

General contract for feedingstuffs, tale quale - C.I.F. Terms

General contract for feedingstuffs, tale quale -- CIF terms

Date : _____

Sellers : _____

Intervening as brokers : _____

Buyers: _____ have this day entered into a contract on the following terms and conditions.

1. Goods:

_____ in new and/or secondhand bags of suitable strength to stand ordinary wear and tear to port of destination. Broken cakes and/or meal to be taken and paid for as cakes.

2. Quantity:

_____. Sellers have the option of shipping up to 5 % more or less.

3. Price

At : _____

¹ per tonne of 1000 kilograms	gross weight, cost, insurance and freight to _____
² per ton of 1016 kilograms or 2240 lbs }13	

4. Brokerage

_____ per tonne to be paid by Sellers on the mean contract quantity, goods lost or not lost, contract fulfilled or not fulfilled unless such non-fulfilment is due to the successful application of the Prohibition Clause or the Force Majeure Clause. Brokerage shall be due on the day shipping documents are exchanged or, if the goods are not appropriated then the brokerage shall be due on the 30th consecutive day after the last day for appropriation or advice of shipment.

5. Quality: _____

6. Period of shipment

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

7. Sales by named vessels

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

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

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

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

8. Shipment and classification

Shipment to be made in good condition, direct or indirect, with or without transshipment from _____ by first class steamer(s) and/or power engined ship(s) classed not lower than 100 A1 or British Corporation B.S. or top classification in American, French, Italian, Norwegian, German or other equal ranking Registers.

9. Extension of shipment

The contract period for shipment, if such be 31 days or less, shall, if desired by the Shipper, be extended by an additional period of not more than 8 days, provided that the Shipper gives notice claiming extension by telegram, or telex sent 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, and such notice shall be passed on by Sellers to their Buyers respectively in due course after receipt. 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, as follows: for 1, 2, 3 or 4 additional days, 0.50% of the gross c.i.f. price; for 5 or 6

additional days, 1 % of the gross c.i.f. price; for 7 or 8 additional days 1.50% of the gross c.i.f. price. If, however, after having given notice to the Buyers as above, the Sellers fail to make shipment within such 8 days, then the contract shall be deemed to have called for shipment during the originally stipulate 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.

10. Appropriation

(a) Notice of Appropriation stating the vessel's name and the approximate weight shipped, shall, within consecutive days from the date of the bill of lading be despatched in accordance with sub-clause (e) by or on behalf of the Shipper direct to his Buyers or to the Selling Agent or Broker named in the contract. The Non-Business Days Clause shall not apply.

(b) Notice of Appropriation stating the vessel's name and the approximate weight shipped, shall, within the said period of consecutive days be despatched in accordance with sub-clause (e) by or on behalf of subsequent Sellers to their Buyers or to 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 consecutive days from 56 the date of the bill of lading, his Notice of Appropriation shall be deemed to be in time if despatched :

(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.

(c) A Selling Agent or Brokers receiving a Notice of Appropriation shall despatch like Notice of Appropriation in accordance with the provisions of this clause. Where the Shipper or subsequent Sellers despatches the Notice of Appropriation to the Selling Agent, such Selling Agent may despatch Notice of Appropriation either directly to the Buyers or to the Brokers.

(d) The Shipper's Notice of Appropriation and every subsequent Sellers' Notice of Appropriation shall state the date or the presumed date of the bill of lading which shall be for information only and shall not be binding, but in fixing the period laid down by this clause for despatching Notices of Appropriation the actual date of the bill of lading shall prevail.

(e) Notices of Appropriation shall be despatched by telegram, telex or other method of rapid written communication, or by letter if delivered by hand on day of writing. Every such 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.

(f) Should the vessel arrive before receipt of the appropriation and any extra expenses be incurred thereby, such expenses are to be borne by Sellers.

(g) When a valid Notice of Appropriation has been received by Buyers, it shall not be withdrawn except with their consent.

(h) A Notice of Appropriation despatched to the Brokers named in the contract shall be considered an appropriation despatched to the Buyers.

(i) An appropriation shall not be deemed invalid if the date of the bill of lading is within the contract period and if on that date the vessel named is at the port of loading and carrying goods of the contractual description and quantity.

(j) In the event of less than 47.50 tonnes being tendered by any one vessel, Buyers shall be entitled to refund of any proved extra expenses of sampling, analysis and lighterage incurred thereby at port of discharge.

(k) In the event of more than one shipment being made, each shipment shall be considered a separate contract, but the margin of the mean quantity sold shall not be affected thereby.

11. Payment:

_____ Final Invoices for monies due may be prepared by either party and shall be settled without delay. If not settled, either party may declare that a dispute has arisen which may be referred to arbitration as herein provided.

12. Interest

If there has been unreasonable delay in any payment interest appropriate to the currency involved shall be charged. If such charge is not mutually agreed, a dispute shall be deemed to exist which shall be settled by arbitration. Otherwise interest shall be payable only where specifically provided in the terms of the contract, or by an award of arbitration. The terms of this clause do not override the parties obligation under the Payment Clause.

13. Shipping documents

Shipping documents shall consist of:

1. Invoice.

2. Full set(s) of on board Bill(s) of Lading and/or Ship's Delivery Order(s) and/or other Delivery Order(s) in negotiable and transferable form. Such other Delivery Order(s) if required by Buyers, to be certified by the Shipowners, their Agents or a recognised bank.

3. Policy(ies) and/or Insurance Certificate(s) and/or Letter(s) of Insurance in the currency of the contract. The Letter(s) of Insurance to be certified by a recognised bank if required by Buyers.

4. Other documents as called for under the contract. Should documents be presented with an incomplete set of bill(s) of lading or should other shipping documents be missing, payment shall be made, provided that delivery of such missing documents be guaranteed, such guarantee to be signed, if required by Buyers, by a recognised bank. Acceptance of this guarantee shall not prejudice Buyers' rights under this contract. No clerical error in the documents shall entitle Buyers to rejection or to delay payment provided that Sellers furnish at the request of Buyers a guarantee to be countersigned by a recognised bank, if required by Buyers. Sellers shall be responsible for any loss or expense incurred by Buyers on account of such error. Buyers agree to accept documents containing the Chamber of Shipping War Deviation Clause and/or other recognised official War Risk Clause.

14. Duties, taxes, levies, etc.

All export duties, taxes, levies, etc., present or future, in country of origin, shall be for Sellers' account. All import duties, taxes, levies, etc., present or future, in country of destination, shall be for Buyers' account.

15. Certificates of origin: _____

16. Weighing

Final settlement shall be made on the basis of gross delivered weight, and goods shall be weighed at the place of landing at port of destination, Sellers having the right to superintend. If weighing ex vessel is not practicable and the goods are landed unweighed, then weighing should be completed within 14 consecutive days from the date of final discharge. If weighing cannot be completed within 14 consecutive days from the date of final discharge, the gross bill of lading weights shall be final on the parcel, but an extension of a further 14 consecutive days shall be granted provided Buyers prove that their inability to complete weighing within 14 consecutive days of final discharge was unavoidable. When goods are discharged unweighed notice shall be given by Buyers to Sellers' superintendents of readiness to weigh. Any additional weight due to sea accident shall not be paid for. Buyers shall have the option to declare final settlement to be made on the gross bill of lading weights, such declaration to be made to Sellers on or before arrival of vessel at port of destination.

17. Sampling and analysis

Samples required for the purposes of the contract shall be taken and analytical instructions shall be given in accordance with the GAFTA Sampling Rules Form No. 124 when superintendents are required for the purposes of supervision and sampling of the goods in accordance with these Rules, then the parties agree to appoint from superintendents in the GAFTA Approved Register of Superintendents.

18. Latent defect

The goods are not warranted free from defect, rendering same unmerchantable, which would not be apparent on reasonable examination, any statute or rule of law to the contrary notwithstanding.

19. Insurance

Sellers shall provide insurance on terms not less favourable than those set out hereunder, and as set out in detail in The Grain and Feed Trade Association Form. 72 viz :

(a) Risks covered :

Cargo Clauses (W.A.), with average payable, with 3% franchise or better terms	- Section 2 of Form 72
War Clauses (Cargo)	- Section 4 of Form 72
Strikes, Riots and Civil Commotions Clauses (Cargo)	- Section 5 of Form 72

(b) Insurers

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

(c) Insurable value

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

(d) Freight contingency

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

(e) Certificates/policies

Sellers shall give all policies and/or certificates and/or letters of insurance provided for in this contract, (duly stamped if applicable) for original and increased value (if any) for the value stipulated in (c) above. In the event of a certificate of insurance being supplied, it is agreed that such certificate shall be exchanged by Sellers for a policy if and when required, and such certificate shall state on its face that it is so exchangeable. If required by Buyers, letter(s) of insurance shall be guaranteed by a recognised bank, or by any 152 other guarantor who is acceptable to Buyers.

(f) Total loss

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

(g) Currency of claims

Claims to be paid in the currency of the contract.

(h) War and strike risks/premiums

Any premium in excess of 0.50% to be for account of Buyers. The rate of such insurance not to exceed the rate ruling in London at time of shipment or date of vessel's sailings whichever may be adopted by underwriters. Such excess premium shall be claimed from Buyers, wherever possible,, with the Provisional Invoice, but in no case later than the date of vessel's arrival, or not later than 7 consecutive days after the rate has been agreed with underwriters, whichever may be the later, otherwise such claim shall be void unless, in the opinion of Arbitrators, the delay is

justifiable. Sellers' obligation to provide War Risk Insurance shall be limited to the terms and conditions in force and generally obtainable in London at time of shipment. (i) Where Sellers are responsible for allowances or other payments to Buyers under Rye Terms or other contractual terms, (and which risks are also covered by the insurance provided by Sellers), the Buyers, on receipt of settlement, shall immediately return to Sellers the insurance documents originally received from them and shall, if required, subrogate to Sellers all right of claim against the Insurers in respect of such matters.

20. Prohibition

In case of prohibition of export, blockade or hostilities or in case of any 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 of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation.

21. Force majeure, strikes etc.

Sellers shall not be responsible for delay in shipment of the goods or any part thereof occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or any cause comprehended in the term "force majeure". If delay in shipment is likely to occur for any of the above reasons, the Shipper shall give notice to his Buyers by telegram, telex or by similar advice within 7 consecutive days of the occurrence, or not less than 21 consecutive days before the commencement of the contract period, whichever is the later. The notice shall state the reason(s) for the anticipated delay. If after giving such notice an extension to the shipping period is required, then the Shipper shall give further notice not later than 2 business days after the last day of the contract period of shipment stating the port or ports of loading from which the goods were intended to be shipped, and shipments effected after the contract period shall be limited to the port or ports so nominated. If shipment be delayed for more than 30 consecutive days, Buyers shall have the option of cancelling the delayed portion of the contract, such option to be exercised by Buyers giving notice to be received by Sellers not later than the first business day after the additional 30 consecutive days. If Buyers do not exercise this option, such delayed portion shall be automatically extended for a further period of 30 consecutive days. If shipment under this clause be prevented during the further 30 consecutive days extension, the contract shall be considered void. Buyers shall have no claim against Sellers for delay or non-shipment under this clause, provided that Sellers shall have supplied to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

22. Notices

Any notices 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. All notices given under this contract shall be given by letter, if delivered by hand on the day of writing, or by telegram or by telex or by other method of rapid written communication. In case of resales all notices shall be passed on without delay by Buyers to their respective Sellers or vice versa.

23. Facsimile

Notwithstanding anything in this contract to the contrary, notices despatched under this contract shall NOT be transmitted by means of facsimile machines.

24. Non-business days

Saturdays, Sundays and the officially recognised and/or legal holidays of the respective countries and any days which The Grain and Feed Trade Association may declare as non-business days for specific purposes, shall be non-business days. Should the time limit for doing any act or giving

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.

25. 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 giving notice by letter,

telegram or telex to 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 damage cannot be mutually agreed, then the assessment of damages shall be settled by arbitration.

(c) The damages payable shall be based on 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 is not passed 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 despatch of the appropriation, or if notice of appropriation is not passed 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 despatch of the appropriation, the Sellers shall be deemed to be in default, and the default date shall then be the first business day thereafter.

26. 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 Prohibition 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(s) 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 the 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 contract price.

27. Insolvency

If before the fulfilment of this contract, either party shall suspend payments, notify any of the creditors that he is unable to meet debts or that he has suspended or that he is about to suspend payments of his debts, convene, call or hold a meeting of creditors, propose a voluntary arrangement, have an administration order made, have a winding up order made, have a receiver or manager appointed, convene, call or hold a meeting to go into liquidation (other than for reconstruction or amalgamation) become subject to an Interim Order under Section of the Insolvency Act 1986, or have a Bankruptcy Petition presented against him (any of which acts being hereinafter called an "Act of Insolvency") then the party committing such Act of Insolvency shall forthwith transmit by telex or telegram or by other method of rapid written communication a notice of the occurrence of such Act of Insolvency to the other party to the contract and upon proof (by either the other party to the contract or the Receiver, Administrator, Liquidator or other person representing the party committing the Act of Insolvency) that such notice was thus given within 2 business days of the occurrence of the Act of Insolvency, the contract shall be closed out at the market price ruling on the business day following the giving of the notice. If such notice be not given as aforesaid, then the other party, on learning of the occurrence of the Act of Insolvency, shall have the option of declaring the contract closed out at either the market price on the first business day after the date when such party first learnt of the occurrence of the Act of Insolvency or at the market price ruling on the first business day after the date when the Act of Insolvency occurred. In all cases the other party to the contract shall have the option of ascertaining the settlement price on the closing out of the contract by repurchase or re-sale, and the difference between the contract price and the re-purchase or re-sale price shall be the amount payable or receivable under this contract.

28. Domicile

Buyers and Sellers agree that, for the purpose of proceedings either legal or by arbitration, this contract shall be deemed to have been made in England, and to be performed there, any correspondence in reference to the offer, the acceptance, the place of payment, or otherwise, notwithstanding, and the Courts of England or arbitrators appointed in England, as the case may be, shall, except for the purpose of enforcing any award made in pursuance of the Arbitration Clause hereof, have exclusive jurisdiction over all disputes which may arise under this contract. Such disputes shall be settled according to the law of England, whatever the domicile, residence or place of business of the parties to this contract may be or become. Any party to this contract residing or carrying on business elsewhere than in England or Wales, shall for the purpose of proceedings at law or in arbitration be considered as ordinarily resident or carrying on business at the offices of The Grain and Feed Trade Association, and if in Scotland, he shall be held to have prorogated jurisdiction against himself to the English Courts; or if in Northern Ireland to have submitted to the jurisdiction and to be bound by the decision of the English Courts. The service of proceedings upon any such party by leaving the same at the office of The Grain and Feed Trade Association, together with the posting of a copy of such proceedings to his address abroad, or in Scotland or in Northern Ireland, shall be deemed good service, any rule of law or equity to the contrary notwithstanding. Where goods forming the subject of this contract are not for consumption in Great Britain or Northern Ireland nothing in the foregoing shall make the sale subject to the provisions of the Agriculture Act for the time being in force.

29. Arbitration

(a) Any dispute arising out of or under this contract shall be settled by arbitration in accordance with the Arbitration Rules, No. 125, of The Grain and Feed Trade Association, in the edition current at the date of this contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognisant.

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

30. International conventions

The following shall not apply to this contract :

the Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the Uniform Laws on International Sales Act 1967;

(b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and

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

Sellers : _____ Buyers : _____

¹ Delete/specify as applicable

² Delete/specify as applicable