



Contract No.80

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR EU GRAIN IN BULK PARCELS OR CARGOES RYE TERMS - CIF/CIFFO/C&F/C&FFO 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.

10
11 **2. QUANTITY**.....5% more or less.
12 In the event of the quantity contracted being for a full and complete cargo and/or cargoes the margin of contract
13 quantity to be 10% more or less, excess or deficiency over 5% to be settled at the market price on date of last bill of
14 lading and on the quantity thereof; value to be fixed by arbitration unless mutually agreed. In the event of more
15 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**
19 At the price per tonne of 1,000 kilograms gross weight of

20
21 *cost, insurance and freight to.....

22
23 *cost, insurance and freight free out to

24
25 *cost and freight to

26
27 *cost and freight free out to

28
29 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or
30 not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract
31 under the terms of the Prevention of Shipment Clause. Brokerage shall be due on the day shipping documents
32 are exchanged, or if the goods are not appropriated then brokerage shall be due on the 30th consecutive day
33 after the last day for appropriation. Any disputes arising out of this clause shall be referred to arbitration in
34 accordance with the arbitration clause.

35
36 **5. QUALITY SPECIFICIATIONS**
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39

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41 *Final at time and place of loading as per GAFTA Registered Superintendents' Certificate at Sellers' choice and
42 expense.

43
44 *Warranted to contain at time and place of discharge.

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

50 Clause.

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

54
55 **6. PERIOD OF SHIPMENT**

56 As per bill(s) of lading dated or to be dated

57 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
58 as proof of date of shipment in the absence of evidence to the contrary. In any month containing an odd number of
59 days, the middle day shall be accepted as being in both halves of the month.

60
61 **7. SALES BY NAMED VESSELS**

62 For all sales of named vessels, the following shall apply:-

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

66
67 **8. SHIPMENT AND CLASSIFICATION**

68 Shipment direct or indirect, from.....
69 by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed Lloyds
70 100A1 or equivalent class, or in accordance with the Institute Classification Clause of the International
71 Underwriting Association in force at the time of shipment, excluding Tankers and Vessels which are either
72 classified in Lloyd's Register or described in Lloyd's Shipping Index as "Ore/Oil" Vessels.

73
74 **9. NOMINATION OF VESSEL(S) FOR CONTRACTS CONCLUDED ON C & F/C&FFO TERMS**

- 75 (a) At a date agreed between the Parties but in any event prior to the commencement of loading, Sellers
76 shall nominate the intended carrying vessel(s) to Buyers.
- 77 (b) Sellers are entitled to substitute the nomination(s) provided that the substituting vessel(s) complies
78 with the terms of this clause.

79
80 **10. EXTENSION OF SHIPMENT**

81 The contract period for shipment, if such be 31 days or less, shall be extended by an additional period of not more
82 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
85 number of days by 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
90 the contract shall be deemed to have called for shipment during the originally stipulated period plus 8 days, at
91 contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any allowance becomes
92 due under this clause, the contract price shall be deemed to be the original contract price less the allowance and
93 any other contractual differences shall be settled on the basis of such reduced price.

94
95 **11. APPROPRIATION**

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

98 (b) The notice of appropriation shall within 2 business days from the date of the last bill of lading be served by
99 or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract.

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

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

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

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

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

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

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

122 123 **12. PAYMENT**

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

126 **(b) Shipping documents**

127 Shipping documents shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery
128 Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if
129 required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. For CIF/CIFFO
130 terms Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract.
131 The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as
132 called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War
133 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
135 at destination, Sellers shall provide other documents or an indemnity entitling Buyers to obtain delivery of the
136 goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers'
137 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
139 take delivery, Buyers shall take delivery under an indemnity provided by themselves and shall pay for the other
140 documents when presented. Any reasonable extra expenses, including the costs of such indemnity or extra
141 charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but
142 such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually
143 available.

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

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

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

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

157 158 **13. DUTIES, TAXES, LEVIES, ETC.**

159 All export duties, taxes, levies and refunds etc., present or future, in country of origin, shall be for the account of the
160 holder of the Export Licence, otherwise national duties and taxes, present or future shall be for Sellers' account. All
161 import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account. Where the
162 goods become the subject of a European Union export refund in accordance with the EC regulations in force at time
163 of export, they are not eligible for re-importation to the European Union.

164 165 **14. INSURANCE**

166 **14.1 For Contracts Concluded on CIF/CIFFO terms** Sellers shall provide insurance on terms not less
167 favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.: -

168 (a) Risks Covered: -

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

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

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

172 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or
173 carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British

174 domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be
175 responsible.

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

179 (d) Freight Contingency - When freight is payable on arrival or on right and true delivery of the goods and the
180 insurance does not include the freight, Sellers shall effect insurance upon similar terms, such insurance to attach
181 only as such freight becomes payable, for the amount of the freight plus 2%, until the termination of the risk as
182 provided in the above mentioned clauses, and shall undertake that their policies are so worded that in the case of a
183 particular or general average claim the Buyers shall be put in the same position as if the CIF value plus 2% were
184 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
186 this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c)
187 above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged
188 by Sellers for a policy if and when required and such certificate shall state on its face that it is so exchangeable. If
189 required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any other guarantor who
190 is acceptable to Buyers.

191 (f) Total Loss - In the event of total or constructive total loss, or where the amount of the insurance becomes
192 payable in full, the insured amount in excess of 2% over the invoice amount shall be for Sellers' account and the
193 party in possession of the policy (ies) shall collect the amount of insurance and shall thereupon settle with the
194 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
197 insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing whichever may be
198 adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible, with the
199 Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after
200 the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless,
201 in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to provide War Risk Insurance shall be
202 limited to the terms and conditions in force and generally obtainable in London at time of shipment.

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

207 **14.2 For Contracts Concluded on C&F/C&FFO terms** Buyers shall be responsible for obtaining
208 insurance cover as per Clause 14.1 above and shall, if required by Sellers, provide evidence to Sellers prior
209 to the commencement of loading that they have obtained suitable cover. If Buyers refuse or fail to provide
210 evidence Sellers are entitled (but not obliged) to cover insurance on the same terms at the Buyers'
211 expense.

212 15. DISCHARGE

213 (a) **For CIF/C&F terms**, discharge shall be as fast as the vessel can deliver in accordance with the custom
214 of the port, but in the event of shipment being made under liner bill(s) of lading, discharge shall be as fast
215 as the vessel can deliver in accordance with the terms of the bill(s) of lading. The cost of discharge from
216 hold to ship's rail shall be for Sellers' account, from ship's rail overboard for Buyers' account.

217 (b) **For C&FFO/CIFFO terms**, the cost of discharge shall be for Buyers' account.

218 Discharge shall be at the average rate of tonnes per Weather Working Day, Saturdays, Sundays,
219 Holidays Excepted, Unless Used, (WWD SSEX UU), in which case actual time used to count. Notice of
220 Readiness (NOR) shall be tendered during ordinary office hours on arrival, Whether In Port Or Not,
221 (WIPON), Whether In Berth Or Not, (WIBON), Whether In Free Pratique Or Not, (WIFPON), Whether
222 Customs Cleared Or Not (WCCON) and laytime shall commence at 0800 hours on the next working day.
223 Rate of demurrage/despatch as per Charter Party. In the event of a time charter, the daily hire rate shall
224 be taken as the rate of demurrage, half despatch.

225 (c) If documents are tendered which do not provide for discharging as above or contain contrary
226 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by
227 grab(s) shall be permitted unless specifically excluded at time of contract. If shipment is effected by lash
228 barge, then the last day of discharge shall be the day of discharging the last lash barge at the port of
229 destination.

230 16. WEIGHING

231 The terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
232 Unless otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place
233

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 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. FUMIGATION

Where fumigation has been agreed, the terms and conditions of GAFTA Fumigation Rules No. 132 shall be incorporated into this contract.

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. PREVENTION OF SHIPMENT

"Event of Force Majeure" means (a) prohibition of export or other 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 named herein is/are situate, restricting export, whether partially or otherwise, or (b) blockade, or (c) acts of terrorism, or (d) hostilities, or (e) strike, lockout or combination of workmen, or (f) riot or civil commotion, or (g) breakdown of machinery, or (h) fire, or (i) ice, or (j) Act of God, or (k) unforeseeable and unavoidable impediments to transportation or navigation, or (l) any other event comprehended in the term "force majeure".

Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure, provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not later than 21 consecutive days before commencement of the shipment period, whichever is later, with the reasons therefor.

If the Event of Force Majeure continues for 21 consecutive days after the end of the shipment period, then Buyers have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than the first business day after expiry of the 21 day period.

If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract shall be automatically cancelled.

If the Event of Force Majeure ceases before the contract or any unfulfilled part thereof can be cancelled, Sellers shall notify Buyers without delay that the Event of Force Majeure has ceased. Sellers shall be entitled, from the cessation, to as much time as was left for shipment under the contract prior to the occurrence of the Event of Force Majeure. If the time that was left for shipment under the contract is 14 days or less, a period of 14 consecutive days shall be allowed.

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The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non-fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

22. NOTICES

All notices required to be served on the parties pursuant to this contract shall be served 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 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.

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 in accordance with the Notices Clause 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.

(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 is not passed by the 4th business 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.

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 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.

360 (e) If one or more Receivers are delivered in excess and one or more Receivers bears a shortage, the excess and
361 deficiency shall be settled between them at the market price. Invoices shall be established with immediate Sellers
362 for any balance resulting from this settlement.

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

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

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

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

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

382 383 **26. CIRCLE**

384 Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a
385 circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the
386 Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the same
387 description, from the same country of origin, of the same quality, and, where applicable, of the same analysis
388 warranty, for shipment to the same port(s) of destination during the same period of shipment). Different
389 currencies shall not invalidate the circle. Subject to the terms of the Prevention of Shipment Clause in the
390 contract, if a circle is established prior to the goods being appropriated to all parties in the circle, settlement
391 shall be based on the mean contract quantity. However, where a circle is established after the goods have been
392 appropriated to all parties in the circle, settlement shall be based on the appropriated quantity. No circle
393 settlement shall apply where documents have been presented to and paid by one of the parties in the circle.
394 Settlement shall be made between the parties in the circle by payment by all Buyers to their Sellers of the excess
395 of the Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than
396 15 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the
397 expiry of this time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.
398 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be
399 replaced by the market price on the first day for contractual shipment and invoices shall be settled between
400 each Buyer and his Seller in the circle by payment of the differences between the market price and the relative
401 contract price in currency of the contract. All Sellers and Buyers shall give every assistance to ascertain the
402 circle and when a circle shall have been ascertained in accordance with this clause same shall be binding on all
403 parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to
404 their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due date of
405 payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the
406 circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as
407 a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall
408 make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference
409 between the closing out price and the contract price.

410 411 **27. INSOLVENCY**

412 If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
413 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call
414 or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a
415 winding up order made, have a Receiver or manager appointed, convene, call or hold a meeting to go into
416 liquidation (other than for re-construction or amalgamation) become subject to an Interim Order under Section
417 252 of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being
418 hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith serve a
419 notice in accordance with the Notices Clause of the occurrence of such Act of Insolvency to the other party to the
420 contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or
421 other person representing the party committing the Act of Insolvency) that such notice was thus given within 2

422 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling
423 on the business day following the giving of the notice. If such notice be not given as aforesaid, then the other party,
424 on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at
425 either the market price on the first business day after the date when such party first learnt of the occurrence of the
426 Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency
427 occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on
428 the closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the
429 re-purchase or re-sale price shall be the amount payable or receivable under this contract.

430
431 **28. DOMICILE**

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

446
447 **29. ARBITRATION**

448 (a) Any and all disputes arising out of or under this contract or any claim regarding the interpretation or
449 execution of this contract shall be determined by arbitration in accordance with the GAFTA Arbitration Rules, No
450 125, in the edition current at the date of this contract; such Rules are incorporated into and form part of this
451 Contract and both parties hereto shall be deemed to be fully cognisant of and to have expressly agreed to the
452 application of such Rules.

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

460 (c) Nothing contained under this Arbitration Clause shall prevent the parties from seeking to obtain security in
461 respect of their claim or counterclaim via legal proceedings in any jurisdiction, provided such legal
462 proceedings shall be limited to applying for and/or obtaining security for a claim or counterclaim, it being
463 understood and agreed that the substantive merits of any dispute or claim shall be determined solely by
464 arbitration in accordance with the GAFTA Arbitration Rules, No 125.

465
466 **30. INTERNATIONAL CONVENTIONS**

467 The following shall not apply to this contract: -

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

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

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

473 (d) Incoterms.

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

476
477 **31. METHODS OF ANALYSIS**

478 Unless otherwise agreed, the terms and conditions of GAFTA Methods of Analysis No. 130 are deemed to
479 be incorporated into this contract.

Sellers..... Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION
9 LINCOLN'S INN FIELDS, LONDON WC2A 3BP

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