Glossary of Terms: Applied to NAEGA No. 2 Contract

1. **Addendum:** An attachment to a sale contract, charter party or other agreement which amends or supplements and forms a part of the agreement to which it is attached.

   NAEGA: *The NAEGA No. 2 contract has an "Addendum No.1" which applies if the parties expressly agree to use it and establishes a loading rate guaranty provided that loading is by one self-trimming bulk carrier.*

2. **American Arbitration Association (AAA):** The American Arbitration Association is a not-for-profit organization in the field of alternative dispute resolution, providing services to individuals and organizations who wish to resolve conflicts out of court. Arbitrations under the NAEGA contract are administered by the AAA's international division, the International Centre for Dispute Resolution (ICDR), in New York City. NAEGA arbitrations are conducted in accordance with the ICDR's International Arbitration Rules.

   NAEGA: *See NAEGA No. 2 clause 30, and Addendum No. 1 clause 10.*

3. **Appeal Inspections:** A subsequent inspection that may occur after an initial inspection of quality.

   In the U.S. reinspection services are provided by or under the auspices of the U.S. Federal Grain Inspection Service (FGIS) and pursuant to the United States Grain Standards Act (USGSA). FGIS allows customers (parties making the original request for inspection) to obtain an additional inspection service for an individual lot (or multiple lots) if certificated results are questionable, including:
   - An initial reinspection service is provided by the same inspection laboratory that provided the original inspection service.
   - A secondary inspection service, if needed, occurs at one of the FGIS field offices.
   - A final, "Board Appeal" inspection service, the highest level of inspection service available, is provided by the Board of Appeals and Review in Kansas City, Missouri.

   In Canada any person who is dissatisfied with the grade assigned to grain on an official inspection may appeal the decision of the inspector in respect of any characteristics of the grain, by way of an application for reinspection of the grain, to the chief grain inspector for Canada. If an appeal is taken, the chief grain inspector for Canada shall:

- inspect the grain to which the appeal relates or a sample of that grain;
- review the decision appealed;
- assign to the grain the grade that he or she considers to be the appropriate grade for the grain; and
- if a grade is assigned to the grain that is different from the grade previously assigned to it, require all inspection certificates, and all other documents specified by the Commission, relating to the grain to be revised accordingly.

The decision of the chief grain inspector for Canada is final and conclusive and not subject to appeal to or review by any court.

NAEGA: *NAEGA No. 2, clause 7, makes provision for the authorization and payment of an "appeal inspection."*

4. **Arbitration:** Arbitration is a form of dispute resolution. It is a private process where disputing parties agree that generally one or three individuals decide the dispute after receiving evidence, hearing arguments, and rendering an arbitration award. By agreeing to settle disputes by arbitration the parties are giving up their right to take their dispute to court. The award is legally binding on both sides, only appealable in limited circumstances, and enforceable in the courts.

   N*AEGA:* *NAEGA No. 2 and its Addendum No. 1 both include an arbitration clause. See NAEGA No. 2 clause 30, and Addendum No. 1 clause 10.*

5. **Baltic and International Maritime Council (BIMCO):** An international shipping association. Among other activities, BIMCO publishes a list of official holidays for each port.

   NAEGA: *In Addendum No 1, BIMCO's Holiday Calendar holidays for the relevant load port do not count as used laytime. See Addendum No. 1, clause 1.*

6. **Basis/Basis Contract:** Basis is the difference between the reference market for the relevant goods (usually a commodity futures contract) and the local cash price for the same goods. For example, if the local cash price for corn is $2.50/bu, and the July futures contract for corn in Chicago is $2.25/bu, then the basis for corn on that day at that location is 25 cents/bu over the July futures price. Using this example, the local cash price would be referred to as "25 over July." The basis normally is relatively stable compared to variations in cash price levels. A **basis grain contract** is one where the buyer and seller agree on the basis component of the price, but allow the futures contract price component to be determined (and therefore the final, fixed price) at a later time which is usually tied into the specific delivery period in the

contract. The futures component of the price may be established via an exchange of futures – most commonly executed pursuant to exchange-approved block trading rules enabling the transfer of futures market risk from one party to another.

NAEGA: *Clause 10 of the NAEGA No. 2 – Price, details how the final price of the contract will be established if the contract is a basis contract, i.e. if the parties have agreed on the basis but the final price of the contract will be fixed through an exchange of futures.*

7. **Berth Time:** The time a vessel is at a port berth, usually defined by contract.

   NAEGA: *In Addendum No 1, clause 6(b), the time spent by the vessel getting to, and then used at the loading berth.*

8. **Bill of Lading:** In ocean transportation, a document signed by vessel owner, master or their agent, and given to the shipper, which typically contains the following information; shipper's name, loading port, intended discharge port, consignee's name at destination, notify party if the lading is negotiable, quantity of goods, type of goods, indications if any that goods were not received in apparent good order and condition, and how freight is payable (pre-paid, collect, or payable as per charter party). A bill of lading has the following functions:
   1) It is a receipt for goods, signed by the vessel master or other authorized person on behalf of carrier.
   2) It is a document of title. If it is made out to the order of a named party, it is negotiable. If not, it is considered a "straight" bill of lading and is not negotiable.
   3) The bill of lading serves as evidence of the terms and conditions of a contract of carriage between the vessel owner and the named consignee under a straight bill of lading, or the holder of a negotiable bill of lading.

   NAEGA: *See NAEGA No. 2, clause 12.*

9. **Breach:** The breaking of violating of a right, obligation or duty. It exists where one party to a contract fails to carry out terms, promises or conditions of a contract, giving rise to claims for remedies and damages.

   NAEGA: *As used in NAEGA No. 2, a failure to perform by one party that gives the other party the right to certain remedies specified in the NAEGA No. 2 contract, but not the right to declare the contract terminated or cancelled. By contrast, "default" as used in NAEGA No. 2 does allow the non-defaulting party to declare the contract terminated and claim any damages (See "Default" below). For example, NAEGA No. 2, clause 18, Failure to Take Delivery, states that a breach occurs when the buyer's vessel fails to file before the end of the delivery period. This clause also provides specific remedies for the seller, including the ability to carry the grain for buyer's account and risk and at the rates provided in Clause 19, Carrying Charges. See NAEGA No. 2, clauses 18 and 19.*

10. **Bypass:** Calling in a vessel to load before it would normally load. The loading

elevator often allows itself the ability to load vessels out of turn under its tariff for elevator convenience or otherwise under certain conditions.

NAEGA: *See NAEGA No. 2, clause 20. If a seller has invoked Clause 20 – strikes or other causes of delay in delivery - then once labor is resumed, the seller may be liable for damages if their buyers nominated vessel is not loaded in its proper rotation (i.e. if it is bypassed by other vessels in the lineup).*

11. **Canadian Grain Commission:** The official body in Canada that establishes and maintains standards of quality for Canadian grain, regulates grain handling in Canada, and ensures that grain is a dependable commodity for domestic and export markets.

    NAEGA: *See NAEGA No. 2, clause 7.*

12. **Carrying Charges:** Liquidated damages payable to the seller by the buyer when the buyer's vessel fails to take delivery and the seller continues to carry the goods awaiting delivery.

    NAEGA: *See NAEGA No. 2 clauses 18. Carrying charges consist of storage, insurance and interest costs as calculated under NAEGA No. 2 clause 19.*

13. **Charter Party:** A contract between a ship owner and a party hiring the vessel (the charterer) whereby a ship is hired (chartered) either for one voyage or a period of time. A buyer under a FOB contract may enter into a charter party for a vessel to take delivery of the goods.

    NAEGA: *See NAEGA No. 2, clause 20(c).*

14. **Custom of the port/Custom of the trade:** Practice or method regularly observed in a port or trade. *eg* practices or habits in regard to discharge, storage or loading of goods at a port may determine whether the ship owner, dock authority, railway company or consignee pays for labor on board a vessel, or for the handling of goods on a dock. Contracts may call for certain obligations to be borne or performed according to custom of the port.

    NAEGA: *See NAEGA No. 2, clause 8. See also Clause 20 Guidelines.*

15. **Delivery:** Loading goods to the vessel.

    NAEGA: *The contractual period during which delivery must be made under the NAEGA 2 contract is the "delivery period" and the terms of sale (for example FOB, CIF, CFR or DAP) is often referred to as the "delivery terms." See NAEGA No. 2, clause 8. See also the definition of "Free on Board (FOB)" below.*

16. **Default:** The omission or failure to perform a contractual duty under the terms agreed by the parties.

    NAEGA: *As used in NAEGA No. 2, a failure to perform by one party that gives the non-defaulting party the right to declare the contract terminated and claim any damages. By contrast, "breach" gives the non-defaulting party the right to certain remedies specified in the NAEGA No. 2 contract, but not the right to declare the contract terminated or cancelled. In case of a default NAEGA No. 2 defines the rights and obligations of the parties in clause 22. See NAEGA No. 2, clause 22.*

    Additional Reference: See "*Breach*" above.

17. **Demurrage:** A charge payable to the owner of a chartered ship in respect of failure to load or discharge the ship within the time agreed. Demurrage is generally expressed in a dollar amount for each additional day (or pro-rata for the part of a day) used for loading beyond the time allowed. This time allowed for loading is called "laytime."

    NAEGA: *See Addendum No.1, clauses 2 and 4.*

    Additional Reference: See also the definition of "*laytime*" below.

18. **Despatch:** The compensation paid by the vessel and in turn by the buyer to the seller when completion of delivery to the vessel uses less than the time contractually allowed for loading. The buyer pays the seller despatch generally at half the demurrage rate per day for each day (or pro-rata for the part of a day) of the time allowed for loading. This time allowed for loading is called "laytime."

    NAEGA: *See Addendum No.1, clause 2.*

    Additional Reference: See also the definition of "*laytime*" below.

19. **Dockage:** A quality measurement of a deficiency and or of defined material in grain. A dockage determination may require cleaning, result in a reduction in consignment weight or a reduction in contract price. Dockage may be a factor in official or other grain standards.

    Dockage is defined under the Canada Grain Act as "any material intermixed with a parcel of grain, other than kernels of grain of a standard of quality fixed by or under this Act for a grade of that grain, that must and can be separated from the parcel of grain before that grade can be assigned to the grain." In Canada, dockage is removed under official cleaning procedures and is subject to a multiple step assessment process starting with a sample taken as grain arrives which referred to as the uncleaned or dirty sample. The uncleaned sample weight is the gross weight of the sample. Dockage is determined on the gross weight of the sample and is again assessed follow normal cleaning procedures and following cleaning procedures for grade improvement.

Under the official U.S. Grain Standards, dockage is a factor determined for barley, flaxseed, rye, sorghum, triticale and wheat, but not for other grains. Dockage consists of material which can be easily removed by machine and includes material lighter than, larger than and smaller than the grain. Under U.S. official procedures, wheat dockage is described as weed seeds, weed stems, chaff, straw, or grain other than wheat, which can be readily removed from the wheat by the use of appropriate sieves and cleaning devices; also, underdeveloped, shriveled and small pieces of wheat kernels removed in properly separating, properly rescreening, or recleaning.

NAEGA: *Quantity descriptions in the NAEGA No. 2 include dockage. In the NAEGA No. 2, quantity is addressed in Clause 5 and price is addressed in Clause 10. Clause 13 requires that percentage dockage be in included in Notice of Delivery. Clause 6 establishes that commodity be in accordance with either Canadian or US official standards.*

20. **Dockage Fee:** A fee charged by the loading terminal or the port for use of docking the vessel at the berth/terminal and is often times included in the elevator tariff.

    NAEGA: *See NAEGA No. 2, clause 8.*

    Additional Reference: See also *Elevator Tariff* below.

21. **Elevator Tariff:** A document created and published by an elevator which states all the terms and conditions, including fees and costs, which apply to those using the services of the elevator, including vessels loading at the elevator. Tariffs are normally regulated by the government and public documents. Note as well that when the buyer's vessel files its berthing application at an elevator and is accepted by an elevator, the terms and conditions of the elevator tariff becomes a contract between the elevator and the vessel.

    NAEGA: *See NAEGA No. 2, clause 8.*

22. **Estimated Time of Arrival (ETA):** The date a vessel is estimated to arrive at a port of loading. It is ***normally*** included in a vessel nomination.

    NAEGA: *This is a "preadvice" in NAEGA No. 2 which is given by the buyer to the seller. NAEGA 2 uses the similar term "expected date of vessel readiness." See NAEGA No. 2, clause 8.*

23. **File (Filing):** To present to the loading elevator a written application for berthing and loading. This application is filed by the vessel's agent prior to loading, but after anchoring at the terminal's designated anchorage or so near thereto as the vessel can

find an anchorage.

NAEGA: *Under NAEGA No. 2 clause 8 a vessel is considered filed when it (a) has tendered a valid notice of readiness to load to the charterer or its agent at the port of loading, (b) has given written advice of this tender to the loading elevator between the hours of 0900 and 1600 local time on a business day or between the hours of 0900 and 1200 noon on Saturday (provided not a holiday), complete with all customarily required documents, and (c) is ready to receive grain in the compartments required for loading. See NAEGA No. 2, clause 8.*

24. **Flat Price:** A purchase or sale of grain at a definite, fixed cash price, such as $X/bushel. This is compared with basis or premium contract where the price is determined by reference to a futures contract price determined on a date in the future, plus or minus the agreed premium or discount (the basis). Also, some participants in the grain trade refer to the price determined after application of this basis pricing formula as the flat price, in other words when a price determined by reference to a futures contract has been fully fixed, the contract then has a flat price. See also the definition of "*Basis*" above.

    NAEGA: *See NAEGA No. 2, clause 10. *

25. **Free on Board (FOB):** A sale of goods where the seller's obligation is to deliver contractual goods onto the vessel nominated by the buyer at the named port of delivery. The buyer's obligation is to present a vessel at the delivery port which is of the type that normally carries the goods. The risk of loss or damage to the goods passes from seller to buyer at delivery of the commodity at the discharge end of the loading spout and the quality and condition of the goods is determined at or just before the goods are delivered into the vessel. The buyer therefore takes the risk of the voyage from the load port to the discharge port and can obtain cargo insurance to insure against those risks if they wish. In export movements of bulk grain, the expression FOB is usually limited to FOB vessel at a named port or ports.

    NAEGA: *The NAEGA No. 2 contract is a FOB contract commonly used in the export sale of grain and oilseeds from the U.S.A. and Canada.*

26. **Grain Arbitrators:** Arbitrators approved by NAEGA and included in NAEGA's list of approved arbitrators which is also provided to the American Arbitration Association. Grain arbitrators are eligible to be selected as party-appointed arbitrators in a panel of arbitrators in an arbitration under the NAEGA 2 contract. This list also includes Special Grain Arbitrators that the two party-appointed Grain Arbitrators can select as the Chairperson of the panel.

    NAEGA: *See NAEGA No. 2 clause 30 and Addendum No 1, clause 10.*

27. **Hold Harmless:** A contractual provision under which one party will not hold the

other party liable for specified risk(s) within an agreement. A hold harmless clause is often used together with an indemnity agreement covering the same risks.

NAEGA: *In NAEGA No. 2's Clause 26, Limitation of Liability, the buyer holds the seller harmless from all claims, losses, costs, damages and risks arising from events or actions after delivery of the goods at the discharge end of the loading spout.*

Additional Reference: See also the definition of "*Indemnify*" below.

28. **Indemnity:** A contractual provision where one party agrees to reimburse another party for the losses incurred by that other party that arise from some possible, specified future damage, risk or loss. An indemnity clause is often used together with a hold harmless agreement covering the same risks.

    NAEGA: *In NAEGA's Clause 26, Limitation of Liability, the buyer agrees to indemnify the seller for all claims, losses, costs, damages and risks arising from events or actions after delivery of the goods at the discharge end of the loading spout.*

    Additional Reference: See also the definition of "*Hold Harmless*" above.

29. **International Conventions:** Agreements or treaties between countries. Certain international conventions can apply to international sale agreements (which potentially includes sales under the NAEGA No. 2 contract) unless the convention is specifically excluded by the parties to the sale agreement.

    NAEGA: *See NAEGA No. 2, clause 27. The following international conventions are excluded from the NAEGA contract in order to avoid any conflicts between the conventions and the laws of the State of New York which govern NAEGA No. 2:*

    (a) the Uniform Law on the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods;
    (b) the United Nations Convention on Contracts for the International Sale of Goods of 1980; and

    (c) the United Nations Convention on the Limitation Period in the International Sale of Goods, concluded at New York on 14 June 1974, and the Protocol Amending the Convention on the Limitation Period in the International Sale of Goods, concluded at Vienna on 11 April 1980.

30. **Lake Inspection Certificates**: The official quality and condition certificates issued at the time that a commodity is loaded onto laker vessels in the Great Lakes of North America.

    NAEGA: *NAEGA No. 2, clause 7 provides that when a sales contract calls for delivery at a St. Lawrence Seaway port, and the goods are first loaded onto a laker vessel and then* *transferred onto an ocean-going vessel at the St. Lawrence Seaway port, the lake inspection certificates are used to determine the quality and condition of the goods loaded on the ocean-going vessel. Lake inspection certificates must be properly identified, normally by the St. Lawrence transshipment elevator, as to the grain loaded onto the ocean-going vessel at the St. Lawrence port of loading. Copies of lake inspection certificates are acceptable.*

Additional Reference: See also the definition of "*Western Inspection*" below.

31. **Laytime:** The time allowed for loading or discharging goods. Normally, if loading or discharging takes longer than the allowed laytime, then the seller pays the buyer a sum of money called demurrage.

    NAEGA: *In NAEGA's Addendum No.1, Loading Rate Guarantee, laytime is deemed to commence at (a) 0700 hours on the business day following filing of the vessel, b) 0700 hours on the business day following the expiration of the preadvice, or c) 0000 hours on the first business day of the contract delivery period, whichever is the latest, whether the vessel is in berth or not. A Statement of Facts (SOF) is prepared by the vessel's agent detailing all the particulars regarding loading in order that all parties have the facts necessary for the calculation of laytime, and, if any, demurrage or despatch.*

    Additional Reference: See also the definitions for "*demurrage*," "*despatch*," "*preadvice*," and "*Statement of Facts.*"

32. **Liquidated Damages:** Predetermined damages, or an agreed formula for determining damages, that require payment of a specified sum for a breach of the contract.

    NAEGA: *In the NAEGA No. 2 contract, clause 19, carrying charges are construed as liquidated damages and are payable by the buyer to the seller if the buyer's vessel files after the end of the delivery period.*

    Additional Reference: See "*Carrying Charges*" above.

33. **Loading in turn:** The practice of loading or discharging vessels at a loading elevator in the order in which the vessel filed at the elevator or terminal.

    NAEGA: *NAEGA No. 2 clause 20 refers to a situation where a vessel nominated for loading under the contract is not loaded in its "proper rotation but is bypassed by vessels (other than liners)." This is the same thing as a vessel not being loaded in turn.*

    Additional Reference: See also the definition of "*File (filing*)" above.

34. **Loading spout:** The equipment which delivers bulk grain from storage bins, silos, conveyors and other loading points of an elevator into the hold of a vessel, or into a

truck or railroad car.

NAEGA: *The reference to the "end of loading spout" in NAEGA No. 2 clause 8 is used to indicate that seller's responsibility for and risk of loss in the goods ends when the grain reaches the end of the spout.*

35. **Loading Rate Guaranty:** The rate of loading a commodity onto a vessel and is usually given in a charterparty in tons per day and is used to calculate laytime.

NAEGA: *Addendum No. 1, titled "Loading Rate Guaranty" is an optional addition to the standard NAEGA No. 2 contract. It specifies the rate at which the seller agrees to load grain into the buyer's vessel. The loading rate is based on an agreed quantity of grain loaded during a weather working day of 24 hours (subject to the exceptions in Clause 1 of Addendum No. 1). If the seller fails to deliver the contract quantity of grain during the period of time allowed by this agreed loading rate, the seller pays the buyer a sum of money called demurrage. If the seller completes delivery in less time than allowed by the agreed loading rate, the buyer pays the seller a sum of money called despatch.*

For example, let's assume we loaded 20,000 mts of soybeans, with a load rate guaranty of 5,000 mts per day, WWDSSHEX even if used, Dem/Des $10,000/$5,000.

Wed 3/3 - 1148 – Vessel Arrived

Thu 3/4 – 1100 – Valid/Accepted

Fri 3/5 – 0700 – Laytime Commenced

Mon 3/8 – 2100 – Operations completed

Date	From	To	% to Count	Remarks	Time Used	Total time
Fri 3/5	0700	1100	100%	Waiting	4 hrs	4 hrs
Fri 3/5	1100	1800	100%	Loading	7 hrs	11 hrs
Fri 3/5	1800	2000	0%	Raining	0 hrs	11 hrs
Fri 3/5	2000	2400	100%	Loading	4 hrs	15 hrs
Sat 3/6	0000	2400	0%	Weekend	0 hrs	15 hrs
Sun 3/7	0000	2400	0%	Weekend	0 hrs	15 hrs
Mon 3/8	0000	2100	100%	Loading	21 hrs	36 hrs
Time Allowed: 4 days						
Time Used: 1.5 days (36 hrs)						
Time Saved: 2.5 days			Despatch due: 2.5 days @ $5,000 = $12,500.00			

then the time allowed for loading is determined by the "custom of the port" which is often difficult to determine and can therefore lead to disputes.

Additional Reference: See also the definitions of "*demurrage,*" "*despatch*" and "*custom of the port*" above.

36. **Mate's Receipt:** A document normally signed by the master or first mate of a vessel and given to the seller, acknowledging receipt of cargo on board the vessel. A mate's receipt is merely that; a receipt. It must describe the goods received and their apparent order and condition. It is not, however, equivalent to a bill of lading as it is not a document of title, and does not evidence a contract of carriage between the holder of the mate's receipt and the vessel owner. Normally the vessel owner or their vessel agent delivers signed bill(s) of lading to the seller only upon surrender by the seller of the mate's receipt(s).

    NAEGA: *See NAEGA No. 2, clause 13.*

37. **National Cargo Bureau (NCB**): A U.S a non-profit organization that renders assistance to the United States Coast Guard in discharging its responsibilities under the 1948 International Convention for Safety of Life at Sea and for other purposes closely related thereto. By assignment and under the authority of the United States Coast Guard, the certificates issued by National Cargo Bureau, Inc. may be accepted as a prima facie evidence of compliance with the provisions of the Dangerous Cargo Act and the Rules and Regulations for Bulk Grain Cargo.

    NAEGA: *Under the NAEGA 2 the buyer's vessel intending to load at a U.S. port must provide evidence of compliance with the Dangerous Cargo Act and the Rules and Regulations for Bulk Grain Cargo.*

38. **Nomination:** A notice provided identifying the performing vessel under the terms of the contract. This notice is sometimes called a "nomination" or "vessel nomination."

    NAEGA: *In NAEGA No. 2, it is called a "preadvice" as it advises the seller of the vessel name, the expected date of vessel's readiness, and the quantity required for loading, and it must be given within the "preadvice period." See NAEGA No. 2, clause 8. See also the definition of "preadvice" below.*

39. **North American Export Grain Association, Inc. (NAEGA):** A not-for-profit trade association that works globally to promote and sustain the trade of grains, oilseeds and primary products processed from grain and oilseeds. NAEGA focuses on best commercial and official practices and service to its members domiciled in the United States and Canada. Its membership consists of private and publicly owned companies and farmer-owned cooperatives that are involved in or provide services to the bulk grain and oilseed exporting industry. For more information go to

www.NAEGA.org.

NAEGA: *NAEGA provides for the NAEGA No. 2 Contract including modifications.*

40. **NAEGA No. 2 Contract:** A model contract made available and maintained by the North American Export Grain Association, Inc. for public use under specific Terms of Use and designed for use in its entirely for Free on Board Export (FOB) commercial exports of grains and oilseeds from the Canada and the United States of America. The contract is subject to the laws of the State of New York and the parties agree to arbitrate disputes pursuant to the terms of the contract. The current version of the NAEGA No. 2 was made available on March 30, 2018.

41. **Notice of Delivery:** A notice sent by the seller to the buyer upon completion of loading which contains details of the loading.

    NAEGA: *Under NAEGA No. 2 clause 13 this notice includes the vessel's name, date(s) of bill(s) of lading (or Mate's Receipt(s), in addition to the quantities and qualities loaded (including percentage of dockage if applicable). The NAEGA No. 2 also requires that it is given by the seller to the buyer without undue delay.*

42. **Notice of readiness (NOR) /Readiness to Load:** Is a notice served by the master of a ship to charterers or their agents, informing the charterers that the vessel is ready to load according to the terms of the charter party.

    NAEGA: *In NAEGA No. 2, clause 8, a vessel is considered filed for loading at the elevator when it has, among other things, tendered to the charterer or its agent at the port of loading a valid notice of readiness to load.*

43. **Official:** A statement, action or record approved by the government or by someone in authority.

    NAEGA: *NAEGA No. 2 clause 7 refers to "official" inspection certificates at load port. These are certificates issued by U.S. or Canadian government agencies such as the Federal Grain Inspection Service (FGIS) in the U.S. or the Canadian Grain Commission in Canada. A certificate issued by a cargo inspection or survey company is not an official inspection certificate as used in NAEGA No. 2.*

44. **Official Grain Standards:** Standards established by law and regulation defining weight and quality. The United States Grain Standards Act (USGSA) establishes official marketing standards (not health and safety standards) for grains and oilseeds and establishes procedures for grain inspection and weighing. These standards are often called the "official grain standards" and currently exist for 12 commodities: corn, wheat, soybeans, sorghum, barley, oats, rye, flaxseed, sunflower seed, canola, triticale and mixed grain. Inspections under the USGSA are carried out under the Federal Grain

Inspection Service (FGIS).

The Canada Grains Act (CGA) establishes standards for the following commodities: barley, beans, buckwheat, canola, chickpeas, corn, fava beans, flaxseeds, lentils, mixed grain, mustard seed, oats, peas, rapeseed, rye, safflower seed, soybeans, sunflower seed, triticale, wheat.

NAEGA: *See NAEGA No. 2, Clause 6.*

Additional Reference: See the definition of "*U.S. Grain Standards Act*" below.

45. **U.S. Grain Standards Act**: The U.S. Grain Standards Act at 7 United States Code Sec. 3 provides for the establishment of official U.S. grain standards that are used to measure and describe the physical and biological properties of grain at the time of official U.S. inspection.

    NAEGA: *See NAEGA No. 2, Clause 6.*

    Additional Reference: See the definition of "*Official Grain Standards*" above.

46. **Owner/ Disponent Ship Owner:** The vessel "owner" is the legal entity that controls the operations of the vessel and employs the vessel master, officers and crew. This is not necessarily the same entity that holds legal title to the physical vessel. A "disponent owner" is an entity that has chartered the vessel in from the owner (or another disponent owner), usually for a period of time under a time charter party, and which then charters the vessel out to a third party under a time or a voyage charter party. A disponent owner is therefore both a charterer (from the owner or another disponent owner) and an owner (to the party to which they have chartered it). Referring to an owner as a disponent owner therefore reveals that they are also chartering the vessel in from a third party and are part of a string of charter party agreements.

    NAEGA: *See NAEGA No. 2, Addendum No. 1.*

    Additional References: See also the definition of "*Charter*" above.

47. **Payment Terms:** The method of payment agreed between buyer and seller. Also sometimes called the terms of payment, or payment terms. These other payment terms could be full or partial prepayment, cash against documents (CAD) or even deferred payment if the seller is willing to release documents with payment to follow a later date. Each payment term comes with its own costs and risks for both seller and buyer.

    NAEGA: *Under NAEGA 2 clause 11 the payment terms may be by letter of credit against agreed documents, by cash against documents, or such other payment terms as the* *parties may specifically agree.*

48. **Panel (Tribunal):** A small group of people who are chosen to do something, for example, to discuss something in public or to make a decision.

    NAEGA: *In NAEGA, three persons are convened to resolve a dispute by arbitration. In NAEGA arbitrations the two parties to the dispute appoint one arbitrator each, and the two arbitrators then appoint a third person, who rounds out the tribunal and is normally the chairperson of the tribunal. In NAEGA arbitrations a sole arbitrator may be appointed if both parties agree. The appointment process is outlined in Clause 30 of the NAEGA No. 2 Contract and Clause 10 of Addendum No. 1.*

49. **Port Authority:** A governmental or quasi-governmental public authority for a special-purpose district usually formed by a legislative body to operate ports and other related transportation infrastructure.

    NAEGA: *See NAEGA No. 2, clause 20 (b3).*

50. **Preadvice:** See the definition of "*Nomination*" above.

    NAEGA: *See NAEGA No. 2, clause 8.*

51. **Prohibition:** An Act or law prohibiting something.

    NAEGA: *NAEGA No. 2, Clause 21 "Prohibition," describes export prohibitions and other events which restrict export, partially or otherwise. It also states the extent to which the restriction spelled out in the clause prevents fulfillment of the contract, that portion that cannot be fulfilled will be cancelled. The seller must provide the buyer with the reason(s) for the cancellation under this clause, and at the buyer's request provide the buyer with a certification from NAEGA confirming that cancellation as claimed by the seller is appropriate under this clause.*

52. **Readiness to Load/ Notice of readiness (NOR):** A notice served by the master of a ship to charterers or their agents, informing the charterers that the vessel is ready to load according to the terms of the charter party.

    NAEGA: *In NAEGA No. 2, clause 8, a vessel is considered filed for loading at the elevator when it has, among other things, tendered to the charterer or its agent at the port of loading a valid notice of readiness to load.*

53. **Self-Trimming Bulk Carrier:** A vessel with its holds constructed so that loose bulk cargo flows freely into all reaches of the hold. As a result, little if any trimming is required to ensure that the cargo completely fills the holds and does not endanger

vessel's safety by shifting during the voyage.

NAEGA: *See NAEGA No. 2, clause 8.*

54. **Special Grain Arbitrators:** Grain Arbitrators who are eligible to serve as the chairpersons of NAEGA arbitrations panels administered by AAA ICDR. They:
1) must have attended and passed a one-day ICDR training on the international rules of arbitration and the ICDR process, rules and procedures OR when acting as approved NAEGA arbitration panelists have, in the past, served as a chairperson on a three-person AAA arbitration panel, and
2) must have prior experience as an arbitrator in a NAEGA arbitration.

NAEGA: *See NAEGA No. 2 clause 30 and Addendum No 1.*

55. **Statement of Facts (SOF):** A detailed chronological description of the activities of the vessel during the stay in a port in order. It is normally produced by the vessel agent and provides all parties the facts necessary for the calculation of laydays, demurrage and dispatch.

NAEGA: *See NAEGA Clause 20 Guidelines.*

56. **Stevedores:** Laborers employed in loading and unloading vessels at all times under the direction of, and subject to, the control of the master Longshoremen.

NAEGA: *See NAEGA No. 2, Clause 20 (b1).*

57. **Substitution:** The replacement of a previously nominated vessel.

NAEGA: *In accordance with the NAEGA No. 2, the buyer may substitute a vessel once if the new vessel is of the same type and approximately the same size and position. If the original or substitute vessel was damaged to the point of incapacitation, a second substitute vessel would be allowed. "Named vessel" contracts do not allow for a substitution unless the originally nominated vessel is incapacitated. See NAEGA No. 2 clause 8.*

58. **Time Allowed:** The contractually agreed upon time for performance of an obligation such as the loading of a commodity to a vessel. Time allowed may be expressed in long tons per day, metric tons per day or a specific number of days or working days.

NAEGA: *In the NAEGA Addendum No.1 loading rate guaranty, the period of time allowed for the seller to deliver the contract goods to the vessel without incurring any demurrage expense. The time allowed is arrived at by dividing the tonnage loaded under the contract by the average rate agreed to under the contract. A calculation of total time used is calculated for the time used for loading the contract. If the seller exceeds this by the time allowed, additional time is time on demurrage, any time saved is despatch (if provided for in the contract).*

Additional Reference: See also definitions above for *"laytime*," "*demurrage*" and "*despatch*."

59. **Tolerance:** An amount over or under the mean quantity contracted within which the vessel may be loaded and still comply with the quantity required by the contract.

    NAEGA: *Under NAEGA 2 the tolerance is at buyer's option, i.e. the buyer can order the seller to load any quantity within the tolerance. Further under NAEGA No. 2, if the contract allows the contract goods to be loaded into more than one vessel, the tolerance applies to the remaining balance after deducting from the mean contract quantity the quantity that has been delivered on all prior vessels. See NAEGA No. 2 clause 4.*

60. **Total Time Used:** A calculation of the total time used in loading a vessel.

    NAEGA: *Under Addendum No.1 the total time used involves only the period in which time is to count after deductions are made for the days and times agreed to be deducted under the loading rate guaranty of Addendum No 1. These excluded days may include weather days, Saturdays, Sundays and/or Holidays, as negotiated in the contract and/or the elevator tariff.*

61. **Unmerchantable**: Goods which are not reasonably fit for the ordinary purposes for which such goods are used.

    NAEGA: *NAEGA No. 2 incorporates New York law, which defines merchantability in the New York Uniform Commercial Code at section 2-316(2).*

62. **Waiting Time:** The time period used by the vessel in waiting for the berth after laytime has commenced.

    NAEGA: *See NAEGA No. 2, Addendum No. 1.*

    Additional Reference: See the definition of "*laytime*" above.

63. **Warehouse Receipt:** A receipt given by a warehouseman for goods placed in the warehouse for storage.

    NAEGA: *The NAEGA No. 2 contract provides that a seller may require its buyer to pay for goods against tender of warehouse receipts if the buyer has failed to take delivery as stated in NAEGA No. 2 clause 18.*

64. **Weather Working Day:** A working day of 24 consecutive hours except for any time when **weather** prevents the loading or discharging of the vessel or would have prevented it, had **work** been in progress.

NAEGA: *See NAEGA No. 2, Addendum No.1 clause 1. See also the definition of "Weather working days, Saturday, Sundays and Holidays Excepted" below.*

65. **Weather working days, Saturday, Sundays and Holidays Excepted (WWDSSHEX):** A working day of 24 consecutive hours except for Saturdays, Sundays, and Holidays.

    NAEGA: *Under Addendum No 1, clause 1, the seller guarantees to load during a laytime calculated by reference to a number of weather working days, but excluding Saturdays, Sundays and holidays. This means that even if Saturdays, Sundays and holidays would otherwise qualify as weather working days, they do not count as laytime even if loading is carried out on these days.*

    Additional Reference: See also the definition of "*Laytime*" above.

66. **Weight Conversion:** The mathematical process of converting one weight or measure to another.

    NAEGA: *NAEGA No. 2 clause 5 states that the quantity loaded is final at port of loading in accordance with customary weight certificates and that for purposes of doing weight conversions, 1,016 kilograms is equal to 2,240 pounds. Note that a conventional metric ton is equals to 2,204.6 lbs, and that 2,240 lbs is equal to 1,016.0573 kilograms (known as a "long ton"). The industry for the sake of simplicity rounded off 1,016.0573 to 1,016 kilograms as the equivalent of 2,240 lbs or one long ton. This is the conversion in NAEGA No. 2, clause 5. Using this conversion, one metric ton is equal to 2,204.724409 lbs. Parties to a NAEGA No. 2 contract will need to use this conversion whenever converting pounds to metric tons. For simplicity, one can divide pounds by 2,240 and multiply by 1.016 to convert a long ton to a metric ton when using the NAEGA No. 2 contract.*

67. **Western Inspection:** When grain of U. S. origin is shipped from U.S. Great Lakes ports in laker vessels and then is transshipped to ocean-going vessels at facilities in Canada on the St. Lawrence Seaway. Official grain inspection certificates are issued when the grain is loaded onto the vessel loading in the Great Lakes (also known as a "laker" or "laker vessel"). These certificates are sometimes called "Lake Inspection Certificates." Lake Inspection Certificates govern to determine the quality and grade of the grain when it is ultimately loaded on board the ocean-going vessel in the St. Lawrence Seaway. This process, where the Lake Inspection Certificates are used to determine the quality and grade of the grain on ocean-going vessels, is sometimes referred to as "Western Inspection." See also the definition of "*Lake Inspection Certificates*" above.

    NAEGA: *See NAEGA No. 2, clause 7, paragraph 2.*

    Additional Reference: See also the definition of "*Lake Inspection Certificates*" above.