



Contract No.102

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THE GRAIN AND FEED TRADE ASSOCIATION

CONTRACT FOR TRANSHIPMENT OF FEEDINGSTUFFS IN BULK TO THE UNITED KINGDOM PARCELS OR CARGOES TALE QUALE – 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 Broken cakes and/or meal to be taken and paid for as cakes. Wherever the word "cakes" is used, this is agreed to
10 mean goods of the contractual description.

11
12 **2. QUANTITY**

13 Sellers have the option of shipping up to 5% more or less. In the event of the quantity contracted for being for a full
14 and complete cargo and/or cargoes the margin on the contract quantity to be up to 10% more or less. In the event of
15 more than one shipment being made, each shipment shall be considered a separate contract, but the margin on the
16 mean quantity sold shall not be affected thereby.

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18 **3. PRICE AND DESTINATION**

19 At the price per tonne of 1,000 kilograms gross weight of

20

21 *cost, insurance and freight to

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23 *cost, insurance and freight free out to

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25 *cost and freight to

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27 cost and freight free out to

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

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36 **5. QUALITY**

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

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39 Not less than% of oil and protein combined, and not more than 1.50% of sand and/or silica.
40 Should the whole, or any portion, not turn out equal to warranty, the goods must be taken at an allowance to be
41 agreed or settled by arbitration as provided for below, except that for any deficiency of oil and protein there shall be
42 allowances to Buyers at the following rates, viz.: 1% of the contract price for each of the first 3 units of deficiency
43 under the warranted percentage; 2% of the contract price for the 4th and 5th units and 3% of the contract price for
44 each unit in excess of 5 and proportionately for any fraction thereof. When the combined content of oil and protein

is warranted within a margin (as for example 40%/42%) no allowance shall be made if the analysis ascertained as herein provided be not below the minimum, but if the analysis results are below the minimum warranted the allowance for deficiency shall be computed from the mean of the warranted content.

For any excess of sand and/or silica there shall be an allowance of 1% of the contract price for each unit of excess and proportionately for any fraction thereof. Should the goods contain over 3% of sand and/or silica the Buyers shall be entitled to reject the goods, in which case the contract shall be null and void, for such quantity rejected.

The goods are warranted free from castor seed and/or castor seed husk, but should the analysis show castor seed husk not exceeding 0.005%, the Buyers shall not be entitled to reject the goods, but shall accept them with the following allowances: 0.75% of contract price if not exceeding 0.001%, 1% of contract price if not exceeding 0.002%, and 1.50% of contract price if not exceeding 0.005%. Should the first analysis show the goods free from castor seed and/or castor seed husk such analysis shall be final but in the event of the first analysis showing castor seed husk to be present a second sample may be analysed at the request of either party and the mean of the two analyses shall be taken as final. Should the parcel contain castor seed husk in excess of 0.005% Buyers shall be entitled to reject the parcel, in which case the contract shall be null and void for such quantity rejected. Nevertheless, should Buyers elect to retain the parcel they shall be entitled to a further allowance for any excess over 0.005% of castor seed husk, to be settled by agreement or arbitration. For the purpose of sampling and analysis each mark shall stand as a separate shipment. The right rejection provided by this clause shall be limited to the parcel or parcels found to be defective.

***Official** certificate of inspection, at time of loading into the ocean carrying vessel, shall be final as to quality. Difference in quality shall not entitle Buyers to reject except under the award of arbitrator(s) or board of appeal, as the case may be, referred to in the Arbitration Rules specified in the Arbitration Clause.

Condition. Shipment shall be made in good condition.

6. PERIOD OF SHIPMENT

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

7. SALES BY NAMED VESSELS

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

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

8. SHIPMENT AND CLASSIFICATION

Shipment from.....
by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the International Underwriting Association in force at the time of shipment.

9. 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.

10. EXTENSION OF SHIPMENT

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

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

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

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11. 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 1 consecutive day from the date of the last bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. The Non-Business Days Clause shall not apply.
- (c) Notice of appropriation shall, within the period stated in sub-clause (b) be served by or on behalf of subsequent Sellers on their Buyers or on the Selling Agent or Brokers named in the contract, but if notice of appropriation is received by subsequent Sellers on the last day or after the period stated in sub-clause (b) from the date of the last bill of lading, their notice of appropriation shall be deemed to be in time if served: -
 - (1) On the same calendar day, if received not later than 1600 hours on any business day, or
 - (2) Not later than 1600 hours on the next business day, if received after 1600 hours or on a non-business day.
- (d) A notice of appropriation served on a Selling Agent or Brokers named in the contract shall be considered an appropriation served on Buyers. A Selling Agent or Brokers receiving a notice of appropriation shall serve like notice of appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers serves the notice of appropriation on the Selling Agent, such Selling Agent may serve notice of appropriation either direct to the Buyers or to the Brokers.
- (e) The bill of lading date stated in the notice of appropriation shall be for information only and shall not be binding, but in fixing the period laid down by this clause for serving notices of appropriation the actual date of the bill of lading shall prevail.
- (f) Every notice of appropriation shall be open to correction of any errors occurring in transmission, provided that the sender is not responsible for such errors, and for any previous error in transmission which has been repeated in good faith.
- (g) Should the vessel arrive before receipt of the appropriation and any extra expenses is incurred thereby, such expenses shall be borne by Sellers.
- (h) When a valid notice of appropriation has been received by Buyers, it shall not be withdrawn except with their consent.
- (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.

12. PAYMENT

- (a) **Payment** % of invoice amount by cash in
- * In exchange for and on presentation of shipping documents;
- * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option; Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after consecutive days from the date of the bill(s) of lading
- (b) Shipping documents – shall consist of - 1. Invoice. 2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be countersigned by the Shipowners, their Agents or a recognised bank. 3. For CIF/CIFFO terms Policy (ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers. 4. Other documents as called for under the contract. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.
- (c) In the event of shipping documents not being available when called for by Buyers, or on arrival of the vessel at destination, Sellers shall provide other documents or an indemnity entitling Buyers to obtain delivery of the goods and payment shall be made by Buyers in exchange for same, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.
- (d) Should Sellers fail to present shipping documents or other documents or an indemnity entitling Buyers to take delivery, Buyers shall take delivery under an indemnity provided by themselves and shall pay for the other documents when presented. Any reasonable extra expenses, including the costs of such indemnity or extra charges incurred by reason of the failure of Sellers to provide such documents, shall be borne by Sellers, but such payment shall not prejudice Buyers' rights under the contract when shipping documents are eventually available.
- (e) Should shipping documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made provided that delivery of such missing documents is guaranteed, such guarantee to be countersigned, if required by Buyers, by a recognised bank.
- (f) Costs of collection shall be for account of Sellers, but if Buyers demand presentation only through a bank of their choice, in that event any additional collection costs shall be borne by Buyers.
- (g) No obvious clerical error in the documents shall entitle Buyers to reject them or delay payment, but Sellers shall be responsible for all loss or expense caused to Buyers by reason of such error and Sellers shall on request furnish an approved guarantee in respect thereto.

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

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

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

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

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

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

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

206 **16. DEFICIENCY**

207 Any deficiency in the bill of lading weight shall be paid for by Sellers and any excess over bill of lading weight
208 shall be paid for by Buyers at contract price, (unless the Pro-rata clause applies).
209

210 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**

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

218 **18. FUMIGATION**

219 Where fumigation has been agreed, the terms and conditions of GAFTA Fumigation Rules No. 132 shall be
220 incorporated into this contract.
221

222 **19. INSURANCE**

223 **19.1 For Contracts Concluded on CIF/CIFFO terms** Sellers shall provide insurance on terms not less
224 favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.:-

225 (a) Risks Covered: -

226 Cargo Clauses (WA), with average payable, with 3% franchise or better terms

- Section 2 of Form 72

227 War Clauses (Cargo)

- Section 4 of Form 72

228 Strikes, Riots and Civil Commotions Clauses (Cargo)

- Section 5 of Form 72

229 (b) Insurers - The insurance to be effected with first class underwriters and/or companies who are domiciled or

230 carrying on business in the United Kingdom or who, for the purpose of any legal proceedings, accept a British
231 domicile and provide an address for service of process in London, but for whose solvency Sellers shall not be
232 responsible.

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

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

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

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

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

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

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

264 **19.2 For Contracts Concluded on C & F/C&FFO terms** Buyers shall be responsible for obtaining
265 insurance cover as per Clause 19.1 above and shall, if required by Sellers, provide evidence to Sellers prior
266 to the commencement of loading that they have obtained suitable cover. If Buyers refuse or fail to provide
267 evidence Sellers are entitled (but not obliged) to cover insurance on the same terms at the Buyers' expense.

268 **20. PREVENTION OF SHIPMENT**

269 "Event of Force Majeure" means (a) prohibition of export or other executive or legislative act done by or on
270 behalf of the government of the country of origin or of the territory where the port or ports named herein is/are
271 situate, restricting export, whether partially or otherwise, or (b) blockade, or (c) acts of terrorism, or (d)
272 hostilities, or (e) strike, lockout or combination of workmen, or (f) riot or civil commotion, or (g) breakdown of
273 machinery, or (h) fire, or (i) ice, or (j) Act of God, or (k) unforeseeable and unavoidable impediments to
274 transportation or navigation, or (l) any other event comprehended in the term "force majeure".
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277 Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force
278 Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure,
279 provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not
280 later than 21 consecutive days before commencement of the shipment period, whichever is later, with the
281 reasons therefor.

282
283 If the Event of Force Majeure continues for 21 consecutive days after the end of the shipment period, then Buyers
284 have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than the first
285 business day after expiry of the 21 day period.

286
287 If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14
288 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract
289 shall be automatically cancelled.

290
291 If the Event of Force Majeure ceases before the contract or any unfulfilled part thereof can be cancelled, Sellers
292 shall notify Buyers without delay that the Event of Force Majeure has ceased. Sellers shall be entitled, from the

293 cessation, to as much time as was left for shipment under the contract prior to the occurrence of the Event of
294 Force Majeure. If the time that was left for shipment under the contract is 14 days or less, a period of 14
295 consecutive days shall be allowed.

296
297 The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non-
298 fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence
299 justifying the delay or non-fulfilment.

300 301 **21. NOTICES**

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

311 312 **22. NON-BUSINESS DAYS**

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

317 318 **23. PRO RATA**

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

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

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

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

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

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

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

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

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

351 (j) In the event that sub-clause (a) applies or that the goods subsequently become co-mingled, and that the goods
352 were shipped by more than one shipper and destined for one or more ports of discharge then, after the adjustment
353 between Receivers under the terms of this clause, the Shippers shall settle pro-rata between themselves in
354 proportion to their bill of lading quantities.

355 Such settlements shall be made in cash and in the event of two or more discharging ports being involved, then the

356 settlement price shall be the average of the market prices on the last day of discharge in the respective ports.

357
358 **24. CIRCLE**

359 Where Sellers re-purchase from their Buyers or from any subsequent Buyer the same goods or part thereof, a circle
360 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause
361 shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the
362 same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to the
363 same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the circle.
364 Subject to the terms of the Prevention of Shipment Clause in the contract, if the goods are not appropriated, or,
365 having been appropriated documents are not presented, invoices based on the mean contract quantity shall be
366 settled by all Buyers and their Sellers in the circle by payment by all Buyers to their Sellers of the excess of the
367 Sellers' invoice amount over the lowest invoice amount in the circle. Payment shall be due not later than 15
368 consecutive days after the last day for appropriation, or, should the circle not be ascertained before the expiry of this
369 time, then payment shall be due not later than 15 consecutive days after the circle is ascertained.

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

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

382
383 **25. DEFAULT**

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

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

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

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

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

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

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

406
407 **26. INSOLVENCY**

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

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

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

426 **27. DOMICILE**

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

442 **28. ARBITRATION**

443 (a) Any and all disputes arising out of or under this contract or any claim regarding the interpretation or
444 execution of this contract shall be determined by arbitration in accordance with the GAFTA Arbitration Rules, No
445 125, in the edition current at the date of this contract; such Rules are incorporated into and form part of this
446 Contract and both parties hereto shall be deemed to be fully cognisant of and to have expressly agreed to the
447 application of such Rules.
448

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

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

462 **29. INTERNATIONAL CONVENTIONS**

463 The following shall not apply to this contract: -

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

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

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

469 (d) Incoterms.

470 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this
471 contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.
472

473 **30. METHODS OF ANALYSIS**

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

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

Printed in England and issued by

GAFTA
THE GRAIN AND FEED TRADE ASSOCIATION
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