



Contract No.5

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION
**CONTRACT FOR PET FOOD RAW MATERIALS
FULL CONTAINER LOADS (FCLs)
IN BULK OR BAGS
TALE QUALE – CIF/CIFFO/C&F/C&FFO TERMS**

**delete/specify as applicable*

Date

1 **SELLERS**

2
3 **INTERVENING AS BROKERS**
4

5
6 **BUYERS**.....

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

8
9 **1. GOODS** origin
10
11 in

12
13 **2. QUANTITY**..... full containers each estimated to
14
15 contain

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 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 *Final at point of stuffing the container
37
38 *Final at time and place of discharge (or at the unstuffing) of the container
39
40 *Final as per sealed sample at time and place of shipment/discharge, in the possession of
41 **Condition.** Shipment shall be made in good condition.

42
43 **6. FREIGHT**
44 Basic Service Rate (BSR) payable when due on or before arrival at terminal. U.K./Europe Zone charges if
45 applicable payable when due on or before arrival at terminal. The term "freight" is used to cover costs of
46 movement of the goods from the place of acceptance to place of delivery. Where place of delivery is other

47 than a container terminal, a U.K./Europe zone charge is payable to cover any onward movement. There is no
48 guarantee that the containers will be stowed below deck during their sea passage.

49
50 **7. PERIOD OF SHIPMENT**

51 As per bill(s) of lading dated or to be dated
52 The bill(s) of lading to be dated when the goods are actually on board the vessel. Date of the bill(s) of lading
53 shall be accepted as proof of date of shipment in the absence of evidence to the contrary. In any month
54 containing an odd number of days, the middle day shall be accepted as being in both halves of the month.
55

56 **8. SALES BY NAMED VESSELS**

57 For all sales by named vessels, the following shall apply: -
58 (a) Position of vessel is mutually agreed between Buyers and Sellers;
59 (b) The word "now" to be inserted before the word "classed" in the Shipment and Classification Clause;
60 (c) Appropriation Clause cancelled if sold "shipped".
61

62 **9. SHIPMENT AND CLASSIFICATION**

63 Shipment from.....
64 direct or indirect, with or without transshipment by first class mechanically self-propelled vessel(s) suitable
65 for the carriage of the contract goods, classed in accordance with the Institute Classification Clause of the
66 International Underwriting Association in force at the time of shipment.
67

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

69 (a) At a date agreed between the Parties but in any event prior to the commencement of loading, Sellers shall
70 nominate the intended carrying vessel(s) to Buyers.
71 (b) Sellers are entitled to substitute the nomination(s) provided that the substituting vessel(s) complies with the
72 terms of this clause
73

74 **11. EXTENSION OF SHIPMENT**

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

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

- 81 1 to 4 additional days, 0.50%;
- 82 5 or 6 additional days, 1%;
- 83 7 or 8 additional days 1.50% of the gross contract price.

84 If, however, after having served notice to Buyers as above, Sellers fail to make shipment within such 8 days,
85 then the contract shall be deemed to have called for shipment during the originally stipulated period plus 8
86 days, at contract price less 1.50%, and any settlement for default shall be calculated on that basis. If any
87 allowance becomes due under this clause, the contract price shall be deemed to be the original contract price
88 less the allowance and any other contractual differences shall be settled on the basis of such reduced price.
89

90 **12. APPROPRIATION**

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

93 (b) The notice of appropriation shall within 5 business days from the date of the bill(s) of lading be served by
94 or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract.

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

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

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

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

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

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

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

117 118 **13. PAYMENT**

119 (a) **Payment** % of invoice amount by cash in

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

121 * In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;
122 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after
123 consecutive days from the date of the bill(s) of lading.

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

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

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

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

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

145 146 **14. DUTIES, TAXES, LEVIES, ETC.**

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

150 151 **15. DISCHARGE**

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

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

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

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

169 **16. WEIGHING**

170 *Final at time and place of loading as Sellers' expense

171 *Final at time and place of discharge at Buyers' expense

172 If final at time and place of loading, as per Gafta approved register of superintendents' certificate at Sellers' choice and
173 expense, the Deficiency Clause will not apply. The terms and conditions of Gafta Weighing Rules No.123 are deemed
174 to be incorporated into this contract.

175
176 **17. DEFICIENCY**

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

179
180 **18. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**

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

187
188 **19. FUMIGATION**

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

191
192 **20. INSURANCE**

193 **20.1 For Contracts Concluded on CIF/CIFFO terms** Sellers shall provide insurance on terms not less
194 favourable than those set out hereunder, and as set out in detail in Gafta Insurance Terms No.72 viz.:-

195 (a) Risks Covered:-

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

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

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

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

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

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

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

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

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

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

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

236 **20.2 For Contracts Concluded on C & F/C&FFO terms** Buyers shall be responsible for obtaining insurance
237 cover as per Clause 20.1 above and shall, if required by Sellers, provide evidence to Sellers prior to the
238 commencement of loading that they have obtained suitable cover. If Buyers refuse or fail to provide evidence
239 Sellers are entitled (but not obliged) to cover insurance on the same terms at the Buyers' expense.

240 **21. PREVENTION OF SHIPMENT**

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

247
248
249 Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force
250 Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure,
251 provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not later
252 than 21 consecutive days before commencement of the shipment period, whichever is later, with the reasons
253 therefor.

254
255 If the Event of Force Majeure continues for 21 consecutive days after the end of the shipment period, then Buyers
256 have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than the first
257 business day after expiry of the 21 day period.

258
259 If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14
260 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract shall
261 be automatically cancelled.

262
263 If the Event of Force Majeure ceases before the contract or any unfulfilled part thereof can be cancelled, Sellers shall
264 notify Buyers without delay that the Event of Force Majeure has ceased. Sellers shall be entitled, from the cessation,
265 to as much time as was left for shipment under the contract prior to the occurrence of the Event of Force Majeure.
266 If the time that was left for shipment under the contract is 14 days or less, a period of 14 consecutive days shall be
267 allowed.

268
269 The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non-
270 fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence
271 justifying the delay or non-fulfilment.

272 **22. NOTICES**

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

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

281 (c) A notice to the Brokers or Agent shall be deemed a notice under this contract.
282

283 **23. NON BUSINESS DAYS**

284 Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any
285 days, which Gafta may declare as non business days for specific purposes, shall be non business days. Should
286 the time limit for doing any act or serving any notice expire on a non business day, the time so limited shall
287 be extended until the first business day thereafter. The period of shipment shall not be affected by this clause.
288

289 **24. PRO RATA**

290 (a) Should any of the above mentioned quantity form part of a larger quantity of the same or a different period
291 of shipment of bags of the same mark, or of a similar quality, whether in bags or bulk or whether destined to
292 more than one port, no separation or distinction shall be necessary.
293

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

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

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

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

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

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

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

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

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

331 **25. DEFAULT**

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

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

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

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

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

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

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

356 **26. CIRCLE**

357 Where Sellers re-purchase from their Buyers or from any subsequent buyer the same goods or part thereof, a circle
358 shall be considered to exist as regards the particular goods so re-purchased, and the provisions of the Default Clause
359 shall not apply. (For the purpose of this clause the same goods shall mean goods of the same description, from the
360 same country of origin, of the same quality, and, where applicable, of the same analysis warranty, for shipment to
361 the same port(s) of destination during the same period of shipment). Different currencies shall not invalidate the
362 circle. Subject to the terms of the Prevention of Shipment Clause in the contract, if a circle is established prior to
363 the goods being appropriated to all parties in the circle, settlement shall be based on the mean contract quantity.
364 However, where a circle is established after the goods have been appropriated to all parties in the circle, settlement
365 shall be based on the appropriated quantity. No circle settlement shall apply where documents have been presented
366 to and paid by one of the parties in the circle. Settlement shall be made between the parties in the circle by payment
367 by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the lowest invoice amount in the
368 circle. Payment shall be due not later than 15 consecutive days after the last day for appropriation, or, should the
369 circle not be ascertained before the expiry of this time, then payment shall be due not later than 15 consecutive days
370 after the circle is ascertained. Where the circle includes contracts expressed in different currencies the lowest
371 invoice amount shall be replaced by the market price on the first day for contractual shipment and invoices shall
372 be settled between each Buyer and his Seller in the circle by payment of the differences between the market price
373 and the relative contract price in currency of the contract. All Sellers and Buyers shall give every assistance to
374 ascertain the circle and when a circle shall have been ascertained in accordance with this clause same shall be
375 binding on all parties to the circle. As between Buyers and Sellers in the circle, the non-presentation of documents
376 by Sellers to their Buyers shall not be considered a breach of contract. Should any party in the circle prior to the due
377 date of payment commit any act comprehended in the Insolvency Clause of his contract, settlement by all parties in
378 the circle shall be calculated at the closing out price as provided for in the Insolvency Clause, which shall be taken
379 as a basis for settlement, instead of the lowest invoice amount in the circle. In this event respective Buyers shall
380 make payment to their Sellers or respective Sellers shall make payment to their Buyers of the difference between
381 the closing out price and the contract price.
382

383 **27. INSOLVENCY**

384 27.1 If before the fulfilment of this contract, either party shall:

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

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

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

409 27.2 If such notice has not been served, then the other party, on learning of the occurrence of the Act of Insolvency,
410 shall have the option of declaring the contract closed out at either the market price on the first business day
411 after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price
412 ruling on the first business day after the date when the Act of Insolvency occurred.

413 27.3 In all cases the other party to the contract shall have the option of ascertaining the settlement price on the
414 closing out of the contract by re-purchase or re-sale, and the difference between the contract price and the re-
415 purchase or re-sale price shall be the amount payable or receivable under this contract.
416
417
418

419 **28. DOMICILE**

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

432 **29. ARBITRATION**

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

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

445 (c) Nothing contained under this Arbitration Clause shall prevent the parties from seeking to obtain security
446 in respect of their claim or counterclaim via legal proceedings in any jurisdiction, provided such legal
447 proceedings shall be limited to applying for and/or obtaining security for a claim or counterclaim, it being
448 understood and agreed that the substantive merits of any dispute or claim shall be determined solely by
449 arbitration in accordance with the Gafta Arbitration Rules, No 125.
450

451 **30. INTERNATIONAL CONVENTIONS**

452 The following shall not apply to this contract: -

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

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

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

458 (d) Incoterms.

459 (e) Unless the contract contains any statement expressly to the contrary, a person who is not a party to this
460 contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of it.
461

462 **31. METHODS OF ANALYSIS**

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

Sellers Buyers

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