



Contract No.10

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR FEEDING FISHMEAL IN BAGS TALE QUALE – CIF/CIFFO/C&F/C&FFO TERMS

**delete/specify as appropriate*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**

4
5 **BUYERS**.....

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

7
8 **1. GOODS**

9 in new bags of suitable strength to withstand ordinary wear and tear to port of destination. Bags of each
10 mark shall be of uniform weight and shall be properly marked. Bags shall not at any time have contained
11 asbestos or any other potentially injurious material.

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

16
17 **3. PRICE AND DESTINATION**
18 At the price per tonne of 1,000 kilograms gross weight of

19
20 *cost, insurance and freight to.....

21
22 *cost, insurance and freight free out to

23
24 *cost and freight to

25
26 * cost and freight free out to.....

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

34
35 **5. QUALITY**

36
37 ***Warranted to contain:**

38
39% of moisture

40
41% of protein

42
43% of fat/oil

44
45% of salt

46
47% of sand and/or silica

48

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

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

53 **Condition.** Shipment shall be made in good condition.

54
55 **6. ALLOWANCES FOR EXCESS AND DEFICIENCY**

56 Any deficiency in protein below the warranty stated herein shall be allowed at the rate of.....
57 per unit of protein with a proportional allowance for each fraction of a unit if not sold on a "price per unit of
58 protein basis", for this purpose the value of a unit of protein shall be determined by dividing the contract
59 price by the warranted percentage of protein. Any excess of salt, sand, oil or moisture above the warranties
60 stated herein shall be allowed at the rate of 1% of the contract price for each unit in excess, with a
61 proportional allowance for each fraction of 1%.

62
63 **7. PERIOD OF SHIPMENT**

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

68
69 **8. SALES BY NAMED VESSELS**

70 For all sales by named vessels, the following shall apply: -

71 (a) Position of vessel is mutually agreed between Buyers and Sellers;

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

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

74
75 **9. SHIPMENT AND CLASSIFICATION**

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

80
81 **10. NOMINATION OF VESSEL(S) FOR CONTRACTS CONCLUDED ON C & F/C&FFO TERMS**

82 (a) At a date agreed between the Parties but in any event prior to the commencement of loading, Sellers
83 shall nominate the intended carrying vessel(s) to Buyers.

84 (b) Sellers are entitled to substitute the nomination(s) provided that the substituting vessel(s) complies
85 with the terms of this clause.

86
87 **11. EXTENSION OF SHIPMENT**

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

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

95 1 to 4 additional days, 0.50%;

96 5 or 6 additional days, 1%;

97 7 or 8 additional days 1.50% of the gross contract price.

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

104
105 **12. APPROPRIATION**

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

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

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

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

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

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

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

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

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

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

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

135 **13. PAYMENT**

136 (a) Payment..... % of invoice amount by cash in

137 * In exchange for and on presentation of shipping documents;

138 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;
139 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after

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

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

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

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

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

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

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

167 (h) Interest. If there has been unreasonable delay in any payment, interest appropriate to the currency
168 involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which
169 shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the
170

172 terms of the contract or by an award of arbitration. The terms of this clause do not override the parties'
173 contractual obligation under sub-clause (a).
174

175 **14. DUTIES, TAXES, LEVIES, ETC.**

176 Sellers shall customs clear the goods for export. All export duties, taxes, levies, etc., present or future, in
177 country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in
178 country of destination, shall be for Buyers' account.
179

180 **15. DISCHARGE**

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

185 (b) For C&FFO/CIFFO terms, the cost of discharge shall be for Buyers' account.
186

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

194 (c) If documents are tendered which do not provide for discharging as above or contain contrary
195 stipulations, Sellers shall be responsible to Buyers for all extra expenses incurred thereby. Discharge by
196 grab(s) shall be permitted unless specifically excluded at time of contract. If shipment is effected by lash
197 barge, then the last day of discharge shall be the day of discharging the last lash barge at the port of
198 destination.
199

200 **16. WEIGHING**

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

209 **17. DEFICIENCY**

210 Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading
211 weight shall be paid for by Buyers at contract price.
212

213 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**

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

221 **19. FUMIGATION**

222 Where fumigation has been agreed, the terms and conditions of GAFTA Fumigation Rules No. 132 shall be
223 incorporated into this contract.
224

225 **20. INSURANCE**

226 **20.1 For Contracts Concluded on CIF/CIFFO terms** Sellers shall provide insurance on terms not less
227 favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.:-

228 (a) Risks Covered:-

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

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

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

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

234 accept a British domicile and provide an address for service of process in London, but for whose solvency
235 Sellers shall not be responsible.

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

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

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

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

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

256 (h) War and Strike Risks Premiums - Any premium in excess of 0.50% to be for account of Buyers. The rate
257 of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailing
258 whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever
259 possible, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than
260 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise
261 such claim shall be void unless, in the opinion of Arbitrators, the delay is justifiable. Sellers' obligation to
262 provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in
263 London at time of shipment.

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

269 **20.2 For Contracts Concluded on C & F/C&FFO terms** Buyers shall be responsible for obtaining insurance
270 cover as per Clause 20.1 above and shall, if required by Sellers, provide evidence to Sellers prior to the
271 commencement of loading that they have obtained suitable cover. If Buyers refuse or fail to provide
272 evidence Sellers are entitled (but not obliged) to cover insurance on the same terms at the Buyers' expense.
273

274 21. PREVENTION OF SHIPMENT

275 "Event of Force Majeure" means (a) prohibition of export or other executive or legislative act done by or on behalf
276 of the government of the country of origin or of the territory where the port or ports named herein is/are situate,
277 restricting export, whether partially or otherwise, or (b) blockade, or (c) acts of terrorism, or (d) hostilities, or (e)
278 strike, lockout or combination of workmen, or (f) riot or civil commotion, or (g) breakdown of machinery, or (h)
279 fire, or (i) ice, or (j) Act of God, or (k) unforeseeable and unavoidable impediments to transportation or
280 navigation, or (l) any other event comprehended in the term "force majeure".
281

282 Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force
283 Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure,
284 provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not later
285 than 21 consecutive days before commencement of the shipment period, whichever is later, with the reasons
286 therefor.
287

288 If the Event of Force Majeure continues for 21 consecutive days after the end of the shipment period, then Buyers
289 have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than the first
290 business day after expiry of the 21 day period.
291

292 If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14
293 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract
294 shall be automatically cancelled.
295

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

301
302 The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non-
303 fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence
304 justifying the delay or non-fulfilment.

305 306 **22. NOTICES**

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

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

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

318 319 **23. NON BUSINESS DAYS**

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

325 326 **24. DEFAULT**

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

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

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

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

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

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

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

350 351 **25. CIRCLE**

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

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

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

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

378 26. **INSOLVENCY**

379 26.1 If before the fulfilment of this contract, either party shall:

- 381 (a) suspend payments;
- 382 (b) notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to
383 suspend payments of his debts;
- 384 (c) convene, call or hold a meeting of creditors;
- 385 (d) propose either:
 - 386 (i) a voluntary arrangement; or
 - 387 (ii) a restructuring plan under Part 26A Companies Act 2006;
- 388 (e) be subject to a moratorium pursuant to Part A1 of the Insolvency Act 1986;
- 389 (f) be subject to either:
 - 390 (i) a notice of intention to appoint an administrator; or
 - 391 (ii) a notice of appointment of an administrator;
- 392 (g) have an administration order made;
- 393 (h) be subject to a winding up petition;
- 394 (i) have a winding up order made;
- 395 (j) have a receiver or manager appointed;
- 396 (k) convene, call or hold a meeting to go into liquidation (other than for re-construction or amalgamation);
- 397 (l) become subject to an interim order under Section 252 of the Insolvency Act 1986; or
- 398 (m) have a bankruptcy petition presented against him,

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

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

405 26.2 If such notice has not been served, then the other party, on learning of the occurrence of the Act of
406 Insolvency, shall have the option of declaring the contract closed out at either the market price on the first
407 business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the
408 market price ruling on the first business day after the date when the Act of Insolvency occurred.

409 26.3 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the
410 closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the
411 re-purchase or re-sale price shall be the amount payable or receivable under this contract.

412 27. **DOMICILE**

413 This contract shall be deemed to have been made in England and to be performed in England,
414 notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance
415 with the laws of England. Except for the purpose of enforcing any award made in pursuance of the
416 Arbitration clause of this contract, the Courts of England shall
417 have exclusive jurisdiction to determine any application for ancillary relief, (save for obtaining security only
418 for the claim or counter-claim), the exercise of the powers of the Court in relation to the arbitration
419 proceedings and any dispute other than a dispute which shall fall within the jurisdiction of arbitrators or
420

421 board of appeal of the Association pursuant to the Arbitration Clause of this contract. For the purpose of
422 any legal proceedings each party shall be deemed to be ordinarily resident or carrying on business at the
423 offices of The Grain and Feed Trade Association, England, (GAFTA) and any party residing or carrying on
424 business in Scotland shall be held to have prorogated jurisdiction against himself to the English Courts or if
425 in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English
426 Courts. The service of proceedings upon any such party by leaving the same at the offices of The Grain and
427 Feed Trade Association, together with the posting of a copy of such proceedings to his address outside
428 England, shall be deemed good service, any rule of law or equity to the contrary notwithstanding.
429

430 **28. ARBITRATION**

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

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

443 (c) Nothing contained under this Arbitration Clause shall prevent the parties from seeking to obtain
444 security in respect of their claim or counterclaim via legal proceedings in any jurisdiction, provided such
445 legal proceedings shall be limited to applying for and/or obtaining security for a claim or counterclaim, it
446 being understood and agreed that the substantive merits of any dispute or claim shall be determined solely
447 by arbitration in accordance with the GAFTA Arbitration Rules, No 125.
448

449 **29. INTERNATIONAL CONVENTIONS**

450 The following shall not apply to this contract: -

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

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

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

456 (d) Incoterms.

457 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this
458 contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.
459

460 **30. METHODS OF ANALYSIS**

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

Sellers Buyers

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THE GRAIN AND FEED TRADE ASSOCIATION
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