



# Contract No.1

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THE GRAIN AND FEED TRADE ASSOCIATION

## GENERAL CONTRACT FOR SHIPMENT OF FEEDING STUFFS IN BAGS 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** .....

9 in new and/or secondhand bags of suitable strength to withstand ordinary wear and tear to port of destination.  
10 Such bags to be taken and paid for as goods. Broken cakes and/or meal to be taken and paid for as cakes.

11  
12 **2. QUANTITY**.....

13 Sellers have the option of shipping up to 5% more or less. In the event of more than one shipment being  
14 made, each shipment shall be considered a separate contract, but the margin on the mean quantity sold  
15 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  
29 lost 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  
31 shipping documents are exchanged or, if the goods are not appropriated then brokerage shall be due on  
32 the 30th consecutive day after the last day for appropriation.

33  
34 **5. QUALITY**

35 **\*Warranted to contain** .....at time and place of discharge.

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

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

40  
41 **6. PERIOD OF SHIPMENT**

42 As per bill(s) of lading dated or to be dated .....

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

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47 **7. SALES BY NAMED VESSELS**

48 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.....  
direct or indirect, with or without transshipment 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.

**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 ..... consecutive days from the date of the bill(s) of lading be served by or on behalf of the Shipper direct on his Buyers or on the Selling Agent or Brokers named in the contract. 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 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.

111 (i) In the event of less than 95 tonnes being tendered by any one vessel Buyers shall be entitled to refund  
112 of any proved extra expenses for sampling, analysis and lighterage incurred thereby at port of discharge.  
113

## 114 12. PAYMENT

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

116 \* In exchange for and on presentation of shipping documents;

117 \* In exchange for shipping documents on or before arrival of the vessel at destination, at Buyers' option;

118 Sellers, however, have the option of calling upon Buyers to take up and pay for documents on or after  
119

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

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

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

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

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

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

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

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

## 153 13. DUTIES, TAXES, LEVIES, ETC.

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

## 158 14. DISCHARGE

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

163 (b) **For C&FFO/CIFFO terms**, the cost of discharge shall be for Buyers' account.  
164

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

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

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178 **15. WEIGHING**

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

186  
187 **16. DEFICIENCY**

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

190  
191 **17. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**

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

198  
199 **18. FUMIGATION**

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

202  
203 **19. INSURANCE**

204 **18.1 For Contracts Concluded on CIF/CIFFO terms** - Sellers shall provide insurance on terms not less  
205 favourable than those set out hereunder, and as set out in detail in GAFTA Insurance Terms No.72 viz.:-

206 (a) Risks Covered:-

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

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

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

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

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

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

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

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

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

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

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

247 **18.2 For Contracts Concluded on C & F/C&FFO terms** Buyers shall be responsible for obtaining  
248 insurance cover as per Clause 18.1 above and shall, if required by Sellers, provide evidence to Sellers prior  
249 to the commencement of loading that they have obtained suitable cover. If Buyers refuse or fail to provide  
250 evidence Sellers are entitled (but not obliged) to cover insurance on the same terms at the Buyers'  
251 expense

## 20. PREVENTION OF SHIPMENT

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

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

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

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

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

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

## 21. NOTICES

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

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**22. NON BUSINESS DAYS**

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

**23. DEFAULT**

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

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

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

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

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

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

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

**24. CIRCLE**

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

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

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

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

**25. PRO RATA**

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

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

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

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

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

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

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

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

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

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

## 402 26. **INSOLVENCY**

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

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

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

425 **27. DOMICILE**

426 This contract shall be deemed to have been made in England and to be performed in England,  
427 notwithstanding any contrary provision, and this contract shall be construed and take effect in accordance  
428 with the laws of England. Except for the purpose of enforcing any award made in pursuance of the  
429 Arbitration clause of this contract, the Courts of England shall have exclusive jurisdiction to determine any  
430 application for ancillary relief, (save for obtaining security only for the claim or counter-claim), the  
431 exercise of the powers of the Court in relation to the arbitration proceedings and any dispute other than a  
432 dispute which shall fall within the jurisdiction of arbitrators or board of appeal of the Association  
433 pursuant to the Arbitration Clause of this contract. For the purpose of any legal proceedings each party  
434 shall be deemed to be ordinarily resident or carrying on business at the offices of The Grain and Feed  
435 Trade Association, England, (GAFTA) 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  
437 submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of  
438 proceedings upon any such party by leaving the same at the offices of The Grain and Feed Trade  
439 Association, together with the posting of a copy of such proceedings to his address outside England, shall  
440 be deemed good service, any rule of law or equity to the 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  
445 Rules, No 125, in the edition current at the date of this contract; such Rules are incorporated into and form  
446 part of this Contract and both parties hereto shall be deemed to be fully cognisant of and to have expressly  
447 agreed to the application of such Rules.

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

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

461 **29. INTERNATIONAL CONVENTIONS**

462 The following shall not apply to this contract: -

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

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

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

468 (d) Incoterms.

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

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

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**GAFTA**  
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