



Contract No.64

Copyright
THE GRAIN AND FEED TRADE ASSOCIATION

GENERAL CONTRACT FOR GRAIN IN BULK FOB 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
10 **2. QUANTITY**.....

11 5 % more or less at Buyers' option. In the event of the quantity contracted for being a full and complete cargo and/or
12 cargoes the margin of contract quantity shall be 10% more or less, excess or deficiency over 5% shall be settled at
13 the FOB price on date of last bill of lading; value shall be fixed by arbitration unless mutually agreed. In the event of
14 more than one delivery being made each delivery shall be considered a separate contract, but the margin on the
15 mean quantity sold shall not be affected thereby.

16
17 **3. PRICE**.....

18 * per tonne of 1000 kilograms }
19 } gross weight, delivered Free on Board Buyers' Vessel at
20 * per ton of 1016 kilograms or 2240 lbs. }

21
22 **4. BROKERAGE**.....per tonne, to be paid by Sellers on the mean contract quantity, goods lost or not lost,
23 contract fulfilled or not fulfilled unless such non-fulfilment is due to the cancellation of the contract under the
24 terms of the Prevention of Delivery Clause. Brokerage shall be due on the day shipping documents are
25 exchanged, or if the goods are not delivered then the brokerage shall be due on the 30th consecutive day after the
26 last day for delivery.

27
28 **5. QUALITY**
29 ***Warranted to contain**.....

30
31 ***Government, Official or Customary Inspector's Certificates** issued at time and place of delivery shall be final as
32 to quality. Buyers shall not be entitled to reject the delivery of a higher grade of grain of the same colour and
33 description.

34
35 ***Sample.** At time and place of shipment about as per sealed sample marked in the

36
37 possession of

38 **Condition.** Delivery shall be made in good condition.

39
40 **6. PERIOD OF DELIVERY**
41 **Delivery during**.....at Buyers' call.

42
43 **Nomination of Vessel.** Buyers shall serve not less thanconsecutive days' notice of the name and
44 probable readiness date of the vessel and the estimated tonnage required. The Buyer has the right to substitute
45 any nominated vessel. Buyer's obligations regarding pre-advice shall only apply to the original vessel nominated.
46 No new pre-advice is required to be given in respect of any substitute vessel, provided that the substitute vessel
47 arrives no earlier than the estimated time of arrival of the original vessel nominated and always within the
48 delivery period. Provided the vessel is presented at the loading port in readiness to load within the delivery

49 period, Sellers shall if necessary complete loading after the delivery period and carrying charges shall not apply.
50 Notice of substitution to be given as soon as possible but in any event no later than one business day before the
51 estimated time of arrival of the original vessel. In case of re-sales a provisional notice shall be passed on without
52 delay, where possible, by telephone and confirmed on the same day in accordance with the Notices Clause.
53 In any month containing an odd number of days the middle day shall be accepted as being in both halves of the
54 month, except for pricing purposes the middle day shall be considered to be in the first half of the month.
55

56 **7. LOADING**

57 Vessel(s) to be clean and fit to receive the goods and to load in accordance with the custom of the port of loading
58 unless otherwise stipulated. Bill of lading shall be considered proof of delivery in the absence of evidence to the
59 contrary.
60

61 **8. EXTENSION OF DELIVERY**

62 The contract period of delivery shall be extended by an additional period of not more than 10 consecutive days,
63 provided that Buyers serve notice claiming extension not later than the next business day following the last day of
64 the delivery period. In this event Sellers shall carry the goods for Buyers' account and all charges for storage,
65 interest, insurance and other such normal carrying expenses shall be for Buyers' account, unless the vessel presents
66 in readiness to load within the contractual delivery period.

67 Any differences in export duties, taxes, levies etc, between those applying during the original delivery period and
68 those applying during the period of extension, shall be for the account of Buyers. If required by Buyers, Sellers shall
69 produce evidence of the amounts paid. In such cases the Duties, Taxes, Levies Clause shall not apply.

70 Should Buyers fail to present a vessel in readiness to load under the extension period, Sellers shall have the option of
71 declaring Buyers to be in default, or shall be entitled to demand payment at the contract price plus such charges as
72 stated above, less current FOB charges, against warehouse warrants and the tender of such warehouse warrants
73 shall be considered complete delivery of the contract on the part of Sellers.
74

75 **9. SHIP'S CLASSIFICATION.**

76 Shipment by first class mechanically self-propelled vessel(s) suitable for the carriage of the contract goods, classed
77 in accordance with the Institute Classification Clause of the International Underwriting Association in force at the
78 time of shipment, excluding tankers and vessels which are either classified in Lloyd's Register or described in Lloyd's
79 Shipping Index as "Ore/Oil" vessels.
80

81 **10. PAYMENT**

82 (a) By cash in

83
84 against the following documents

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

88 (c) **Interest.** If there has been unreasonable delay in any payment, interest appropriate to the currency involved
89 shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled
90 by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract
91 or by an award of arbitration. The terms of this clause do not override the parties' contractual obligation under
92 sub-clause (a).
93

94 **11. DUTIES, TAXES, LEVIES, ETC.**

95 Sellers shall customs clear the goods for export. All export duties, taxes, levies, etc., present or future, in country of
96 origin or of the territory where the port or ports of shipment named herein is/are situate, shall be for Sellers'
97 account.
98

99 **12. EXPORT LICENCE** - if required, to be obtained by Sellers.
100

101 **13. WEIGHING**

102 The terms and conditions of GAFTA Weighing Rules No. 123 are deemed to be incorporated into this contract.
103 Final at time and place of loading, as per GAFTA registered superintendent certificate at Sellers' choice and
104 expense. Buyers have the right to attend at loading.
105

106 **14. SAMPLING, ANALYSIS AND CERTIFICATES OF ANALYSIS**

107 The terms and conditions of GAFTA Sampling Rules No.124 are deemed to be incorporated into this contract.
108 Samples shall be taken at time and place of loading. The parties shall appoint superintendents, for the purposes

of supervision and sampling of the goods, from the GAFTA Register of Superintendents. Unless otherwise agreed, analysts shall be appointed from the GAFTA Register of Analysts.

15. FUMIGATION

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

16. INSURANCE

Marine and War Risk insurance including strikes, riots, civil commotions and mine risks to be effected by the Buyers with first class underwriters and/or approved companies. Buyers shall supply Sellers with confirmation thereof at least 5 consecutive days prior to expected readiness of vessel(s). If Buyers fail to provide such confirmation Sellers shall have the right to place such insurance at Buyers' risk and expense.

17. PREVENTION OF DELIVERY

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

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

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

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

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

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

18. NOTICES

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

19. 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

169 the first business day thereafter. The period of delivery shall not be affected by this clause.
170

171 **20. DEFAULT**

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

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

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

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

181 (d) In all cases the damages shall, in addition, include any proven additional expenses which would directly and
182 naturally result in the ordinary course of events from the defaulter's breach of contract, but in no case shall damages
183 include loss of profit on any sub-contracts made by the party defaulted against or others unless the arbitrator(s) or
184 board of appeal, having regard to special circumstances, shall in his/their sole and absolute discretion think fit.

185 (e) Damages, if any, shall be computed on the quantity called for, but if no such quantity has been declared then on
186 the mean contract quantity and any option available to either party shall be deemed to have been exercised
187 accordingly in favour of the mean contract quantity.
188

189 **21. CIRCLE**

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

196 Subject to the terms of the Prevention of Delivery Clause in the contract, if the circle is established before the
197 goods are delivered, or if the goods are not delivered, invoices based on the mean contract quantity, or if the
198 goods have been delivered invoices based on the delivered quantity, shall be settled by all Buyers and their
199 Sellers in the circle by payment by all Buyers to their Sellers of the excess of the Sellers' invoice amount over the
200 lowest invoice amount in the circle. Payment shall be due not later than 15 consecutive days after the last date
201 for delivery, or, should the circle not be ascertained before the expiry of this time, then payment shall be due not
202 later than 15 consecutive days after the circle is ascertained.

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

207 All Sellers and Buyers shall give every assistance to ascertain the circle and when a circle shall have been
208 ascertained in accordance with this clause same shall be binding on all parties to the circle. As between Buyers
209 and Sellers in the circle, the non-presentation of documents by Sellers to their Buyers shall not be considered a
210 breach of contract.

211 Should any party in the circle prior to the due date of payment commit any act comprehended in the Insolvency
212 Clause of this contract, settlement by all parties in the circle shall be calculated at the closing out price as provided
213 for in the Insolvency Clause, which shall be taken as a basis for settlement, instead of the lowest invoice amount in
214 the circle. In this event respective Buyers shall make payment to their Sellers or respective Sellers shall make
215 payment to their Buyers of the difference between the closing out price and the contract price.
216

217 **22. INSOLVENCY**

218 If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is
219 unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or
220 hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding
221 up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other
222 than for re-construction or amalgamation) become subject to an Interim Order under Section 252 of the Insolvency
223 Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of
224 Insolvency") then the party committing such Act of Insolvency shall forthwith serve a notice of the occurrence of
225 such Act of Insolvency on the other party to the contract and upon proof (by either the other party to the contract or
226 the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency)
227 that such notice was served within 2 business days of the occurrence of the Act of Insolvency, the contract shall be
228 closed out at the market price ruling on the business day following the serving of the notice. If such notice has not

229 been served, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of
230 declaring the contract closed out at either the market price on the first business day after the date when such party
231 first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the
232 date when the Act of Insolvency occurred.

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

236 237 **23. DOMICILE**

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

252 253 **24. ARBITRATION**

254 (a) Any and all disputes arising out of or under this contract or any claim regarding the interpretation or
255 execution of this contract shall be determined by arbitration in accordance with the GAFTA Arbitration Rules, No
256 125, in the edition current at the date of this contract; such Rules are incorporated into and form part of this
257 Contract and both parties hereto shall be deemed to be fully cognisant of and to have expressly agreed to the
258 application of such Rules.

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

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

271 272 **25. INTERNATIONAL CONVENTIONS**

273 The following shall not apply to this contract: -

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

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

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

279 (d) Incoterms.

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

282 283 **25. PHYTOSANITARY CERTIFICATE**

284 Where the provision of a phytosanitary certificate has been agreed between the parties, Sellers shall use their
285 reasonable endeavours to supply, at their own cost, a phytosanitary certificate in circumstances where:

286 (a) After the date on which the contract has been entered into the named country of import changes its
287 phytosanitary requirements or

288 (b) As at the date on which the contract has been entered into Sellers are not aware of the named country of

Sellers Buyers

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