

EXCHANGE CONTRACT NO. 407
WHITE SUGAR FUTURES CONTRACT

(A) CONTRACT TERMS - Issue Date: 11 November 2008¹

(B) ADMINISTRATIVE PROCEDURES - Issue Date: 1 April 2008

Delivery Months: December 2008 onwards

¹ Please refer to London Notice No. 3089, issued on 11 November 2008, in respect of clarifications to the Bag Mark Requirements.

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White Sugar Futures Contract

Terms of Exchange Contract No. 407

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 the procedures from time to time implemented by the Board pursuant to the Rules for the purposes of this Exchange Contract.

“adopted rules” means the RSA Rules.

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

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

“Buyer’s Notice of Tender” means the form identifying the Seller delivered by the Clearing House to the Buyer.

“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 for a delivery month and “registered Contract” means a Contract registered by the Clearing House.

“Contract price” means the price agreed between a Buyer and a Seller in respect of a Contract.

“default in performance” has the meaning attributed to it in term 14.02.

“delivery period” means the period commencing on and including the first day of the delivery month, up to and including the last day of the succeeding month, subject to term 15.02.

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

“Document Notice Day” shall have the meaning attributed to it in term 12.01.

“EDSP” means Exchange Delivery Settlement Price and has the meaning attributed to it in term 5.

“European port” means a port described as such by the Exchange and included in the list published by the Board from time to time pursuant to term 2.02.

“ICUMSA” means the International Commission for Uniform Methods of Sugar Analysis referred to in the RSA Rules.

“Insufficient Seller” means a Seller who has made a Notice of Tender in respect of a Non-Qualifying Port.

“invoicing amount” has the meaning attributed to it in term 8.

“Last Trading Day” in respect of any delivery month means the business day immediately preceding the Tender Day.

“lot” shall have the meaning attributed to it in term 3.01.

“Non-Qualifying Port” means one of the ports included on the list of ports from time to time published by the Board by Notice, in respect of which all Sellers’ Notices of Tender which have been made for that delivery month amount in aggregate to less than 80 lots.

“Qualifying Port” means one of the ports included on the list of ports from time to time published by the Board by Notice in respect of which all Sellers’ Notices of Tender which have been made for that delivery month amount in aggregate to 80 lots or more.

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

“RSA Rules” means those parts of the Rules of the Refined Sugar Association relating to white sugar contracts for delivery free on board and stowed, from time to time in force.

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

“Seller’s Notice of Tender” means the form instigating delivery given by the Seller to the Clearing House.

“Settlement Day” in respect of each lot comprised in a Contract means the first business day after the Document Notice Day on which banks are open for business in New York.

“Sugar Charter Party” means the un-amended, unedited form of the Sugar Charter Party which is commonly used in the sugar trade for the carriage by sea of white or refined sugar in bags (as may be revised from time to time) in effect as at the first day of the delivery month.

“tender” means the delivery by a Seller of a Seller’s Notice of Tender for sugar pursuant to a Contract.

“Tender Day” in respect of any lot comprised in a Contract has the meaning attributed to it by term 9.01.

“tonne” means metric tonne of 1000 kilogrammes.

1.03 References to a “term” refer to terms hereof, and references to a “Rule” refer to a rule of the Exchange’s Rules. Save where the context otherwise requires references herein to the singular include the plural, and vice versa.

2. Sugars Tenderable

2.01 Each Contract shall be for white beet or cane crystal sugar or refined sugar of the crop current at the time of delivery, free running of regular grain size and fair average of the quality of deliveries made from the declared origin from such crop, with minimum polarisation 99.8 degrees, moisture maximum 0.06 per cent, and colour of a maximum of 45 units ICUMSA attenuation index at time of delivery to vessel at the port named in the Seller’s Notice of Tender, as evidenced by a certificate issued in accordance with these terms.

2.02 (a) Delivery shall be at one of the ports included on the list of ports from time to time published by the Board by Notice, which shall apply to such delivery months specified in the Notice as the Board may determine. The Board may from time to time list or de-list a port, which shall have such effect with regard to existing or new Contracts or both as the Board may determine in its absolute discretion. Any such determination will be notified to Members by means of a Notice or otherwise as the Board may direct.

(b) Subject to term 2.02(a), sugar shall be delivered at a port in the country of origin of the sugar. However, in the case of landlocked countries and sugar originating from a country within the European Union, delivery shall be made at any customary port of export from such country.

- (c) The Exchange gives no warranty and does not make any representation or promise that any port which is included in any list published by the Board pursuant to this term 2.02 has any particular characteristics or facilities or is safe or suitable in any way whatsoever, and the Exchange shall not be liable for any loss, damage, or delay resulting from conditions at any such port.

2.03 The sugar shall be packed in new sound polypropylene bags, each with a single new polythene liner, of a weight of minimum 50 kg net each of sugar and each bag and liner having a combined minimum tare of 160g. The bags of each lot shall be uniform and suitable for export. All bags shall be of a colour as customarily used for export by the relevant producer, and for each lot each bag shall bear the same minimum marks written in the English language stating the following:

- (a) product description (e.g. refined sugar);
- (b) net weight;
- (c) origin;
- (d) crop or production year;
- (e) an expiry being at least two years later than production or a validity period of at least two years; and
- (f) name of the producer.

Additional marks in local lettering/language are permitted provided that they do not contradict the marks referred to above.

2.04 Sugar delivered shall be free of all liens and claims of any kind and shall be freely available for export to any destination except in the case of sugar originating in the European Union which shall only be available for export to destinations outside the European Union. In the case of sugar originating in the European Union, the sugar shall physically leave the geographical area of the European Union without undue delay after loading has been completed, and under no circumstances shall the sugar be re-imported into the European Union.

3. Contract Specification

3.01 Each Contract shall be for one or more lots for the delivery month specified. A lot shall be for an amount of sugar having a nominal net weight of 50 tonnes.

4. Price

4.01 The Contract price shall be in US dollars and cents (with fluctuations of 10 cents) per tonne net free on board and stowed in vessel's hold at a port included in the list published by the Exchange pursuant to term 2.02.

4.02 The Contract price shall be exclusive of any United Kingdom value added tax which may be or may become payable thereon.

5. Exchange Delivery Settlement Price

5.01 Subject to term 5.02, 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 have 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 10 cents 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 10 cents;
- (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 (a) and (b) of term 5.02 below and, if necessary, rounded down to the nearest 10 cents.

5.02 If in the opinion of exchange officials, the EDSP which would result from a calculation made in accordance with paragraphs (a), (b) or (c) of term 5.01 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 paragraphs (a), (b) or (c) of term 5.01, as the case may be; or
- (b) any other delivery month during the applicable period referred to in paragraphs (a), (b) or (c) of term 5.01, 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) of term 5.02 above, and, if necessary, rounded down to the nearest 10 cents.

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

6. Settlement Payments

6.01 In respect of each lot referred to in a Seller's Notice of Tender, 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 US dollars multiplied by 50 in respect of each lot, between the EDSP and the Contract price.

7. Payment

7.01 The Seller shall present the following documents to the Clearing House evidencing the proper fulfilment of the terms of the Contract and conforming with the information given by the Seller in the Seller's Notice of Tender:-

- (a) commercial invoice;
- (b) complete set of original signed clean on board bills of lading;
- (c) original certificate of origin; and
- (d) an original certificate of weight, packing, quality (polarisation, moisture and colour) issued by the Seller's Supervisor in accordance with these terms.

7.02 Without prejudice to the Buyer's ability to request that the Seller provides additional documents pursuant to Rule 17 of the RSA Rules, the Buyer shall not be entitled to require the presentation of any documents in return for payment other than those specified in term 7.01.

7.03 The Clearing House shall by the time specified in the Administrative Procedures advise the Buyer that the documents are available to be taken up and the Buyer shall thereupon collect the documents from the Clearing House in accordance with the Clearing House Procedures.

7.04 The documents shall be deemed to have been accepted by the Buyer unless the Buyer has prior to 14.00 hours on the Settlement Day notified the Clearing House in writing in accordance with the Clearing House Procedures that the documents are rejected by the Buyer on the grounds that they do not evidence the proper fulfilment of the terms of the Contract, and the documents have been returned to the Clearing House by 15.00 hours on that day. The Buyer shall in any such notice state with reasonable precision the respects in which the documents do not evidence such fulfilment. The Buyer shall be precluded from relying on any grounds for the rejection of the documents which are not stated in any such notice. For the avoidance of doubt, where a Seller presents more than one set of documents to the Clearing House, the Buyer shall not be entitled to reject any documents which are tendered in respect of a lot or lots where this is solely on the ground that the Buyer has rejected a document or documents which relate to a different lot or lots.

7.05 Title to goods shall not pass from the Seller until the Buyer has accepted the documents and the Seller has received payment for the sugar.

- 7.06 Where documents have been rejected by the Buyer:
- (a) the Clearing House shall advise the Seller, after 14.00 hours on the Settlement Day, of such rejection and the reasons for it given by the Buyer, and shall make the documents available for collection by the Seller from 15.00 hours on that day; and
 - (b) the Seller may re-present documents at any time within five business days of having received a notice of rejection provided always that any such re-presentation must be within twenty calendar days of the Bill of Lading date.
- 7.07 Where documents have been re-presented by the Seller and accepted by the Buyer, then these terms shall apply to such re-presentation as if it were a first presentation, save that the Buyer shall not be entitled to reject documents on such re-presentation on any grounds other than those specified at the time of the first rejection unless such rejection is based on a discrepancy in documents which did not exist at the time of the previous presentation of the documents.
- 7.08 Where documents have been accepted and paid for by the Buyer, this shall be without prejudice to the reference to arbitration by the Seller or the Buyer of any question in dispute, including but not limited to any claim relating to or arising out of any discrepancy in documents presented by the Seller to the Buyer, whether or not identified by the Buyer prior to payment having been made.
- 7.09 Where the Buyer has collected documents from the Clearing House and subsequently rejects the documents, the Buyer shall indemnify the Clearing House against any liability, loss, cost or expense which arises out of or is related to any failure (whether on the part of the Buyer, the Clearing House or any person whatsoever) to return all of the documents in their original condition without delay.
- 7.10 Should documents which have been accepted by the Buyer not be taken up and paid for by the time specified in term 13.03 and the Administrative Procedures, the Clearing House may, unless payment has previously been made and without prejudice to any other rights or remedies available to it;
- (a) sell the sugar at any time and any difference in price resulting from such sale, together with interest and all charges incurred by reason of the delay, shall be paid by the Buyer to the Clearing House forthwith;
or

- (b) claim damages from the Buyer for failing to take up the documents, which damages shall be deemed to include (but shall not be limited to) the invoicing amount.

7.11 If the invoice against which the Clearing House effect payment is not ready when documents are required to be passed on to the Buyer in accordance with term 12.03, then provided that the other documents are accepted by the Buyer, payment of the invoicing amount shall in any event be made by the Clearing House to the Seller and received on account from the Buyer.

7.12 The Seller and Buyer may mutually agree to take the sugar off the market on any business day from and including the Tender Day to the last day of the delivery period and, in such event, the Clearing House having been so informed in accordance with Clearing House Procedures by 16.00 hours on a business day will settle with the parties at the EDSP by reference to the number of lots tendered.

8. Invoicing Amount

8.01 The invoicing amount in respect of each lot referred to in a Seller's Notice of Tender shall be the sum calculated in accordance with the formula:

$$\text{Contract Weight} \times \text{EDSP}$$

where:

$$\text{EDSP} = \text{The EDSP for the relevant delivery month}$$

8.02 (a) Subject to term 8.02 (b), where the sum calculated in accordance with term 8.01 is not a number of dollars and whole cents, such sum shall be rounded to the nearest sum which is a number of dollars and whole cents and the invoicing amount shall be such nearest sum.

(b) Where the sum calculated in accordance with term 8.01 is a number of dollars and whole cents and one half of one cent, such sum shall be rounded up to the nearest sum which is a number of dollars and whole cents, and the invoicing amount shall be such nearest sum.

9. Tender Day

9.01 The Tender Day in respect of a delivery month shall be the fifteenth day preceding the first day of the delivery period for that delivery month, but if the fifteenth day is not a business day the next following business day shall be the Tender Day.

9.02 A tender shall be made on the Tender Day to the Clearing House in the form of the Seller's Notice of Tender prescribed by the Clearing House or in such

other form acceptable to the Clearing House. The tender must be submitted by the Seller to the Clearing House on the Tender Day by the time specified in the Administrative Procedures.

- 9.03 The Clearing House shall initially review all Notices of Tender which have been submitted by all Sellers with a view to ensuring that all deliveries will take place at a Qualifying Port, (except as provided for in terms 9.07 and 9.08 below) in accordance with the Contract Terms and Administrative Procedures and the statement set out at term 21. For the avoidance of doubt, any Notice of Tender in respect of a Qualifying Port may not be withdrawn and re-tendered.
- 9.04 If, following the initial review, the Clearing House determines that Notices of Tender have been made in respect of any Non-Qualifying Port, then the Clearing House shall by the time specified in the Administrative Procedures:
- (a) advise the Insufficient Sellers by whom such Notices of Tender were made of such determination;
 - (b) reject, on behalf of the Exchange, any Notices of Tender in respect of a Non-Qualifying Port;
 - (c) advise each Insufficient Seller of the Qualifying Ports, if any; and
 - (d) provide to each Insufficient Seller a summary of all other Notices of Tender made in respect of Non-Qualifying Ports.
- 9.05 All such Insufficient Sellers shall then, by the time specified in the Administrative Procedures, either:
- (a) make a revised Notice of Tender in respect of a Qualifying Port; or
 - (b) enter into arrangements with other Insufficient Sellers to enable such Sellers to make revised Notices of Tender such that a previously Non-Qualifying Port becomes a Qualifying Port.
- 9.06 If for any reason after the process set out in term 9.05 has been completed, any Notice of Tender is still made in respect of a Non-Qualifying Port, then such Notice of Tender shall be rejected by the Clearing House on behalf of the Exchange and the Insufficient Seller(s) shall make a further revised Notice of Tender in respect of a Qualifying Port by the time specified in the Administrative Procedures. If there is no Qualifying Port in respect of which to make such a revised Notice of Tender, the Insufficient Seller(s) shall instead act in accordance with term 9.07 or term 9.08, as the case may be.
- 9.07 If for any reason after the process set out in term 9.06 has been completed there is still no Qualifying Port, then the Exchange shall determine that all tenders shall take place at the port which has been nominated in respect of the

largest number of lots in the Sellers' Notice of Tender. The Exchange shall inform the Clearing House of its determination and the Clearing House shall notify all Sellers accordingly that they must tender sugar at the port determined by the Exchange.

9.08 If for any reason after the process set out in term 9.06 has been completed there is still no Qualifying Port, and if there are two or more ports which have been equally nominated in respect of the largest number of lots in the Sellers' Notices of Tender under term 9.06, then the Exchange shall determine at which port such tenders are to be made. In doing so, the Exchange shall take into account circumstances in the physical sugar market generally and the previous practice of the Exchange. The Exchange shall inform the Clearing House of its determination and the Clearing House shall notify all Sellers accordingly that they must tender sugar at the port determined by the Exchange.

10. Tenders

10.01 A tender shall not be withdrawn nor substitution allowed except with the consent of the Buyer or, in case of dispute, unless so ordered by the Board.

10.02 A tender which has been made to the Clearing House in time shall, subject to term 10.01, be accepted by the Buyer as a valid tender for that date.

10.03 With the consent of the Clearing House, Buyers may exchange, in accordance with the Regulations, Buyer's Notice of Tender forms with one another by the time specified in the Administrative Procedures.

11. Delivery

11.01 Delivery shall be in accordance with Rule 7 of the RSA Rules and the Administrative Procedures, save that the notice referred to in the second paragraph of Rule 7 of the RSA Rules shall be a notice of fourteen calendar days and shall be given by the Buyer to the Seller and the Clearing House.

12. Presentation of Documents

12.01 Advice in writing of presentation of documents, which must give the name of the ocean vessel, must be received by the Clearing House from the Seller on the Notice of Presentation of Documents form in the manner specified from time to time in the Regulations not later than by the time specified in the Administrative Procedures on any business day within twenty calendar days of the bill of lading date. The day on which such advice is given to the Clearing House shall be known as the Document Notice Day.

12.02 Documents as prescribed in term 7.01 shall be presented by the Seller to the Clearing House in the manner specified from time to time in the Regulations on the day following such advice by the time specified in the Administrative

Procedures, being a day on which banks are open for business in both London and New York.

12.03 The Clearing House shall pass on documents to the Buyer without delay but, provided the Clearing House has been notified and documents have been presented to it by the times specified in the Administrative Procedures, the Buyer shall (unless the documents have been rejected in accordance with the provisions of term 7.04) be bound to take up and pay for such documents on the same day by the time specified in the Administrative Procedures without prejudice to the reference of any claim or dispute of whatsoever nature to arbitration.

13. New Legislation

13.01 If after consultation with the Clearing House the Board shall in its absolute discretion determine that a change of legislative or administrative provisions of the United Kingdom or any state or territory or the European Union, 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, the Board shall have power to vary the terms of Contracts in any way it deems necessary or desirable for restoring or preserving the orderly course of business.

13.02 Such variation may be made notwithstanding that it may affect the performance or value of existing Contracts (or of such existing Contracts as may be specified by the Board). Without limitation of its powers hereunder the Board will use its best endeavours to keep any variation to the minimum considered reasonably necessary to achieve the purpose of this term.

13.03 Any determination made by the Board pursuant to this term 13 shall be published by Notice. A variation of contract terms made hereunder shall take effect at such time and for such period as the Board shall declare but (without prejudice to term 13.02 above) shall not take effect earlier than the day on which such Notice is issued.

13.04 A Contract affected by a variation under this term 13 shall remain in full force and effect subject to such variation and shall not be treated as frustrated or repudiated except so far as may be allowed by the Board.

13.05 A variation made by the Board under this term may be modified or revoked by a subsequent variation made hereunder.

14. Default in Performance

- 14.01 The provisions of this term 14 shall be subject to the default rules from time to time in force of the Clearing House and also subject to the provisions of term 18.03.
- 14.02 For the purposes of this term 14, a reference to a “default in performance” shall, subject to term 14.04, be construed as including an actual failure or an anticipated failure by a Seller or a Buyer under term 14.02 in performing its obligations under a Contract at any time before the time of tender on the Tender Day. An anticipated failure is one which the Clearing House, in its reasonable opinion, considers will occur at any time before the time of tender on the Tender Day and in respect of which the Clearing House considers that it should take action under the provisions of this term 14.
- 14.03 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.
- 14.04 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.
- 14.05 Subject to terms 14.06(b) and 14.10, 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 16;
 - (b) without prejudice to any of its other rights under this term 14, 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 16; 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.

14.06 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 14.05(b), then (if the dispute or issue is one which has arisen before the time of tender) each lot 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.

14.07 Any cash settlement price fixed under term 14.06 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 16.

14.08 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 16), obligations or claims of the Buyer, the Seller or the Clearing House in relation to a Contract to which the default in performance relates.

- 14.09 A Buyer or Seller who is in default in performance under this term 14, shall forthwith pay to the Clearing House any sums payable by him under term 8 and any sums payable pursuant to this term 14.
- 14.10 Notwithstanding that a Buyer or Seller may be in default in performance under this term 14, the Clearing House may in its absolute discretion determine not to exercise or to delay in exercising any of its rights under this term 14, 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.
- 14.11 A Buyer, a Seller or the Clearing House may refer a dispute or issue arising out of a default in performance under this term 14 (subject always to the application of provisions of terms 14.05, 14.06 and 14.07) to arbitration under term 16.
- 14.12 The provisions of this term 14 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 therefore 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.
15. Force Majeure
- 15.01 At any time before the time of tender on the Tender Date and in respect of events before such time:
- (a) for the purposes of this term 15.01, "Force Majeure Event" shall mean an event which occurs before the Tender Date which is beyond the reasonable control of either party to a Contract and 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;
 - (b) 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 shall not be a Force Majeure Event;

- (c) a party to a Contract shall not be entitled to rely upon this term 15.01 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;
- (d) upon the request of the Clearing House or the Exchange, a party seeking relief under this term 15.01 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;
- (e) 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 15.01(d) 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 lot 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.

15.02 At any time from the time of tender on the Tender Date and in respect of circumstances or events which occur after such time:

- (a) should ice in a port, war, strikes, rebellion, insurrection, political or labour disturbances, civil commotion, fire, stress of weather, Act of God or any cause of force majeure (whether or not of like kind to those

before mentioned) beyond the Seller's control prevent directly or indirectly within the delivery period specified in the Contract, the supply to or delivery at a port listed pursuant to term 2.01 in whole or in part of the sugar allocated by the Seller against the Contract, the Seller shall immediately notify the Clearing House of such fact and the quantity so affected. If the Seller is prevented from advising the Clearing House immediately through circumstances beyond his control he shall notify the Clearing House as soon as possible;

- (b) upon giving such notice, the delivery period shall be extended as follows:
 - (i) where the force majeure event(s) prevents performance for up to three days, the delivery period shall be extended by seven days;
 - (ii) where such event(s) prevents performance for more than three days, the delivery period shall be extended by forty-five days.
- (c) the Seller shall notify the Clearing House immediately that the force majeure event(s) terminates. If delivery is still prevented at the end of the forty-five day extended delivery period, the Board shall immediately fix a price for invoicing back and the quantity of sugar affected shall be invoiced back to the Buyer at that price. The price fixed 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. No other dispute as to the invoicing back price may be referred to arbitration;
- (d) should the Buyer be prevented from accepting delivery of the whole or part of the sugar within the delivery period by reason or loss or delay of the vessels declared due to ice in a port, war, strikes, rebellion, insurrection, political or labour disturbances, civil commotion, fire, stress of weather, Act of God or any cause of force majeure (whether or not of like kind to those before mentioned) beyond the Buyer's control, the Buyer shall immediately notify the Clearing House of such fact;
- (e) if the Buyer is prevented from advising the Clearing House immediately through circumstances beyond his control he shall notify the Clearing House as soon as possible. Upon giving such notice, the delivery period for the affected quantity shall be extended, without extra charge to the Buyer as follows:
 - (i) where the force majeure event(s) prevents the Buyer from accepting delivery for up to three days, the delivery period shall be extended by seven days;

- (ii) where such event(s) prevents the Buyer from accepting delivery for more than three days, the delivery period shall be extended by forty-five days;
- (f) the Buyer shall notify the Seller immediately that the force majeure event(s) terminates. If the Buyer is still prevented from accepting delivery at the end of the forty-five day extended contract delivery period the Board shall immediately fix a price for invoicing back and the quantity of sugar affected shall be invoiced back to the Buyer at that price. The price fixed 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. No other dispute as to the invoicing back price may be referred to arbitration;
- (g) if performance of the contract is prevented by a force majeure event more than once during the delivery period (as extended in accordance with these terms) the provision of these terms shall apply to each such event. However, in no circumstances shall that delivery period be extended for more than forty-five days;
- (h) these provisions shall apply notwithstanding the occurrence of events which would otherwise frustrate the Contract;
- (i) the party claiming force majeure shall within fourteen days from the initial notification of the facts relied upon deliver to the Clearing House evidence of the existence of those facts. If evidence is not delivered in accordance with this provision, the right to invoke force majeure shall be forfeited unless an arbitration tribunal in its absolute discretion decides otherwise.

16. Arbitration

16.01 Any dispute arising out of a Contract shall (subject to terms 14, 15.02(f) and 18.03 to the extent that they apply) be referred to arbitration under the Rules relating to arbitration. The arbitration shall be conducted in accordance with the arbitration rules in force at the time of reference.

16.02 The determination and payment of an invoicing back price shall not limit the jurisdiction of arbitrators to make such award as they deem proper on the issue before them. No dispute arising from or in relation to any invoicing back price fixed by the Board under these terms shall be referred to arbitration under the Rules.

16.03 Terms 16.01 and 16.02 apply only to a dispute arising before the time of tender on the Tender Day. A dispute arising on or after the time of tender on the Tender Day shall be referred to arbitration in accordance with term 18.03.

17. Rules, Administrative Procedures etc

17.01 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 be not a member of the Exchange or of the Clearing House.

17.02 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.

17.03 The Board may at its discretion at any time revoke, alter or add to the Administrative Procedures. Any such amendment shall have such effect on existing as well as new Contracts as the Board may direct and will be notified to Members by means of a Notice or otherwise as the Board may direct.

18. Adopted Rules

18.01 From the time of tender on the Tender Day a Contract shall be subject to the RSA Rules, except where otherwise stated in these terms or the Administrative Procedures.

18.02 Subject to term 18.04, to the extent that the adopted rules are inconsistent with these terms and the Administrative Procedures the adopted rules shall prevail.

18.03 All disputes arising at or after the time of tender on the Tender Day shall be referred to the council of the Refined Sugar Association for settlement in accordance with its rules relating to arbitration, subject always (where the Clearing House is a party) to Rule 6.2.1.

18.04 Term 2.03, term 2.04, term 15 and Administrative Procedures 3.02 to 3.08 inclusive shall prevail over the provisions of the adopted rules.

19. Law and Jurisdiction

19.01 Every Contract shall be governed by and construed in accordance with English law. Subject to terms 16 and 18.03, any question arising therefrom shall be subject to the jurisdiction of the English courts.

19.02 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.

20. Non-Registered Contracts

20.01 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.

21. Statement in relation to the Tender Process

21.01 The Exchange draws the following statement to the attention of potential users of the White Sugar Futures Contract. Members should ensure that their clients are made aware of the statement.

“Statement in relation to the Tender Process

Potential users of the White Sugar Futures Contract should familiarise themselves with the Contract Terms and Administrative Procedures. Amongst other things, potential users should be aware that the objective of the tender process for the White Sugar Futures Contract is to seek to ensure that, to the extent possible, no less than a total of 80 lots of sugar will be tendered for delivery at a port included on the list of ports from time to time published by the Board by Notice.

In order to seek to achieve that objective, the Exchange has requested LCH.Clearnet Ltd (“the Clearing House”) to reject, in accordance with the Contract Terms, a Seller’s Notice of Tender which relates to a port for which tenders of less than 80 lots in aggregate have been received. In such case, such Seller will be provided with an opportunity to re-tender at a port included on the list of ports from time to time published by the Board by Notice, where, in aggregate, a minimum of 80 lots will be tendered. If the Seller’s revised tender is not in respect of such a port, such Seller will be required to deliver the sugar in a port or ports prescribed by the Exchange. Accordingly, Sellers should note that they may be required to make delivery from a port other than their preferred port.

Potential users should also be aware that, notwithstanding the objective of the tender process, where the aggregate of all tenders is less than 80 lots, the Buyers will be required to take delivery of such lots of sugar from a single port.”

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Issue Date: 10 July 2007

White Sugar Futures Contract

Exchange Contract No. 407

Administrative Procedures

1. Index

In these Administrative Procedures:

1. Index
2. Timetable
3. Delivery

2. Timetable

Last Trading Day

At 17.30 hours Trading in the Contract delivery month shall cease.

After 17.30 hours The Exchange will publish the EDSP. The EDSP will be determined in accordance with term 5. The prices, offers or bids used for the calculation of the EDSP pursuant to term 5.01 shall be those during the one minute period immediately preceding cessation of trading.

Tender Day (Last Trading Day + 1 business day)

By 10.30hours Remaining open positions automatically become delivery contracts.

Sellers deliver the *Seller's Notice of Tender* form, instigating delivery, to the Clearing House in accordance with the Clearing House Procedures.

By 11.00 hours Where any Sellers have submitted Notice(s) of Tender in respect of a Non-Qualifying Port or Ports, the Clearing House shall take the steps specified in term 9.04 and shall notify such Insufficient Seller(s) that the tenders should be revised in accordance with term 9.05.

By 13.00 hours Any Insufficient Sellers deliver in accordance with term 9.05 revised Seller's Notice of Tender forms to the Clearing House. If the Insufficient Sellers have not delivered the revised Seller's Notice of Tender forms by 13.00 hours, the Clearing House will refer to the

Exchange to determine in accordance with the Contract terms the port from which tenders will be made, and the Exchange shall notify the Clearing House of such determination by 14.00 hours.

By 14.00 hours

Where Sellers' Notice(s) of Tenders continue to be made in respect of Non-Qualifying Port(s), the Exchange will upon request by the Clearing House determine in accordance with terms 9.06 to 9.08, the port from which tenders will be made and shall notify the Clearing House of such determination.

The Clearing House, as prescribed by the Exchange, shall notify the Insufficient Seller(s) of the port at which their tender(s) shall take place.

After 14.00 hours

Sugar allocated to Buyers by the Clearing House in accordance with the Clearing House procedures.

The Clearing House delivers to the Seller the *Arrangement for Delivery - Notice to Seller* form, identifying the Buyer.

By 17.00 hours

The Clearing House delivers to the Buyer the *Buyer's Notice of Tender* form, identifying the Seller.

Tender Day + 1 business day

By 9.00 hours

All payments required by term 6.01 to be made by the Buyer and the Seller shall have been completed.

By 12.00 hours

Buyers may exchange Buyer's Notices of Tender, with the consent of the Clearing House.

Delivery Day(s) – 14 calendar days

By 16.00 hours

Buyer informs Seller and the Clearing House of the name of the vessel for delivery using the *Vessel Nomination/Details* form, such notification to be made in accordance with the Clearing House Procedures.

Document Notice Day

By 12.00 hours

Seller gives notice to the Clearing House of presentation of documents using the *Notice of Presentation of Documents* form

such notification to be made in accordance with the Clearing House Procedures.

Settlement Day

- By 9.00 hours The Clearing House debits Buyer via PPS.
- By 10.00 hours Seller lodges delivery documents with the Clearing House in accordance with the Clearing House Procedures.
- After 11.00 hours The Clearing House advises Buyer that documents are available to take up. The Buyer collects the delivery documents from the Clearing House in accordance with the Clearing House Procedures.
- By 14.00 hours The Buyer may inform the Clearing House in writing in accordance with the Clearing House Procedures that he wishes to reject the documents specified in term 7.01, and in that event the Buyer shall return all the original documents to the Clearing House at the Buyer's expense by 15.00 hours.
- After 14.00 hours The Clearing House shall notify the Seller in the event that the Buyer has rejected the documents, and shall advise the Seller that the original documents shall be held at their disposal at the Clearing House for collection at the Seller's expense after 15.00 hours.

The Clearing House credits Sellers via PPS, unless informed by 14.00 hours by the Buyer that the documents have been rejected in accordance with the Clearing House Procedures. If the documents have been rejected, the Clearing House credits back to the Buyer the sum debited earlier.

3. Delivery

3.01 Subject to Administrative Procedure 3.03:

- (a) the Seller shall be responsible for all expenses pertaining to delivery and loading of sugar into the vessel, including freight taxes and other taxes of any nature of the country of origin or loading; and
- (b) the Buyer shall be responsible for all expenses pertaining to pilotage, wharfage, customs fees and similar charges pertaining to the entry and exit of the vessel at the loading port.

3.02 (a) Subject to Contract term 2.02, the Seller shall ensure that the port at which the sugar is to be delivered shall:

- (i) be capable of providing a berth or anchorage at which the sugar shall be loaded that will enable a vessel drawing 9.2 metres salt water and with length overall (LOA) of 190 metres to proceed to and depart from such berth or anchorage always safely afloat. Notwithstanding the foregoing:
 - (aa) if the draft and/or the LOA of the vessel nominated to load the sugar so permits, a shallower and/or shorter berth or anchorage may be provided; and
 - (bb) if the berth or anchorage nominated by the Seller is able to accept a vessel with draft greater than 9.2 metres salt water and/or LOA greater than 190 metres, then the seller shall be obliged to accept a vessel nominated to load the sugar (whether by original nomination or by substitution, pursuant to Rule 7 of the RSA Rules) up to a maximum size that can be accommodated by the nominated berth or anchorage,

provided in either case that the vessel nominated is able to proceed to and depart from such berth or anchorage always safely afloat;
 - (ii) have storage close to and/or transport facilities to the loading berth, to allow for uninterrupted loading at the prescribed minimum loading rate;
 - (iii) have sampling facilities to allow independent supervision companies to operate unimpeded in accordance with these terms; and
 - (iv) have access for independent supervision companies to ensure compliance with these terms.
- (b) The sugar, whatever its origin or destination, shall be loaded in accordance with the following provisions:
- (i) vessels presented may be geared or gearless;
 - (ii) at each loading port, even if loading commences earlier, laytime for loading to begin at 1400 hours if written/cabled/telexed notice of readiness to load is tendered to agents before noon and at 0800 hours next working day if written/cabled/telexed notice of readiness to load is tendered to agents after noon. Notice of readiness to load to be tendered to agents in ordinary office hours, Saturdays afternoon, Sundays (or local equivalents) and holidays excepted, whether in berth or not;
 - (iii) laydays at the average rate of 1,500 metric tonnes calculated on gross weight provided vessel can receive at this rate, basis 4 or more hatches (if less than 4, pro-rata), per weather working day of 24 consecutive hours, time from noon Saturdays to 0800 hours Mondays (or local

equivalents) and from 1700 hours day preceding a holiday until 0800 hours next working day excepted, even if used, shall be allowed to the Seller for loading. Vessels having less than 4 hatches but with any hatch exceeding 15 metres in length and able to work 2 gangs simultaneously shall have such hatch counted as 2 hatches. Time employed in shifting anchorages and/or loading places within the same port or its jurisdiction not to count as laytime. At loading port(s) in the event of congestion Master has the right to tender notice of readiness to load at the customary waiting place in ordinary office hours by cable/telex to agents whether in berth or not, whether in port or not, whether in free pratique or not, whether customs cleared or not. Time proceeding from customary waiting place to loading berth/anchorage not to count as laytime;

- (iv) the demurrage rate shall be the rate specified in the charterparty pursuant to which the sugar is carried, and despatch shall be half of the demurrage rate. Such rates shall be declared by the Buyer to the Seller latest on tendering notice of readiness to load and to be in line with the prevailing market rate for like type and size of vessel as at the first day of the delivery month. The Buyer shall give the Seller a copy of the actual charterparty pursuant to which the sugar is carried or the details thereof pertaining to loading, prior to vessel(s) commencing to load;
- (v) where the sugar is loaded pre-slung, the Buyer has the right to request that the slings are broken in the hold of the vessel to ensure a stowage factor equivalent to that available when loose bags are stowed is achieved, in order that the called for tonnage can be loaded in accordance with the Sugar Charter Party. The Seller is obliged to comply with any such request, with all time and cost (including any labour) associated therewith for Seller's account; and
- (vi) all other terms pertaining to loading to be in accordance with the Sugar Charter Party.

3.03 Rule 5 of the RSA Rules shall not apply to Contracts, except where express provision is made for its application in the Contract terms and these Administrative Procedures. In the event of a conflict between Administrative Procedures 3.04 to 3.08 inclusive and Rule 6 of the RSA Rules, Administrative Procedures 3.04 to 3.08 inclusive shall prevail.

3.04 (a) The Seller shall, at his own expense, appoint an internationally recognised independent or, with the written consent of the Buyer, a state supervision firm ("the Seller's Supervisor") to supervise and inspect the loading of the sugar to be delivered to the Buyer. Such appointment shall be made not less than 48 hours prior to the Seller commencing loading of the sugar. The Seller shall upon the appointment of the Seller's Supervisor notify the Buyer of such appointment.

- (b) The Buyer may, at his own expense, appoint an internationally recognised independent or, with the written consent of the Seller, a state supervision firm (“the Buyer’s Supervisor”) to supervise and inspect the loading of the sugar to be delivered to the Buyer in conjunction with the Seller’s Supervisor. The Buyer shall notify the Seller of the appointment of the Buyer’s Supervisor prior to the Seller commencing to load the sugar.
 - (c)
 - (i) If the Buyer has appointed a supervisor in accordance with Administrative Procedure 3.04(b), the Buyer’s Supervisor and the Seller’s Supervisor shall jointly supervise and inspect the loading of the sugar in accordance with Administrative Procedure 3.05.
 - (ii) If the Buyer has not appointed a supervisor, the Seller’s Supervisor shall supervise and inspect the loading of the sugar in accordance with Administrative Procedure 3.06.
- 3.05 The Buyer’s Supervisor (where one has been appointed) and the Seller’s Supervisor (jointly referred to as “the Supervisors”) shall comply with the following procedures:
- (a) the Supervisors shall comply with Rules 5(i) to (iv) of the RSA Rules;
 - (b) the Supervisors shall jointly take a composite sample of the sugar to be delivered under a Contract part of which shall be divided into three equal parts with any remaining part of the sample being utilised or disposed of as may be agreed between the Supervisors. Each of the three equal parts shall be placed in a separate, new, clean and suitable container, with a seal which only breaks upon opening and which ensures that such container remains airtight until re-opened. Each container shall, in the presence of the Supervisors, be sealed and marked with the name of the vessel, loading port, date of sampling, shipping marks and names of each of the Supervisors. The Seller’s Supervisor shall retain one such part of the sample and the Buyer’s Supervisor shall retain the other two such parts. Each container shall remain sealed;
 - (c) prior to the sugar being loaded on board the vessel, either Supervisor may object to the condition of the sugar and/or packing or weight of the bags, provided that he shall immediately notify the other Supervisor and each Supervisor shall notify his Buyer or Seller, as the case may be, of the objection. The Buyer shall promptly notify the Clearing House of such objection;
 - (d) upon the vessel having been loaded with sugar to be delivered under a Contract, the Seller’s Supervisor shall issue a certificate of weight, packing and quality (including, without limit, the polarisation, moisture and colour of the sugar) (“the Supervisors’ Certificate”) in respect of such sugar, provided that the weight, packing or quality of the sugar is either not disputed by the Buyer or if disputed by the Buyer, such dispute has been resolved prior to the

issue of the Supervisors' Certificate. A copy of the Supervisors' Certificate shall be promptly provided by the Seller to the Buyer. If the Buyer does not notify the Seller and the Clearing House of a dispute under either Administrative Procedure 3.05(c) or (e) or, if a dispute is notified by the Buyer, such dispute has been resolved prior to the issue of the Supervisors' Certificate, the Supervisors' Certificate shall be conclusive evidence as to the weight, packing and quality of the sugar, in the absence of fraud or manifest error. If the Buyer disputes:

- (i) the weight or packing of the sugar under Administrative Procedure 3.05(c) and such dispute remains unresolved, then the Supervisors' Certificate shall be prima facie evidence, and not conclusive evidence, as to the weight or packing of the sugar which is in dispute; or
 - (ii) the quality of the sugar under Administrative Procedure 3.05(c) or (e) and such dispute remains unresolved, then the Supervisors' Certificate shall be disregarded as conclusive evidence as to the quality of such sugar and any Chemist's Certificate issued under Administrative Procedure 3.05(j) shall apply, provided that if a Chemist's Certificate is not issued under Administrative Procedure 3.05(j), the Supervisors' Certificate shall be regarded as prima facie evidence of the quality of such sugar;
- (e) the Buyer may dispute the quality of the sugar to be delivered under a Contract no later than two working days after either such sugar has been loaded on board the vessel or receipt of the Supervisors' Certificate, whichever is the later, provided that he has notified the Seller, of the objection. The Buyer shall promptly notify the Exchange and the Clearing House of such dispute, providing details of the name of the vessel, loading port, date of sampling, shipping marks and the name of the Buyer, Seller and each Supervisor;
- (f) if the Buyer has notified the Exchange of a dispute in respect of the quality of the sugar in accordance with Administrative Procedure 3.05(e), the Buyer shall instruct the Buyer's Supervisor to send promptly by air courier the part of the sample held by the Buyer's Supervisor, as defined in Administrative Procedure 3.05(b), directly to the Exchange. The Buyer shall be responsible for ensuring that a sample is cleared by HM Customs and Excise;
- (g) subject to Administrative Procedure 3.05(h), the Exchange shall deliver the sample which it receives at its premises from either Supervisor to an analytical chemist approved by the Exchange and contained in a list published by the Exchange from time to time by Notice. The Exchange shall provide the analytical chemist with details of the name of the vessel, loading port, date of sampling, shipping marks and the name of the Buyer, Seller and each Supervisor, as notified to the Exchange under Administrative Procedure 3.05(e). The analytical chemist shall analyse the sample in accordance with Administrative Procedure 3.05(j);

- (h) if the Exchange receives a sample which has a broken seal then the Exchange shall, in its absolute discretion, determine whether to deliver such sample to the analytical chemist for analysis. If the Exchange, in its absolute discretion, rejects the sample, it will notify the Buyer and the Seller that the sample arrived with a broken seal;
- (i) immediately upon receiving a notification from the Exchange under Administrative Procedure 3.05(h):
 - (i) if the sample is the first sample sent by the Buyer's Supervisor, the Seller shall instruct the Seller's Supervisor to send promptly by air courier the part of the sample held by it, as defined in Administrative Procedure 3.05(b), directly to the Exchange on the same terms as Administrative Procedure 3.05(f) and the Exchange shall deliver such further sample to the analytical chemist in accordance with Administrative Procedures 3.05(g) and (h);
 - (ii) if the sample is the second sample, sent by the Seller's Supervisor, the Buyer shall instruct the Buyer's Supervisor to send promptly by air courier the other part of the sample held by it directly to the Exchange on the same terms as Administrative Procedure 3.05(f) and the Exchange shall deliver such further sample to the analytical chemist in accordance with Administrative Procedures 3.05(g) and (h); and
 - (iii) if the sample is the third sample, sent by the Buyer's Supervisor, the Supervisors' Certificate shall be prima facie evidence as to the quality of the sugar;
- (j) the analytical chemist shall analyse the sample in accordance with internationally recognised methods for sugar analysis and any methods established from time to time by ICUMSA to establish whether such sample meets the quality requirements of the sugar under term 2.01. The analytical chemist shall issue a certificate as to the quality of the sugar a copy of which shall be immediately provided to each of the Seller and the Buyer ("the Chemist's Certificate"). The Chemist's Certificate shall be conclusive evidence as to the quality of the sugar, in the absence of fraud or manifest error; and
- (k) the Buyer shall pay all costs and expenses relating to or arising out of any sample sent by a Supervisor, and the analysis of a sample by an analytical chemist, in accordance with this Administrative Procedure 3.05, (including, but not limited to, transportation, excise duty, import duty or other charges levied by customs at the port of export or import, analysis and certification costs in relation to such sample). If the Chemist's Certificate is in favour of the Buyer, then the Seller shall indemnify the Buyer in relation to any such costs and expenses.

- 3.06 The Seller's Supervisor shall comply with the following procedures:
- (a) the Supervisors shall comply with Rules 5(i) to (iv) of the RSA Rules; and
 - (b) the Seller's Supervisor shall issue a certificate of weight, packing and quality (including, without limit, the polarisation, moisture and colour of the sugar) a copy of which shall be promptly provided to the Seller ("the Seller's Certificate"). The Seller's Certificate shall be prima facie evidence as to the weight, packing and quality of the sugar.
- 3.07 The Exchange shall not be liable in respect of any cost, loss, damage, claim or expense of any nature suffered or incurred by any person for: the performance or non-performance of any analytical chemist which the Exchange approves; any determination, act or omission of the Exchange, its officers, employees, agents or representatives in respect of a delivery or failure to deliver any sample, or the details relating to a sample, to the analytical chemist; or from any other act or omission of the Exchange, its officers, employees, agents or representatives in respect of the Seller, Buyer or a Supervisor performing or failing to perform its obligations at any port listed by the Exchange from time to time.
- 3.08 If either party has a claim, or wishes to bring a claim, as to the quality, weight or packing of the sugar arising out of any provision of Administrative Procedures 3.03 to 3.06, it may refer such claim to arbitration in accordance with the Contract terms and these Administrative Procedures.

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Issue Date: 1 April 2008