

Member Update

Title: Intention to transfer and payment -
No 2 Contract for Grain and Oilseeds In Bulk Delivered Price
Basing Point Or Port Terms (Basis Track)
(Guidance only – not a ruling)

Update No.: 11 of 14

Date of Issue: 21 May 2014

Distribution: GTA Members – primary contact list. Please circulate to all appropriate internal parties.

1. Background

The GTA Commerce Committee has received a number of enquiries from Members in relation to the confirmation of the intention to transfer, title transfer and payment terms of the GTA No. 2 Track Contract.

The following comments are issued for guidance only by the Commerce Committee. They are not a ruling as the issue has not been tested at arbitration.

2. Relevant paragraphs

The relevant paragraphs of the Contract are:

- 8.3. *Sellers warrant that they will give Buyers a minimum of 1 business days' notice of intention to transfer.*
- 8.4. *Goods shall be deemed delivered and title transferred to Buyers when the Sellers provide the Buyers with notice of title transfer which Sellers may provide at their option at any time within the Delivery Period. The notice shall be by way of warehouse receipt(s), warehouse warrant(s) or title transfer(s) "In-Store" an applicable Bulk Handling Company facility.*

3. Intent of the paragraphs

The intention of paragraph 8.3 is clear, i.e. the Seller warrants that they will give one business days' notice of intention to transfer. If this does not occur, it does not give the Buyer the basis to cancel the contract as it is a warranty not a condition.

However, the Buyer is entitled to an appropriate remedy which, the GTA Commerce Committee believe could be that payment is made one business day after receipt from the Seller of the transfer documents listed in paragraph 8.4 i.e. "warehouse receipt(s), warehouse warrant(s) or title transfer(s) "In-Store" an applicable Bulk Handling Company facility".

4. Independent legal advice

If further clarification is required, Members are advised that they should seek independent legal advice.