening. Modern photocopying allows photocopies of originals which may be admitted, as freely as translations (provided both parties accept the version proffered) and in cases where an original witness is not available, "hearsay" evidence as to what a person said may be admitted and may or may not be accepted by the arbitrators.

The important principle to remember is that it is the arbitrator's duty to weigh all the evidence proffered and to derive from that evidence findings of fact. This usually involves rejecting evidence to the contrary.

There are certain things which in principle are not admissible, such as privileged documents, or "without prejudice" communications between parties.

EXPARTE

Where a principal party to the reference is absent and the arbitration proceeds in their absence. (In the High Court however this means that a hearing can be for benefit of one party in the absence of the other, i.e. Mareva Injunction).

EXPERT: *See Witness*

F

FACTS: *See Evidence*

FAQ: *Fair Average Quality*

FEES

Fees and expenses incurred by arbitrators or GAFTA in relation to a dispute should be shown on the award of arbitration. In cases where the arbitration has been withdrawn settlement of any fees and expenses should be made to the Association. If arbitrators decide to request GAFTA to call for a deposit on account of their fees and expenses under the Arbitration Rules, this deposit shall be sent to GAFTA. No fees should be paid direct to an arbitrator or appeal board member other than through GAFTA.

FINAL AWARD

The last award issued by GAFTA, signed by the tribunal if first tier or by the chairman of the board of appeal if second tier.

FUNCTUS OFFICIO

When the arbitrators have completed the reference and issued their award, they have no further authority or legal competence. Therefore all subsequent communications should be directed to the Association.

H

HEARINGS

First Tier Arbitration Hearings

The procedure for an oral hearing is as follows: -

Both representatives shall be admitted together and no part of the hearing shall be conducted in the presence of only one of the representatives, unless the other party is not represented, and has made known his intention neither to appear nor to be represented. The arbitrators shall not proceed with the hearing unless they are satisfied that the absent party was duly notified of the date, time and place of the arbitration hearing.

The purpose of an oral hearing is to allow oral representations and submissions but not to allow the parties to adduce fresh documentary evidence not already exchanged prior to the hearing. Any such evidence may, however, be admitted by the arbitrators provided they are satisfied that the other party has or has had sufficient opportunity to produce evidence in reply and to this end, if they think fit, (whether on application by the parties or not) the arbitrators should adjourn the hearing for this purpose.

The claimant party shall first present his case and the tribunal should ask for clarification of any point as the submissions are made, but should reserve questions of substance relating to the case as a whole until the claimant has completed his submissions.

On the completion of the claimant's case, the respondent shall put his case (and counterclaim, if any) in the like manner as the claimant, and the procedure as above is to be followed.

The claimant now has a right of reply to any new points made by the respondent which were not already covered in his first submissions, but he should not be permitted to take the opportunity of merely repeating his case. However, where a counter-claim has been made, the claimant may respond to that claim as though he were respondent in the proceedings. In which case, the respondent has a final right of reply to any points made in such response which were not covered by the respondent in his counter-claim. The parties should not be allowed any further replies.

Before closing the proceedings, the tribunal should raise with the parties any points which seem unclear or which have not been sufficiently covered, or even omitted altogether which seems relevant to the tribunal. In particular, arbitrators should remember that while they are able to use their trade knowledge and skills in general, any particular knowledge relating to the case which is in the possession of any member of the tribunal may not be used unless such is first raised with both parties, and each given an opportunity to comment or make submissions thereon.

Parties, their representatives and witnesses, shall withdraw after the hearing.

Appeal (Oral) Hearings

The Association is responsible for arranging the facilities for appeal hearings and for giving notices to parties on behalf of boards of appeals. The Secretariat is also available to advise and assist with procedures for the benefit of the board and parties, but remains neutral at all times and does not intervene in the issues in dispute.

At an appeal hearing parties may present their case in writing, personally or be represented by an agent engaged in the Trade. Provided they were not appointed as the first tier arbitrator(s), experienced arbitrators can present appeals.

After being given reasonable notice of the time and place fixed for the hearing, if either party fails to appear or present a case, the hearing may proceed without them if the board is satisfied that they have sufficient evidence and submissions to proceed to make an award.

Appeal hearings are based on an adversarial system and each party will hear the other's case and have an opportunity to answer it as set out above at first tier arbitrations.

Proceedings at appeal hearings are in the hands of the board; they should therefore elect as their chairman the member most able and experienced in regulating hearings. Repetition and unnecessary statements by representatives increases the time taken and therefore the cost.

The board's duty is to manage the arbitration; they should listen to all the arguments and intervene during the proceedings as is necessary. The chairman should check that each party's representative has been properly authorised. After the preliminaries, the board will invite the appellant's representative to present his case. This may be done orally but from a prepared statement to be read out and copies distributed to the members of the board and to the other party's representative. The Board may ask the appellant's representative questions arising out of the case.

The respondent's representative should then be invited to present his case, and counter-claim if any. Again this may be done orally by reading out a prepared statement. If he wishes, the respondent's representative may deal with any points raised by the appellant's representative. The board may ask the respondent's representative questions relating to his case and the evidence submitted by him.

The appellant's representative must be given the opportunity of answering any points raised by the respondent's representative, but he may not at this stage introduce new evidence unless the respondent's representative or the board agrees that such other new evidence is allowed at this stage. The respondent's representative should be given an opportunity of answering it.

Where the respondent is making a counter-claim the appellant's representative shall have the right to respond to that counter-claim and the respondent's representative shall have a right to reply to the appellant's response on the counter-claim, but shall not introduce new evidence without leave of the board of appeal.

If one of the parties is not represented at the hearing and any new points are raised in their absence, the board of appeal must draw these points to the attention of that party for their comments.

Appeal Documentation/Submissions

Arbitration Rules Form No: 125 sets out the procedures for providing submissions, statements and evidence to be delivered by each party to the Association and to the other party, prior to the appeal hearing. When an appeal is lodged, and a case file is opened by GAFTA, the Secretariat will set down a timetable for the production of submissions.

Each appeal is a completely fresh hearing of the case and should be so presented. Neither the parties, their representatives nor the board can assume that evidence or information used at the arbitration will automatically be submitted to the board, and any evidence which the parties or their representatives wish the board to consider must be presented in accordance with the time table.

Close

Arbitrators should always make it clear to the parties when the arbitral process/ hearing is at an end.

I

INTEREST

All sums awarded shall carry interest, at simple or compound rates in the arbitrators' discretion. If the arbitrators determine not to award interest their reasons for this decision must be stated in the award.

INTERLOCUTORY ORDERS

Orders or directions from the tribunal to the parties during the course of the arbitration prior to the issuance of their award, e.g. allowing a party further time before complying with a deadline.

IRREGULARITIES

Any irregularities in the conduct of an arbitration by the arbitrators should be reported to GAFTA. Arbitrators are reminded that the Council may exercise its powers under the Association's Rules and Regulations regarding membership of the Association and under the CPDP with regard to the Criteria for Qualified Arbitrators.

L

LANGUAGE

Each award should be written in plain English, be self-explanatory and clear as to its meaning.

LAPSE OF CLAIM

Delays in progressing an arbitration have been a problem for arbitration organisations worldwide, often due to one party being reluctant to proceed. This continues to be a difficult problem when a party claims arbitration and does nothing further. If neither party has submitted any documentary evidence to GAFTA, within the period of 1 year, then the claimant may renew the claim annually, but not for more than 5 successive years in total. Otherwise the claim is deemed to have been withdrawn and abandoned.

LAW: *Common Law, Statute Law, and Proper Law*

LAWYERS

Where the parties retain lawyers to advise them they should notify the other party to the dispute of that fact.

LEGAL COSTS

Where the parties agree legal representation then they may claim their legal costs at the arbitration. In the normal event the unsuccessful party pays the costs, in whole or in part, to the successful party, but the arbitrators must consider awarding legal costs based on the merits of the case.

Where the parties have not expressly agreed to legal representation then their legal costs are not recoverable.

LIQUIDATED DAMAGES

A contractual provision that determines in advance the measure of damages if a party breaches the agreement.

MAREVA INJUNCTION: *Restraint Order*

Is an order to prevent a defendant from removing assets from the jurisdiction so that enforcement of a judgement is impossible.

MEDIATOR

A Mediator is appointed by the 2 disputing parties to assist them to find a resolution and reach a settlement. A Mediator has no authority or power to bind the parties, only to facilitate a settlement agreement.

MERCANTILE LAW

Very similar to the law-merchant, designating a system of rules, customs and usages generally recognised and adopted by traders.

O

OFFICERS OF GAFTA

The President, Deputy President, Vice-President, Immediate Past-President, Director General and Secretary of GAFTA.

ORDERS: *Order for Discovery, Order for Directions, Peremptory Order*

To ensure the progress of the arbitration, arbitrators may make a number of orders to the parties during the course of the reference.

Order for Discovery

When requested to do so by one of the parties the arbitrators may, at their discretion, decide to call on a party to produce information or documents which may be material to the arbitration. For example, but not limited to, the vessel's log book, bills of lading, insurance certificates etc.

Order for Directions

Where a tribunal is of the opinion that the case is not progressing at a satisfactory rate, they may call on a party, in a simple order form to present its case.

Peremptory Order

Where a tribunal finds that a party has failed to proceed with the case and has not complied with previous orders, they will give a final notice to the parties, which may be a notice of their intention to proceed on a given date with the arbitration, on the basis of the documentation before them.

P

PREPARATION OF A CASE: *(See Drafting of Submissions)*

PRIMA FACIE: *On the face of it*

For example, when a claimant produces a document purporting to be a contract subject to the GAFTA Arbitration Rules, which the other party refutes, the Association will still appoint an arbitrator without giving an opinion on the validity of the document. Whether there is a valid contract or not, is a matter for the arbitrators to decide.

PRIVILEGED DOCUMENTS

Documents which a party does not have to disclose or show to the other side or the arbitrators in an arbitration. For example, "without prejudice" correspondence, or, generally speaking, correspondence between a party and his own legal advisers.

PROPER LAW: *The law governing the contract and arbitration rules.*

Q

QUALIFIED ARBITRATORS

GAFTA Members, or employees of Members, who have been assessed under the CPDP by the Association's Assessment Panel as being entitled to accept appointments as GAFTA Qualified Arbitrators.

R

REASONS

All awards should be fully reasoned.

Arbitrators should set out sufficient facts and reasons for their award to enable a party to understand fully what were the points in dispute and how they have been dealt with. It is desirable to set out the background and basis of facts, the contract and the particular contract term which is in dispute or under construction, and enough of the history of events to show how the problem arose and to state as clearly as possible what precisely was the dispute put before the arbitrators.

Both sides will have made submissions, and setting out in the award a brief precis of each side's submissions on the point in dispute will be helpful, leading, by elimination, to the reasoning of the award. It is unnecessary to recite in full the written submissions put in by the parties.

It is advisable so far as is possible for lay arbitrators to avoid difficult legal terms, such as "estoppel or waiver". The arbitrators will not be expected to analyse the law and the authorities, it will be quite sufficient that they should explain how they reached their conclusion.

Clarity, simplicity and comprehensive understanding of the case are required.

REPLY: *See Preparation of a Case*

The claimant at an oral hearing or in writing has the right to reply to any new points raised by a respondent in its submission.

RESPONSE

The other party's respondent is entitled to respond to the claimant's written or verbal submissions in writing or at an oral hearing and to any points raised by the claimant.

RYE TERMS

"Rye terms" is a contract term and is used where the seller is responsible for the sound condition of the goods up to the time of discharge.

RULES: *Arbitration Rules Form No: 125 - two tier system*
Arbitration Rules Form No: 126 - simple dispute resolution
Arbitration Rules Form No: 127- maritime
Mediation Rules No.128.

S

SAMPLES

Parties or arbitrators who wish to carry out arbitrations requiring the examination of samples are advised to notify GAFTA and to give not less than 24 hours prior notice for the samples to be made available. Samples may be disposed of 6 months after they are received unless a specific request has been made to and acknowledged by GAFTA.

SCOTT -v-AVERY CLAUSE

This is a provision in the Arbitration Clause of all GAFTA contract forms which provides that neither party involved in a dispute may bring any action against the other in court without first having obtained an award through the GAFTA arbitration process.

SECRETARIAT: Staff

GAFTA's personnel are responsible for the administration of the arbitration service. However it is not GAFTA's policy to interpret its contract terms or rules, particularly when these are the subject of a dispute. They can help with the procedures to assist the smooth running of an arbitration or mediation.

SIMPLE DISPUTE RESOLUTION: *Arbitration Rules Form No: 126*

In order to provide a service for parties who have a simple problem to resolve which they do not believe warrants the two tier arbitration facilities provided by Form No: 125, GAFTA has provided set of rules, Form No: 126 for simple dispute resolution.

After the dispute has arisen, the parties may sign the agreement attached to Form No: 126. This means that have opted out of the requirements of Arbitration Rules No: 125 and have instead elected to have a sole arbitrator, with a one-tier arbitration, no legal representation, with no appeal to GAFTA or to the Courts. The submissions and award will be produced within a set timetable and the arbitrator and Association's fee will be laid down in advance by the Association's Council.

SLIP RULE: *Errors and Omissions*

Where an arbitrator makes an accidental slip, or an error or omission in an award this can be rectified upon application to the tribunal in accordance with the Arbitration Act 1996.

STANDARDS: *Procedure for Cereals and Pulses FAQ Arbitrations*

When samples are put to arbitrators for examination the information on the sealed sample bags will be checked by the arbitrator(s) in order to verify that they are the samples forming the basis of the arbitration.

The bulk of the sealed samples shall then be mixed and a representative portion shall be placed in a bowl. The contents of the already made-up standard sample shall be placed in another bowl.

The Association will ensure that the identities of both the samples, at this stage, are not disclosed to the arbitrator(s).

The arbitrator(s) or a majority of them shall determine which of the contents of the two bowls is superior in quality. If he/they, or a majority of them, is/are of the opinion that the GAFTA F.A.Q. standard sample is superior, the arbitrator(s) will then proceed to agree to make an award on a comparison between the GAFTA F.A.Q. standard and the bulk of the sealed samples.

At the end of the arbitration, the standard sample shall be replaced in the appropriate container. The bulk of the sealed samples shall be resealed and held in case either of the parties chooses to appeal.

STATUTE LAW: *The law passed by a legislative body*

T

TALE QUALE

Tale quale is a contract term, which means the seller is responsible for loading/shipping goods in a sound condition and thereafter the risk of any change in condition of the goods during the voyage is the buyers' risk.

TIME BAR

Claims Barred and Arbitrators Discretion

Time limits for claiming and proceeding with arbitrations and appointing arbitrators apply under GAFTA Rules. These time limits have evolved over the years and it is GAFTA's understanding that this reflects Members' requirements to ensure certainty, and a final settlement. Also, for quality and condition disputes to ensure the state of samples is as near as possible to their condition at the time of discharge of the vessel.

If there is a failure to comply with limits, then claims are barred. This leaves the arbitrator or appeal board members to decide, when permitted by the rules, whether to waive the need to comply with the time limits or to extend it and admit the claim. In considering whether they should do this, they should take into account what the consequences would be for either party if discretion was or was not given.

Under the Arbitration Act 1996, the Courts are able upon application from either party, provided the arbitral process has been exhausted, to extend time limits where a claim might otherwise be barred. The Courts will do so however only if it is satisfied that the circumstances were outside the reasonable contemplation of the parties when they agreed to the time limit provision in the Rules or that the conduct of one party would make it unjust to hold the other to the strict terms of the provision in question.

Time Limits

A claim for a breach of contract (not quality and condition) may for example, consist of non-performance by one side or the other, usually called a default, or it may be in respect of uncontractual performance, e.g. a late delivery, delivery of non-conforming, uncontractual goods, a failure to open a letter of credit in time, a failure to put a vessel in within due time or a failure to give certain vital notices at the appropriate times. In all such cases the aggrieved party claims arbitration with a view to declaring the other party to be in breach of contract and in default of his obligations to perform, and a requirement that the defaulting party should pay damages.

Such damages are designed to put the innocent party in the position that he would have been in had the breach not occurred, so far as a monetary payment can do this. There are certain rules guiding how such damages shall be assessed, to be found in the Sale of Goods Act and certain parallel provisions in the GAFTA contracts providing for default.

Quality/Condition Time Limits

Some contracts stipulate under the "quality" clauses, scales of fixed allowances, for example in respect of oil and protein, or sand and/or silica. Where such allowances are not fixed by the terms of contract, the Arbitration Rules provide that any such claim must be made not later than 21 consecutive days from the date of receipt by the claimant of the final certificate of analysis. It is important to remember this where certificates of analysis are to be passed on in a string.

W

WITHOUT PREJUDICE

Correspondence between the parties which attempts to settle a dispute, whether before or after an arbitration has started. Such documents must generally contain the words "without prejudice", usually at the top. This

correspondence is privileged, i.e. need not be disclosed. This is important since a party might have made a concession in his attempt to settle which if disclosed in the arbitration might influence the tribunal. It follows that if the other party wrongly discloses a without prejudice document it has received, the tribunal must ignore it.

It should be noted by arbitrators that simply putting the words "without prejudice" on any document is not good enough to prevent disclosure. To qualify for privilege, correspondence must contain genuine attempts to settle the dispute.

WITNESSES

At the discretion of the tribunal witnesses may be allowed into a hearing from the beginning until the end, or excluded and only called in to give their evidence. If a party intends to call witnesses, they should advise the arbitrators, and the other party, of the number of witnesses and the probable time to be taken. Witness statement ideally ought to be delivered in advance of the hearing to the arbitrators and other party.

The parties and the tribunal are not bound by the strict rules of court and generally a witness is sworn in only if either party requires it or if the tribunal in its discretion so decides. The party calling a witness shall examine-in-chief and may not ask leading questions; i.e. not questions which prompt a particular answer. A party calling a witness will usually have gone through the evidence beforehand with the witness, and it is a skill of the party's representative calling witnesses to elucidate the evidence required.

The opposing party may cross-examine any witness and may put forward leading questions if he pleases.

When the cross-examination is over, the party calling the witness may re-examine the witness, if he wishes, but only on new matters which arose out of the cross-examination, and not on repetition of matters dealt with in examination-in-chief.

It is advisable for arbitrators/boards of appeal to reserve questions of witnesses until the above three stages have been completed, although sometimes it may be necessary to check a witness's answers when they are indistinct, as he goes along.

If an adjournment is necessary (e.g. lunch-break) during a witness's evidence, the witness should be cautioned not to discuss the case or his evidence with anybody whatsoever.

An expert witness is not a witness to elucidate the case of either party but is called to give his expert opinion, not least for the benefit of arbitrators/board of appeal, and such evidence should be in written form available to both parties beforehand as well as to the arbitrators. However such evidence may be tested by cross-examination.

It is preferable to receive witness statements in advance of the hearing, in which case it is appropriate to go direct to the cross-examination.

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GAFTA

**GUIDELINES FOR
LETTERS OF CREDIT**

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GAFTA

GUIDELINES FOR LETTERS OF CREDIT

The notes are not intended, nor should they be taken, as being a contractually binding interpretation of specific contract clauses. Whilst every care has been taken in the preparation of these notes, neither the Association, nor their officers can accept any liability whatsoever from any error, mis-statement or omission therein.

INTRODUCTION

These Guidelines are intended to cover two purposes. They are intended to alert parties of the points they should look for when they deal in contracts, which require payment by letter of credit, and to produce a basic clause for use in contracts.

In these Guidelines, the words "documentary credit", "letter of credit", "L/C" and "credit" are used interchangeably.

WARNING

Letters of Credit are indispensable tools in modern trade. However, they (and in particular Standby Letters of Credit) can also be fertile territory for fraudsters. It is up to you to ensure that the documentary instruments used are legitimate. You should therefore only operate through the proper banking channels, and you should ensure that your documentary requirements are provided independently and not entirely by the beneficiary.

DEFINITION:

An arrangement by which a bank, on behalf of a customer, arranges for payment to be made to a third party in exchange for stipulated documents, provided that the terms of the arrangement are complied with (UCP Article 2).

ROLE OF UCP:

The International Chamber of Commerce ("ICC") has issued their booklet "Uniform Customs and Practice for Documentary Credits". The current edition, habitually abbreviated to "UCP500", was issued in 1993 to take effect from 1st January 1994. Nearly all transactions for documentary credits between banks incorporate the provisions of UCP500. When one bank notifies a credit to another bank and/or its customer, it usually refers somewhere in the message (usually towards the bottom) that the agreement is subject to the UCP. These Guidelines should be read in conjunction with the UCP500. Although the ICC tries to standardise the interpretation of its terms, various banks do interpret some of the provisions differently.

If there is no reference to UCP500, then it does not govern the relationship in the l/c, except in cases where the credit has been transmitted between the banks by means of SWIFT ("The Society for Worldwide Interbank Financial Telecommunications", which sets standards for inter-bank electronic messages). All l/cs transmitted by SWIFT (SWIFT formats 700 and 701) are by definition automatically governed by the latest available version of the UCP, even if the credit does not refer to UCP.

SEPARATE CONTRACT:

A letter of credit is an independent undertaking by a bank on behalf of its customer. It does not incorporate all provisions of the contract between the seller and the buyer, save in those respects where agreements in the L/C can be said to waive or amend requirements of the contract. (UCP Article 3). As with any contract term it should be remembered that the terms of the letter of credit should be negotiated between the contracting parties and should be compatible with other contract terms. It should be remembered that the terms of the letter of credit should comply with the terms of the contract. If no objection is made to any terms in the L/C

which are at variance with the terms of the contract, then the contract is deemed to be amended by the varying terms.

REVOCABLE/IRREVOCABLE:

All letters of credit are either revocable or irrevocable. Revocable means that the issuing bank can cancel the L/C at any time, whereas an irrevocable L/C cannot be cancelled (it can only expire), unless all the parties involved (i.e. the applicant, the banks and the beneficiary) agree. (UCP Article 9(d)).

Under UCP500, all L/Cs are deemed to be irrevocable, unless there is express provision to the contrary (see Article 6). This is a complete reversal, and very welcome, from the position in previous editions of the UCP (UCP290 and UCP400).

APPLICANTS AND BENEFICIARIES:

The "Applicant" for a letter of credit is usually the Buyer in a contract of sale, and the "Beneficiary" is usually the Seller.

NUMBER OF BANKS INVOLVED:

A number of different banks can be involved in a letter of credit transaction. The buyer will normally approach one of his own banks to open the letter of credit: this is the *issuing bank* and the letter of credit contains an undertaking by the issuing bank that it will pay for the documents conforming to the credit in the manner stipulated. (Article 9).

The issuing bank can issue the L/C direct to the beneficiary (which is unusual), or advise it through another bank with which it has corresponding relations in or near the beneficiary's location. This is the *advising bank*. Very often, the seller/beneficiary will ask for the L/C to be advised through a certain bank and, as long as the two banks have corresponding relations, there is no reason why the request should not be complied with. An advising bank is obliged to check the authenticity of the letter of credit. (Article 7).

It may be a requirement of the contract that the letter of credit is to be confirmed by another bank. The issuing bank should include a requirement in the L/C that it be confirmed, and the *confirming bank* is often the same as the advising bank, although it need not be (Article 9). By confirming a L/C, the confirming bank undertakes that it will honour the presentation of documents complying with the credit, independent of the financial situation of the issuing bank (liquidity/solvency risk) or the financial situation in the country of the issuing bank (country risk) at the time that the payment is due. Sometimes a beneficiary may require a L/C to be confirmed without the knowledge of the issuing bank. Provided that the advising bank is prepared to do so, it may add its guarantee (in the past also called "silent confirmation") to the credit.

Banks have established business relations with many other banks, but not all, throughout the world. A bank with which another bank has such a relationship is known as a *corresponding bank*. A problem may occur if the issuing bank has no such relationship with the seller's preferred advising bank. In these circumstances, the banks often seek an intermediary third bank that has "corresponding relations" with both of the other banks.

A *nominated bank* is a bank named by the issuing bank to effect the payment (see Reimbursement).

TRANSFERABLE:

A beneficiary ("the first beneficiary") may transfer a credit to another beneficiary ("the second beneficiary"), provided that the credit is specifically marked as transferable. It may even be sub-divided to several second beneficiaries provided it does not exceed the total quantity, value and unit-price, the latest shipment date and expiry date of the master L/C, keeping the insurance requirement unharmed, and is otherwise permitted in the master text (e.g.: "partial shipments permitted"). The second beneficiary does not have authority to instruct the second advising bank to transfer the credit again. Consequently, transfer of the master credit may not take place more than once. Parties using transferable credits should be aware of the dangers involved with amendments, since each beneficiary is individually liable to accept or reject each amendment. (UCP Article 48).

REIMBURSEMENT:

All L/Cs must indicate if and where they are payable in one of two modes (called "tenors"): at sight or usance. Reimbursement "at sight" may mean by payment itself or by negotiation. Reimbursement by "usance" may

mean by acceptance or by deferred payment. The issuing bank must indicate which bank is authorised to take up the documents. The bank authorised to do so is called the *nominated bank*. The nominated bank can be any bank in the world or within a specific geographical area' named ("restricted") in the credit or not ("unrestricted")' or can be limited to the issuing bank.

"At sight" means that the nominated bank should pay upon presentation of documents complying fully with the terms and conditions of the credit. However it should be noted that banks have a much more lax attitude to the concept of "payable at sight" than traders do. According to Article 13 (b): "The Issuing Bank the Confirming Bank if any, or a Nominated Bank acting on their behalf, shall *each* have a reasonable time, not to exceed *seven banking days* following the date of receipt of the documents, to examine the documents and determine whether to take up or refuse the documents and to inform the party from which it received the documents accordingly." (our emphasis).

Representations have been made to the ICC that seven banking days was much too slow. The ICC has given assurances that the seven banking days is a maximum, and should not be considered the norm.

The characteristic feature of "negotiation" credits is that they stipulate a sight bill of exchange (also called a "draft") drawn on the issuing bank or on the bank nominated in the credit as the drawee. The issuing bank authorises the advising bank to negotiate this Bill of Exchange, that is, to advance it. This is a "restricted negotiation credit".

In the case of an "unrestricted negotiation credit", any bank in the beneficiary's country is authorised to negotiate the bill of exchange and accompanying documents. Such negotiation is executed by the negotiating bank under usual reserve, which means that the negotiating bank may exercise its right of recourse if the bill of exchange is not honoured by the drawee (the issuing bank). In practice, this hardly ever occurs, unless the payment is reclaimed on account of defects on the documents.

Although UCP500 (Article 9) clearly states that bills of exchange shall be drawn on the issuing bank, in practice credits will occasionally stipulate that a bill of exchange should be drawn on the applicant to the credit. Banks consider such a bill of exchange as an additional document and not as a financial instrument.

"Usance" means that the nominated bank should take up documents on presentation of documents complying fully with the terms and conditions of the credit. If the L/C is for deferred payment, the nominated bank confirms the undertaking to pay' mentioning the amount and the due date in writing or by telecommunication. If the L/C is for acceptance, the nominated bank accepts the draft drawn on itself, and by that acceptance confirms the undertaking to pay the amount on the maturity date of the draft. In certain cases, especially if it has confirmed the credit, a bank may be prepared to discount the proceeds of the deferred payment undertaking or the accepted draft, with or without recourse on the beneficiary.

None of these terms stipulate how the reimbursement should be made. If the letter of credit omits to state that reimbursement will be made by telegraphic transfer (or other rapid method), then the remittance could be made by the slowest method possible, which is unusual. It should be remembered that currency has to be routed through a suitable location in the country of that currency (i.e. all US Dollars through New York etc).

BILLS OF EXCHANGE:

According to S.3 of the Bills of Exchange Act 1882, it is "*an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person, or to bearer*".

DOCUMENTS:

A letter of credit should stipulate the documents which have to be presented and against which payment should be released. Article 13 of the UCP sets a low standard for the checking of documents. Banks do not look at the contract for the sale of goods to see what should be contained within the documents. Banks do not check the accuracy of the information contained in the documents themselves: for instance, a bank will not check if the named vessel in a bill of lading actually did load the goods at the named port, or even whether or not the ship actually exists. Banks do not look at documents, which are not named in the L/C.

Since banks interpret documents in a literal fashion, it is important for the parties that the description of the documents should be precise (Article 20). For instance, if the L/C called for a "Certificate of Weight", then a bank would accept any piece of paper headed "Certificate of Weight" which appeared to match (or, rather, was not inconsistent with) the description of the goods (Article 21). As a further example, care should be taken to ensure that documents are marked "Original" and "Copy" as appropriate if the credit calls for documents to be described in that manner: a bank will refuse documents if "originals" and "copies" are not distinguishable on their face.

Bills of Lading will be assumed to be "marine/ocean" (i.e.: generally "liner") b/l's unless they are specifically marked as charter-party bills of lading. (Articles 23 and 25). Therefore, if charter-party bills of lading are to be presented, the L/C should always allow this specifically ("charter-party bills of lading acceptable", or the description of the b/l's in the L/C should mention this). All types of b/l's have to indicate that the goods have been "shipped on board", unless the L/C expressly calls for some other notation. The b/l's must also be "clean", which means that the carrier/shipowner, the master or the ship's agents have not made any remark on the face of the b/l suggesting any defect in the condition and/or packaging of the goods. (Article 32).

There are also lengthy provisions for other types of transport documents: Non-negotiable Sea Way-Bills (Article 24), Multimodal Transport Documents (Article 26), Air Transport Documents (Article 27), Road Rail or Inland Waterway Documents (Article 28) or Transport Documents issued by Freight Forwarders (Article 30).

L/cs should state the type of insurance cover required, if any, and the value of the cover. If there is no specific information, banks will accept insurance certificates or policies in the currency of the L/C on any conditions but only for 110% of the CIF value. (Articles 34-36).

Banks will accept documents issued by third parties (Article 21) except the invoice and draft, if any. An exceptional situation occurs in respect of a transferred documentary credit (Article 48).

The UCP does not say much about other documents, such as certificates of weight and quality. However, it is apparent that the title and content of these documents should be complete to ensure that the banks examine them adequately. For instance, I/cs should require that certificates issued by superintendents name those superintendents who are acceptable under the contract, and what the certificates should contain. We suggest that a certificate of quality should contain, for example, a statement that "*samples were drawn at the time and place of loading into the ocean vessel in accordance with the GAFTA Sampling Rules No.124*", or that a Certificate of Origin be issued by a specified authority. Vague terms present two dangers: firstly, banks will ignore them (Article 20) and, secondly, you may not get the documents you need.

BILLS OF LADING TO ORDER OF ...

Banks often require that bills of lading be made out to the order of the bank or of a named consignee. Parties should resist this as it affects the negotiability of the documents. If a b/l is issued to the order of a bank or named consignee, then it is not a document of title in the hands of anyone else, and it is not a negotiable instrument, unless the bank or the named consignee has properly endorsed the original bill of lading. If the documents were refused, the beneficiary would be dependent on the goodwill of the bank or named consignee in reendorsing the b/l back to him.

It is not acceptable, under a letter of credit which calls for b/l's to be issued to a named bank or consignee, for the b/l to be issued "to order" and then endorsed on the reverse of the document to the named bank or consignee. It is suggested that a b/l made out to the order of a named bank or another consignee would not be a negotiable document in the hands of another whereas a b/l "endorsed" to a bank or a named consignee would be negotiable until the endorsement took place. If possible, parties are advised to ask that b/l's be "blank endorsed", that is, that the b/l should be consigned "to order" without further endorsement.

PARTIAL SHIPMENTS AND TRANSHIPMENTS:

Partial shipments are allowed, unless the L/C stipulates otherwise (Article 40). Transshipments are allowed, unless the letter of credit stipulates otherwise, provided the bill of lading covers the entire ocean carriage from the load port to the destination named in the contract (Article 23(c)).

LAST SHIPMENT DATE / EXPIRY:

Letters of credit must state an expiry date, which is the last date on which documents complying with the terms and conditions of the credit may be presented with the nominated bank within their business hours. If the expiry date is a non-business day for the nominated bank, documents may be presented on the first consecutive business day after the expiry date (Article 44).

It is advisable that l/cs also state a last shipment date. Customarily, there should be 21 days between the last date for shipment and the expiry date, although the parties are free to agree any number of days. (Articles 42-44). It should be noted that the documents should be presented under the L/C within a specified number of days from the date of the bill of lading, which will be assumed to be 21 days unless the l/c contains a specified number of days. (Article 43). If partial shipments are prohibited but more than one set of bills of lading is presented, with different bill of lading dates, then the date of the last bill of lading will determine the appropriate date (Article 43(b)).

EXTENSION OF SHIPMENT CLAUSES:

Extension of Shipment clauses may be incorporated within a credit where the scale of allowances for late shipment is specified. Most GAFTA CIF contracts, for example, contain a clause with an express scale of allowances, which will apply automatically when the seller invokes the clause. Some FOB contracts also include a scale. However, there are other extension clauses (usually carrying charges clauses for FOB contracts) where the carrying charges have to be proven: in these circumstances, of course, the carrying charges will have to be settled outside the terms of the credit.

FORCE MAJEURE CLAUSES:

There can be considerable difficulty with the drafting of a L/C if the GAFTA Force Majeure clause is taken into consideration. As the seller is under no obligation to provide immediate substantiating proof of the force majeure claim, this clause allows for automatic extension of the shipment period, if invoked. Logically, therefore, there should be an automatic extension of the letters of credit to match. There is no obligation on a seller to ship goods if the letter of credit is not in order, and therefore parties are advised to cooperate very closely on this issue, or to issue their l/cs with provision for these clauses, or to deal with the potential problems somehow in their contract.

CHARGES:

All the banks in a transaction will charge fees for the issuing, advising and confirming of the L/C and separate fees for the negotiation of the documents and the reimbursement of the payment. The level of those fees will be subject to agreements between the banks and their customers, and for the level of service provided. The L/C should stipulate which type of charges are payable by whom. If the L/C is not specific with regard to commissions/charges, the applicant (buyer) will be deemed responsible for all the commissions/charges of all the banks involved. To avoid dispute, it is recommended that the parties agree in their contract how the fees will be divided.

For the sake of comparison, it is suggested that the parties should consider how bank fees are apportioned in CAD ("cash against documents") transactions: the seller is obliged to present documents to a location (usually bearing the fees of presentation but not those of the buyer's bank) 'of the buyer's choice' or an agreed location' and the buyer remits funds to a bank in accordance with the seller's instructions (usually bearing the fees of the remittance to the country of the currency).

WHEN SHOULD IT BE OPENED?

The UCP provisions do not concern themselves about when a L/C should be opened or what should happen to the contract if the L/C is not opened in time or inadequately. That is a matter of contract' and how the parties deal with it is a matter of negotiation between them.

However, it should be borne in mind that the seller is not obliged to ship goods unless the letter of credit is opened and workable or if he has reasonably objected to any terms in a letter of credit.

A contract often calls for the L/C to be opened by a certain date' but the parties should be aware that the L/C is not deemed 'opened' until it has been despatched by the advising bank to the beneficiary. It is not sufficient, therefore for the opener to just request the opening of the L/C on the given date, or even for the banks to advise each other. It should also be remembered that the L/C should be opened in accordance with

the terms of the contract by that given date: if it is not, then the L/C is rejectable and the opener could find himself in no position to make the proper amendments on that day.

The parties may wish to give some consideration to what they want to happen to the contract if the L/C is indeed opened late or inadequately. If there is a date by which a letter of credit should be opened, and it is not, then the buyers are in breach of contract and are liable for damages in accordance with the default clause of the contract. If no date is mentioned, then the L/C must be opened latest on the day prior to the first day of the shipment period. In practice, parties may prefer to find less draconian solutions to late opening: for example, sellers may wish to include in the contract a provision allowing them to extend the shipment period (rather than cancel it) if a workable L/C is not opened in time.

AMENDMENTS:

Amendments to l/cs are deemed accepted unless the beneficiary objects latest upon presentation of documents. In the case of amendments made well in advance of the shipment period, the applicant could find himself in a difficult position. It is suggested, therefore, that the original credit should contain a specific clause requiring amendments to be rejected within, say, seven days.

Although the terms of a letter of credit do not form part of the contract of sale, acceptance in the L/C of a term which varies a term of the contract is deemed to constitute a waiver of that provision of the contract. In addition, if documents are presented in accordance with an amended L/C, then those amendments are deemed accepted.

It should also be noted that the beneficiary may not accept some amendments and reject others if they are all notified on the same list of amendments. He must accept or reject the entire list. If only a part of a list is acceptable, then the parties should agree to issue a new list of those acceptable parts in order to include them as amendments.

REVOLVING LETTER OF CREDIT:

If there is a run of shipments under a contract of sale, say for instance 10,000t each month October, November, December, the parties may consider (subject to the terms of the contract) issuing one revolving L/C, which repeats itself for 10,000t in each month, rather than three separate l/cs or one large one. A L/C, which repeats itself in this manner, is known as a revolving letter of credit.

Revolving l/cs may be "cumulative" or "non-cumulative". Under a cumulative revolving L/C, remaining quantities of prior shipments may be made later than originally intended and remain valid under the terms of the credit, whereas in a non-cumulative revolving L/C shipment must be made, within the quantity tolerance, for each installment.

Parties preparing revolving l/cs should be aware that the issuing bank is committed to effecting payment for all the shipments, and therefore the customer's credit line will be debited with the total amount of all the shipments.

RED CLAUSE OR GREEN CLAUSE:

The parties may agree that the advising bank may provide the seller with a certain value of the L/C in advance of the payment for the documents, for the account and risk of the issuing bank. This may be done against some form of security such as warehouse receipts ("covered red clause") or without security ("clean red clause"). The issuing bank will deduct this advance, augmented by interest, from the next drawing made under the credit. A L/C, which includes such a provision, is known either as a Red Clause L/C, or alternatively a Green Clause L/C. There is no technical difference between the two terms.

ADVANCE PAYMENT L/C:

An advance payment credit is often confused with red clause or green clause l/cs, but has a different effect. In this case, the issuing bank allows the advising bank to effect an advance payment, with or without security, but the issuing bank (and consequently the buyer) are charged for these payments immediately.

STANDBY LETTER OF CREDIT:

A standby letter of credit is a letter of credit with a specified value which may, or may not, be drawn upon in specific circumstances and in specific situations. For example, in some industries it is common for the buyer

to open a standby L/C for demurrage. A stand-by L/C can be issued in place of a guarantee in circumstances where certain documentary evidence is required. Guarantees, by comparison, are not governed by a framework for the checking of documents, as l/cs are.

PERFORMANCE BONDS:

In practice, performance bonds are a type of guarantee and not the same as standby letters of credit. The common practice is for the seller to issue his performance bond to the buyer, guaranteeing, for a certain sum of money, that he will perform the contract, and on receipt of the performance bond, the buyer will issue his letter of credit. In case of non-performance by the seller the buyer may recover his loss, or part of it, caused as a result of that non-performance. Performance bonds are insecure documents, as they normally are payable on the buyer's call, often without substantiating documents.

BID BONDS:

Bid bonds are occasionally required, often by government purchasing agencies. Bid bonds are issued for a sum of money with a trader's bid for a contract to the agency. Government agencies are often obliged by law to accept the best bid, and bid bonds are designed to protect the agency from irresponsible bids designed to disrupt the market rather than offer contractual performance.

OPTIONAL CLAUSE:

The following is a suggested clause, which is available to parties to negotiate and amend appropriately for inclusion in their contract terms:

"Where payment has been agreed by letter of credit, the following terms shall apply unless the parties agree otherwise Payment to be by a confirmed irrevocable documentary letter of credit issued in favour of sellers. It shall be in accordance with the ICC Uniform Customs and Practice for Documentary Credits in the latest edition available at the time of the contract, save for any vacation agreed by the parties by this clause or otherwise in this contract A letter of credit in conformity with this contract shall be opened and advised to the sellers no later than 21 consecutive days prior to the commencement of the shipment period. It shall be confirmed through a bank acceptable to sellers, such acceptance shall not be unreasonably withheld. The value and quantity in the letter of credit shall include the tolerance agreed in the contract.

The letter of credit shall be payable at sight for 100% of the invoice value at the counters of the advising (or confirming) bank against the documents specified in the letter of credit Reimbursement shall be by telegraphic transfer.

The expiry date shall be 21 consecutive days after the last date for shipment Any allowance for late shipment claimed in accordance with the Extension of Shipment clause shall be included within the terms of the letter of credit.

Confirming and/or advising bank's charges, if any, shall be for seller's account All other bank charges shall be for buyers account

Failure to comply with the terms of this clause shall entitle the seller to extend the shipment period, or to cancel the shipment altogether."

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A - Z OF INSURANCE

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A - Z OF INSURANCE

Acknowledgements and thanks are due to the GAFTA Insurance Sub-Committee who produced the following guidance notes for the benefit of GAFTA Members, to assist them when trading under the terms and conditions of the GAFTA Form 72, Insurance Clauses.

The notes are not intended, nor should they be taken, as being a contractually binding interpretation of the specific clauses contained in the GAFTA Form 72. Whilst every care has been taken in the preparation of these notes which are believed to be accurate, neither the Association nor its officers nor the Insurance Sub-Committee can accept any liability whatsoever resulting from any error, mis-statement or omission therein.

Abandonment:

Where there is a constructive total loss, the assured is entitled to abandon the subject matter to claim a Total Loss. A notice of abandonment should be given by the assured to the insurer/underwriter. An insurer/underwriter is not obliged to accept abandonment, but if he does he will pay the assured the full sum insured and will also be responsible for the subject matter and will incur any liabilities attaching thereto.

Act of God:

A fortuitous accident occurring through forces of nature, and which could not have been prevented by reasonable precautionary measures.

Actual Total Loss:

This relates to an insurance policy and can occur in any of four ways:

- (1) The subject matter is completely destroyed or lost;
- (2) The owner is irretrievably deprived of the subject matter;
- (3) Goods change their character to such a degree that they can be said to be no longer the thing insured by the policy (termed "Loss of specie");
- (4) The subject matter of the insurance, be it ship or goods on board the ship, is recorded as "missing" at Lloyd's.

Abbrev. ATL

Adventure:

The extent of the risk undertaken by the insurer/underwriter in connection with the subject matter and its carriage.

Additional Premium:

The extra amount payable to the insurer/underwriter to cover a different or an additional risk.

Abbrev. A/P or A.P.

All Risks Cover:

If the policy is on an all risk basis, it is generally sufficient for the assured to show that the loss was caused by a casualty or something accidental. He does not have to prove the exact nature of the casualty or the accident that caused the loss.

See schedule

Assignee:

This is the person to whom the interest or beneficial rights under the policy or certificate have been legally transferred by way of an assignment. An Assignor is the person who transfers the interest or beneficial rights. An Assignee acquires no greater rights under the transferred policy or certificate than the Assignor. An assignment has to be in writing and notified to any third party against whom the assignment is to be relied upon.

Assured:

Is the person who has an insurable interest in the subject matter at risk, which is the subject matter of the insurance contract.

Average Adjuster:

The person appointed to adjust or assess marine claims in relation to a loss.

See also General Average.

Barratry:

A wrongful act wilfully committed by the master or crew, without the collusion of the vessel owners, to the prejudice of the shipowner or charterer. If the subject matter is damaged or lost as a result this would be covered.

Both to Blame Collision Clause:

This is a common clause in contracts of carriage. The assured shall not be prejudiced by reason of being party to a contract of carriage containing a "Both to Blame Collision Clause".

Capture and Seizure:

Seizure is a term covering every act of forcible possession either by lawful authority or by an overpowering force. Capture is a narrower term covering the act of seizing or taking by an enemy or belligerent. Note that in cargo insurance, cover for capture and seizure does not extend to non-hostile seizure, for example where subject matter is quarantined and/or rejected.

Change of Voyage:

Where the destination is voluntarily changed after commencement of the risk, or an omission or error in description of the voyage occurs, the Change of Voyage clause confirms the assured is covered at an additional premium. Prompt notice of any change should be notified to the insurer/underwriter.

Civil Commotion:

An insurrection of the people for general purposes though not amounting to rebellion. The element of turbulence or tumult is essential.

See also Strikes, and Riots.

Classification:

Insurers/underwriters generally require the assured to agree a classification clause that sets out the insurers'/underwriters' requirements in respect of the class and age of the carrying vessel. If these minimum requirements are not complied with by the assured, he may be held covered on terms and conditions to be agreed.

Co-insurance:

Insurance risk taken by two or more insurers/underwriters together, thus sharing the risk between them, each for his respective proportion.

Abbrev. Co-Ins.

Confiscation, Expropriation, Nationalisation, Deprivation:

Losses from these causes usually arise as a result of a political act, and are not covered unless they constitute an act of war as covered by the standard war clauses.

Abbrev. C.E.N.D.

Constructive Total Loss:

Occurs where the subject matter insured is so damaged that either:

- (a) its actual total loss appears to be unavoidable, or
- (b) in order to prevent it from becoming a total loss, expenditure greater than its value when preserved would have to be incurred.

Abbrev. CTL

Cover Note:

A cover note is a document confirming the existence of an insurance. The cover note states the conditions of the policy, and states the rates and securities obtained. A cover note is not an insurance policy.

Deductible:

See Excess/Deductible/Franchise.

Deviation:

Deviation is the temporary departure of the vessel from its intended geographical course.

Difference in Conditions:

The need for Difference in Conditions insurance most commonly arises in situations where a party buys goods on contractual terms that require the seller to arrange the cargo insurance.

If the buyer is not satisfied with the extent of the insurance cover provided by the seller then the buyer may decide to arrange additional insurance to cover the difference between what the seller has provided and the level of cover that the buyer would have effected had the contract of sale placed the onus on the buyer to arrange the cargo cover.

Excess/Deductible/Franchise:

These words all represent the amount up to which the assured has to absorb the effects of loss of, or damage to, the subject matter insured.

The amount of the excess, deductible or franchise may be expressed as a monetary amount or as a percentage either of the insured value or the quantity shipped.

The application of an excess, deductible or franchise to the amount claimed will produce different results.

An excess should always be expressed in such a way that it is additional to the insured value. Thus, whilst the amount of the excess will be deducted from any claim, in the event of a total loss from insured causes, the assured receives the full insured value.

A deductible or a franchise always form part of the insured value but whilst a deductible is always deducted from the amount of any claim, in the case of a franchise, once the amount of the franchise is reached, an otherwise recoverable claim will be paid in full.

Franchise:

See Excess/Deductible/Franchise.

Free of Capture and Seizure:

This is one of the clauses in insurance whereby insurers/underwriters are not liable for any loss or damage resulting from wartime activities and hostilities. In general it is termed "Warranted Free of Capture and Seizure".

Abbrev. F.C&S

Free of Particular Average:

Cover provided under F.P.A is not as comprehensive as a With Average (W.A.) or All Risks policy.

See schedule.

Abbrev. F.P.A

General Average:

This is an internationally recognised rule of the sea, where the ship and cargo (and any freight at risk) are exposed to a common danger and some part of the ship or cargo is intentionally sacrificed or extra expenditure incurred to avoid or reduce that danger, then such loss ("sacrifice") or expense can be termed General Average, and might be recoverable in General Average.

The rights and obligations of a cargo owner in respect of general average are usually determined by the "York-Antwerp Rules". Normally, the cargo owner will be able to recover its "general average contribution or expenditure" from the cargo insurer, provided that it does not arise from a peril which has been excluded from the policy.

See also York-Antwerp Rules

Abbrev. G.A.

General Average Bond/Deposit/Guarantee:

The bond, deposit, or guarantee which a cargo owner or his insurer/underwriter may be required to provide to the shipowner or salvor to secure the cargo's General Average contribution. This is based on an estimate of the cargo owner's contribution (i.e. proportion) of General Average due from him, pending the adjustment being made. The shipowner or salvor has a right to refuse the release of the subject matter to the consignee until this bond, deposit, or guarantee has been made.

General Average Contribution:

The contribution which the cargo owner is obliged to make towards a General Average sacrifice or expenditure. This is determined by the ratio of the value of the subject matter to the total value of both the ship and subject matter as saved. The determination of the amount of the contribution is carried out by a general average adjuster usually appointed by the shipowner.

General Average Expenditure:

Expenditure reasonably incurred in a General Average context as a result of a casualty caused by a "peril of the sea" such as the cost of the hire of tugs for freeing a stranded ship.

See also Peril of the Sea

General Average Sacrifice:

The voluntary "sacrifice" or disposal of the subject matter at risk in a General Average situation. The disposal must be made reasonably in order to preserve the remainder of the subject matter. For instance, part of the cargo may have been jettisoned in order to preserve the ship and/or the remainder of the cargo.

See also Jettison

Good Faith:

In Latin the expression is Bona Fides. Good Faith is one of the most essential characteristics in an insurance contract. If utmost good faith (Latin: Uberrimae Fidei) is not observed the contract becomes automatically null and void. This in effect means the assured has a duty to advise the insurer/underwriter of anything which is material (or important) to the accurate assessment of the risk.

Heating, Sweating, Spontaneous Combustion:

Where the cargo undergoes an increase in temperature, starts to sweat or catches fire without any external intervention such as a source of ignition. If the cause of such an occurrence is due to the inherent nature of the cargo itself, the loss will not be covered by the insurance unless the insurance specifically provides for it. If the insurance covers H.S.S.C. then the defence of inherent vice is not available to the insurer/underwriter if the loss is proximately caused by heating, sweating or spontaneous combustion of the cargo and the insurer/underwriter must pay. (*Ref: Soya GMBH v White [1983] 1 Lloyd's p122*)

Abbrev. H.S.S.C.

See also Inherent Vice, and Proximate Cause

Increased Value:

Where the insured value of subject matter is increased by means of separately arranged increased value insurances then the agreed value of the subject matter is deemed to be the sum of the primary insurance and all such increased value insurances.

In the event of a claim covered by the terms and conditions of the policy, the liability of the individual insurances to respond shall be in the same proportion as the amount insured on the individual policies or certificates bears to the total insured value.

Inherent Vice:

A characteristic inherent in subject matter which produces damage to the product without the involvement of an outside agency but by its own action alone. The Marine Insurance Act, 1906, in Section 55, excludes losses proximately caused by the inherent vice or nature of the insured subject matter, unless the policy specifically includes the peril.

Insurable Interest:

An assured has an insurable interest if he legitimately stands to lose or gain by the arrival of the insured subject matter at its destination.

Insured Value:

This represents the economical value of the subject matter insured and is agreed between the assured and the insurer/underwriter.

GAFTA contracts foresee that the insured value should be for not less than 2% over the invoice amount, including freight and including the amount of any premium payable by Buyers.

International Association of Classification Societies:

An association of Classification Societies including the following (as at the date of this A-Z publication):

ABS - American Bureau of Shipping
BV - Bureau Veritas
CSA - China Classification Society
GL - Germanischer Lloyds
KR - Korean Register of Shipping
LR - Lloyd's Register
NK - Nippon Kaiji Kyokai
NV - Norske Veritas
KM - Polish Register of Shipping
RI - Registro Italiano
RS - Maritime Register of Russia

Abbrev. I.A.C.S.

Jettison:

The voluntary act of throwing overboard cargo and/or ship's rigging or appurtenances in an attempt to remedy a situation which endangers the adventure.

Lock Out:

The denial of access for an employee to the place of work, by an employer.

Marine Insurance Act 1906:

An English statute that governs marine insurance.

Minimising a loss:

It is a duty of every assured to take all reasonable steps to prevent and/or minimise an insured loss.

No Policy Defence Admitted Clause:

A clause that protects an innocent assured receiving by way of an endorsement the benefit of the insurance cover. In the event that the original party placing the insurance was in breach of his obligations towards the insurer/underwriter to act in good faith, or had failed to disclose a material fact affecting the risk undertaken, or had misrepresented the material facts, or had breached a warranty then normally the insurer/underwriter would be entitled to avoid cover under the policy. If a no policy defence admitted clause has been inserted, then the insurer/underwriter agrees that in so far as the claim under the insurance is being brought by an innocent third party who had no knowledge of the original breach, failure or misrepresentation in question, including a breach of a statutory requirement such as the carrying vessel's ISM compliance, then the innocent assured shall still be able to recover under the insurance.

Non-Separation Agreement:

An agreement whereby cargo interests agree with the shipowner to contribute to General Average in the same way as if the original carrying vessel had carried the subject matter to its destination, notwithstanding that the subject matter was in fact transhipped at an intermediate port.

Over Age Additional Premium:

An extra premium charged on the subject matter value when the carrying vessel exceeds the age limit laid down in the Classification Clause.

See also Classification

Abbrev. O.A.P.

Over-Insurance:

Intentional overinsurance is a material fact, which should be disclosed. If the declared value is not reasonable and there has been no disclosure prior to the policy being taken out then the insurer/underwriter may void the policy.

Particular Average (Partial Loss):

A fortuitous partial loss of the subject matter insured, proximately caused by an insured peril, but which is not a general average loss.

Abbrev. P.A.

Peril of the Sea:

This embraces only fortuitous accidents which are peculiarly involved in a sea voyage and caused directly or indirectly by the sea which could not be foreseen and guarded against by the shipowner as one of the normal or necessary occurrences on that voyage.

Pilferage:

Theft that takes place in secret and involves the taking only of part rather than the whole of the subject matter.

Piracy:

Theft with violence or threats of violence committed against a ship and/or its cargo on the high seas or in port (but not inland waterways), including theft by passengers who mutiny, and rioters who attack the ship from the shore. However, pirates must be pursuing their own private ends rather than acting in pursuit of political gain.

Port of Refuge:

A port which the ship enters or re-enters in consequence of an incident in circumstances which is necessary for the common safety of the subject matter involved in the adventure. In particular, the ship may enter such a port to undergo repairs or to re-secure cargo.

Proximate Cause:

The most effective cause of a loss.

Radioactive Contamination Exclusion Clause:

Generally such cover is not available. *See schedule.*

Abbrev. RACE Clause

Rejection:

The risk that the goods may be rejected by official authorities on the basis of non-compliance with local standards in the country of import, even though there may have been no loss or damage to the goods themselves. Arrangement of such insurance is only available with the specific agreement of the insurers/underwriters. Insurers/underwriters do not readily accept such insurances.

Riots:

For the purposes of insurance contracts, riot has a specific meaning. Five elements are necessary: -

1. A number of persons not less than 12.
2. A common purpose.
3. Execution or inception of a common purpose.
4. An intent on the part of that number of persons to help one another, by force if necessary against any person who may oppose them in the execution of the common purpose.
5. Force or violence not merely used and about the common purpose, but displayed in such a manner as to alarm at least one person of responsible firmness and courage.

See also Strikes, and Civil Commotions.

Risk:

The possibility of an occurrence which is capable of happening but is not an inevitable event.

Salvage Award:

An amount awarded to a salvor for services rendered in the salvage of the subject matter in peril at sea.

Schedule:

See Appendix.

Seaworthiness:

In a policy on cargo, there is an implied term* that at the commencement of the voyage the ship will be seaworthy/cargo worthy. This means that the ship must be fit in all respects to encounter the ordinary perils at sea contemplated by the adventure insured against. The obligation extends amongst others to the hull, machinery, equipment, stores, bunkers, ship's officers, management and crew.

Seaworthiness Admitted Clause:

A clause whereby the insurer/underwriter agrees with the assured to accept that the carrying vessel is seaworthy for the purposes of making a recovery under the cargo insurance. This does not preclude the insurer/underwriter from pursuing a claim against the carrier under the insurer's rights of "subrogation".

See also Subrogation

Seizure:

See Capture and Seizure.

**Implied Term – a term which does not appear in writing in the policy but is nevertheless inferred by law as a term of the policy. Terms will only be implied when it is essential in order to give effect to the contract as contemplated by the assured and the insurer/underwriter. Two main examples in marine insurance of implied terms are that the ship must be “seaworthy” at the beginning of a voyage and that the adventure must be legal.*

Self-Insurance:

Relates to a risk or part of a risk which is not covered by insurers/underwriters, but for which the assured himself remains liable.

Spontaneous Combustion:

The propensity of a subject matter to ignite as the result of its natural behaviour without the involvement of any fortuitous external accident or casualty.

See also Heating, Sweating, Spontaneous Combustion.

Strikes

A refusal by employees to work, or to work normally, either in the context of an industrial dispute with their employer, or in support of some other alleged grievance.

See also Riots, and Civil Commotions.

Subrogation:

The right of an insurer/underwriter to take over the rights and remedies available to an assured, following payment of a claim on the policy from another party who was responsible for the loss or damage. The insurer/underwriter must account to the assured, for any recovery from such third party, in excess of the insured amount paid.

Sue and Labour Obligations & Charges/Expenses:

It is the duty of an assured to act at all times as a prudent uninsured, and to take whatever steps are reasonably and properly necessary in order to avoid or minimise an insured loss. Even if such steps are not successful and the insured loss is not avoided or minimised the assured is nonetheless entitled to recover his sue and labour costs and expenses in addition to his loss, subject only to the sue and labour expenses being limited again to the value insured.

Sweating:

See Heating, Sweating, Spontaneous Combustion.

Theft:

The dishonest appropriation of the subject matter belonging to another, done with the intention of permanently depriving the other of it.

Trade Loss:

Inevitable or natural losses arising in the normal course of events are not recoverable under the insurance policy, unless provided otherwise.

Unseaworthiness:

See Seaworthiness.

Warehouse to Warehouse:

This clause describes the extent and nature of the cover provided. Cover attaches as the goods leave the warehouse or place of storage at the place named in the insurance and continues in the ordinary course of transit until the goods are delivered to the warehouse or place of storage at the destination named in the insurance. There must be no voluntary delay to or voluntary interruption of the transit by the assured.

After completion of discharge from the carrying vessel, the maximum period for the goods to reach their final warehouse or place of storage named in the insurance is 60 days without any delay or interruption by the assured. Cover ceases as soon as the goods reach the final warehouse or place of storage named in the insurance.

The clause specifically provides that delivery to any premises either for storage other than in the ordinary course of transit or for allocation or distribution will terminate the insurance cover. It is of course open to the assured and insurer/underwriter to agree to vary these provisions.

War Perils:

These are excluded under Sections 1, 2 and 3 of the GAFTA Form 72, but coverage can be provided separately under Section 4 of GAFTA Form 72 War Clauses (Cargo). In this context, war perils are given a wide meaning and it is not necessary for war to be formally declared. Cover is however generally only afforded whilst the subject matter remains on the overseas carrying vessel.

Warranty:

A promise by the assured that something will be done or not done or that some fact(s) will be true. Such a promise must be strictly complied with, irrespective of whether the promise is relevant to the loss, which then occurs. Failure to comply with a warranty gives the insurer/underwriter the right to refuse to pay in respect of any loss which arises after the time of the breach of the warranty, though not in respect of losses which arise before the breach of warranty.

With Average:

Cover provided under a W.A. policy is not as comprehensive as that covered by an All Risks policy.

See Schedule.

Abbrev. W.A.

York-Antwerp Rules:

A standard set of rules governing General Average. These do not automatically apply by law but are commonly included by the parties in many contracts of carriage and insurance. The rules determine amongst other things whether a general average sacrifice or expenditure is recoverable in general average and how the amount of such loss and of each contribution is to be determined.

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Appendix: - Schedule

GAFTA FORM 72 - Summary Chart - Risks Covered

RISKS - Generally Covered Under:-	GAFTA FORM 72		
	Section 1 All Risks	Section 2 W.A.	Section 3 F.P.A.
Actual Total Loss (subject to the loss being proximately caused by an insured peril)	+	+	+
General Average & Salvage Charges	+	+	+
Particular Average (Partial Loss)			
Partial Loss proximately caused by an insured peril. If the vessel or craft be			
• stranded, sunk, or burnt	+	+	+
• in collision with another ship or vessel	+	+	+
Partial loss reasonably attributable to			
• fire, explosion	+	+	+
• contact (other than collision) of the vessel or craft with any substance (ice included) other than water	+	+	+
• collision with another ship or vessel	+	+	-
• discharge of cargo at port of distress	+	+	+
Partial loss proximately caused by heavy weather (peril of the sea)	+	+*	-
(*only if the loss is exceeding the percentage specified in the policy)			
Package(s) totally lost in loading, transhipment or discharge	+	+	+
Partial loss proximately caused by theft, pilferage & non-delivery	+	-	-
Partial loss proximately caused by contamination	+	-	-
Partial loss proximately caused by delay or inherent vice or nature	-	-	-
III.8. Partial loss proximately caused by other fortuities, not mentioned above	+	-	-
III.9. Partial loss caused by heating sweating and spontaneous combustion	-	-	-
(can be covered under GAFTA Form 72, Section 7)			
Radioactive contamination	-	-	-
Sue and Labour Charges Code: Covered = + Not Covered = -	+	+	+