

EXCHANGE CONTRACT NO. 401

COCOA FUTURES CONTRACT

CONTRACT TERMS - Issue Date: 7 July 2008<sup>1</sup>

ADMINISTRATIVE PROCEDURES - Issue Date: 7 July 2008

Delivery Months: July 2008 onwards

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<sup>1</sup> Please refer to London Notice No. 3056, issued on 7 July 2008, in respect of: (a) any claim to reject a Delivery Unit; or (b) any other claim relating to a Delivery Unit; and (c) the time limits applicable to such claims.

## **CONTENTS**

### **Contract Terms**

1. Interpretation
2. Contract Specification
3. Delivery Units
4. Quality, Condition and Origin
5. Packing and Weights
6. Price
7. Import Duty
8. Last Trading Day
9. Exchange Delivery Settlement Price (“EDSP”)
10. Invoicing Amount
11. Settlement Payments
12. Seller’s Delivery Notice and Notifications to Seller
13. Buyer’s Notification and Allocation and Notifications to Buyers
14. Conversion of Nominated Large Delivery Units and Final Allocation
15. Conversion of Nominated Bulk Delivery Units and Final Allocation
16. Delivery
17. Property and Risk
18. Default in Performance
19. Emergency Provisions
20. Force Majeure
21. New Legislation
22. Articles, Rules and Regulations
23. Arbitration
24. Governing Law
25. Non-registered Contracts
26. Economic and Monetary Union

### **Administrative Procedures**

1. Price
2. Settlement Procedures
3. Last Trading Day
4. Notice Day
5. The First Business Day after the Notice Day
6. The First Business Day prior to the Settlement Day
7. Settlement Day
8. The First Business Day prior to the Conversion Settlement Day
9. Conversion Settlement Day
10. The First Business Day prior to the Extended Conversion Settlement Day
11. Extended Conversion Settlement Day
12. The Seventh Business Day after, as the case may be, the Settlement Day, the Conversion Settlement Day or the Extended Conversion Settlement Day

## Cocoa Futures Contract

### Terms of Exchange Contract No. 401

#### 1. Interpretation

1.01 Save as otherwise specified herein, words and phrases defined in the Rules shall have the same meanings in these terms and in the Administrative Procedures.

1.02 In these terms and in the Administrative Procedures:

“Administrative Procedures” means all procedures from time to time implemented by the Board pursuant to the Rules for the purposes of this Exchange Contract.

“Allowance” means either a discount or a premium to the Contract price, expressed in Pounds per tonne, which is stated in these terms or otherwise shall be published from time to time by General Notice.

“Bean cluster” means two (or more) Cocoa beans which are joined together and are unable to be split into two (or more) whole single Cocoa beans as a result of the exertion of reasonable hand pressure.

“Bulk Delivery Unit” means an amount of loose Cocoa conforming to term 3.04(b) and having a nominal net weight of 1,000 tonnes.

“Business Day” means a day on which the market, the Clearing House and banks in London are open for business.

“Buyer” means the person who is obliged under a Contract to accept delivery in respect of each Lot of Cocoa and to pay the Invoicing Amount in respect of such Cocoa (including, except where the context otherwise requires, the Clearing House as a buyer under a registered Contract).

“Buyer’s Position Notice” means the notice to be given by the Buyer to the Clearing House under term 13.01.

“Clearing House Procedures” means the Procedures of the Clearing House from time to time in force.

“Cocoa” means cocoa beans which are the whole seeds of the cocoa tree (*Theobroma Cacao* L).

“Contract” means a contract made expressly or impliedly in the terms of this Exchange Contract for the sale and purchase of one or more Lots and “registered Contract” means a Contract registered by the Clearing House.

“Conversion Date” means the date on which the conversion rate for Sterling against the euro is fixed in accordance with EMU legislation.

“Conversion Settlement Day” in respect of a Delivery Month means, subject to term 15.06(a), ten Business Days immediately following the Settlement Day for such Delivery Month.

“Converted Delivery Unit” means a new Delivery Unit which is formed upon the conversion of part or all of a Nominated Delivery Unit.

“Default in Performance” has the meaning attributed to it in term 18.02.

“Defective” means a Mouldy Bean or an Insect-damaged Bean or both.

“Delivery Area” means each geographic area referred to in term 3.03, as varied by the Board from time to time, within which a Warehouse must be located.

“Delivery Month” means each month specified as such by the Board pursuant to the Rules.

“Delivery Unit” means a Standard Delivery Unit, a Large Delivery Unit or a Bulk Delivery Unit.

“Dual Capacity Warehousekeeper” means a Warehousekeeper which has been nominated by the Exchange in its absolute discretion to store in its Warehouse Standard, Large and Bulk Delivery Units listed on GATS and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by General Notice.

“EDSP” means Exchange Delivery Settlement Price and has the meaning attributed to it in term 9.

“EMU Legislation” means legislative measures of the European Council, and as appropriate the United Kingdom, for the introduction of, changeover to or operation of the euro pursuant to implementation of Economic and Monetary Union including such legislative measures as are enacted in contemplation of the United Kingdom introducing the euro as its lawful currency.

“€” denotes the single currency of the European Union introduced in a Member State as the lawful currency of that Member State pursuant to its participation in Economic and Monetary Union in the European Union pursuant to EMU legislation known, at the date of the issue of these terms, as “euro”.

“EU” means the European Union.

“Evidence of Import Duty” has the meaning attributed to it in term 7.03.

“Extended Conversion Settlement Day” has the meaning attributed to it in term 15.06(a).

“Foreign Matter” means any substance or matter, other than a whole Cocoa bean or Residue, which in the opinion of the LIFFE Registered Cocoa Graders is, upon grading, identified as foreign matter.

“Fumigation Charge” means a monthly fee which a Warehousekeeper shall be entitled to charge in respect of the fumigation and fogging of a Delivery Unit stored in its Warehouse and which is levied pursuant to the Grading and Warehousekeeping Procedures.

“GATS” means the electronic grading, tender and delivery system, or any successor thereto, administered by the Clearing House which, amongst other things, lists Delivery Units stored in a Warehouse for delivery under a Contract.

“Grading and Warehousekeeping Procedures” means the procedures from time to time implemented by the Board pursuant to the Rules in respect of sampling and storage of Cocoa by Warehousekeepers and grading of Cocoa by the LIFFE Registered Cocoa Graders, which may be contained in one or more documents.

“Grading Result” means the result given to a Delivery Unit which has been graded by the LIFFE Registered Cocoa Graders and containing such information as the Board may prescribe from time to time.

“Gross Weight” has the meaning attributed to it in term 5.04(a).

“Import Duty Documentation” has the meaning attributed to it in term 7.01(a).

“Insect-damaged Bean” means a cocoa bean the internal parts of which are found to contain insects at any stage of development or any evidence thereof, or evidence of insect damage, which is visible to the naked eye.

“Interest Rate” means BBA LIBOR for one month deposits in sterling as at 11.00 hours on the Settlement Day for the relevant Delivery Month, provided that the Board may at its discretion resolve, prior to the commencement of the calendar month in which the Settlement Day for the relevant Delivery Month falls, that the Interest Rate shall be determined by other means. Any such determination by the Board shall be the subject of a Notice.

“Invoicing Amount” has the meaning attributed to it in term 10.01

“Large Delivery Unit” means an amount of bagged Cocoa conforming to term 3.04(a) and having a nominal net weight of 100 tonnes.

“Last Trading Day” in respect of a Delivery Month means (subject to term 19.01) eleven Business Days immediately prior to the last Business Day of such Delivery Month.

“LIFFE Registered Cocoa Graders” means a panel of Cocoa graders registered with the Exchange in accordance with the Grading and Warehousekeeping Procedures who upon the application of a member examine and grade a sample of the Delivery Unit which is the subject of the application and issue a Grading Result in respect of such Delivery Unit pursuant to the Grading and Warehousekeeping Procedures.

“Lot” has the meaning attributed to it in term 2.02.

“Lotting Account” means an information register stored in GATS which is prepared and issued by a Warehousekeeper from time to time in accordance with the Grading and Warehousekeeping Procedures in respect of a Delivery Unit stored in its Warehouse, and which is in a form and specifies such details in respect of the Delivery Unit as may be prescribed by the Board from time to time.

“Member State” means a member of the European Union.

“Mouldy Bean” means a cocoa bean on the internal parts of which mould is visible to the naked eye.

“Net Weight” in respect of a Delivery Unit means the net weight of such Delivery Unit calculated in accordance with term 5.04 and expressed in tonnes.

“Nominated Bulk Delivery Unit” means a Nominated Delivery Unit which is a Bulk Delivery Unit.

“Nominated Delivery Unit” means each Delivery Unit to be converted by or on behalf of the Seller as notified to the Clearing House under term 12.04(a) or (b).

“Nominated Large Delivery Unit” means a Nominated Delivery Unit which is a Large Delivery Unit.

“Notice Day” in respect of any Lot comprised in a Contract means (subject to term 19.02) the Business Day immediately following the Last Trading Day.

“Origin” means the country, or geographic area in a country, in which the cocoa was produced.

“Origin Group” means each group specified in term 4.08.

“Pounds”, “£”, “pence” and “penny” denote lawful currency of the United Kingdom at the date of issue of these terms, known as “Sterling”.

“Preferential Rate of Import Duty” has the meaning attributed to it in term 7.01.

“Regulations” means the General Regulations and Default Rules of the Clearing House from time to time in force.

“Rent” means a periodic fee (but not including Fumigation Charges) which a Warehousekeeper shall be entitled to charge in respect of the storage of a Delivery Unit in its Warehouse, and which is levied pursuant to the Grading and Warehousekeeping Procedures.

“Residue” means any Cocoa element other than a whole Cocoa bean (which may include, without limitation, broken beans, fragments of beans and pieces of shell), which in the opinion of the LIFFE Registered Cocoa Graders is, upon grading, identified as residue.

“Seller” means the person who is obliged under a Contract to deliver Cocoa in respect of each Lot (including, except where the context otherwise requires, the Clearing House as seller under a registered Contract).

“Seller’s Delivery Notice” means the notice to be given by the Seller to the Clearing House under term 12.01.

“Settlement Day” in respect of a Delivery Month means (subject to term 19.03), the last Business Day of the Delivery Month.

“Shipment Period” means the period commencing 1 October in a calendar year and ending on 30 September in the following calendar year.

“Single Capacity Warehousekeeper” in respect of the May 2000 and subsequent Delivery Months means a Warehousekeeper which has been nominated by the Exchange in its absolute discretion to store in its Warehouse Standard and Large Delivery Units listed on GATS and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by General Notice.

“Slaty” means a cocoa bean which shows a slaty colour on half or more of the exposed surface of the cotyledons.

“Standard Delivery Unit” means an amount of bagged Cocoa conforming to term 3.04(a) and having a nominal net weight of 10 tonnes.

“Standard Deviation of the Bean Count” means the measure of the deviation of the bean count per 100 grammes of Cocoa from a nominal standard deviation of the bean count per 100 grammes of Cocoa, where the value of the deviation is derived from a methodology and an algorithm prescribed by the Board from time to time.

“Substituted Delivery Unit” means each Delivery Unit which is substituted by the Seller as notified to the Clearing House under term 12.04(c).

“Tender” means the delivery by a Seller in accordance with these terms of a Seller’s Delivery Notice, as amended by one or more notices given under term 12.04 or 12.06.

“Valid Grading Result” has the meaning attributed to it in term 3.05.

“Warehouse” means a warehouse in respect of which a Warehousekeeper has been nominated by the Exchange in its absolute discretion to store Cocoa listed on GATS and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by General Notice. A Warehouse shall, for the purposes of nomination under the Grading and Warehousekeeping Procedures, be a single structure designed or modified for the purpose of storing Cocoa, or groups of such structures connected by internal doors allowing for the passage of such Cocoa. Where there are no such interconnecting doors between such structures these shall be nominated as separate Warehouses.

“Warehousekeeper” in respect of the May 2000 and subsequent Delivery Months means either a Single or Dual Capacity Warehousekeeper which has been nominated by the Exchange in its absolute discretion to store in its Warehouse either Standard and Large Delivery Units or Standard, Large and Bulk Delivery Units, as the case may be, listed on GATS and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by General Notice.

“Warrant” means a warrant for the delivery of a Delivery Unit stored in a Warehouse which authorises the possessor of such document to transfer or receive the Delivery Unit referred to therein and which has not expired.

“Warrant Delivery Instruction Report” means the report given by the Clearing House to the Seller under terms 12.08(c), 14.06(a) or 15.08(a) specifying the order in which Warrants are to be delivered to the Clearing House under term 16.02.

- 1.03 In these terms, unless the contrary is indicated, references to a “term” refer to a term hereof, references to a “Rule” refer to a rule of the Exchange’s Rules, and references to the singular include the plural and vice versa.
- 1.04 Subject to term 26.01, in these terms references to “lawful currency” shall be construed to include units of value of the euro which may be used validly to discharge payment obligations pursuant to the laws of the United Kingdom once the United Kingdom has introduced the euro as its lawful currency pursuant to EMU Legislation and notwithstanding that such units of value of the euro may not at all material times following the Conversion Date constitute legal tender in the United Kingdom.

2. Contract Specification

- 2.01 Each Contract shall be for one or more Lots for the Delivery Month specified.
- 2.02 A “Lot” shall be an amount of Cocoa having a nominal net weight of 10 tonnes.

3. Delivery Units

- 3.01 A Seller shall, in respect of one or more Lots of a Contract, deliver a Standard Delivery Unit, a Large Delivery Unit or a Bulk Delivery Unit, or any combination thereof, of an amount or aggregate amount of Cocoa which is equal to the amount of Cocoa to be delivered under such Lots.
- 3.02 A Seller may only deliver a Tender for a Delivery Unit, if on or before the day and by the time specified for delivery of such Tender in the Administrative Procedures, the Delivery Unit:
- (a) has a Lotting Account and a Warrant;
  - (b) a Valid Grading Result; and
  - (c) complies with term 5.05 and, if appropriate, term 5.06.
- 3.03 (a) In respect of Delivery Months up to and including September 2003, the delivery of a Delivery Unit shall be made in a Warehouse in a geographic area (a “Delivery Area”) which is, in the Board’s opinion, in or sufficiently close to Amsterdam, Antwerp, Bremen, Brighton and Hove, Dunkirk, Felixstowe, Hamburg, Humberside, Liverpool, London, Rotterdam or Teesside. The Board may from time to time de-list a Delivery Area or list any other Delivery Area which shall have such effect with regard to existing or new Contracts or both as the Board may determine in its absolute discretion.
- (b) In respect of the December 2003 and subsequent Delivery Months, delivery of a Delivery Unit shall be made in a Warehouse in a geographic area (a “Delivery Area”) which is, in the Board’s opinion, in or sufficiently close to Amsterdam, Antwerp, Bremen, Felixstowe, Hamburg, Humberside, Le Havre, Liverpool, London, Rotterdam or Teesside. The Board may from time to time de-list a Delivery Area or list any other Delivery Area which shall have such effect with regard to existing or new Contracts or both as the Board may determine in its absolute discretion.

- 3.04 A Seller shall deliver:
- (a) a Standard or Large Delivery Unit which conforms to terms 4 and 5, which is stored in a Warehouse as a clearly identifiable pile of bagged Cocoa in accordance with the Grading and Warehousekeeping Procedures in force at the time of delivery; or
  - (b) a Bulk Delivery Unit which conforms to terms 4 and 5, which is stored in a Warehouse as segregated loose Cocoa in accordance with the Grading and Warehousekeeping Procedures in force at the time of delivery.
- 3.05 A Grading Result issued in respect of a Delivery Unit shall be valid (“Valid Grading Result”) if:
- (a) it has been issued by the Exchange in respect of the May 2000 or following Delivery Months;
  - (b) the Delivery Unit has been graded as “tenderable”;
  - (c) it has not expired; subject to term 3.06, the Grading Result will expire at the end of the sixth month after the date of issue of the Grading Result and any unexpired part of the month in which it was graded; and
  - (d) it has not lapsed, subject to term 14.03(a) or 15.03(a), upon conversion of the Delivery Unit, or upon bagging, rebagging or debagging of Cocoa contained in the Delivery Unit or regrading of the Delivery Unit under the Grading and Warehousekeeping Procedures or if term 16.11 applies.
- 3.06 Notwithstanding that a Valid Grading Result may be due to expire in accordance with term 3.05(c), any such Valid Grading Result applying to a Nominated Bulk Delivery Unit shall continue to apply until the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be.
- 3.07 If a Delivery Unit is graded by LIFFE Registered Cocoa Graders as not tenderable prior to the coming into effect of these terms, a Seller may submit such Delivery Unit for regrading if it is to be delivered in respect of the May 2000 or following Delivery Months.
- 3.08 If a Delivery Unit is graded by LIFFE Registered Cocoa Graders as not tenderable under these terms for the May 2000 or a following Delivery Month, a Seller shall not submit such Delivery Unit for regrading, except where permitted to do so by the Grading and Warehousekeeping Procedures.
- 3.09 Without prejudice to any exclusion of liability provision in the Rules, neither the Exchange nor the Board shall be liable for any loss or damage whatsoever, whether for negligence, breach of contract, misrepresentation or otherwise (other than for fraud or wilful default) in respect of:

- (a) the failure by the Exchange or LIFFE Registered Cocoa Graders to grade or to issue a Grading Result by a particular date;
- (b) the performance or non-performance of a Warehousekeeper of his supervisory duties; or
- (c) the performance or non-performance of any Warehousekeeper of his obligations pursuant to these terms or the Grading and Warehousekeeping Procedures.

4. Quality, Condition and Origin

- 4.01 (a) A Seller shall deliver a Delivery Unit which is of a quality, condition and Origin which complies with this term 4. The quality and condition of a Delivery Unit shall be evidenced by the Valid Grading Result for such Delivery Unit.
- (b) A Delivery Unit to be delivered under a Contract may be subject to one or more Allowances as specified in these terms and by the Valid Grading Result and such Allowances shall be used in the calculation of the Invoicing Amount in accordance with term 10.01.
- 4.02 A Seller shall deliver under a Contract a Delivery Unit in which not more than 20% of the beans are Slaty by count. A Delivery Unit in which:
- (a) less than or equal to 5% of the beans are Slaty by count, shall be delivered under a Contract without a Slaty Allowance; and
  - (b) more than 5% of the beans are Slaty by count but less than or equal to 20% of the beans are Slaty by count, shall be delivered under a Contract subject to the Slaty discount specified by the Valid Grading Result.
- 4.03 A Seller shall deliver under a Contract a Delivery Unit in which not more than 15% of the beans are Defective by count. A Delivery Unit in which:
- (a) less than 5% of the beans are Defective by count, shall be delivered under a Contract subject to the Defective premium specified by the Valid Grading Result;
  - (b) 5% of the beans are Defective by count, shall be delivered under a Contract without a Defective Allowance; and
  - (c) more than 5% of the beans are Defective by count but less than or equal to 15% of the beans are Defective by count, shall be delivered under a Contract subject to the Defective discount specified by the Valid Grading Result.

- 4.04 A Seller shall deliver under a Contract a Delivery Unit which does not have more than 120 beans per 100g bean count. A Delivery Unit which is delivered with a bean count:
- (a) of less than 100 beans per 100g, shall be delivered under a Contract subject to the bean count premium specified by the Valid Grading Result;
  - (b) equal to 100 beans per 100g, shall be delivered under a Contract without a bean count Allowance; and
  - (c) of more than 100 beans but less than or equal to 120 beans per 100g, shall be delivered under a Contract subject to the bean count discount specified by the Valid Grading Result.
- 4.05 Subject to term 4.13, a Seller shall deliver under a Contract a Delivery Unit which does not have a Standard Deviation of the Bean Count of more than 40. A Delivery Unit which is delivered with a Standard Deviation of the Bean Count:
- (a) of 25 or less, shall be delivered without a Standard Deviation of the Bean Count Allowance; and
  - (b) of more than 25 but less than or equal to 40, shall be delivered subject to the Standard Deviation of the Bean Count discount as specified by the Valid Grading Result.
- 4.06 (a) A Seller shall deliver under a Contract a Delivery Unit which does not have a quantity of Residue and Foreign Matter in excess of the weight specified in the Grading and Warehousekeeping Procedures applicable to the Delivery Unit and the Origin. An Allowance calculated by reference to the scale of Allowances for Residue and Foreign Matter applicable to the Origin will be determined with respect to any Residue and Foreign Matter in the Delivery Unit in accordance with the Grading and Warehousekeeping Procedures.
- (b) A Seller shall deliver under a Contract a Delivery Unit which does not have a quantity of bean clusters in excess of the weight specified in the Grading and Warehousekeeping Procedures applicable to the Delivery Unit. An Allowance calculated by reference to the scale of Allowances for Residue and Foreign Matter referred to in the Grading and Warehousekeeping Procedures will be determined in respect of any bean clusters in a Delivery Unit of a quantity equal to or which exceeds the applicable weight specified in, and determined in accordance with, the Grading and Warehousekeeping Procedures.

4.07 A Seller shall deliver under a Contract a Delivery Unit the Cocoa in which, in the opinion of the LIFFE Registered Cocoa Graders upon grading:

- (a) does not have a smoky, hammy or other taint or smell;
- (b) subject to term 4.06, does not contain a substance which is not inherent in Cocoa; or
- (c) subject to terms 4.02, 4.03, 4.04, 4.05 and 4.06, is not unsound.

4.08 A Seller shall deliver under a Contract a Delivery Unit which exclusively contains Cocoa from a single Origin stated from time to time to be in the following Origin Groups. A Delivery Unit delivered under a Contract shall be subject to the discount stated in respect of the following Origin Groups, or such other discount as may be prescribed by the Board from time to time.

- (a) Origin Group 1: Cocoa delivered from one of the following Origins shall not be subject to a discount: Ghana; Cote d'Ivoire; Nigeria; Sierra Leone; Togo; Cameroon; Equatorial Guinea; Democratic Republic of Congo (formerly known as Zaire); Western Samoa; Grenada Fine Estates; Trinidad & Tobago Plantation; and Jamaica.
- (b) Origin Group 2: Cocoa delivered from one of the following Origins shall be subject to a discount of £25 per tonne: Sao Tome and Principe; and Sri Lanka.
- (c) Origin Group 3: Cocoa delivered from one of the following Origins shall be subject to a discount of £50 per tonne: Brazil Bahia Superior; Brazil Vitoria Superior; Ecuador; and Papua New Guinea.
- (d) Origin Group 4: Cocoa delivered from the following Origin shall be subject to a discount of £75 per tonne: Malaysia.
- (e) Origin Group 5: Cocoa delivered from any other Origin shall be subject to a discount of £100 per tonne.

4.09 The Board may at its discretion, in respect of an Origin:

- (a) remove such Origin from, or add it to, an Origin Group;
- (b) move such Origin between Origin Groups; and
- (c) vary a discount which applies to Cocoa delivered from such Origin in an Origin Group.

Any such variation, addition or deletion shall have such effect with regard to existing or new Contracts or both as the Board may determine in its absolute discretion.

4.10 In respect of a Delivery Unit delivered under a Contract, the Origin as stated in the Bill of Lading or, if more than one Bill of Lading, each Bill of Lading in respect of Cocoa contained in the Delivery Unit, shall be prima facie evidence of the relevant Origin of such Cocoa.

4.11 A Seller shall deliver a Delivery Unit which only contains Cocoa shipped during the same Shipment Period. In respect of a Delivery Unit delivered under a Contract, the date of issue of the Bill of Lading or, if more than one Bill of Lading, each Bill of Lading in respect of Cocoa contained in the Delivery Unit, shall be prima facie evidence of the relevant Shipment Period of such Cocoa. In respect of the Shipment Period, the date of issue of the Bill of Lading shall take precedence over any other date specified in the Bill of Lading.

4.12 Cocoa:

- (a) in which more than 20% of the beans are Slaty by count;
- (b) in which more than 15% of the beans are Defective by count;
- (c) which has more than 120 beans per 100g bean count;
- (d) which, subject to term 4.13, has a Standard Deviation of the Bean Count of more than 40;
- (e) which has a quantity of:
  - (i) Residue and Foreign Matter; or
  - (ii) bean clustersin excess of the weight specified in the Grading and Warehousekeeping Procedures applicable to the Delivery Unit and, in the case of Residue and Foreign Matter, the Origin;
- (f) which does not comply with term 4.07; or
- (g) which has at any time been graded as not tenderable by LIFFE Registered Cocoa Graders under these terms,

shall not form part or all of a Delivery Unit and shall not be delivered by a Seller under a Contract. Notwithstanding term 4.12(g), if a Delivery Unit has been regraded pursuant to term 3.08 and a Valid Grading Result has been issued, Cocoa forming part or all of that Delivery Unit may be delivered by a Seller under a Contract.

4.13 (a) Notwithstanding term 4.05 and subject to term 4.13(b), a Standard Delivery Unit shall be:

- (i) on or prior to 30 September 2001, graded by LIFFE Registered Cocoa Graders under these terms without a Standard Deviation of the Bean Count test; and
- (ii) delivered by a Seller without a Standard Deviation of the Bean Count Allowance throughout the normal duration of any Valid Grading Result,

provided that the Cocoa comprised in such Delivery Unit was landed, graded and listed on GATS as a Lot or Standard Delivery Unit on or prior to 31 March 2000.

- (b) Notwithstanding term 4.13(a), a Standard Delivery Unit which:
  - (i) is either graded on or from 1 October 2001 or is converted from a Large or Bulk Delivery Unit (other than a Converted Delivery Unit), such Standard Delivery Unit shall be graded by LIFFE Registered Cocoa Graders under these terms with a Standard Deviation of the Bean Count test and shall be delivered by a Seller on or from such date with a Standard Deviation of the Bean Count Allowance; or
  - (ii) is a Converted Delivery Unit, shall be delivered by a Seller with a Standard Deviation of the Bean Count Allowance.

## 5. Packing and Weights

- 5.01 Subject to term 5.02, Cocoa to be delivered in a Standard or Large Delivery Unit shall be packed in sound bags in external good order and meeting the criteria prescribed by the Board from time to time.
- 5.02 Cocoa contained in a Delivery Unit which is listed on GATS may only be bagged, rebagged or debagged in a Warehouse in accordance with the Grading and Warehousekeeping Procedures in force at the time of such bagging, rebagging or debagging. The Exchange may, at its absolute discretion, supervise the bagging, rebagging or debagging of Cocoa contained in a Delivery Unit.
- 5.03 Each bag of Cocoa contained in a Standard or Large Delivery Unit shall not have a Gross Weight of more than 75 kilogrammes.

5.04 Each Delivery Unit to be delivered by a Seller under a Contract shall be invoiced in accordance with term 10.01. In term 10.01 the “Net Weight” referred to in “A” shall be calculated in accordance with this term 5.04 and shall equal:

- (a) the actual weight of a Delivery Unit as specified in its Lotting Account (“Gross Weight”);
- (b) less the weight of any samples drawn from such Delivery Unit after it was last weighed; and
- (c) in respect of a Standard or Large Delivery Unit, less the actual tare of the Delivery Unit as specified in its Lotting Account, to the nearest gramme.

5.05 A Seller shall deliver under a Contract a Delivery Unit which:

- (a) in respect of a Standard Delivery Unit, has a Net Weight within a tolerance of 1.5 % above or below the weight specified in term 1.02 for a Standard Delivery Unit;
- (b) in respect of a Large Delivery Unit, has a Net Weight within a tolerance of 1.5 % above or 1.0% below the weight specified in term 1.02 for a Large Delivery Unit; or
- (c) in respect of a Bulk Delivery Unit, has a Net Weight within a tolerance of 1.5% above or 0.5% below the weight specified in term 1.02 for a Bulk Delivery Unit.

For the avoidance of doubt, the Buyer shall not reject a Delivery Unit for not being delivered at the Contract weight, provided it is delivered within the tolerance band for such Delivery Unit as specified in this term 5.05.

5.06 A Seller shall only deliver a Standard or Large Delivery Unit under a Contract if the Tender in respect of such Delivery Unit is delivered in accordance with these terms on a day which is not more than thirty-six months after the last day of the month in which the Delivery Unit was last weighed. If the Tender is delivered more than six months, but less than thirty-six months, after the last day of the month in which the Delivery Unit was last weighed, the Seller shall accept a deduction from the Contract price of a sum equal to 0.25% of the EDSP for the relevant Delivery Month, per tonne Net Weight for every additional period of six months or part thereof from the date the Delivery Unit was last weighed, subject to a maximum deduction of 1.25%.

5.07 A Delivery Unit shall be weighed or reweighed in a Warehouse in accordance with the Grading and Warehousekeeping Procedures in force at the time of such weighing or reweighing.

6. Price

6.01 The Contract price shall be expressed in Pounds per tonne.

6.02 Subject to any other Allowances specified in these terms or by the Valid Grading Result for a Delivery Unit:

(a) a Standard Delivery Unit or a Large Delivery Unit delivered under a Contract shall not be subject to a discount; and

(b) a Bulk Delivery Unit delivered under a Contract shall be subject to a Bulk Delivery Unit discount of £20 per tonne to the Contract price.

6.03 Notwithstanding term 15.09(b), the Seller shall pay all Rent and Fumigation Charges up to and including the Settlement Day, except in respect of a Nominated Bulk Delivery Unit, in which case all Rent and Fumigation Charges shall be paid up to the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be. Any Rent and Fumigation Charges paid by the Seller beyond the relevant Settlement Day shall be borne by the Seller and not the Buyer.

7. Import Duty

7.01 Subject to term 7.03, a Seller may deliver Cocoa qualifying on account of its Origin for a nil or reduced rate of import duty (“Preferential Rate of Import Duty”), if:

(a) sufficient documentation has been lodged with the appropriate authorities to enable the Buyer to take delivery of Cocoa contained in a Delivery Unit at a Preferential Rate of Import Duty in the country of importation (“Import Duty Documentation”); or

(b) the Preferential Rate of Import Duty has been paid.

7.02 A Seller shall deliver Cocoa which does not qualify for a Preferential Rate of Import Duty under term 7.01 as either:

(a) import duty unpaid, and any duty will be payable by the Buyer; or

(b) import duty paid, and any duty paid or payable will be borne by the Seller.

7.03 The Clearing House may, at its absolute discretion, request the Seller to provide to the Clearing House evidence that paragraph (a) or (b) of term 7.01 has been complied with (“Evidence of Import Duty”). The Evidence of Import Duty shall be in the form required by the Clearing House in its absolute discretion from time to time. If the Seller fails to provide satisfactory Evidence of Import Duty to the Clearing House which will entitle the Buyer to claim a Preferential Rate of

Import Duty in the country of importation, the Cocoa contained in the Delivery Unit shall be delivered by the Seller as either import duty unpaid or paid in accordance with term 7.02.

7.04 The Lotting Account for each Delivery Unit shall state:

- (a) if Cocoa contained in a Delivery Unit is subject to either a Preferential Rate of Import Duty or a non-Preferential Rate of Import Duty; and
- (b) in respect of Cocoa which is subject to a Preferential Rate of Import Duty, if either Import Duty Documentation has been lodged with and accepted by the appropriate authorities or the Preferential Rate of Import Duty has been paid.

7.05 No adjustment shall be made to the Contract price on account of:

- (a) any difference between Preferential Rates of Import Duty and non-Preferential Rates of Import Duty; or
- (b) payment or non-payment, as the case may be, of import duty in respect of Cocoa delivered under a Contract.

## 8. Last Trading Day

8.01 On the Last Trading Day:

- (a) trading in Contracts for the relevant Delivery Month shall cease at such time as may be specified for that purpose in the Administrative Procedures; and
- (b) the Exchange will calculate the EDSP for such Contracts in accordance with term 9.

## 9. Exchange Delivery Settlement Price ("EDSP")

9.01 Paragraphs (a), (b) and (c) of this term 9.01 are subject to term 9.02. The EDSP for Contracts for a particular Delivery Month shall be calculated by exchange officials on the Last Trading Day as follows:

- (a) if (as far as reasonably ascertainable) one or more Contracts for that Delivery Month has been made in the pit on the Last Trading Day during the period specified for this purpose in the Administrative Procedures, then:
  - (i) if only one Contract has been made, the EDSP shall be the price (as far as reasonably ascertainable) at which that Contract was made; or

- (ii) if more than one Contract has been made, the EDSP shall be the average rounded down to the nearest pound of the prices (as far as reasonably ascertainable) at which such Contracts were made, weighted by reference to the number of Lots (as far as reasonably ascertainable) comprised in each such Contract;
- (b) if (as far as reasonably ascertainable) on the Last Trading Day, during the period specified for this purpose in the Administrative Procedures, no Contract for that Delivery Month has been made in the pit but both an offer (or offers) and a bid (or bids) have been made in the pit in respect of a Contract (or Contracts) for that Delivery Month, then the EDSP shall be the average of the lowest price (as far as reasonably ascertainable) at which such an offer was made and the highest price (as far as reasonably ascertainable) at which such a bid was made and such average shall be rounded down to the nearest pound;
- (c) if (as far as reasonably ascertainable) on the Last Trading Day, during the period specified for this purpose in the Administrative Procedures, no Contract for that Delivery Month has been made in the pit and either no offer or no bid has been made in the pit in respect of a Contract (or Contracts) for that Delivery Month, then exchange officials shall determine the EDSP by reference inter alia to the price at which any offer or bid, as the case may be, in respect of a Contract for that Delivery Month was made in the pit during such period on such day; or
- (d) if (as far as reasonably ascertainable) on the Last Trading Day, during the period specified for this purpose in the Administrative Procedures, no Contract for that Delivery Month has been made in the pit and neither an offer nor a bid have been made in the pit in respect of a Contract (or Contracts) for that Delivery Month, then exchange officials may in their absolute discretion fix the EDSP at a price determined by them as being consistent with the prices at which any Contracts or any offers or bids in respect of a Contract were made in the pit on the Last Trading Day for the Delivery Month and period referred to in paragraphs 9.02(a) and (b) below and, if necessary, rounded down to the nearest pound.

9.02 If in the opinion of exchange officials, the EDSP which would result from a calculation made in accordance with term 9.01(a), (b) or (c) would not be consistent with the prices at which any Contracts or any offers or bids in respect of a Contract were made in the pit on the Last Trading Day for:

- (a) the relevant Delivery Month prior to the applicable period referred to in term 9.01(a), (b) or (c), as the case may be; or
- (b) any other Delivery Month during the applicable period referred to in term 9.01(a), (b) or (c), as the case may be,

then exchange officials may in their absolute discretion fix the EDSP at a price determined by them as being consistent with the prices, offers or bids for the Delivery Month and period referred to in paragraphs (a) or (b) above, and, if necessary, rounded down to the nearest pound.

9.03 The Exchange shall publish the EDSP by the time specified for that purpose in the Administrative Procedures. The EDSP shall be final and binding for all purposes.

## 10. Invoicing Amount

10.01 Subject to term 10.02, the “Invoicing Amount” in respect of each Delivery Unit to be delivered under a Contract shall be a sum calculated in accordance with the formula:

$$(\text{Contract weight} + A) \times (\text{EDSP} + B) + C$$

where:

EDSP = the EDSP for the Delivery Month.

A = the Net Weight less the Contract weight.

B = any Allowances made in accordance with terms 4, 5.06 and 6.02(b) and the Rules.

C = any Allowance made under term 15.09.

10.02 Where the sum calculated in accordance with term 10.01 is not a number of Pounds and whole pence, if such sum is:

(a) less than a number of Pounds, pence and a whole half penny, such sum shall be rounded down to the nearest sum which is a number of Pounds and whole pence; and

(b) equal to or more than a number of Pounds, pence and a whole half penny, such sum shall be rounded up to the nearest sum which is a number of Pounds and whole pence,

and the Invoicing Amount shall be such nearest sum.

10.03 In respect of a registered Contract, the final Invoicing Amount in respect of a Delivery Unit shall be paid by or to the Clearing House (as the case may require) in accordance with terms 16.01 and 16.06 and the Administrative Procedures.

11. Settlement Payments

11.01 In respect of each Lot referred to in a Seller's Delivery Notice, in addition to any other payment required by these terms, the following payments shall be made by the time specified for that purpose in the Administrative Procedures:

- (a) where the EDSP exceeds the Contract price, payment by the Seller to the Clearing House or payment by the Clearing House to the Buyer, or both (as the case may require); and
- (b) where the Contract price exceeds the EDSP, payment by the Buyer to the Clearing House or payment by the Clearing House to the Seller, or both (as the case may require),

of an amount calculated as the difference, in Pounds multiplied by 10 in respect of each Lot, between the EDSP and the Contract price.

12. Seller's Delivery Notice and Notifications to Seller

12.01 A Seller in whose name are registered by the Clearing House, or who intends to submit or has submitted to the Clearing House for registration, one or more Contracts shall have given to the Clearing House a Seller's Delivery Notice in respect of each Lot comprised in such Contracts not later than the time on the Notice Day specified for that purpose in the Administrative Procedures.

12.02 A Seller's Delivery Notice shall be presented to the Clearing House by the Seller by such means and in a form prescribed from time to time by the Clearing House. The Seller's Delivery Notice shall in respect of each Delivery Unit to be delivered by the Seller specify the information set out in the Administrative Procedures and such other information as the Clearing House may prescribe from time to time.

12.03 By the time specified for that purpose in the Administrative Procedures on the Notice Day, the Clearing House may in respect of any Bulk or Large Delivery Units specified in the Seller's Delivery Notice, direct the Seller to convert one or more Large Delivery Units into Standard Delivery Units or one or more Bulk Delivery Units into Large or Standard Delivery Units or both. The Clearing House shall notify the Exchange of any direction made under this term 12.03.

12.04 If the Clearing House has made a direction pursuant to term 12.03, the Seller shall, by the time specified for that purpose in the Administrative Procedures on the first Business Day immediately following the Notice Day, notify the Clearing House by such means and in a form from time to time prescribed by the Clearing House that it shall comply with such direction by:

- (a) converting the Delivery Unit specified in the Seller's Delivery Notice in respect of which such direction was made and shall promptly instruct the Warehousekeeper to undertake such conversion; or

- (b) converting one or more other Delivery Units as determined by the Seller, specifying the relevant details of each such Delivery Unit, provided that each such Delivery Unit:
  - (i) in aggregate, is of an amount of Cocoa to enable the Seller to fulfil its delivery obligations under the relevant Lots;
  - (ii) complies with term 3.02;
  - (iii) if not of the same size as the Delivery Unit in respect of which such direction was made, is of a size acceptable to the Clearing House, as determined in its absolute discretion, to facilitate delivery by the Clearing House of the relevant Lots; and
  - (iv) if it is the same size as the Delivery Unit in respect of which such direction was made, does not have one or more discounts to the Contract price in respect of the quality or condition as specified by the Valid Grading Result which is greater than any discount awarded in respect of the same category of quality or condition for the Delivery Unit specified in the Seller's Delivery Notice in respect of which such direction was made,

and shall promptly instruct the Warehousekeeper to undertake such conversion;  
or:

- (c) substituting the Delivery Unit specified in the Seller's Delivery Notice in respect of which such direction was made with such other Delivery Units as determined by the Seller, specifying the relevant details of each such Delivery Unit, provided that each such Delivery Unit:
  - (i) in aggregate, is of an amount of Cocoa to enable the Seller to fulfil its delivery obligations under the relevant Lots;
  - (ii) complies with term 3.02; and
  - (iii) if not of a size required by the Clearing House as specified in its discretion, is of a size acceptable to the Clearing House, as determined in its absolute discretion, to facilitate delivery by the Clearing House of the relevant Lots.

If the Seller makes a notification under term 12.04(b) or (c), the Seller shall in respect of each Delivery Unit to be delivered by the Seller give to the Clearing House the information set out in the Administrative Procedures and such other information as the Clearing House may prescribe from time to time.

12.05 If the Seller has made a notification to the Clearing House under term 12.04(a) or (b), the Seller shall, as applicable:

- (a) convert each Nominated Large Delivery Unit in accordance with term 14 and deliver each Converted Delivery Unit on the Settlement Day in accordance with term 16.02(a); and
  - (b) convert each Nominated Bulk Delivery Unit in accordance with term 15 and deliver each Converted Delivery Unit on the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be, in accordance with term 16.02(b).
- 12.06 A Seller shall not remove, substitute or vary a Tender, or any of its terms, after the time on the relevant Day specified in the Administrative Procedures for delivery of the Tender to the Clearing House, unless:
- (a) the Seller has obtained the prior consent of the Clearing House, the Clearing House has obtained the Buyer's prior written consent in respect of any Lots referred to in the Tender which have been allocated to such Buyer under term 13.04 and the Seller has notified the Exchange of the proposed removal, substitution or variation;
  - (b) the Seller makes a notification to the Clearing House under term 12.04; or
  - (c) the Seller is directed by either the Exchange or the Clearing House to make a substitution of the Tender, or any of its terms.
- 12.07 The Clearing House shall not be obliged to accept a Tender in respect of one or more Lots, unless:
- (a) the Tender complies with terms 12.02, 12.04 and 12.06, as applicable; and
  - (b) the Seller is able to present such other documents or information in respect of such Lots or the Delivery Units to be delivered in respect of such Lots, as may be required by the Clearing House under term 12.06.
- 12.08 By the time specified for that purpose in the Administrative Procedures on the first Business Day immediately following the Notice Day, the Clearing House shall make available to the Seller:
- (a) details of the final Invoicing Amount payable to the Seller by the Clearing House in respect of each Delivery Unit to be delivered by the Seller, other than a Nominated Delivery Unit;
  - (b) details of the provisional Invoicing Amount payable to the Seller by the Clearing House in respect of each Converted Delivery Unit to be delivered by the Seller which is formed upon the conversion of a Nominated Delivery Unit; and

- (c) the Warrant Delivery Instruction Report in respect of all Delivery Units to be delivered by the Seller.

13. Buyer's Notification and Allocation and Notifications to Buyers

- 13.01 A Buyer in whose name are registered by the Clearing House, or who intends to submit or has submitted to the Clearing House for registration, one or more Contracts shall have given to the Clearing House a Buyer's Position Notice in respect of each Lot comprised in such Contracts not later than the time on the Notice Day specified for that purpose in the Administrative Procedures.
- 13.02 A Buyer's Position Notice shall be presented to the Clearing House by the Buyer by such means and in a form prescribed from time to time by the Clearing House. The Buyer's Position Notice shall in respect of one or more Contracts specify the number of Lots to be delivered by the Clearing House to the Buyer, and by the Buyer to each of its underlying clients, and such other information as the Clearing House may prescribe from time to time.
- 13.03 A Buyer shall not remove, substitute or vary a Buyer's Position Notice, or any of its terms, after the time on the Notice Day specified in the Administrative Procedures for delivery of the Buyer's Position Notice to the Clearing House, without the Clearing House's prior consent.
- 13.04 (a) In respect of registered Contracts, the Clearing House will, not later than the time on the first Business Day after the Notice Day specified for that purpose in the Administrative Procedures, allocate to a clearing member registered as a Buyer one or more Delivery Units referred to in a Tender in respect of each Lot to be delivered to it by the Clearing House and by such method of allocation as may be specified in the Clearing House Procedures.
  - (b) The allocation to a Buyer of any Converted Delivery Unit under paragraph (a) of this term 13.04 will be a provisional allocation and the Clearing House shall confirm to the Buyer, in accordance with term 14.06(b) and 15.08(b), as applicable, the final allocation of the Converted Delivery Units to be delivered by the Clearing House.
- 13.05 The Buyer shall accept the allocation of each Delivery Unit made by the Clearing House under term 13.04 and under terms 14.06(b) or 15.08(b), as applicable, notwithstanding that such allocation may not reflect either the requirements of the Buyer, or any of the Buyer's underlying clients, or the information provided by the Buyer to the Clearing House in the Buyer's Position Notice.
- 13.06 By the time specified for that purpose in the Administrative Procedures on the first Business Day immediately following the Notice Day, the Clearing House shall make available to the Buyer:

- (a) details of the final Invoicing Amount payable by the Buyer to the Clearing House in respect of each Delivery Unit allocated to the Buyer, other than a Delivery Unit to be converted from a Nominated Delivery Unit; and
  - (b) details of the provisional Invoicing Amount payable by the Buyer to the Clearing House in respect of each Converted Delivery Unit to be converted from a Nominated Delivery Unit which has been provisionally allocated to the Buyer.
- 13.07 The Buyer acknowledges and agrees that any information provided by the Clearing House pursuant to terms 13.04 or 13.06(b) may be amended from time to time by the Clearing House under terms 14.06(b) and 15.08(b).
- 14. Conversion of Nominated Large Delivery Units and Final Allocation
- 14.01 This term 14 shall apply to each Nominated Large Delivery Unit in respect of which the Seller has made a notification to the Clearing House under term 12.04(a) or (b) and each Converted Delivery Unit formed upon conversion of such Nominated Large Delivery Unit.
- 14.02 A Seller shall convert a Nominated Large Delivery Unit in accordance with this term 14 and the Grading and Warehousekeeping Procedures in force at the time of delivery. The costs of converting such Delivery Unit shall be borne by the Seller. The Exchange may, at its absolute discretion, supervise the conversion of a Nominated Large Delivery Unit.
- 14.03 Upon conversion of a Nominated Large Delivery Unit:
  - (a) its Valid Grading Result shall, subject to term 16.11, apply to each Converted Delivery Unit; and
  - (b) each Converted Delivery Unit shall be weighed and issued with a new Lotting Account and Warrant by the Warehousekeeper in accordance with the Grading and Warehousekeeping Procedures in force at the time of delivery.
- 14.04 By the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Settlement Day, the Seller shall have:
  - (a) completed the conversion of each Nominated Large Delivery Unit;
  - (b) complied with term 14.03(b) in respect of each Converted Delivery Unit and ensure that such Converted Delivery Unit has a Net Weight within the tolerance specified in term 5.05(a);

- (c) presented a notice to the Clearing House by such means and in a form from time to time prescribed by the Clearing House, specifying in respect of each Converted Delivery Unit the information set out in the Administrative Procedures and such other information as the Clearing House may require from time to time; and
- (d) procured the Warehousekeeper to present to the Clearing House by such means and in a form prescribed by the Exchange and the Clearing House from time to time, the Warrant number for, and weight details of, each Converted Delivery Unit together with such other information as the Exchange or the Clearing House may require the Warehousekeeper to provide from time to time.

14.05 The Seller shall deliver on the Settlement Day each Converted Delivery Unit in respect of which the Seller has complied with term 14.04. If the Seller has not complied with term 14.04 in respect of any Converted Delivery Unit, the Seller shall be deemed to be in Default in Performance of its obligations under term 18 entitling the Clearing House to take such steps as it deems appropriate under any of the provisions of term 18 including, without limitation, under term 18.05(a).

14.06 The Clearing House shall, by the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Settlement Day make available to:

- (a) the Seller, in respect of each Converted Delivery Unit to be delivered by the Seller, details of the final Invoicing Amount payable to the Seller in respect of each such Converted Delivery Unit and, if appropriate, a revised Warrant Delivery Instruction Report; and
- (b) the Buyer, confirmation of the final allocation of the Converted Delivery Units derived from one or more Nominated Large Delivery Units to be delivered to it and details of the final Invoicing Amount payable by the Buyer in respect of each such Converted Delivery Unit.

15. Conversion of Nominated Bulk Delivery Units and Final Allocation
- 15.01 This term 15 shall apply to each Nominated Bulk Delivery Unit in respect of which the Seller has made a notification to the Clearing House under term 12.04(a) or (b) and each Converted Delivery Unit formed upon conversion of such Nominated Bulk Delivery Unit.
- 15.02 A Seller shall convert a Nominated Bulk Delivery Unit in accordance with this term 15 and the Grading and Warehousekeeping Procedures in force at the time of delivery. The costs of converting such Delivery Unit shall be borne by the Seller. The Exchange may, at its absolute discretion, supervise the conversion of a Nominated Bulk Delivery Unit.
- 15.03 Upon conversion of a Nominated Bulk Delivery Unit:
- (a) its Valid Grading Result shall, subject to term 16.11, apply to each Converted Delivery Unit; and
  - (b) each Converted Delivery Unit shall be weighed and issued with a new Lotting Account and Warrant by the Warehousekeeper in accordance with the Grading and Warehousekeeping Procedures in force at the time of delivery.
- 15.04 By the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Conversion Settlement Day, the Seller shall have:
- (a) completed the conversion of each Nominated Bulk Delivery Unit;
  - (b) complied with term 15.03(b) in respect of each Converted Delivery Unit and ensure that such Converted Delivery Unit has a Net Weight within the tolerance specified in term 5.05(a) or (b), as the case may be;
  - (c) presented a notice to the Clearing House by such means and in a form from time to time prescribed by the Clearing House, specifying in respect of each Converted Delivery Unit the information set out in the Administrative Procedures and such other information as the Clearing House may require from time to time; and
  - (d) procured the Warehousekeeper to present to the Clearing House by such means and in a form prescribed by the Exchange and the Clearing House from time to time, the Warrant number for, and weight details of, each Converted Delivery Unit together with such other information as the Exchange or the Clearing House may require the Warehousekeeper to provide from time to time.
- 15.05 The Seller shall notify the Clearing House by such means and in a form from time to time prescribed by the Clearing House as soon as the Seller becomes

aware that it is, or is likely to be, unable to comply with term 15.04. Such notice shall not be provided later than the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Conversion Settlement Day. The Seller shall specify in such notice the circumstances and reason for non-compliance with term 15.04, an estimate of the date when the Seller will comply with such term, the number of Lots affected and such other information as the Clearing House may require from time to time. The Clearing House shall immediately notify the Buyer and the Exchange upon receiving a notice under this term 15.05.

- 15.06 If upon receiving a notification under term 15.05, the Clearing House and the Exchange determine in their absolute discretion that the Seller is unable to comply with term 15.04:
- (a) due to an event occurring which is beyond the reasonable control of the Seller or the Warehousekeeper, as the case may be, which without prejudice to the foregoing, may include the unavailability or breakdown of machinery used to convert the Nominated Delivery Unit or the unavailability of bags meeting the criteria prescribed by the Exchange from time to time, the Clearing House and the Exchange shall determine in their absolute discretion whether to move the Conversion Settlement Day to ten Business Days immediately following the Conversion Settlement Day (“Extended Conversion Settlement Day”) to enable the Seller to comply with term 15.04 by the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Extended Conversion Settlement Day; or
  - (b) due to an event occurring which does not fall within term 15.06(a) above, the Seller shall:
    - (i) deliver on the Conversion Settlement Day Converted Delivery Units which comply with term 15.04; and
    - (ii) in relation to those Lots in respect of which the Seller is unable to deliver Converted Delivery Units, be deemed to be in Default in Performance of its obligations under term 18 entitling the Clearing House to take such steps as it deems appropriate under any of the provisions of term 18 including, without limitation, term 18.05(a).

The Clearing House shall notify the Seller and the Buyer of any determination made under this term 15.06.

- 15.07 By the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Extended Conversion Settlement Day:
- (a) the Seller shall have complied with term 15.04; and

- (b) if the Seller has not complied fully with term 15.04:
  - (i) the Seller shall deliver on the Extended Conversion Settlement Day Converted Delivery Units which comply with term 15.04; and
  - (ii) in respect of any Converted Delivery Unit which does not comply with term 15.04, the Clearing House may:
    - (A) in its absolute discretion take such steps as it deems appropriate under any of the provisions of term 18 including, without limitation, term 18.05(a); or
    - (B) if the Seller is unable to comply with its obligations under term 15.04 due to an event of force majeure under term 20.01, take such steps as it deems appropriate to facilitate a mutually acceptable arrangement between the parties, which may be on such terms and take such form as is acceptable to the Clearing House, the Seller and the Buyer, and in the absence of such an arrangement, shall refer the matter to the Board for its determination which shall be made in accordance with term 20.05.

15.08 The Clearing House shall, by the time specified for that purpose in the Administrative Procedures on the first Business Day immediately prior to the Conversion Settlement Day or on the first Business Day immediately prior to the Extended Conversion Settlement Day, as the case may be, make available to:

- (a) the Seller details of the final Invoicing Amount payable to the Seller in respect of each Converted Delivery Unit which complies with terms 15.04 and 5.05 (a) or (b), as the case may be, to be delivered by the Seller and, if appropriate, a revised Warrant Delivery Instruction Report; and
- (b) the Buyer, confirmation of the final allocation of Converted Delivery Units derived from Nominated Bulk Delivery Units to be delivered to it on the Conversion Settlement Day or the Extended Conversion Settlement Day and details of the final Invoicing Amount payable by the Buyer in respect each such Converted Delivery Unit.

- 15.09 The Buyer shall pay a premium on the Contract of a sum equal to:
- (a) the Interest Rate multiplied by the EDSP for the relevant Delivery Month per tonne Net Weight in respect of each Converted Delivery Unit to be delivered to it for each day after the Settlement Day up to and including the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be; and
  - (b) the daily rate per tonne of the Gross Weight of each Converted Delivery Unit in respect of all Rent and Fumigation Charges, in an amount determined by the Board from time to time, which have been paid from the Settlement Day up to and including the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be.
- 15.10 The Seller and the Buyer shall comply with any instructions and determination made by the Clearing House, the Exchange or the Board, as the case may be, under this term 15. In the case of any disagreement between the Clearing House and the Seller as to whether the Seller can comply with term 15.04 within such time as the Clearing House may specify, the determination of the Clearing House shall be final.

16. Delivery

- 16.01 No later than the time specified for that purpose in the Administrative Procedures, the Buyer shall make payment to the Clearing House of the final Invoicing Amount:
- (a) on the Settlement Day in respect of each Delivery Unit allocated to the Buyer, other than a Delivery Unit to be converted from a Nominated Bulk Delivery Unit, in accordance with these terms and the Regulations; and
  - (b) on the Conversion Settlement Day or on the Extended Conversion Settlement Day, as the case may be, in respect of each Converted Delivery Unit formed upon the conversion of a Nominated Bulk Delivery Unit allocated to the Buyer in accordance with these terms and the Regulations.

Payment is to be made without prejudice to the reference of any claim or dispute to arbitration.

- 16.02 No later than the time specified for that purpose in the Administrative Procedures, the Seller shall deliver the Warrant accurate and complete in all respects to the Clearing House:

- (a) on the Settlement Day the Warrant in respect of each Delivery Unit, other than a Delivery Unit to be converted from a Nominated Bulk Delivery Unit, to be delivered by the Seller under a Contract; and
  - (b) on the Conversion Settlement Day or on the Extended Conversion Settlement Day, as the case may be, the Warrant in respect of each Converted Delivery Unit formed upon the conversion of a Nominated Bulk Delivery Unit to be delivered by the Seller under a Contract.
- 16.03 Notwithstanding term 15.09(b), Rent and Fumigation Charges in respect of each Delivery Unit shall be paid by the Seller in accordance with term 6.03. Each Warrant delivered to the Clearing House in accordance with term 16.02 shall be endorsed by the Warehousekeeper with the words “Rent and Fumigation Charges paid” and shall state the relevant Settlement Day up to and including for which each charge is paid.
- 16.04 The Seller represents and warrants to the Buyer that each Delivery Unit delivered by the Seller is free from any security interest, lien or encumbrance. The Seller shall indemnify the Buyer on demand against each loss, liability and cost which the Buyer incurs or suffers arising out of any claim, made or action brought or threatened alleging infringement of the rights of any third party in respect of any Delivery Unit delivered by the Seller under a Contract.
- 16.05 If a Warrant is delayed, defaced, lost or destroyed (each an “Event”) and the Seller is unable due to such Event to present the Warrant to the Clearing House in accordance with term 16.02, the Seller shall immediately notify the Clearing House, who shall promptly notify the Buyer. The Seller shall specify in the notice: the circumstances of such Event; the date by when the Seller shall present the Warrant, or a replacement Warrant, to the Clearing House; and such other information as the Clearing House may require from time to time. Without prejudice to any action taken by the Clearing House under its default rules or term 18, the Seller shall be deemed to be in Default in Performance under term 18 if it fails to present the Warrant to the Clearing House in accordance with term 16.02 and the Administrative Procedures, and the Clearing House may take such steps as it deems appropriate in its absolute discretion under term 18 including, without limitation, term 18.05(a).
- 16.06 No later than the time specified for that purpose in the Administrative Procedures, the Clearing House shall make payment to the Seller of the final Invoicing Amount:
  - (a) on the Settlement Day in respect of each Delivery Unit delivered by the Seller, other than a Delivery Unit to be converted from a Nominated Bulk Delivery Unit, in accordance with these terms and the Regulations; and
  - (b) on the Conversion Settlement Day or on the Extended Conversion Settlement Day, as the case may be, in respect of each Converted Delivery Unit formed upon the conversion of a Nominated Bulk Delivery

Unit delivered by the Seller in accordance with these terms and the Regulations.

16.07 No later than the time specified for that purpose in the Administrative Procedures, the Buyer shall, if the Buyer has paid the final Invoicing Amount in respect of a Delivery Unit, take up each Warrant in respect of such Delivery Unit:

- (a) on the Settlement Day in respect of each Delivery Unit allocated to the Buyer, other than a Delivery Unit to be converted from a Nominated Bulk Delivery Unit; or
- (b) on the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be, in respect of each Converted Delivery Unit formed upon the conversion of a Nominated Bulk Delivery Unit allocated to the Buyer,

in accordance with these terms and the Regulations. Each Warrant is to be taken up by the Buyer without prejudice to the reference of any claim or dispute to arbitration. The Clearing House is under no obligation to deliver a Warrant to the Buyer if the Buyer has not paid the final Invoicing Amount in respect of the Delivery Unit the subject of the Warrant.

16.08 Without prejudice to any steps taken by the Clearing House under term 18, if payment is not made or, if made by the Buyer but the Warrant in respect of a Delivery Unit allocated to the Buyer is not taken up by the time and on the day prescribed for that purpose in the Administrative Procedures, the Clearing House may sell the Delivery Unit in respect of which payment has not been made or a Warrant has not been taken up. Any surplus or deficit resulting from such sale, with an account for interest and the costs of sale, shall be settled with the Clearing House forthwith.

16.09 A Buyer shall (for all purposes, including the making of any claim for damages) be deemed to have accepted a Delivery Unit delivered under term 16.02, by the time stipulated in the Administrative Procedures on the Business Day which:

- (a) in respect of each Delivery Unit other than a Delivery Unit to be converted from a Nominated Bulk Delivery Unit, is the tenth Business Day immediately after the Settlement Day; or
- (b) in respect of each Converted Delivery Unit formed upon the conversion of a Nominated Bulk Delivery Unit, is the seventh Business Day immediately after the Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be,

(each date being referred to as the "Acceptance Date") unless the Buyer has, not later than the time stipulated in the Administrative Procedures on the relevant

Acceptance Date, given notice to the Exchange and the Clearing House in accordance with term 23 and in a form published by the Exchange by Notice from time to time that the Buyer claims that the Delivery Unit does not comply with the terms of the Contract, stating in what respects the Delivery Unit is said not to comply and whether the Buyer also claims to reject the Delivery Unit. The Clearing House will notify the Seller of the Buyer's notification. If the Buyer has not so notified the Exchange and the Clearing House by such time, then any claim by the Buyer of any nature whatsoever in respect of the Delivery Unit shall be deemed to have been waived and absolutely barred.

16.10 Without prejudice to the provisions of terms 16.04 and 18, a failure by the Seller or Buyer to comply with its obligations under any of the provisions of terms 12, 13, 14, 15 and 16, as the case may be, shall constitute a Default in Performance entitling the Clearing House forthwith to take steps under any of the provisions of term 18. Any action taken by the Clearing House shall be without prejudice to any rights, obligations or claims of the Seller or the Buyer or the Clearing House and any costs, claims, losses, taxes or expenses of whatsoever nature incurred or suffered by the Clearing House in connection with such action shall be paid by the Seller or by the Buyer in Default in Performance.

16.11 Notwithstanding terms 14.03(a) and 15.03(a), the Valid Grading Result of a Nominated Delivery Unit shall not apply to any Converted Delivery Unit which the Seller fails to deliver by the time and on the day prescribed for that purpose in the Administrative Procedures.

## 17. Property and Risk

17.01 Risk and property in respect of a Delivery Unit delivered under a registered Contract will pass:

- (a) from the Seller to the Clearing House as Buyer, upon the later of:
  - (i) the delivery by the Seller of the Warrant in respect of such Delivery Unit to the Clearing House; and
  - (ii) the payment by the Clearing House of the final Invoicing Amount in respect of such Delivery Unit in same day or immediately available, freely transferable, cleared funds; and
- (b) from the Clearing House as Seller to the Buyer, upon the later of:
  - (i) the payment by the Buyer of the final Invoicing Amount in respect of such Delivery Unit to the Clearing House in respect of such Delivery Unit in same day or immediately available, freely transferable, cleared funds; and

- (ii) take up of the Warrant in respect of such Delivery Unit by the Buyer.

17.02 In the event of the Buyer acquiring under term 17.01 a Delivery Unit which forms part of an identified bulk of Cocoa, the Buyer will acquire proprietary rights in an undivided share in the identified bulk of Cocoa as set out in section 20A of the Sale of Goods Act 1979.

18. Default in Performance

18.01 The provisions of this term 18 shall be subject to the default rules from time to time in force of the Clearing House.

18.02 For the purposes of this term 18, a reference to a “Default in Performance” shall, subject to term 18.04, be construed as including an actual failure by a Seller or a Buyer under term 18.03 in performing its obligations under a Contract, or an anticipated failure. An anticipated failure is one which the Clearing House, in its reasonable opinion, thinks will occur and in respect of which the Clearing House considers that it should take action under the provisions of this term 18.

18.03 A Buyer or a Seller shall be in Default in Performance where:

- (a) he fails to fulfil his obligations under a Contract by the time and in the manner prescribed in accordance with these terms, the Rules and the Administrative Procedures and the Regulations;
- (b) he fails to pay any sum due to the Clearing House in respect of a registered Contract by the time specified for that purpose in the Administrative Procedures; or
- (c) in the reasonable opinion of the Clearing House, he is in Default in Performance.

18.04 Errors in a notice, which are determined in the Clearing House’s absolute discretion to be clerical errors which can be readily rectified and are rectified, shall not be treated as constituting a Default in Performance.

18.05 Subject to terms 18.06(b) and 18.10, if it appears to the Clearing House that a Seller or a Buyer is in Default in Performance under a registered Contract, the Clearing House shall notify the Exchange of the Default in Performance and may, in its absolute discretion:

- (a) take such steps as it deems appropriate to facilitate a mutually acceptable resolution of the Default in Performance. A resolution of a Default in Performance may be on such terms and take such form as is acceptable to the Clearing House, to the Seller and to the Buyer. Such terms may limit some or all of the rights of the Seller, the Buyer or the Clearing House to

refer any matter concerning or arising out of a Default in Performance (or the resolution thereof) to arbitration under term 23;

- (b) without prejudice to any of its other rights under this term 18, refer to the Board any dispute or issue arising between any of the parties. If upon such reference, the Board is of the opinion that the Default in Performance is of minor significance it shall determine any such dispute or issue between such parties upon such evidence as it may deem relevant and convey its findings to such parties who shall forthwith accept such determination and shall implement its terms without question, provided that such acceptance and implementation shall be without prejudice to the right of any party to refer the dispute or any related dispute to arbitration under term 23; or
- (c) take any steps whatsoever which may appear desirable to the Clearing House for the protection of the Clearing House or of the Seller or Buyer not in Default in Performance including, without prejudice to the generality of the foregoing, any steps in order to perform its obligations to a party under a registered Contract.

18.06 If, within five Business Days of the Default in Performance having come to the attention of the Clearing House:

- (a) the steps taken by the Clearing House have not led or are not likely to lead to a resolution of the Default in Performance; or
- (b) the Clearing House has not taken any steps and the Default in Performance remains unresolved,

the Clearing House will refer the matter to the Board. If upon reference of the dispute or issue to the Board, the Board is of the opinion that the Default in Performance may not be determined by the Board in accordance with term 18.05(b), then each Lot of Cocoa the subject of the dispute or issue shall be the subject of cash settlement at a price fixed by the Board in consultation with the Clearing House. The price may at the Board's absolute discretion take account of any compensation that the Board may consider, on the evidence before it, should be paid by either party to the other.

18.07 Any cash settlement price fixed under term 18.06 shall be binding on the parties. No dispute as to the price may be referred to arbitration but the completion of cash settlement shall be without prejudice to the right of either party to refer the dispute or issue between them to arbitration under term 23.

18.08 Any costs, claims, losses, taxes or expenses of whatsoever nature suffered or incurred by the Clearing House in connection with any steps taken by the Clearing House in relation to a Contract to which the Default in Performance relates shall be paid by the Buyer or Seller who is in Default in Performance. Any steps taken by the Clearing House in relation to a Default in Performance shall be without prejudice to any rights (including rights to refer matters to

arbitration under term 23), obligations or claims of the Buyer, the Seller or the Clearing House in relation to a Contract to which the Default in Performance relates.

- 18.09 A Buyer or Seller who is in Default in Performance under this term 18, shall forthwith pay to the Clearing House any sums payable by him under term 11 and any sums payable pursuant to this term 18.
- 18.10 Notwithstanding that a Buyer or Seller may be in Default in Performance under this term 18, the Clearing House may in its absolute discretion determine not to exercise or to delay in exercising any of its rights under this term 18, and no failure by the Clearing House to exercise nor any delay on its part in exercising any of such rights shall operate as a waiver of the Clearing House's rights upon that or any subsequent occasion, nor shall any single or partial exercise of any such rights prevent any further exercise thereof or of any other right.
- 18.11 A Buyer, a Seller or the Clearing House may refer a dispute or issue arising out of a Default in Performance under this term 18 (subject always to the application of provisions of terms 18.05, 18.06 and 18.07) to arbitration under term 23.
- 18.12 The provisions of this term 18 relating to steps that may be taken by the Clearing House, where there appears to the Clearing House to be a Default in Performance by a party to a registered Contract, may be varied, or different steps may be substituted therefor by the Board from time to time. Any such variation or substitution shall have such effect with regard to such existing and/or new Contracts and registered Contracts as the Board may determine.

19. Emergency Provisions

- 19.01 If, at any time after the close of trading two Business Days prior to the day which would have been the Last Trading Day in respect of a Delivery Month, it becomes known to the Exchange that the day which would have been the Last Trading Day will not be a Business Day, then the Board may at its discretion determine that the Business Day next following such day shall become the Last Trading Day in respect of that Delivery Month and the Exchange shall publish the Board's determination by General Notice.
- 19.02 The Notice Day shall be the Business Day immediately following the Last Trading Day so that if the Last Trading Day is moved by the Board in the circumstances described in term 19.01, then the Notice Day shall be moved so that it falls on the Business Day immediately following the Last Trading Day.
- 19.03 The Settlement Day shall be the last Business Day in the relevant Delivery Month. If, at any time after two Business Days prior to the day which would have been the Settlement Day in respect of a Delivery Month, it becomes known to the Exchange that the day which would have been the Settlement Day will not be a Business Day, then the Board may at its discretion determine that the Business Day next following such day shall become the Settlement Day in

respect of that Delivery Month, and the Exchange shall publish the Board's determination by General Notice.

- 19.04 If the Settlement Day, Conversion Settlement Day or the Extended Conversion Settlement Day is moved by the Board (whether as a result of the operation of term 19.03 or otherwise), the Invoicing Amount calculated in accordance with term 10 shall be adjusted by the Clearing House to reflect any Allowance made under term 15.09 to reflect such new Day.
- 19.05 If an adjustment to the Invoicing Amount is required by term 19.04 after the Clearing House has made available details of the final Invoicing Amount to the Seller and Buyer under terms 12.08(a), 13.06(a), 14.06(b) and 15.08, as the case may be, then a sum equal to the difference between that Invoicing Amount and the Invoicing Amount adjusted under term 19.04 shall be payable:
- (a) by the Seller to the Clearing House and by the Clearing House to the Buyer if the total adjustment gives rise to a reduction in the Invoicing Amount; or
  - (b) by the Buyer to the Clearing House and by the Clearing House to the Seller if the total adjustment gives rise to an increase in the Invoicing Amount.

Sums payable hereunder shall be payable by such time and in such manner as the Clearing House may specify.

20. Force Majeure

- 20.01 Subject to term 20.02 and 15.07(b)(ii)(B), a "Force Majeure event" shall mean an event beyond the reasonable control of either party to a Contract which delays, hinders or prevents the performance in whole or in part by a party of his obligations under the Contract (other than an obligation to make a payment), including, without limitation, act of God, storm, flood, earthquake, fire, explosion, malicious damage, accident howsoever caused, strike, lock-out, labour dispute, riot, civil commotion, war whether declared or undeclared, armed conflict, use of force by authority of United Nations, act of terrorism, act of government or other national or local authority or any agency thereof, breakdown of machinery, and unavailability, restriction, failure or delay in or computer or data processing systems or communication or energy supplies or bank transfer systems.
- 20.02 The following shall not be a Force Majeure event: the failure for whatever reason of a computer or other electronic facility to accept a notification made by a Seller or a Buyer (other than the Clearing House) as required by these terms and the Administrative Procedures; or the delay, defacement or destruction of a Warrant as described in term 16.05.

- 20.03 A party to a Contract shall not be entitled to rely upon this term 20 unless such party has notified the Clearing House and the Exchange in writing immediately after such party has become aware (or after it ought reasonably to have become aware) of such Force Majeure event, and has continued to seek to perform its obligations in accordance with the Contract (in which event it shall be entitled to such relief with effect from the commencement of such Force Majeure event). The notice shall state the date on which the Force Majeure event commenced and the effects of the Force Majeure event on such party's ability to perform its obligations in accordance with the Contract, including an estimate of the period of the Force Majeure event.
- 20.04 Upon the request of the Clearing House or the Exchange, a party seeking relief under this term 20 shall promptly provide such other information as required by the Clearing House or the Exchange as soon as reasonably practicable to assist the Board in determining whether a Force Majeure event has occurred. If a Force Majeure event has occurred, neither party will be deemed in Default in Performance of its obligations under a Contract if such party was unable to perform its obligations as a direct result of the occurrence of such Force Majeure event nor will any penalty or damages be payable if and to the extent that performance of any obligation is hindered or prevented by a Force Majeure event.
- 20.05 Subject to any steps taken at any time by the Board under emergency powers in the Rules and subject to the default rules from time to time in force of the Clearing House, if the Board determines under term 20.04 that a Force Majeure event delays, hinders or prevents a party from performing any obligation under a Contract for a period of at least five Business Days beyond the time limit fixed in or under the Contract any Delivery Unit or part thereof not delivered to the Buyer, shall be the subject of cash settlement at a price to be fixed by the Board in consultation with the Clearing House in their absolute discretion. Such price shall be binding on the parties. No dispute as to the price may be referred to arbitration but the completion of cash settlement shall be without prejudice to the right of either party to refer any dispute arising out of the Contract to arbitration under the Rules.

21. New Legislation

- 21.01 Subject to any steps taken by the Board under the emergency powers in the Rules, if the Board in its absolute discretion determines that a change of legislative or administrative provisions in the United Kingdom, the European Union, any country or group of countries or of an institution or market organisation in any country or group of countries, has affected, is affecting or is likely to affect the normal course of business or the performance of these terms or the Administrative Procedures, the Board shall have the power to vary these terms (including without limitation those of any existing Contract) in any way it considers necessary for restoring or preserving the orderly course of business or performance of these terms or the Administrative Procedures.

- 21.02 A variation pursuant to term 21.01 may be made notwithstanding that it may affect the performance or value of an existing Contract (or of such existing Contracts as may be specified by the Board).
- 21.03 Any determination made by the Board under this term 21 shall be the subject of a General Notice. Any such variation of these terms or Administrative Procedures shall take effect at such time and for such period as may be specified in the General Notice and may be modified or revoked by a subsequent variation by the Board made under this term 21.
- 21.04 A Contract affected by a variation under this term 21 shall remain in full force and effect subject to such variation and neither party shall be entitled to repudiate such Contract or treat it as frustrated except so far as may be allowed by the Board.

22. Articles, Rules and Regulations

- 22.01 Every Contract shall be subject to the Articles and the Rules and the Regulations insofar as applicable notwithstanding that either or both of the parties to it are not a member of the market or of the Clearing House.
- 22.02 In case of any conflict between the Administrative Procedures and these terms or the Rules, the provisions of these terms and the Rules shall prevail and in the event of any conflict between these terms and the Rules, the Rules shall prevail.

23. Arbitration

- 23.01 Subject to term 16.09 and this term 23 and to the Rules, any dispute arising from or in relation to a Contract shall be referred to arbitration under the Rules. The arbitration shall be held in accordance with the Rules in force at the time of such reference.
- 23.02 No dispute arising from or in relation to any cash settlement price fixed by the Board under these terms shall be referred to arbitration under the Rules.
- 23.03 (a) Where the Buyer has duly given notice by the time on the Acceptance Date specified in Term 16.09 that the Buyer claims that the Delivery Unit does not comply with the terms of the Contract, stating in what respects the Delivery Unit is said not to comply and whether the Buyer also claims to reject the Delivery Unit, then the Delivery Unit shall be subject to an inspection.
- (b) The Exchange shall on or before the second Business Day after receipt of such notice notify the Buyer, the Seller and the Clearing House of whether such inspection shall be carried out by Exchange staff, or by a third party inspector ("Inspector") to be appointed by the Exchange. Where an Inspector is appointed, then the Exchange may, in its absolute discretion, attend as an observer at any inspection carried out by the Inspector. The

Buyer shall indemnify the Exchange in respect of the costs of the Inspector, and shall be responsible for the costs of the Exchange relating to the inspection, without prejudice to the right of the Buyer to claim such costs hereunder. The Exchange shall inform the Inspector (if such is appointed) of the respects in which the Buyer claims that the Delivery Unit is not in conformity with the terms of the Contract.

- (c) The Exchange or the Inspector (as the case may be) shall inspect the Delivery Unit, carrying out such inspections, sampling and analyses as they consider appropriate (but shall not be required to break up the Delivery Unit, or inspect every bag within the Delivery Unit, for the purposes of any inspection) and shall on or before the Business Day which is the 22<sup>nd</sup> Business Day immediately after the Acceptance Date issue a report to the Buyer, the Seller, the Clearing House and, in the case of a report by an Inspector, the Exchange stating the facts relevant to the question of whether the Delivery Unit is in compliance with the terms of the Contract in the respects stated by the Buyer. The period of 22 Business Days may be extended by the Exchange provided that it is satisfied, in its absolute discretion, that exceptional circumstances have prevented or will prevent the completion of the report within the time stipulated. The report of the Exchange or the Inspector shall be conclusive and binding on the Buyer, the Seller, the Clearing House and the Exchange in respect of the facts stated in it, save in the case of fraud or manifest error.
- (d) Where the Buyer has claimed to reject the Delivery Unit, then on or before the fifth Business Day after the issuance of the report made by the Exchange or the Inspector (as the case may be), the Exchange shall determine in its absolute discretion, on the basis of such report, whether the Buyer's claim to reject the Delivery Unit is upheld. The Buyer's claim to reject the Delivery Unit based on a breach of a condition of the Contract on the part of the Seller shall not be upheld if the Exchange determines that the breach of that condition is so slight that it would be unreasonable for the Buyer to reject the Delivery Unit. The Exchange may in its absolute discretion consult experts or legal advisers in reaching its determination. The costs of such experts or legal advisers and the costs of the Exchange and/or the Inspector relating to the inspection, shall be borne by the Buyer and the Seller in the first instance in such proportions as the Exchange may direct, without prejudice to the right of either party to claim such costs in arbitration under the Rules. The determination of the Exchange shall be binding on the Buyer, the Seller and the Clearing House and they shall comply with it forthwith, without prejudice to the rights of the parties to refer any claim for loss, damage or costs to arbitration under the Rules.
- (e) Any party wishing to refer a claim for loss, damage or costs to arbitration (whether or not the Buyer has claimed to reject the Delivery Unit) must, on or before the tenth Business Day after the issuance of the report made by the Exchange or the Inspector (as the case may be), notify the Exchange and the Clearing House in accordance with the Rules of its intention to refer a claim

or dispute to arbitration. If a party has not so notified the Exchange and the Clearing House by such time, then any claim by such party of any nature whatsoever in respect of the Delivery Unit shall be deemed to have been waived and absolutely barred.

- (f) No claim of any nature whatsoever may be brought by the Buyer in respect of the Delivery Unit until a report by the Exchange or an Inspector (as the case may be) has been made, and a copy of it delivered to the Buyer, the Seller, the Clearing House and, in the case of a report by an Inspector, the Exchange.
- (g) If the Buyer has claimed to reject the Delivery Unit, and the Exchange has upheld such claim, then:-
  - (i) the Seller shall repay to the Clearing House the final Invoicing Amount in respect of the Delivery Unit by 10.00 hours on the day which is the fifth Business Day after the Exchange has made the determination referred to in sub-paragraph (d) above (the "Repayment Day"), together with interest thereon at the Interest Rate plus 2% per annum for the period from the day following the Settlement Day up to and including the Repayment Day;
  - (ii) the Buyer shall re-deliver to the Clearing House the Warrant in respect of the Delivery Unit by 12.00 hours on the Repayment Day;
  - (iii) the Clearing House shall repay to the Buyer the final Invoicing Amount in respect of the Delivery Unit after 12.00 hours on the Repayment Day, together with interest thereon at the Interest Rate plus 2% per annum for the period from the day following the Settlement Day up to and including the Repayment Day;
  - (iv) the Seller shall collect from the Clearing House the Warrant in respect of the Delivery Unit after 12.00 hours on the Repayment Day;
  - (v) the Seller shall reimburse the Buyer in respect of any costs of the Inspector or of the Exchange relating to the inspection, any reasonable Rent and Fumigation Charges, and any other reasonable costs or fees in respect of work done by the Warehousekeeper in relation to the inspection of the Delivery Unit by the Inspector or by the Exchange which have been incurred by the Buyer in respect of the Delivery Unit, on or before the fifth Business Day after receipt of an invoice from the Buyer accompanied by supporting documents evidencing the amounts incurred by the Buyer; and

- (vi) the Buyer, pursuant to term 23.03 (e), shall be entitled to claim damages from the Seller by reference to the market price of Cocoa complying with the requirements of the Contract, but in no event shall either party be liable to the other in respect of any indirect or consequential losses or expenses.
- (h) Risk and property in respect of a Delivery Unit which the Exchange has determined that the Buyer is entitled to reject will pass:
  - (i) from the Buyer to the Clearing House as Seller, upon the later of:
    - (1) the re-delivery by the Buyer of the Warrant in respect of such Delivery Unit to the Clearing House; and
    - (2) the payment by the Seller of the final Invoicing Amount in respect of such Delivery Unit in same day or immediately available, freely transferable, cleared funds; and
  - (ii) from the Clearing House as Buyer to the Seller, upon the later of:
    - (1) the payment by the Clearing House of the final Invoicing Amount in respect of such Delivery Unit to the Buyer in respect of such Delivery Unit in same day or immediately available, freely transferable, cleared funds; and
    - (2) take up of the Warrant in respect of such Delivery Unit by the Seller.

23.04 The Exchange shall act in good faith in the performance of its functions under this term 23 but subject thereto, and without prejudice to the provisions of Rule 1.4.3, the Exchange shall have no liability to any person in respect of any act or omission in connection with the performance of such functions.

#### 24. Governing Law

24.01 Every Contract shall be governed by and construed in accordance with English law.

24.02 The provisions of neither the Convention relating to a Uniform Law on the International Sale of Goods, of 1964, nor the United Nations Convention on Contracts for the International Sale of Goods, 1980, shall apply to Contracts.

25. Non-registered Contracts

25.01 In respect of a Contract which is not a registered Contract (“non-registered Contract”) these terms shall be modified so as to require and allow that a Contract to be registered with the Clearing House under the Rules and the Regulations is capable of being so registered, and to facilitate the performance of such registered Contract (and of any intermediate Contract) in accordance with these terms and the Administrative Procedures. Modifications may also be made to the terms of a non-registered Contract if, without such modifications, it may not be possible to perform such Contract by the applicable times specified in these terms and the Administrative Procedures. Without prejudice to the generality of the foregoing, all references in these terms to payment or dealing between the Buyer or the Seller and the Clearing House shall be modified so as to require a similar payment or dealing directly between the Buyer and the Seller party to such non-registered Contract.

26. Economic and Monetary Union

26.01 The Board in its absolute discretion may from time to time vary, substitute or remove any of, or add to, the terms of this Exchange Contract in any way which the Board considers desirable, arising out of or in connection with the introduction of the euro as the lawful currency of the United Kingdom, or to facilitate the calculation of and making of payments in euros or to facilitate the calculation of the EDSP or any invoicing amount, in pursuance of this Exchange Contract.

26.02 Any variation, substitution or removal of, or addition to, the terms of this Exchange Contract made pursuant to term 26.01 shall have such effect with regard to existing and/or new Contracts as the Board may determine.

26.03 Any determination by the Board to vary, substitute or remove any of, or add to, the terms of this Exchange Contract pursuant to terms 26.01 and 26.02 shall be the subject of a General Notice.

Issue Date: 7 July 2008

## Cocoa Futures Contract

Exchange Contract No. 401

Administrative Procedures

1. Price

The minimum price fluctuation shall be £1.

2. Settlement Procedures

All deliveries in respect of this Contract must be made in accordance with the Contract's terms, the Administrative Procedures and the Clearing House Procedures. Clearing Members are obliged to deliver or take delivery in respect of their total gross Contract position remaining open after the close of trading on the Last Trading Day in the relevant Delivery Month and must therefore ensure that their gross position (open buying and selling Contracts) registered with the Clearing House or submitted to the Clearing House for registration allows for this.

3. Last Trading Day

At 12.00 hours            Trading in Contracts for the relevant Delivery Month shall cease.

By 16.00 hours            The Exchange will publish the EDSP. The EDSP will be determined in accordance with term 9. The prices, offers or bids used for the calculation of the EDSP under: term 9.01(a), (b) or (c) shall be those during the period of one minute immediately preceding 12.00 hours; and term 9.01(d) or 9.02 shall be those during the period referred to in term 9.02(a) or (b), as applicable.

4. Notice Day

By 10.00 hours            Each Buying Clearing Member ("Buyer") shall have given a Buyer's Position Notice to the Clearing House by such means and in a form prescribed by the Clearing House from time to time. The Buyer's Position Notice may only be removed, substituted or replaced by the Buyer up to but no later than 10.00 hours.

Each Selling Clearing Member (“Seller”) shall have given a Seller’s Delivery Notice to the Clearing House by such means and in a form prescribed by the Clearing House from time to time. The Seller’s Delivery Notice may only be removed, substituted or replaced by the Seller up to but no later than 10.00 hours.

Each Seller’s Delivery Notice shall specify in respect of each Delivery Unit:

- (a) the name of the Seller and details of the Seller’s agent, if any;
- (b) details of the number of Lots and size and number of Delivery Units to be delivered under the Contract;
- (c) details of the Delivery Area for each Delivery Unit and Warehousekeeper in whose Warehouse each Delivery Unit is stored and details of the Origin for each Delivery Unit;
- (d) details of the Warrant number and Valid Grading Result number for each Delivery Unit; and
- (e) details of the account designation of each Lot (e.g. house or client); and
- (f) such other information as the Clearing House may prescribe from time to time.

All payments required by term 11.01 to be made by the Buyer and the Seller shall have been completed.

By 16.00 hours

The Clearing House may direct the Seller to convert:

- (a) a Bulk Delivery Unit into Large or Standard Delivery Units or both; or
- (b) a Large Delivery Unit into Standard Delivery Units,

and will notify the Exchange of any such direction.

5. The First Business Day after the Notice Day

By 12.00 hours      The Seller shall have given the Clearing House by such means as the Clearing House may prescribe, a notice under term 12.04 in a form prescribed by the Clearing House from time to time. Such notice shall specify whether the Seller will comply with the direction of the Clearing House by converting the Nominated Delivery Unit under term 12.04(a) or (b) or delivering Substituted Delivery Units under term 12.04(c).

If the Seller makes a notification pursuant to term 12.04(b) or 12.04(c), the Seller shall specify the following details for each Delivery Unit:

- (a) the name of the Seller and details of the Seller's agent, if any;
- (b) details of the number of Lots and size and number of the Delivery Units to be converted or delivered under the Contract, as the case may be;
- (c) details of the Delivery Area for each Delivery Unit and Warehousekeeper in whose Warehouse each Delivery Unit is stored and, in respect of each substituted Delivery Unit, details of the Origin;
- (d) details of the Warrant number and Valid Grading Result number for each Delivery Unit;
- (e) details of the account designation (e.g. house or client) of each Lot; and
- (f) such other information as the Clearing House may prescribe from time to time.

If the Seller has made a notification to the Clearing House under term 12.04(a) or (b), the Seller shall immediately instruct the relevant Warehousekeeper to undertake the conversion of the Nominated Delivery Unit.

The Seller may only remove, substitute or replace a notice made under term 12.04 up to but no later than 12.00 hours.

By 16.00 hours

The Clearing House will allocate to a Buyer one or more Delivery Units referred to in a Tender in respect of each Lot to be delivered to it by the Clearing House by such method of allocation as may be prescribed from time to time by the Clearing House. The allocation to a Buyer of any Converted Delivery Unit under term 13.04(a) will be a provisional allocation subject to confirmation by the Clearing House under term 14.06(b) or 15.08(b), as applicable.

The Clearing House will use its reasonable endeavours to make allocations in accordance with the Buyer's Position Notice submitted by a Buyer in accordance with these terms.

The Clearing House will make available to the Seller and Buyer:

- (a) details of the final Invoicing Amount payable by the Buyer in respect of each Delivery Unit, other than a Delivery Unit to be converted from a Nominated Delivery Unit; and
- (b) details of the provisional Invoicing Amount payable by the Buyer in respect of each Converted Delivery Unit to be converted from a Nominated Delivery Unit which has been provisionally allocated to the Buyer.

The Clearing House will make available to the Seller the Warrant Delivery Instruction report which details the order in which Warrants must be presented by the Seller under term 16.02.

6. The First Business Day prior to the Settlement Day

By 10.00 hours

The Seller shall have complied with term 14.04 and given the Clearing House a notice under term 14.04(c) in a form prescribed by the Clearing House from time to time. Such notice shall specify the following details for each Converted Delivery Unit:

- (a) the name of the Seller and details of the Seller's agent, if any;

- (b) details of the Delivery Area for each Delivery Unit and Warehousekeeper in whose Warehouse each Delivery Unit is stored;
- (c) details of the Warrant number and Valid Grading Result number for each Converted Delivery Unit;
- (d) details of the account designation (e.g. house or client) of each Converted Delivery Unit; and
- (e) such other information as the Clearing House may prescribe from time to time.

By 16.00 hours The Clearing House will make available to the Seller details of the final Invoicing Amount payable to the Seller in respect of each Converted Delivery Unit to be delivered on the Settlement Day and, if appropriate, a revised Warrant Delivery Instruction Report.

The Clearing House will make available to the Buyer confirmation of the final allocation of the Converted Delivery Units derived from one or more Nominated Large Delivery Units to be delivered to it and details of the final Invoicing Amount payable by the Buyer in respect of each such Converted Delivery Unit.

## 7. Settlement Day

By 10.00 hours The Buyer shall pay to the Clearing House in accordance with term 16.01(a) and in the manner prescribed from time to time by the Clearing House, the final Invoicing Amount in respect of each Delivery Unit allocated to the Buyer, other than a Delivery Unit converted from a Nominated Bulk Delivery Unit.

By 12.00 hours The Seller shall have given to the Clearing House in accordance with term 16.02(a) Warrants in respect of each Delivery Unit which is not a Nominated Delivery Unit to be delivered under a Contract.

As soon as possible after Delivery 12.00 hours The Clearing House shall pay to the Seller the final invoicing amount in respect of each Delivery Unit, other than a Unit converted from a Nominated Bulk Delivery Unit, delivered by the Seller in accordance with term 16.02.

The Buyer shall collect from the Clearing House the Warrants in respect of each Delivery Unit, other than a

Delivery Unit which is converted from a Nominated Bulk Delivery Unit, which it has been allocated under these terms.

8. The First Business Day prior to the Conversion Settlement Day

By 10.00 hours

The Seller shall have:

- (a) complied with term 15.04 and given the Clearing House a notice under term 15.04(c) in a form prescribed by the Clearing House from time to time. Such notice shall specify the following details for each Converted Delivery Unit:
  - (i) the name of the Seller and details of the Seller's agent, if any;
  - (ii) details of the Delivery Area for each Converted Delivery Unit and Warehousekeeper in whose Warehouse each Converted Delivery Unit is stored;
  - (iii) details of the Warrant number and Valid Grading Result number for each Converted Delivery Unit;
  - (iv) details of the account designation (e.g. house or client) of each Converted Delivery Unit; and
  - (v) such other information as the Clearing House may prescribe from time to time; or
- (b) given the Clearing House a notice under term 15.05 in a form prescribed by the Clearing House from time to time.

By 16.00 hours

The Clearing House will make available to the Seller details of the final Invoicing Amount payable to the Seller in respect of each Converted Delivery Unit which complies with terms 15.04 and 5.05(a) or (b), as the case may be, to be delivered by the Seller on the Conversion Settlement Day, and if appropriate a revised Warrant Delivery Instruction Report.

The Clearing House will make available to the Buyer confirmation of the final allocation of the Converted

Delivery Units derived from Nominated Bulk Delivery Units to be delivered to it on the Conversion Settlement Day and details of the final Invoicing Amount payable by the Buyer in respect of each such Converted Delivery Unit.

9. Conversion Settlement Day

By 10.00 hours      The Buyer shall pay to the Clearing House, in the manner prescribed from time to time by the Clearing House, the final Invoicing Amount in respect of each Converted Delivery Unit to be delivered to it on the Conversion Settlement Day in accordance with term 16.01(b).

By 12.00 hours      The Seller shall have given to the Clearing House in accordance with term 16.02(b) Warrants in respect of each Converted Delivery Unit to be delivered under a Contract on the Conversion Settlement Day.

As soon as possible after each 12.00 hours      The Clearing House shall pay to the Seller the final Invoicing Amount in accordance with term 16.06(b) in respect of Converted Delivery Unit delivered by the Seller in accordance with term 16.02(b).

The Buyer shall collect from the Clearing House the Warrants in respect of each Converted Delivery Unit which it has been allocated under these terms in accordance with term 16.07(b).

10. The First Business Day prior to the Extended Conversion Settlement Day

By 10.00 hours      The Seller shall have:

(a)      complied with term 15.04 and given the Clearing House a notice under term 15.04(c) in a form prescribed by the Clearing House from time to time. Such notice shall specify the following details for each Converted Delivery Unit:

(i)      the name of the Seller and details of the Seller's agent, if any;

(ii)     details of the Delivery Area for each Converted Delivery Unit and Warehousekeeper in whose Warehouse each Converted Delivery Unit is stored;

- (iii) details of the Warrant number and Valid Grading Result number for each Converted Delivery Unit;
  - (iv) details of the account designation (e.g. house or client) of each Converted Delivery Unit; and;
  - (v) such other information as the Clearing House may prescribe from time to time; or
- (b) given the Clearing House a notice under term 15.07(b)(i) in a form prescribed by the Clearing House from time to time.

By 16.00 hours

The Clearing House will make available to the Seller details of the final Invoicing Amount payable to the Seller in respect of each Converted Delivery Unit which complies with terms 15.04 and 5.05(a) or (b), as the case may be, to be delivered by the Seller on the Extended Conversion Settlement Day, and, if appropriate, a revised Warrant Delivery Instruction Report.

The Clearing House will make available to the Buyer confirmation of the final allocation of the Converted Delivery Units derived from Nominated Bulk Delivery Units to be delivered to it on the Extended Conversion Settlement Day and details of the final Invoicing Amount payable by the Buyer in respect of each Converted Delivery Unit.

11. Extended Conversion Settlement Day

By 10.00 hours

The Buyer shall pay to the Clearing House, in the manner prescribed from time to time by the Clearing House, the final Invoicing Amount in respect of each Converted Delivery Unit as notified to the Buyer in accordance with term 16.01(b).

By 12.00 hours

The Seller shall have given to the Clearing House in accordance with term 16.02(b) Warrants in respect of each Converted Delivery Unit to be delivered under a Contract.

As soon as possible after each 12.00 hours

The Clearing House shall pay to the Seller in accordance with term 16.06(b) the final Invoicing Amount in respect of Converted Delivery Unit delivered by the Seller in accordance with term 16.02(b).

The Buyer shall collect from the Clearing House the Warrants in respect of each Converted Delivery Unit which it has been allocated under these terms.

12. The tenth Business Day after the Settlement Day, or the seventh Business Day after the Conversion Settlement Day or the Extended Conversion Settlement Day

By 17.00 hours

Subject to term 16.09, the Buyer shall be deemed to have accepted each Delivery Unit delivered to the Buyer on the Settlement Day, Conversion Settlement Day or the Extended Conversion Settlement Day, as the case may be.

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