

# **STANDARD CONDITIONS FOR DEFERRED DELIVERY AND PRODUCTION CONTRACTS**

*Recommended by the Canadian Special Crops Association and the Saskatchewan Pulse Growers*

1. If the Buyer fails to accept the Crop at the Delivery Location (or any agreed alternate location) by the end of the Delivery Period, the Grower may, at its option:
  - a) agree to extend the Delivery Period upon such terms as it may deem acceptable; or
  - b) treat this agreement as repudiated by the Buyer, and resell the Crop on such terms as it may consider necessary. In such case, the Buyer shall be liable for damages to the Grower equal to the Price plus reasonable costs incurred by the Grower in arranging for resale, less any amounts recovered by the resale of the Crop.
2. If the Grower fails to deliver the Crop to the Delivery Location during the Delivery Period (or at any agreed alternate location or agreed time), the Buyer may, at its option:
  - a) agree to extend the Delivery Period upon such terms as it may deem acceptable; or
  - b) exercise its remedies under section 5.
3. At the time of delivery, each party shall take and retain a representative sample of the Crop, to be sealed, signed by each party or their authorized agent(s), and retained by each party in the event there is a dispute regarding the Crop delivered.
4. The Crop shall be at the Grower's risk until delivery.
5. Grower will immediately advise the Buyer if it believes that delivery of the Crop will not be made prior to the expiry of the Delivery Period. The Buyer may grant the Grower an extension of the Delivery Period, or require the Grower to pay to the Buyer the difference between the Price and the actual cost to the Buyer to replace the Crop not delivered, together with the Administration Fee per tonne for the Quantity not delivered.
6. Screenings and foreign material removed from the Crop shall become the property of the Screenings Owner.
7. This agreement shall benefit and be binding on the parties and their respective heirs, personal representatives, successors and permitted assigns.
8. If the Grower or the Buyer shall be more than one person, their obligations under this agreement shall be joint and several. Singular terms include the plural and vice versa. Masculine, feminine or neuter gender terms include each other.
9. This agreement shall be governed by the laws of the province within which the Grower is resident.
10. This agreement may not be assigned by either party without the prior written consent of the other party.
11. Time shall be of the essence.
12. In this agreement, any reference to "days", unless specifically provided otherwise, shall refer to Monday through Friday, excluding applicable statutory holidays.
13. If any portion of this agreement is found to be illegal, invalid or unenforceable by any court having jurisdiction, that portion will be deemed deleted from this agreement and the remainder shall be valid and binding as if the deleted provision were not included.
14. This agreement is the entire agreement between the parties with respect to the matters referred to herein. There are no other representations, warranties or collateral agreements, express or implied except as contained in this agreement.
15. Capitalized words and terms used in this agreement have the meanings specified in section 1 of the agreement.

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16. In the event that there is any dispute under this agreement, except for a determination by the Grading Authority:

- a) within five (5) days of either party giving written notice of the dispute to the other ("the Dispute Notice"), the parties or their authorized representatives shall meet and attempt to resolve the dispute;
- b) if the dispute is not resolved under (a) within ten (10) days of the Dispute Notice, the parties may, with mutual consent, agree to refer the dispute to mediation, and a mutually agreed mediator shall attempt to resolve the dispute within thirty (30) days;
- c) if the dispute is still unresolved after mediation, or if the parties are unable to agree on mediation, the dispute shall be referred to a single arbitrator, or if the parties are unable to agree on an arbitrator, to a panel of three (3) arbitrators. Unless otherwise provided in this agreement, the procedures shall be governed by the statute or statutes governing arbitration in the province where the Grower resides.

17. Grower is an independent contractor and nothing in this agreement shall make Grower an employee, agent or partner of Buyer.

18. Neither party shall be liable for special, consequential, punitive, exemplary or indirect damages and the measure of damages shall be without regard to the cause relative thereto and whether or not caused by or resulting from the negligence of such party.

19. Both parties shall comply with all privacy laws in effect from time to time, and shall only disclose information as permitted by law, or in accordance with a written privacy policy provided to the other party.