

GPG GRAIN – BARGE SALE TERMS AND CONDITIONS

1. All sales of the commodity identified on the face of this Contract (the “Goods”) are subject only to the terms set forth herein and on the trade confirmation (the “Contract”) and are binding on Buyer regardless if signed by Buyer. Buyer shall immediately and promptly advise Seller in writing of any discrepancies in, objections to or disagreements with the specifications or terms and conditions of the Contract, and failure to do so shall be construed as acceptance thereof. No modification of this Contract shall be binding on Seller unless in writing signed by Seller. The invalidity or unenforceability of any particular provision of this Contract shall not affect the remaining provisions thereof, and this Contract shall be construed in all respects as if such invalid or unenforceable provision had been omitted. Any notice hereunder shall be in writing and sent to the address on the face of the Contract to the attention of the General Counsel.
2. **Special Barge Conditions:**
 - a. Seller has the option to net-out/cancel this Contract with equity settlement at a later date at a mutually agreed market price.
 - b. Any previously fumigated barge not applicable to contract. Infested barges will be applicable at 3 cent/bushel discount. Class X weight. Only barges loaded to the navigable draft as stated by the U.S. Coast Guard at application will be applicable to this contract. Seller guarantees that all commodities delivered hereunder have been grown in the continental U.S. This representation may be relied upon by the Buyer in the resale of these commodities.
 - c. Title and all other rights of ownership of commodity are transferred from Seller to Buyer upon delivery to the noted delivery location on the face of the contract. For CIF trades, insurance and freight costs up to the delivery point are assumed by Seller. Seller is to insure the Goods up to the title transfer point.
 - d. Grades and weights determined at origin shall apply.
3. Parties acknowledge the arbitration standards set forth by the National Grain and Feed Association (NGFA) (the “Trade Rules”) shall apply to extent not inconsistent with the Contract. Parties agree to settle any controversies hereunder by NGFA arbitration, and that any arbitration decision/award shall be final and binding upon the Parties. If NGFA rules are inapplicable, said arbitration shall be conducted pursuant to the rules of the American Arbitration Association. Nebraska law shall apply in any situation NGFA rules do not govern, and Buyer agrees to venue in Nebraska.
4. Buyer shall not assign or delegate this Contract, any right, or duty hereunder without the written consent of Seller. This Contract shall be binding upon the heirs, administrators and executors of the respective Parties. Buyer acknowledges and agrees that it shall not use or resell the commodity for human consumption. In compliance with Title VII-Wall Street Transparency and Accountability Act of 2010 (“Dodd-Frank”), each of the Parties represents to the other that it has the capacity to make or take delivery of the commodity in the ordinary course of its business, and is entering this transaction in connection with its business.
5. Buyer warrants it has read this Contract in its entirety and understands its terms and legal effect. Seller warrants that commodities delivered under this contract: meet Buyer’s specifications in accordance with the Seller’s Contract description; and are of the grade indicated. Seller’s scale of discounts to apply at time of delivery. **Settlement weights and grades are governed on the face of this contract.** Title, risk of loss, and all other rights of ownership of commodity are transferred from Seller to Buyer upon delivery to the noted Delivery Point. **THIS WARRANTY IS BUYER’S EXCLUSIVE REMEDY AND IS IN LIEU OF ALL OTHER WARRANTIES, COVENANTS OR REPRESENTATIONS. SELLER MAKES NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, WHICH EXTEND BEYOND THOSE SPECIFICALLY STATED IN THIS PARAGRAPH. THE IMPLIED WARRANTY OR FITNESS FOR A PARTICULAR PURPOSE IS HEREBY DISCLAIMED. IN NO EVENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR SPECIFIC PERFORMANCE.** Buyer must assume all risk and liability for results of Buyer’s use of the Goods. Seller’s liability shall in no event exceed the purchase price of the Goods. Buyer shall be deemed to have accepted the product sold hereunder unless Buyer rejects within twenty-four hours of receipt.
6. Buyer shall be deemed to have accepted the Goods unless the Buyer rejects the product within forty-eight hours.
7. Seller has all remedies applicable under the Uniform Commercial Code (UCC). In addition, in the event Buyer breaches this Contract in any manner, Buyer shall be liable for all losses and damages including consequential damages, incidental damages, and any lost profits incurred as a result thereof and shall pay any related reasonable attorney fees. If Buyer fails to make payment and take delivery by the end of the Delivery Period, Seller, at its option, may: extend the delivery period; terminate this contract and/or resell the product in the open market and Buyer shall pay any loss or incidental expenses resulting therefrom; require Buyer to pay the difference between the contract price and the price on the date of cancellation. Notwithstanding the foregoing, Seller may pursue any remedy allowed by law or the Trade Rules, at Seller’s option.
8. Buyer shall be in default if: Buyer fails or refuses to comply with any provisions hereof; if Buyer becomes unable to pay its debts as they become due, files a voluntary petition, is declared bankrupt or insolvent, or makes a general assignment for the benefit of creditors; or, if a trustee, receiver or liquidator is appointed for any material portion of the assets of Buyer. Upon the occurrence of any event of default, Seller may exercise any or all rights and remedies hereunder or at law or in equity, including but not limited to withholding further delivery of the commodities sold to Buyer and recovery from Buyer any and all costs, expenses and damages that Seller may sustain.
9. Termination. Seller may terminate this Contract or any part hereof in the event of any default by Buyer, or if the Buyer fails to comply with any of the terms and conditions of this Contract. Late deliveries, deliveries of Goods which are nonconforming, and/or failure to provide Seller, upon request, reasonable assurance of future performance, are, without limitation causes allowing Seller to terminate this Contract in whole or in part. In the event of termination, Seller shall not be liable to Buyer for any amount, and Buyer shall be liable to Seller for any and all costs, expenses and damages of any nature whatsoever sustained by reason of the Buyer’s default, including any market difference and any cancellation fee imposed by Seller due to a default or underfill of the Contract.

10. To the extent that Buyer is a Commercial Dealer, Buyer agrees that that this Agreement is a "Forward Contract" as defined in the Bankruptcy Code [(11 U.S.C. Sec 101(25))] and the following language of this section shall apply to the Contract. If one party (the "Defaulting party") shall voluntarily file a petition in bankruptcy, reorganization, or receivership or shall be forced by its creditors into bankruptcy, reorganization or receivership, (ii) becomes insolvent or incapable of paying its debts as they become due; or makes a general assignment for the benefit of creditors; the other party (the "Liquidating Party") shall have the immediate right, exercisable in its sole discretion, to liquidate this Agreement and all other forward contracts as defined in the Bankruptcy Code then outstanding between the Parties (whether the Liquidating Party is seller or buyer thereunder) by closing out all such contracts at the then current market prices so that each contract being liquidated is terminated except for the settlement payment referred to below. The Liquidating Party shall calculate the difference, if any, between the price specified in each contract so liquidated, and the market price for the relevant commodity as of the date of liquidation (as determined by the Liquidating Party in any commercially reasonable manner), and aggregate or net such settlement payments, as appropriate, to a single liquidated amount. Payment of said settlement payment will be due and payable within one (1) banking day after reasonable notice of liquidation. This is in addition to any other rights and remedies which the other party may have.
11. If Buyer breaches this Contract, all amounts owed by Buyer may be applied and otherwise setoff by Seller against the payment of the amounts owing to Buyer, in addition to any and all other right and remedies available hereunder.
12. Seller shall not be liable for delay in performance or failure to perform when such delay or failure is due to impossibility or force majeure unforeseen causes beyond its reasonable control and without its fault or negligence, including but not limited to acts of God or the public enemy, governmental action, regulatory action, natural disasters, fires, floods, tornados, earthquakes, epidemics, quarantine restrictions, labor difficulties, riots, insurrections, freight embargoes, rail car shortages, rail service interruptions, utility service interruptions, plant breakdowns, failure or refusal of railroad to accept or pick up rail cars, and unusually severe environmental conditions.
13. The Parties consent to the recording of all telephone conversations between their representatives.
14. Buyer represents that it is not insolvent, as defined in the UCC. If Buyer's financial condition is deemed unsatisfactory to Seller during the term of this Contract, Seller may terminate this Contract and all other contracts with Buyer whether or not Buyer is in default. Seller may at its discretion and without prejudice to other legal remedies treat Buyer's failure to perform under this Contract as a breach of this Contract and/or any other open contracts with Buyer, and pursue all remedies.
15. Liability. Buyer shall be liable to Seller for any damage to property, where and to the extent such loss, damage is the result of Buyer's (or its agent's) negligence or willful misconduct. Buyer agrees that in case of any such loss or damage, the value of such property and the liability of Buyer shall be the fair market value of such property or the reasonable cost of repair, whichever is less.
16. Sanitary Feed Transportation. If Buyer is to provide equipment for loading, Buyer must provide acceptable equipment. Buyer shall not provide equipment which has been previously used to transport any product prohibited by federal law in animal feed unless such equipment has been cleaned using methods approved under federal law. Buyer shall ensure that the last load carried prior to any load of commodity was not any prohibited animal product, by-product, medication or non-feed bulk materials including (but not limited to) the following items ("Prohibited Items"): animal by-product meal, animal digest, animal liver, antibiotics, blood products, bone meal, bone marrow, food waste, garbage, glass, pet food, dried meat solubles, fleshings hydrolysate, food processing waste, glandular and extracted glandular meal, hydrolyzed hair, hydrolyzed leather meal, meat, meat and bone meal, meat and bone meal tankage, meat by-products, meat meal, meat protein isolate, medicated feed, restaurant food waste, salvage pet food, stock, unborn calf carcasses. If a carrier hired by Buyer's last load is a prohibited item as noted, carrier shall provide a wash certificate reflecting that the vehicle has been cleaned to remove the presence of Prohibited Items. In general equipment must be clean and in good repair. Buyer shall ensure that it only retains carriers whose drivers and employees are trained on sanitary feed transportation, retain documentation proving this training occurred, and use the FDA suggested training program or an equivalent.