

## NACMA Limited Standard Terms and Conditions

**TRADING RULES:** This Contract is subject to the Trade Rules of the National Agricultural Commodity Marketing Association Ltd., (NACMA) currently in effect, except to the extent the same are in conflict with the Terms and Conditions expressed herein, with such Rules forming an integral part of the Contract and of which both parties hereto shall be deemed to be cognisant.

**TIME:** All stipulations set forth in the Terms of Trade as to "TIME" are of the essence.

**QUANTITY:** Unless otherwise stated, all quantities shall be expressed metrically and to the nearest one/onehundredth [1/100] of a metric tonne.

**QUANTITY TOLERANCE:** The Seller shall have the option of delivery five percent [5%] or twelve [12.00] metric tonnes, whichever is the lesser quantity, more or less than the contractual quantity at the Contract price. This variation of five percent [5%] or twelve [12.00] tonnes is hereinafter referred to as the "Tolerance".

**WEIGHTS:** Unless specifically agreed otherwise, destination weights, which shall be determined by qualified personnel, shall be on the basis of trade. If these are not available, loading point, government or Registered Weighbridge weights shall be accepted. Errors in weighbridge tickets in all cases shall be excepted.

**QUALITY GRADES:** Unless specifically agreed otherwise, Destination Quality Grades shall be on the basis of trade, which shall be determined by qualified personnel according to sampling and analyses procedures established by NACMA. If these are not available, Loading Point Quality Grades shall be accepted.

**CHEMICAL AND PESTICIDES RESIDUES:** The Seller warrants that the commodity complies with all State and Federal Laws and requirements relating to chemical and pesticide residues and specified government designated maximum residue levels.

**CONVEYANCE AND DELIVERY INSTRUCTIONS:** Unless otherwise agreed, the Seller shall have the right of conveyance.

**OWNERSHIP AND PASSING OF TITLE:** Unless otherwise specified by contractual agreement, Title to goods as well as risk of loss and/or damage shall remain with the Seller until the goods have been conveyed to the Buyer at the designated point of conveyance.

**REJECTION:** A Buyer shall not be entitled to reject goods as not being in accordance with description or sample if those goods are of a quality superior or equal to that contracted for, provided that goods are otherwise in accord with the Contract description.

**FINALITY:** All adjustments or compensation claimed based on defect of quality or condition or weights which shall be apparent upon reasonable inspection must be advised within five [5] business days after unloading or presentation of appropriate documents and must be formally confirmed by written notice, letter or facsimile within thirty [30] consecutive days of delivery of the consignment.

**FAILURE TO PERFORM:** Failure to perform in keeping with the Terms and conditions of a Contract shall be grounds for the refusal only of such Delivery(ies) or Shipment(s) in default, and not for the recession of the entire Contract or any other Contract between the Buyer and Seller.

**DEFAULT:** In the event of Default in fulfilment of Contract by either party, the other at their discretion shall have the right, after giving written notice by letter, or facsimile, or telex, to sell or purchase, as the case may be, against the Defaulter and the Defaulter shall make good the loss, if any, on such purchase or sale as set forth below: If the Buyer or Seller suspend payments of debts, or convenes or holds a meeting of creditors, or commits an act of bankruptcy, or being a company shall have a receiver appointed, or hold a meeting for the purpose of considering a resolution that the company be wound up or go into liquidation, such Buyer or Seller shall be deemed to be in Default.

**NOTICES:** All notices given under these NACMA Trading Rules shall be given by written letter delivered by hand on the day of writing, or by facsimile, or by telex, or by other method of rapid written communication. Any notices received after 1700 hours local time on a business day shall be deemed to have been received on the business day following. A notice to a party's Brokers or Agent shall be deemed a notice under these NACMA Trading Rules. In case of resales, all notices shall be passed on without delay by Buyers to their respective Sellers or vice versa.

**FORCE MAJEURE:** Neither the Buyer nor the Seller shall be responsible for delay in delivery of goods or any part thereof occasioned by action by any act of God, fire, flood, wind, explosion, power failure, war, embargo, act of government, strike (including dock and/or shipping strike), lock-out, combination of workers, or civil commotion which is not due to said party's own acts or negligence. The loss of a commodity due to production risks or crop failure does not constitute a condition of Force Majeure.

**DISPUTES:** Any party or parties who have entered into Terms of Trade subject to NACMA Trade Rules shall be entitled to refer any disputes arising out of such contract, and which cannot be resolved between the parties, to NACMA for Mediation or Arbitration.

**MEDIATION:** Should NACMA be willing to resolve a dispute appropriately presented, it may appoint a Mediator acceptable to the parties and who may or may not be a member of NACMA, but someone who in the opinion of NACMA is capable of assisting in resolving commercial disputes. The parties shall seek to negotiate a settlement of the dispute with the assistance of the Mediator, but should within twenty-eight [28] days from the date of the appointment of such a Mediator, or such other period as otherwise agreed by the parties or should no resolution be reached or should either of the parties not wish to become involved in or continue Mediation, either party shall have the right to seek to have the dispute resolved by NACMA Arbitration.

**ARBITRATION:** If any dispute arises out of or relates to this Contract or the breach, termination or subject matter thereof, the dispute shall be submitted to and settled by Arbitration in accordance with NACMA Arbitration Rules in the edition current at the date of the establishment of the Terms of Trade in the Contract, such rules forming an integral part of the Contract and of which both parties hereto shall be deemed to be cognisant. Neither party to a dispute, nor any persons claiming under either of them, shall bring any action or other legal proceedings against the other in respect to any such dispute until arbitrated in accordance with NACMA Arbitration Rules.

**CHOICE OF LAW:** This contract shall be interpreted according to and governed by the laws in force in New South Wales with specific reference to the Sale of Goods Act 1923 and the Warehouseman's Liens Act 1935. Performance of this contract is subject to orders, rules, and regulations of all government agencies, and to all causes, except as limited herein.

**RCTI:** Recipient Created Tax Invoice - Reference on the front of this form provides for the grower (seller) to authorise the buyer to issue the RCTI on his behalf. This request also requires the sellers signature.

**NOTE:** The NACMA Trading Rules provide a more detailed explanation. Copies available on the NACMA website.