



APPROVED AIC CONTRACT NOTE FOR HOME GROWN GRAIN AND PULSES
 Prepared by AIC in Consultation with the NFUs of England & Wales and Scotland
 Suitable for Producer/First Buyer Transactions.

This Contract is valid only when issued by a Member or Licensee of the Agricultural Industries Confederation Limited

Date:

Buyer's Ref: Seller's Ref:

Sellers:

Buyers:

being the only two parties who have any rights whatsoever under this contract have this day entered into a contract whereby the Buyer agrees to buy and the Seller agrees to sell goods not necessarily being the Seller's own produce, on the terms and conditions given below. For the avoidance of doubt and subject to Clause 21, the unavailability of the Seller's own produce does not remove the obligation on the Seller to make available goods, having been produced elsewhere in the UK, which meet the following terms and conditions:

1. Goods sold on *Sample*/*Description: Contractual quality for each individual consignment as under:

Type/ Variety	Max Moisture %	Min Specific Weight (kg/hl)	Min/Max Nitrogen % (basis dry matter)	Min/Max* Protein % (basis dry matter)	Min Germinative Capacity %	Min Hagberg Falling No	Max Admixture/ Impurities (by weight) %	Max Sprouted Grains (by weight) %	Max Screenings (by weight) % (enter sieve size)	Hardness Min/Max* (SKCS Value)

2. Weighing Charge: Weighing Charges of shall be for Buyers*/Sellers* account.

3. Special Terms:

4. Drying: Undried/dried or conditioned*

5. Quantity: About* tonnes OR between and tonnes*. Where the word 'about' is used in reference to quantity the Seller shall have the option of delivering 5% or 15 tonnes (whichever is the lesser quantity) more or less than the contractual quantity at the contract price. This variation of 5% or 15 tonnes is hereinafter referred to as 'the tolerance'. Any quantity delivered in excess of the upper tolerance shall be deemed a breach of contract and entitle the Buyer to reject the excess if he so wishes. If he does not so reject, the price of any quantity in excess of the mean contract quantity shall be settled by mutual agreement or otherwise by arbitration. If the Seller delivers less than the minimum quantity permitted by the tolerance he shall be deemed to be in default and shall compensate the other party in accordance with the Default clause herein. Calculation of damages in all instances shall be against the mean contract quantity. (Where deliveries of individual consignments reach a tonnage within the tolerance of the contractual quantity, the contract shall be deemed to have been completed.

6. Price:per tonne ex-farm/ex-store/delivered to*
(location).

7. Period of Delivery:

8. Payment Terms:

THIS CONTRACT IS SUBJECT TO THE CONDITIONS ON THE FOLLOWING PAGES SO FAR AS THEY ARE NOT INCONSISTENT WITH THE TERMS SET OUT ABOVE. (Whenever the words 'grain' or 'pulses' are used, these are to mean goods of the contractual description).

*Delete words which do not apply. **Signature**

9. **Origin:** Goods are warranted to have been grown in the United Kingdom.
10. **Quality:** In addition to conditions and warranties arising under the Sale of Goods Act 1979 and the Sale and Supply of Goods Act 1994 the following conditions shall apply:
- All goods to which this contract refers shall be of satisfactory quality, sound, free from mould, heat damage, green grain, infestation or other injurious materials and from objectionable smell or taste.
 - Feed grain (as specified under Goods sold on Sample/Description above) shall not contain more than 0.001% Ergot by weight. All other goods shall be free from Ergot.
 - Where the goods have been dried after storage in a sealed silo or container, or where any chemical treatment has been used as a desiccant on the crop from which the goods are produced, these facts shall be declared in writing by the Seller at the time of sale.
 - Where wheat is sold for flour milling, gluten shall be present and elastic, and of a satisfactory colour; maximum admixture, as stated above under Contractual Quality, shall include all material passing through a 2.0mm slotted aperture sieve and non-wheat tailings retained over a 3.5mm slotted aperture sieve.
 - If the Buyer's test shows moisture to be above the contract specification, the Buyer shall, at his option, have the right to reject the goods or to claim an allowance to be agreed. For deliveries of malting barley made direct to a maltsters' premises, or to premises of agents acting on their behalf, the scale of moisture allowances at present published by the Maltsters Association of Great Britain shall apply. For malting barley delivered elsewhere drying charges/allowances may be applied in accordance with a scale of charges/allowances to be agreed with the Seller.
 - In the case of goods purchased on sample, the goods shall in all other respects be as per sample.

The Buyer shall have the right of rejection if the goods do not comply with the contract specifications or the conditions above.

11. **Pre-delivery Storage:** Goods sold for delivery against this contract must at all times be stored in clean and hygienic conditions. Sellers shall allow Buyers, their agents or sub-buyers, access to any store containing the contract goods and, if required, shall produce evidence of a thorough, methodical and effective inspection and cleaning system of the store and any equipment used to handle the goods.
12. **Pesticide Residues:** The Seller warrants that the goods on delivery will comply with the provisions of the Food and Environment Protection Act 1985 or any amendment thereof, the Plant Protection Products Regulations 2005 or any amendment thereof and the Pesticides (Maximum Residue Levels in Crops, Food and Feedingstuffs) (England and Wales) Regulations 2007 or any amendment thereof or the Pesticides (Maximum Residue Levels in Crops, Food and Feedingstuffs) (Scotland) Regulations 2007 or any amendment thereof.
13. **Combinable Crops Passport (CCP):**
- The Seller shall ensure that an appropriately completed and signed CCP accompanies each load that is collected/delivered.
 - The Seller shall notify the Buyer on a CCP whether or not any post harvest treatment has been applied to the goods by or on behalf of the Seller or a previous owner.
- The Buyer reserves the right to reject any load which is not accompanied by an appropriately completed CCP.
14. **Salmonella:**
- The Seller must observe the Defra published Code of Practice for the control of salmonella during the production, storage and transport of compound feeds, premixtures, feed materials and feed additives, or any amendment thereof.
 - The goods shall be available for delivery/collection as required during the delivery period irrespective of salmonella sampling/monitoring/testing.
 - In the event that an Order is issued preventing the movement of the contractual goods prior to the expiry of the delivery period, the Force Majeure clause will apply. In the event that payment has been made for all or part of the goods, and the goods are then subject to the provisions of the Order preventing the movement of the contractual goods during the delivery period, then any monies paid for goods shall be returned to the Buyer for that part of the contract so cancelled. Any monies due under this clause shall be repaid within seven consecutive days of notification that the contract or any portion of the contract has been cancelled.
- The Buyer shall have no claim against the Seller for delay or non-fulfilment under this clause provided that the Seller supplies to the Buyer, if required, satisfactory evidence justifying the delay.
15. **Sampling:**
- Deliveries shall be sampled by the receiver at the final consignment point in accordance with the procedure laid down in the ISO 13690 Standard or any amendment thereof.
 - Analysis of all samples shall be determined in accordance with equipment calibrated to the reference methods specified in the AIC Code of Practice for the Laboratory Analysis of Combinable Crops, currently in force at the time of delivery. Samples submitted for independent testing shall be analysed using the reference methods stated in that Code and not by using rapid or other methods.

16. **Vehicle Cleanliness:** Acceptance or rejection of the vehicle for fitness to carry grain/pulses to enter the food chain shall be at the discretion of the party responsible for loading the vehicle. Any additional haulage costs arising from the rejection of the vehicle shall be the liability of the party responsible for the movement of the goods. In the event of any vehicle being rejected as above, within three business days of the end of the delivery period, the delivery period shall be extended by three business days.

17. **Delivery & Weights:** All deliveries/collections shall be made in bulk at Buyer's call unless otherwise agreed. The Buyer's weights are final unless other satisfactory evidence is produced. The Buyer shall if required produce proof of weight received.
- a. **Ex-farm or ex-store sales**
The Seller shall load the goods free on vehicles on an accessible hard standing. The Buyer undertakes to advise the Seller of intended times of collection as far as possible and to provide vehicles suitable in all respects for the carriage of bulk grain or pulses. Where the Buyer collects unweighed goods he shall notify the Seller of the net weight as quickly as possible and will produce a copy of the weight ticket on request.
 - b. **Sales on a delivered basis**
The goods shall be delivered to the nominated place of consignment on the instructions of the Buyer. The Seller undertakes to advise the Buyer of all despatches, stating the haulier's name and approximate net weight. A receipt for the weight at the time of delivery shall be given to the driver of the vehicle. The Seller shall ensure that the goods are carried on vehicles which comply with the TASC Code of Practice for Road Haulage of Combinable Crops and Animal Feeds unless agreed otherwise in writing.
18. **Passing of Ownership and Risk:** Ownership and risk shall remain with the Seller until the goods are delivered to the Buyer. If, however, delivery has not taken place through no fault of the Seller, and the Seller has notified the Buyer in writing that the goods are ready for delivery, then risk shall pass to the Buyer at one of the following times:
- a. If a delivery date has been agreed in this contract, immediately on the expiration of that date;
 - b. If a period of delivery has been agreed in this contract, immediately upon the expiration of the last day of that period;
 - c. If a spot delivery or no delivery date or period has been agreed, at the expiration of one calendar month from the date of sale as evidenced by the date on this contract.
- Provided in each case that the Seller has, before the expiration of such of the above time limits for delivery as is applicable, notified the Buyer in writing that the goods are in a deliverable state and appropriated to the contract.
19. **Force Majeure:** Neither the Buyer nor the Seller shall be responsible for delay in delivery of goods or any part thereof occasioned by any Act of God, action by any government, strike (including dock and/or shipping strikes within the United Kingdom), lock-out, combination of workmen, break-down of machinery, power failure or fire, provided that the party invoking this clause despatches written notice to the other party within five business days of the occurrence, or not later than five business days after the beginning of the contract period, whichever is the later. Unless otherwise mutually agreed, the party invoking Force Majeure is entitled to an extension (the first extension) of not more than 30 consecutive days from the end of the contract period. If delivery under this clause is still prevented at the end of the first extension period, the party not invoking the clause shall have the option of cancelling the contract or any unfulfilled part thereof or mutually agreeing to one further extension period (the second extension) of not more than 30 days. If at the conclusion of the second extension period delivery is still prevented, the contract or any unfulfilled part thereof shall be cancelled. Neither party shall have a claim against the other for delays or non-fulfilment under this clause provided that the party invoking this clause shall have supplied, if so requested by the other, satisfactory evidence justifying the delay or non-fulfilment.
20. **Consignment:** Each delivery or consignment shall stand as a separate contract.
21. **Claims:**
- a. When goods are sold subject to a specification requiring analysis, the Buyer shall have the right to claim an allowance to be agreed or to reject the goods on the basis of an analysis made by him or on his behalf. When the Buyer exercises this right a representative sealed sample shall be drawn and, if required by the Seller, shall be submitted to an agreed independent analyst for the justification of any claim or rejection. If required by the Seller this representative sealed sample shall be jointly or independently drawn (whichever is agreed) so far as practicable. Costs of independent sampling and analysis so incurred shall be for the Seller's account if the claim or rejection is upheld, otherwise for the Buyer's account.
 - b. Claims must be advised by the Buyer as soon as possible and confirmed by fax, e-mail or other electronic means or by letter sent by first class post, within two business days following the arrival of the goods at their ultimate destination in the United Kingdom. Where the Buyer purchases malting barley under this contract claims shall be passed on within one business day of receipt of the analysis.
 - c. All claims other than those based on defects of quantity, quality or condition which shall be apparent upon reasonable inspection must be notified so as to be received by the Seller within 90 days from the last day of the period of delivery.
22. **Demurrage:** In cases of unreasonable delay in the arrival, loading or discharge of vehicles collecting or delivering goods howsoever caused (including delays resulting from the non-provision of essential documentation) the Seller or the Buyer, whoever is responsible, shall be liable for the additional haulage costs that result from that delay.
23. **Default:** In the event of the Seller failing to complete deliveries or to make the goods available for collection by the Buyer (whichever is his duty under the contract) by the last day of the period of delivery, the quantity not delivered against the contract quantity shall be deemed in default. The Buyer may, after giving prior written notice, (a) purchase against such default, the Seller to make good the loss, if any, on such purchase, or (b) claim damages to be agreed mutually or settled by arbitration, such damages not to exceed the difference between the contract price and the market price on the date of default.

In the event of the Buyer not accepting delivery of or collecting the contract quantity by the last day of the period of delivery (whichever is his duty under the contract) the Seller may, at his option, after having given prior written notice by recorded delivery to the Buyer:

- a. sell the goods at the market price, the Buyer being liable to compensate the Seller for any resultant loss (including any reasonable expenses arising from the sale) suffered by the Seller; or
- b. claim damages to be settled by mutual agreement or arbitration, such damages not to exceed the difference between the contract price and the market price on the date of default. All damages to be calculated on the mean contract quantity.

The date of default shall be the first business day following the expiry of the contract period. When an extension of collection/delivery has been either claimed as under the Force Majeure clause or agreed otherwise, the date of default shall be the first business day following the expiry of the extension period.

24. Arbitration: Any dispute (other than a claim for an unpaid debt or as provided under (b) below) arising out of this Contract shall be referred to arbitration as follows:

- a. Unless otherwise agreed the dispute shall be referred to arbitration in accordance with the arbitration rules of the Agricultural Industries Confederation Limited, (obtainable from the registered office of the Confederation and/or <http://www.agindustries.org.uk/content.output/393/393/AIC%20Additional%20Services/AIC%20Additional%20Services/Arbitration.msp>), and all parties shall by making this contract be deemed to have knowledge of such rules and to have elected to be bound thereby.
- b. If a dispute involves legal or technical problems of great complexity which are beyond the knowledge and competence of Arbitrators to resolve, or if a dispute of necessity involves a third party who is not subject to arbitration, either party before the time for commencing arbitration proceedings has lapsed may, in writing, request the other to consent to the arbitration proceedings being waived and for the dispute to be referred to ordinary litigation in the Courts. Should such consent be unreasonably withheld or no answer received within twenty eight days the party making the request shall be at liberty to commence Court proceedings leaving it to the other party, if the other party so wishes, to apply for a stay of proceedings invoking the arbitration clause. The Court will then decide whether the arbitration or the Court proceedings should continue. Time for commencing arbitration proceedings shall not run (or if started not continue to run) from the date of such request until the Court has given a final ruling (this including any appeals) as to the proper venue for the dispute to be heard, providing Court proceedings are commenced within 28 days of the receipt of any refusal or 56 days from the date of the request if no answer to it is received.

25. Time Limits for Claiming Arbitration: Arbitration shall be claimed in relation to quantity, quality or condition within 28 consecutive days from the date of the arrival of the goods at their ultimate destination in the United Kingdom and in relation to other claims (including default of fulfilment of all or part of the contract quantity) within 90 consecutive days from the last day of the contract period. Subject to any special conditions relating to leave being granted to institute court proceedings contained in the arbitration rules of the Agricultural Industries Confederation Limited, the making of an award shall be a condition precedent to any right of action by either party or any person claiming under either of them, so that if arbitration proceedings regarding any claims are not instituted within the time limit prescribed all courses of action relating to that claim whether by way of arbitration or in any Courts of Law are deemed time barred and waived.

26. Non-Payment: The Seller reserves the right to withhold deliveries under this Contract until all and any outstanding payments under this or any other Contract with him by the Buyer have been received and reserves a lien upon - and the right to sell or otherwise dispose of - all goods the subject of this Contract whether appropriated to it or not in respect of any such payments.

27. Insolvency:

- a. If either party to this Contract ("the affected party")
 - i. has a Receiver, Administrative Receiver or Administrator appointed in respect of any of its property or business undertaking; or
 - ii. announces that it has ceased, or will or intends to cease, to trade (except where such announcement is due to a forthcoming retirement whilst honouring all existing Contracts); or
 - iii. suspends payment of its debts or fails to pay, is unable to pay or admits or states its inability to pay its debts as they fall due; or
 - iv. disposes or threatens to dispose of all or a material part of its assets whether by one or a series of transactions (other than for the sole purpose of and followed by reconstruction or amalgamation made known to and approved by the other party); or
 - v. convenes, calls or holds a meeting of its creditors or makes any arrangement, voluntary arrangement or composition with its creditors; or
- b. or:
 - i. the directors of either party make or state an intention to make or give notice of a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986; or
 - ii. a Petition is presented for winding-up or administration of either party; or
 - iii. a resolution (other than for the sole purpose of and followed by reconstruction or amalgamation of one party of which notice has been given to the other party who has approved it) is passed for the voluntary winding up of either party; or

- iv. either party is dissolved; or
- v. a Statutory Demand in bankruptcy is served on either party; or
- vi. an Interim Order under Part VIII of the Insolvency Act 1986 is applied for or made in respect of either party; or
- vii. a Bankruptcy Petition is presented against either party; or
- viii. either party suffers the levy or enforcement of any execution, distress, sequestration, detention or other process on any of its property or premises; or
- ix. a party being a partnership, any of the above events occurs with respect to the partnership or to any partner therein;

then notwithstanding any previous arrangement with the other party for deferred payments:

- (1) the full or full remaining price for any goods delivered by the other party ("the innocent party") shall become immediately due and payable to the innocent party; and
- (2) the innocent party shall have the right, upon giving written notice to the affected party without prejudice to any other rights and remedies available to the innocent party forthwith to cancel and/or suspend or to refuse to accept any further deliveries and/or to terminate the Contract at any time after becoming aware of the above circumstances/event.

Where either party relies upon any of the circumstances/events listed above ("an act of Insolvency") that party shall forthwith serve a notice of such act of Insolvency in accordance with the Notices clause of this Contract to the other party. Where proof is available that such notice was served within two 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 serving of that notice. In all other circumstances the innocent party, upon learning of the occurrence of the act of Insolvency shall have the option of closing the Contract at either the market price ruling on the first business day following it becoming aware 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.

- 28. Product Liability Insurance:** The Seller is strongly advised to have insurance to cover any product liability or other claims for which he may be legally liable. This advice will be referred to at any time should it become necessary.
- 29. Statutory Charges:** The price of the goods is subject to alteration by reason of the imposition of or alteration by the European Union or by the United Kingdom Government in the rates and/or manner of collection of any tax, duty, levy or any other statutory charge upon goods of this description, whether at the time of or if the change is retrospective at any time after the date of this contract provided that the change is applicable to the date of delivery.
- 30. Processors and Growers Research Organisation:** In the case of Pulses the Buyer shall deduct the PGRO Levy from the payment to the Seller.
- 31. Business Day/Non-Business Days:** A business day is the period between 0900 hours and 1600 hours inclusive on any day other than a non-business day. Saturdays, Sundays and officially recognised national holidays applicable throughout the United Kingdom and any days which the Agricultural Industries Confederation Limited may declare as non-business days for specific purposes shall be deemed non-business days for the purpose of passing of notices and claims.
- 32. Contracts (Rights of Third Parties) Act 1999:** Pursuant to S.I(2)(a) of the Contracts (Rights of Third Parties) Act 1999, the parties intend that no term of the contract may be enforced by a third party.
- 33. Domicile:** This contract shall be deemed to have been made in England, and the construction, validity and performance thereof shall be governed in all aspects by English law

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