

Contract No.25



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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR PULSES FOR FEED IN BULK TALE QUALE – 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. GOODS**..... in bulk.

9
10 **2. QUANTITY**.....
11 Sellers have the option of shipping 5% more or less at contract price. In the event of more than one shipment being
12 made, each shipment shall be considered a separate contract, but the tolerance on the mean quantity sold shall not
13 be affected thereby.

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15 **3. PRICE AND DESTINATION**
16 At the price per tonne of 1,000 kilograms gross weight of.....
17
18 *cost, insurance and freight to
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20 *cost, insurance and freight free out to
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22 *cost and freight to
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24 * cost and freight free out to

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

32
33 **5. QUALITY**
34 ***Specifications**.....
35 Any excess or deficiency as the case may be, shall be allowed for by Sellers at contract price.

36
37 ***Official**.....certificate of inspection at time of loading into the ocean carrying vessel shall be final as to quality.

38
39 ***Sample**, at time and place of shipment about as per sealed sample marked

40
41 in possession of.....; the word "about" when referring to quality shall mean the equivalent of 0.50% on
42 contract price. Analysis to be determined by Gafta or its duly appointed Analysts.

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

45 **Condition.** Shipment shall be made in good condition. Goods must be sound, uniform, free from live, and
46 practically free from dead insect infestation. Should the goods arrive out of condition, due regard shall be made
47 for the time of the year in which the shipment took place.

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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" is to be inserted before the word "classed" in the Ship's Classification Clause;
(c) Appropriation Clause cancelled if sold "shipped".

8. PORTS OF SHIPMENT

From a port or ports in

9. 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. Vessel(s) hold(s) must be clean, easily accessible and if necessary cargo duly protected. No charge for dunnage.

10. NOMINATION OF VESSEL(S) FOR CONTRACTS CONCLUDED ON C & F/C&FFO TERMS

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

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 presumed weight shipped, and the date or the presumed date of the bill of lading.
(b) The notice of appropriation shall within 5 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.
(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

111 serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either
112 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,
114 but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of
115 lading shall prevail.

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

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

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

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

125 126 **13. 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 Buyer's 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
134 Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s)
135 if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. For CIF/CIFFO
136 terms Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The
137 Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for
138 under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause
139 and/or other recognised official War Risk Clause.

140 (c) In the event of a complete set of shipping documents not being available when called for by Buyers, or on arrival
141 of the vessel at destination, Sellers may at their option, in exchange for payment by Buyers, provide a letter of
142 indemnity entitling Buyers to obtain delivery of the goods. Such payment shall not prejudice Buyers' rights under the
143 contract when shipping documents are available.

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

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

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

157 Sellers shall customs clear the goods for export. All export duties, taxes, levies, etc., present or future, in country of
158 origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination,
159 shall be for Buyers' account.
160

161 **15. INSURANCE**

162 **15.1 For Contracts Concluded on CIF/CIFFO terms** Sellers shall provide insurance on terms not less
163 favourable than those set out hereunder, and as set out in detail in Gafta Insurance Terms No.72 viz.:-

164 (a) Risks Covered: -

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

166 (ii) War Clauses (Cargo) - Section 4 of Form 72

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

168 (iv) Where applicable, Australian, Canadian, South African
169 and limited United States of America Acts - Section 6 of Form 72

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

173 responsible.

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

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

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

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

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

205 (j) In the case of goods being shipped in an over age vessel, any additional premium to be for account of Sellers.

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207 **15.2 For Contracts Concluded on C & F/C&FFO terms** Buyers shall be responsible for obtaining insurance
208 cover as per Clause 15.1 above and shall, if required by Sellers, provide evidence to Sellers prior to the
209 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' expense.

211 16. DISCHARGE

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

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

217
218 Discharge shall be at the average rate of tonnes per Weather Working Day, Saturdays, Sundays,
219 Holidays Excepted, Unless Used, (WWD SSHEX 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. Rate
223 of demurrage/despatch as per Charter Party. In the event of a time charter, the daily hire rate shall be taken
224 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 17. WEIGHING

231
232 The terms and conditions of Gafta Weighing Rules No.123 are deemed to be incorporated into this contract. Unless
233 otherwise agreed, final settlement shall be made on the basis of gross delivered weights at time and place of
234

235 discharge at Buyers' expense. If the place of destination is outside the port limits, Buyers agree to pay the extra
236 expenses incurred by Sellers or their agents for weighing. No payment shall be made for increase in weight
237 occasioned by water and/or oil during the voyage. If final at time and place of loading, as per Gafta approved
238 register of superintendents' certificate at Sellers' choice and expense, the Deficiency Clause will not apply.
239

240 **18. DEFICIENCY**

241 Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight shall
242 be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
243

244 **19. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**

245 The terms and conditions of Gafta Sampling, Rules No.124, are deemed to be incorporated into this contract.
246 Samples shall be taken at the time of discharge on or before removal from ship or quay, unless the parties agree
247 that quality final at loading applies, in which event samples shall be taken at time and place of loading. The parties
248 shall appoint superintendents, for the purposes of supervision and sampling of the goods, from the Gafta Approved
249 Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the Gafta Approved
250 Register of Analysts.
251

252 **20. FUMIGATION**

253 Where fumigation has been agreed, the terms and conditions of Gafta Fumigation Rules No. 132 shall be
254 incorporated into this contract.
255

256 **21. PREVENTION OF SHIPMENT**

257 "Event of Force Majeure" means (a) prohibition of export or other executive or legislative act done by or on behalf
258 of the government of the country of origin or of the territory where the port or ports named herein is/are situate,
259 restricting export, whether partially or otherwise, or (b) blockade, or (c) acts of terrorism, or (d) hostilities, or (e)
260 strike, lockout or combination of workmen, or (f) riot or civil commotion, or (g) breakdown of machinery, or (h)
261 fire, or (i) ice, or (j) Act of God, or (k) unforeseeable and unavoidable impediments to transportation or navigation,
262 or (l) any other event comprehended in the term "force majeure".
263

264 Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force
265 Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure,
266 provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not later
267 than 21 consecutive days before commencement of the shipment period, whichever is later, with the reasons
268 therefor.
269

270 If the Event of Force Majeure continues for 21 consecutive days after the end of the shipment period, then Buyers
271 have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than the first
272 business day after expiry of the 21 day period.
273

274 If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14
275 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract
276 shall be automatically cancelled.
277

278 If the Event of Force Majeure ceases before the contract or any unfulfilled part thereof can be cancelled, Sellers
279 shall notify Buyers without delay that the Event of Force Majeure has ceased. Sellers shall be entitled, from the
280 cessation, to as much time as was left for shipment under the contract prior to the occurrence of the Event of Force
281 Majeure. If the time that was left for shipment under the contract is 14 days or less, a period of 14 consecutive
282 days shall be allowed.
283

284 The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non-
285 fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence
286 justifying the delay or non-fulfilment.
287

288 **22. PRO RATA**

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

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

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

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

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

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

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

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

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

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

327 328 **23. CIRCLE**

329 Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof,
330 a circle shall be considered to exist as regards the particular goods so re-purchased, and the provisions of
331 the Default Clause shall not apply. (For the purpose of this clause the same goods shall mean goods of the
332 same description, from the same country of origin, of the same quality, and, where applicable, of the same
333 analysis warranty, for shipment to the same port(s) of destination during the same period of
334 shipment). Different currencies shall not invalidate the circle. Subject to the terms of the Prevention of
335 Shipment Clause in the contract, if a circle is established prior to the goods being appropriated to all parties
336 in the circle, settlement shall be based on the mean contract quantity. However, where a circle is established
337 after the goods have been appropriated to all parties in the circle, settlement shall be based on the
338 appropriated quantity. No circle settlement shall apply where documents have been presented to and paid
339 by one of the parties in the circle. Settlement shall be made between the parties in the circle by payment by
340 all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
341 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or,
342 should the circle not be ascertained before the expiry of this time, then payment shall be due not later than
343 15 consecutive days after the circle is ascertained. Where the circle includes contracts expressed in
344 different currencies the lowest invoice amount shall be replaced by the market price on the first day for
345 contractual shipment and invoices shall be settled between each Buyer and his Seller in the circle by
346 payment of the differences between the market price and the relative contract price in currency of the
347 contract. All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall
348 have been ascertained in accordance with this clause same shall be binding on all parties to the circle. As
349 between Buyers and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall
350 not be considered a breach of contract. Should any party in the circle prior to the due date of payment
351 commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in the circle
352 shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken as
353 a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers
354 shall make payment to their Sellers or respective Sellers shall make payment to their Buyers of the
355 difference between the closing out price and the contract price.

356 357 **24. NOTICES**

358 (a) All notices required to be served on the parties pursuant to this contract shall be served in legible form by E-
359 mail, or by other mutually recognised electronic method of rapid communication, always subject to the provision

360 that if receipt of any notice is contested, the burden of proof of transmission shall be on the sender who shall, in
361 the case of a dispute, establish, to the satisfaction of the arbitrator(s) or board of appeal appointed pursuant to
362 the Arbitration Clause, that the notice was actually transmitted to the addressee.

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

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

367 25. NON-BUSINESS DAYS

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

372 26. DEFAULT

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

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

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

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

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

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

388 (f) Sellers may declare themselves in default at any time after expiry of the contract period, and the default date shall
389 then be the first business day after the date of Sellers' advice to their Buyers. If default has not already been declared
390 then (notwithstanding the provisions stated in the Appropriation Clause) if notice of appropriation has not been
391 served by the 5th business day after the last day for appropriation laid down in the contract, the Sellers shall be
392 deemed to be in default and the default date shall then be the first business day thereafter.

393 27. INSOLVENCY

394 27.1 If before the fulfilment of this contract, either party shall:

395 (a) suspend payments;

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

398 (c) convene, call or hold a meeting of creditors;

399 (d) propose either:

400 (i) a voluntary arrangement; or

401 (ii) a restructuring plan under Part 26A Companies Act 2006;

402 (e) be subject to a moratorium pursuant to Part A1 of the Insolvency Act 1986;

403 (f) be subject to either:

404 (i) a notice of intention to appoint an administrator; or

405 (ii) a notice of appointment of an administrator;

406 (g) have an administration order made;

407 (h) be subject to a winding up petition;

408 (i) have a winding up order made;

409 (j) have a receiver or manager appointed;

410 (k) convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation);

411 (l) become subject to an interim order under Section 252 of the Insolvency Act 1986; or

412 (m) have a bankruptcy petition presented against him,

413 (any of which acts being hereinafter called an "**Act of Insolvency**")

414 then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of such Act
415 of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or
416 the office-holder or other person representing the party committing the Act of Insolvency) that such notice
417 was served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out
418 at the market price ruling on the business day following the serving of the notice.

- 422 27.2 If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency,
423 shall have the option of declaring the contract closed out at either the market price on the first business day
424 after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
425 ruling on the first business day after the date when the Act of Insolvency occurred.
- 426 27.3 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the
427 closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-
428 purchase or re-sale price shall be the amount payable or receivable under this contract.

429 **28. DOMICILE**

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

441 **29. ARBITRATION**

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

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

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

459 **30. INTERNATIONAL CONVENTIONS**

460 The following shall not apply to this contract: -

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

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

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

466 (d) Incoterms.

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

469 **31. METHODS OF ANALYSIS**

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

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