

## CONTINUATION OF SALES CONTRACT CONFIRMATION TERMS

**SELLER'S CONFIRMATION:** Provisions in Buyer's offer, confirmation or other writing, which are inconsistent with or in addition to the terms and conditions of this Sales Contract Confirmation (the "Contract") are not binding upon Seller unless expressly approved in writing by Seller. This Contract supersedes and constitutes a modification of any and all other agreements of the parties which may be found to have been entered into prior to the date hereof or contemporaneous herewith regarding the subject matter of this Contract. Any proposals for additional or different terms or any attempt by Buyer to vary any of the terms of this Contract are rejected. No modification of this Contract shall be effective unless consented to in a writing signed by an authorized representative of Seller.

The United Nations Convention on Contracts for the International Sale of Goods, as now existing or hereinafter amended, shall not apply to any transactions entered into with Seller. All payments made by, or owed to, Seller shall be based in US Dollars.

**NGFA® TRADE RULES AND ARBITRATION TO APPLY:** Except as otherwise provided herein, this Contract shall be subject to the Rules of the National Grain and Feed Association (NGFA), which are incorporated herein. The parties agree that the sole remedy for resolution of any and all disagreements or disputes arising under or related to this Contract (including, but not limited to, any statutory or tort claims arising from the relationship between the parties) shall be through arbitration proceedings before the NGFA® Arbitration Rules; provided further that Buyer consents to enforcement of the obligation to arbitrate disputes in any state or federal court and expressly waives the defenses of personal jurisdiction and venue with respect to any such action. The decision and award determined through such arbitration shall be final and binding upon the parties. Judgement upon the arbitration award may be entered and enforced in any court having jurisdiction thereof. (Copies of the NGFA® Trade Rules and Arbitration Rules are available upon request and also from NGFA: Website: <http://www.ngfa.org>) The parties agree that any arbitration conducted hereunder shall be governed by the Federal Arbitration Act, 9 United States Code §§ 1-16, as now existing or hereinafter amended.

**FORCE MAJEURE SELLER'S RIGHT TO DELAY PERFORMANCE / DESIGNATE ALTERNATE SHIPMENT / DELIVERY POINTS / FREIGHT INCREASES:** Seller's performance under this contract may be delayed or excused without penalty at Seller's option due to any cause comprehended in the term "force majeure". Without limiting the meaning of the term "force majeure", it shall be deemed to include governmental action, any Act of God, crop failure, loss of inventory, mechanical or structural damage to the facility or facilities at shipment origin or other causes not within the Seller's control. Additionally, Seller's performance is "subject to no penalty on account of embargoes" and "subject to no penalty on account of strikes" and "subject to no penalty on account of inability to secure cars" as those terms are used in the NGFA® Grain Trade Rules. If this contract contemplates shipment in containers, then Seller's performance is subject to no penalty on account of inability to secure containers. Seller may without penalty at Seller's option designate any alternate shipment or delivery points, but Seller is under no obligation to do so. Unless otherwise expressly agreed, Buyer shall be responsible for all freight increases.

**EXCLUSIVE REMEDIES OF BUYER:** The exclusive remedies of the Buyer under this Contract are the return of the purchase price for the commodity purchased by Buyer from Seller. Buyer agrees that Seller shall not be responsible for any incidental, consequential, punitive or other damages.

**NATURE OF THE GOODS SOLD (THE "COMMODITIES):** The Commodities that are the subject matter of this Contract are described on the front or page 1 of this Contract. Seller warrants only that the Commodities are as described. **THE SELLER HAS MADE NO OTHER AFFIRMATION OF FACT AND HAS MADE NO OTHER PROMISE RELATING TO THE COMMODITIES BEING SOLD THAT HAS BECOME THE BASIS OF THE BARGAIN MADE OR THAT HAS CREATED OR AMOUNTED TO AN EXPRESS WARRANTY THAT THE COMMODITIES WOULD CONFORM TO ANY OTHER DESCRIPTION. NO SAMPLE OR MODEL HAS BEEN MADE PART OF THE BASIS OF THE BARGAIN OR HAS CREATED OR AMOUNTED TO AN EXPRESS WARRANTY THAT THE WHOLE OF THE COMMODITIES WOULD CONFORM TO ANY SAMPLE OR MODEL. BUYER ASSUMES ALL RISK AND LIABILITY RESULTING FROM THE USE OF THE COMMODITIES, WHETHER SINGLY OR IN COMBINATION WITH OTHER GOODS.**

**DISCLAIMER OF ALL IMPLIED WARRANTIES INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS:** SELLER IS SELLING THE COMMODITIES WITH ALL FAULTS AND DISCLAIMS ANY IMPLIED WARRANTIES WITH RESPECT TO THE COMMODITIES. THE SELLER DISCLAIMS ANY WARRANTY OF MERCHANTABILITY WITH RESPECT TO THE COMMODITIES BEING SOLD. THE SELLER DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSES WITH RESPECT TO THE COMMODITIES BEING SOLD AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION OF THE COMMODITIES ON THE FACE OR PAGE 1 OF THIS CONTRACT.

**SELLER'S RIGHT OF OFFSET/LIQUIDATION:** The parties agree that Seller shall have the right to cause liquidation, termination or acceleration of this Contract because of (a) the insolvency or financial condition of the Buyer, (b) the commencement of a case under Title 11 of the United States Code, (c) the appointment of or taking of possession by a trustee in a case under Title 11 of the United States Code or by the receiver or custodian before such commencement, (d) any and all other defaults of the terms and conditions specified herein either directly or by reference thereof. It is expressly agreed that this Contract is subject to the Seller's right to setoff any mutual debts and claims against Buyer under or in connection with this Contract, as well as any and all other grain contracts or forward contracts between the parties, as provided in 11 United States Code §§ 362(b)(6) and 556. The parties agree this Contract is a forward contract for the purposes of Title 11 of the United States Code and that Seller is a forward contract merchant for purposes of Title 11 of the United States Code.

**BUYER LIABLE FOR ATTORNEY FEES, COST OF COLLECTION, INTEREST:** In the case of Buyer's default on any of its obligations in this Contract, Buyer shall be liable to Seller for all costs incurred (including attorney fees) in enforcing this Contract and/or collecting any damages found owing to Seller. Buyer also shall be liable for the payment of compound interest at the rate of 18% per annum from the date of default on any damages found owing to Seller.

**SUCCESSORS AND ASSIGNS:** This contract shall be binding upon and inure to the benefit of parties hereto and their respective successors and assigns. The Contract cannot be assigned by Buyer unless express written consent is first obtained from Seller.