

Contract No.111

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION
**GENERAL CONTRACT FOR GOODS
TO BE DELIVERED AT DESTINATION**

**delete/specify as applicable*

Date

SELLERS

INTERVENING AS BROKERS

BUYERS

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

1. GOODS (in bulk or bags)

Packing- bags to be suitable to withstand ordinary wear and tear to destination, such bags to be taken and paid for as goods.

2. QUANTITYtonnes of 1000 kilograms.

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 delivery shall be considered a separate contract, but the margin on the mean quantity sold shall not be affected thereby. Each mark/parcel shall stand as a separate parcel.

3. PRICE.....per tonne of 1000 kilograms, delivered to

Unless otherwise agreed all across border duties, taxes, levies, present or future are for Sellers' account.

4. BROKERAGE at 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 Prevention of Shipment Clause. Brokerage shall be due on the last day of the period of delivery. Any disputes arising out of this clause shall be referred to arbitration in accordance with the arbitration clause.

5. QUALITY

Specifications

Quality and condition warranted at the time of delivery at destination.

Condition. Delivery shall be made in good condition.

6. PERIOD OF DELIVERY AT DESTINATION

7. EXTENSION OF DELIVERY

The contract period of delivery shall, if required by Sellers, be extended by an additional period of not more than 8 consecutive days, provided 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 delivery 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.

48 **8. PAYMENT**
49 (a) By cash within of receipt of the invoice or, if not stated, within 14 days from the date of
50 delivery.
51 (b) **Interest.** If there has been unreasonable delay in any payment, interest appropriate to the currency involved shall
52 be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by
53 arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract or by an
54 award of arbitration. The terms of this clause do not override the parties' contractual obligation under sub-clause
55 (a).
56

57 **9. INSURANCE**
58 Sellers shall be responsible for insurance cover up to the point of the delivery at destination, thereafter insurance
59 shall be for account of Buyers.
60

61 **10. WEIGHING**
62 The terms and conditions of Gafta Weighing Rules No. 123 are deemed to be incorporated into this contract.
63 Buyers shall weigh the goods on delivery; such weights shall be accepted as final and advised to Sellers without
64 delay. Buyers shall give a copy of the weight note to the driver.
65

66 **11. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**
67 The terms and conditions of Gafta Sampling Rules No. 124 are deemed to be incorporated into this contract. The
68 parties shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the Gafta
69 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the Gafta Register of
70 Analysts.
71

72 **12. FUMIGATION**
73 Where fumigation has been agreed, the terms and conditions of Gafta Fumigation Rules No. 132 shall be
74 incorporated into this contract.
75

76 **13. DEMURRAGE**
77 In the event of there being any unreasonable delay by Buyers in discharging vehicles, Sellers shall be entitled to
78 recover from Buyers any proved additional expenses.
79

80 **14. PREVENTION OF SHIPMENT**
81 "Event of Force Majeure" means (a) prohibition of export or other executive or legislative act done by or on behalf
82 of the government of the country of origin or of the territory where the port or ports named herein is/are situate,
83 restricting export, whether partially or otherwise, or (b) blockade, or (c) acts of terrorism, or (d) hostilities, or (e)
84 strike, lockout or combination of workmen, or (f) riot or civil commotion, or (g) breakdown of machinery, or (h)
85 fire, or (i) ice, or (j) Act of God, or (k) unforeseeable and unavoidable impediments to transportation or navigation,
86 or (l) any other event comprehended in the term "force majeure".
87

88 Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force
89 Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure,
90 provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not later
91 than 21 consecutive days before commencement of the shipment period, whichever is later, with the reasons
92 therefor.
93

94 If the Event of Force Majeure continues for 21 consecutive days after the end of the shipment period, then Buyers
95 have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than the first
96 business day after expiry of the 21 day period.
97

98 If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14
99 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract
100 shall be automatically cancelled.
101

102 If the Event of Force Majeure ceases before the contract or any unfulfilled part thereof can be cancelled, Sellers
103 shall notify Buyers without delay that the Event of Force Majeure has ceased. Sellers shall be entitled, from the
104 cessation, to as much time as was left for shipment under the contract prior to the occurrence of the Event of Force
105 Majeure. If the time that was left for shipment under the contract is 14 days or less, a period of 14 consecutive
106 days shall be allowed.
107

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

111
112 **15. CIRCLE**

113 Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle
114 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause
115 shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the
116 same county of origin, of the same quality and, where applicable, of the same analysis warranty and of the same
117 delivery period). Different currencies shall not invalidate the circle.

118 Subject to the terms of the Prevention of Shipment Clause in the contract, if the goods are not delivered, invoices
119 based on the mean contract quantity, (or if the goods have been delivered, on the invoice quantity), shall be settled
120 by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice
121 amount over the lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after
122 the last day for delivery, or should the circle not be ascertained before the expiry of this time, then payment shall be
123 due not later than 15 consecutive days after the circle is ascertained.

124 Where the circle includes contracts expressed in different currencies the lowest invoice amount shall be replaced by
125 the market price on the first day for contractual delivery and invoices shall be settled between each buyer and his
126 seller in the circle by payment of the differences between the market price and the relative contract price in the
127 currency of the contract. All Sellers and Buyers shall give every assistance to ascertain the circle and when the circle
128 shall have been ascertained in accordance with this clause same shall be binding on all parties to the circle. Should
129 any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency Clause of
130 this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided for in the
131 Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in the circle.
132 In this event respective Buyers shall make payment to their Sellers or respective Seller shall make payment to their
133 Buyers of the difference between the closing out price and the contract price.
134

135 **16. NOTICES**

136 (a) All notices required to be served on the parties pursuant to this contract shall be served in legible form
137 by E-mail, or by other mutually recognised electronic method of rapid communication, always subject to
138 the provision that if receipt of any notice is contested, the burden of proof of transmission shall be on the
139 sender who shall, in the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of
140 appeal appointed pursuant to the Arbitration Clause, that the notice was actually transmitted to the
141 addressee.

142 (b) In case of resales/repurchases, all notices shall be served without delay by sellers on their respective
143 buyers or vice versa, and any notice received after 1600 hours on a business day shall be deemed, for the
144 purpose of passing onto their sub buyers and sub sellers, to have been received on the business day
145 following.

146 (c) A notice to the Brokers or Agent shall be deemed a notice under this contract.
147

148 **17. NON-BUSINESS DAYS**

149 Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days,
150 which Gafta may declare as non-business days for specific purposes, shall be non-business days. Should the time limit
151 for doing any act or serving any notice expire on a non-business day, the time so limited shall be extended until the
152 first business day thereafter. The period of delivery shall not be affected by this clause.
153

154 **18. DEFAULT**

155 In default of fulfilment of contract by either party, the following provisions shall apply: -

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

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

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

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

167 (e) Damages, if any, shall be computed on the mean contract quantity.
168

169 **19. INSOLVENCY**

170 19.1 If before the fulfilment of this contract, either party shall:

171 (a) suspend payments;

172 (b) notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to
173 suspend payments of his debts;

- (c) convene, call or hold a meeting of creditors;
- (d) propose either:
- (i) a voluntary arrangement; or
- (ii) a restructuring plan under Part 26A Companies Act 2006;
- (e) be subject to a moratorium pursuant to Part A1 of the Insolvency Act 1986;
- (f) be subject to either:
- (i) a notice of intention to appoint an administrator; or
- (ii) a notice of appointment of an administrator;
- (g) have an administration order made;
- (h) be subject to a winding up petition;
- (i) have a winding up order made;
- (j) have a receiver or manager appointed;
- (k) convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation);
- (l) become subject to an interim order under Section 252 of the Insolvency Act 1986; or
- (m) 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 office-holder 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.

- 19.2 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.
- 19.3 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.

20. DOMICILE

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, (save for obtaining security only for the claim or counter-claim), 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, (Gafsa), England. 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.

21. ARBITRATION

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

(b) Neither party hereto, nor any persons claiming under either of them shall bring any action or other legal proceedings against the other in respect of any such dispute, or claim until such dispute or claim 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 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 or claim.

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

22. 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

237 International Sales Act 1967.
238 (b) The United Nations Convention on Contracts for the International Sale of Goods of 1980.
239 (c) The United Nations Convention on Prescription (Limitation) in the International Sale of Goods of 1974 and the
240 amending Protocol of 1980.
241 (d) Incoterms.
242 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this
243 contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.
244

245 **23. METHODS OF ANALYSIS**

246 Unless otherwise agreed, the terms and conditions of Gafta Methods of Analysis No. 130 are deemed to be
247 incorporated into this contract.

Sellers..... Buyers.....

Printed in England and issued by

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