

THE COCOA MERCHANTS' ASSOCIATION
OF AMERICA, INC.



1A CONTRACT

INCLUDES ALL AMENDMENTS APPROVED
BY THE BOARD OF DIRECTORS & MEMBERSHIP

February 12, 2013

CMAA 1A CONTRACT

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THE COCOA MERCHANTS' ASSOCIATION OF AMERICA, INC.

**CMAA STANDARD CONTRACT 1A
RULES AND DEFINITIONS**

**GOVERNING SALES OF COCOA FOR DELIVERY
AND/OR SHIPMENT BASIS EX DOCK OR EX/IN WAREHOUSE**

INTRODUCTION

A Cocoa Merchants' Association of America, Inc. Standard 1A Contract will include terms such as, Quantity, Description, Quality, Destination and Price as well as the terms in this document.

The wording "Subject to terms of Standard Contract 1-A of The Cocoa Merchants' Association of America, Inc." or a clause, phrase or sentence of equal or similar import, shall be understood to incorporate the full terms of Contract 1-A as hereinafter set forth as though said Contract 1-A were fully written into the contract. Subject to terms of The International Chamber of Commerce ("INCOTERMS") as amended from time to time and the rules and conditions herein unless negated by specific agreement herein. Where, however, a contract contains terms in addition to, supersede the terms of Contract 1-A.

SECTION 1 – SHIPMENT

The word "Shipment" shall mean shipment by steamer and/or steamers. Motor-ships shall be deemed steamers.

The word "Vessel" shall mean steamer or motor-ship.

"Immediate Shipment" shall mean shipment within 15 calendar days from date of contract.

"Prompt Shipment" shall mean shipment within 30 calendar days from date of contract.

"Direct Shipment" shall mean shipment not involving transshipment.

"Indirect Shipment" shall mean shipment involving transshipment.

The date of the "on board" Bill-of-Lading shall be proof of date of shipment.

Any export-duty or bounty in the country of production is for account of seller.

SECTION 2 – DECLARATION

Seller shall have the option of declaring vessel to buyer, in writing, by electronic communication or facsimile transmission:

1. In the case of direct shipment:
After the cocoa is actually on board the vessel named in the declaration; provided nothing unfavorable about the vessel or her cargo has become known in the insurance market on or prior to the date of such declaration.

2. In the case of indirect shipment:

- (a) After the cocoa is actually on board the initial vessel named in the declaration and within twelve calendar days after arrival of such vessel at port of transshipment; provided nothing unfavorable about vessel or her cargo has become known in the insurance market on or prior to the date of such declaration. Such declaration will cease to be in effect 12 calendar days after arrival of such vessel at the port of transshipment.
- (b) After the transshipped cocoa is actually on board the declared vessel which is carrying the same to its final destination in accordance with the contract, and before entry of such vessel in U.S. Customs at destination; provided nothing unfavorable about the vessel in U.S. Customs at destination; provided nothing unfavorable about the vessel or her cargo has become known in the insurance market on or prior to the date of such declaration.

The term "insurance market" shall mean the daily casualty list published by the Maritime Association of The Port of New York, or, if this list ceases to become available, as the Board of Directors of the Association shall determine promptly upon cessation of the availability of said list.

SECTION 3 – COCOA SOLD FOR SHIPMENT

This contract shall be void for any portion of the cocoa lost, seized or destroyed after shipment, provided seller shall have declared vessel to buyer in accordance with SECTION 2. Buyer shall have the option to take the number of bags damaged after shipment and landed at port of destination at a fair allowance, such option to be exercised promptly.

Seller failing to declare vessel in accordance with SECTION 2 guarantees delivery, but shall be entitled to a reasonable extension of shipping period for all cocoa damaged; such cocoa shall be replaced by seller on dock, or at seller's option, in warehouse at port of arrival designated in the contract; and such replacement shall be accepted by the buyer.

Any import duty or internal revenue or other tax imposed by the United States of America or a political subdivision therein is assumed and shall be paid by the buyer.

SECTION 4 – QUANTITIES AND WEIGHTS

Where a contract calls for specific quantity by weight, seller may deliver 3% more or less than the quantity called for in the contract, without variation in price.

The word "about", referring to weight or number of bags shall mean 5% more or less, seller's option.

The aforesaid leeway of 3% or, respectively, 5%, shall be deemed void whenever a contract is liquidated by payment of difference between purchase and sale, in lieu of delivery.

A ton of cocoa shall be a metric ton.

Weights are to be ascertained on seller's dock, or in seller's warehouse by a public weigher appointed by seller; such weights are to be incontestable. Cost of weighing shall be for seller's account.

Buyer shall have option, declarable on receipt of seller's delivery order, to appoint an agent, at buyer's expense, to be present when the cocoa is weighed.

In the event of a weighers' strike, some other form of determining weights by mutual agreement shall be agreed upon between the buyer and seller.

Seller shall allow actual tare on all grades.

SECTION 5 - PACKAGING

If this contract covers a sale of cocoa beans, beans to be packed in clean, sound, new gunny bags of sufficient strength, or in bags of such other material as is typical for their origin. Bags fabricated from ribbon-weave polypropylene or other plastic materials are not permitted without buyer's consent.

SECTION 6 – SHIPMENT/DELIVERY POINT

Each shipment and/or delivery-order constitutes a separate contract.

If seller tenders delivery from a dock or a warehouse at a port not designated in the contract, buyers shall nevertheless be obligated to accept such delivery. Seller, however, is to reimburse buyer for any bona fide expense incurred to make such delivery equal to a delivery in the designated port. Minimum quantity tenderable is to be 18 metric tons, unless otherwise specified in the contract.

Tenders of cocoa in warehouse against contracts calling for shipment and/or equivalent delivery from warehouse at seller's option shall be made, not earlier than the number of days specified below from the commencement of the contract shipping period, nor later than the number of days specified below from the expiration of contract shipping period.

FOR SHIPMENTS FROM	TO EAST COAST	TO WEST COAST
Brazil	15 Days	25 Days
Ecuador	10 Days	20 Days
Trinidad	10 Days	20 Days
Venezuela	10 Days	20 Days
Central America and West Indies	10 Days	20 Days
Santo Domingo	10 Days	20 Days
Africa	21 Days	45 Days
Asia and Oceania	45 Days	30 Days
Others	21 Days	45 Days

SECTION 7 – COCOA TENDERED EX DOCK

PART 1

The word "Delivery" shall mean delivery of cocoa beans on an ex-dock basis

"Spot delivery" shall mean a delivery of cocoa within three business days from date of contract.

"Immediate Delivery" shall mean a delivery within 15 calendar days from date of contract.

"Prompt Delivery" shall mean delivery within 30 calendar days from date of contract.

The addition of the clause "No-Pass, No-Sale" to the conditions of the contract shall mean that in the event the buyer rejects the tender because the quality of the tender does not meet the contract stipulations, the quantity rejected of the contract is null and void.

PART 2

Cocoa sold for delivery on dock shall be tendered by delivery order stating name of public weigher, and a sampling order.

A tender will be valid only if and when released by the U.S. Food & Drug Administration and/or other Governmental Agency.

Incorrect tender or tenders shall not invalidate the seller's right and obligation to make correct tender or tenders.

Tenders presented to buyers after 3:00 p.m. Eastern time on any day, Monday to Friday both inclusive, shall be timed as of 9:00 a.m. Eastern time of the day following. No tenders may be made on Saturday, Sunday, or on an ICE Futures U.S. and/or U.S. Federal holiday.

PART 3

Except as to insurance, which is governed in this Part, the title to the cocoa passed to the buyer on payment of seller's pro forma invoice or when the dock accepts lodging of seller's delivery order, or by noon of the first business day after expiration of the three business days from presentation of tender as specified in this Part, whichever shall first occur.

Risk of condemnation or restriction by the U.S. Food & Drug Administration and/or other Governmental Agency shall be for seller's account while the cocoa is on the dock at port of entry.

Lodging of delivery order with the dock by buyer or buyer's endorsee shall be deemed approval of quality binding upon all endorsements prior to and including lodger of such delivery order, provided tender is valid in accordance with Part 2 above, except as to the number of bags damaged by seawater or other irregularities unknown or indeterminable before weighing.

Seller is to keep the cocoa on the dock insured at his contractual sales price until noon of the first business day after expiration of the three business days from presentation of tender (10 business days in the case of products) as specified in this Part or until noon of the fourteenth calendar day after completion of discharge of the vessel's cargo, whichever period shall last expire.

Whenever the buyer shall have paid all or part of the seller's invoice or proforma invoice, seller's insurance shall be deemed held in trust by the seller for the buyer until the removal of the cocoa from the dock shall have been consummated provided so removed from the dock before expiration of seller's insurance as above set forth.

If the cocoa tendered by the seller should be wholly or partly destroyed or lost or damaged before expiration of seller's insurance as above set forth, seller shall forthwith return the buyer's payment for the number of bags destroyed or lost or damaged, failing which seller's insurance shall be deemed held in trust by the seller for the buyer until the buyer shall have received such reimbursement.

Failing such reimbursement after buyer's written demand seller shall be deemed in default and subject to the default penalties provided in SECTION 10.

Seller guarantees buyer three business days in the case of cocoa beans and 10 business days in case of cocoa products from presentation of tender, within which to weigh and remove the cocoa from the dock; thereafter, failing such weighing and removal, seller shall hold the cocoa on the dock as long as vessel's agent permits; buyer is to refund seller for all bona fide expenses acutally incurred as a result of buyer's

failure to remove a correct tender of the cocoa from the dock within such aforesaid time limit (three business days). Insurance, however, beyond time limit as provided in this Part, shall be covered by buyer who shall pay to seller on demand the unpaid value of the number of bags destroyed or lost or damaged at contract price on the basis of net shipping weights. Such insurance shall be deemed held in trust by the buyer for the seller without prejudice, however, to any other of the seller's rights until the buyer shall have paid the seller in full.

PART 4

The number of bags destroyed or damaged before weighing on dock, if all or part of a sale made after clearance by U.S. Customs, shall be deducted from the contract, but buyer shall have the option to take the damaged bags at a fair allowance.

The number of bags destroyed or marine damaged before expiration of seller's insurance, if tendered against a sale made before entry of vessel by U.S. Customs, shall be deducted from the contract whenever shipment shall have been declared in accordance with SECTION 2, but buyer shall have option to take the damaged bags at a fair allowance, subject to any restriction placed thereon by the U.S. Food & Drug Administration and/or other Governmental Agency; provided the undamaged portion (if any) of any specific lot so marine damaged is not restricted by any Governmental Agency.

The number of bags destroyed or damaged before expiration of seller's insurance, if tendered against a sale made before entry of the respective vessel with U.S. Customs, shall be properly replaced by the seller in accordance with SECTION 3, unless shipment shall have been declared in accordance with SECTION 2 and buyer shall accept such replacements.

The number of bags restricted by the U.S. Food & Drug Administration and/or other Governmental Agency (before the risk of such restriction shall have passed to the buyer) and tendered against a sale made after entry of the respective vessel with U.S. Customs, shall be properly replaced by the seller in accordance with this Part and buyer shall accept such replacement or replacements; but if the cocoa shall have been sold as a "specific lot", the number of bags so restricted shall be deducted from Contract.

Except as provided in this Part the number of bags restricted by the U.S. Food & Drug Administration and/or other Governmental Agency (before the risk of such restriction shall have passed to the buyer) and tendered against a sale made before entry of the respective vessel with U.S. Customs, shall be properly replaced by the seller by further tender and/or tenders in accordance with the contract, or at seller's option, by tender or tenders, irrespective of ocean Bill-of-Lading and declaration, if any, on dock or from warehouse not later than 30 calendar days after such restriction and buyer shall accept such replacement or replacements. If no suitable cocoa of the description contracted for is available for replacement within 30 days, replacement shall be made by the earliest available shipment and/or shipments at a differential to be agreed upon amicably, or by arbitration.

PART 5

Whenever vessel shall have discharged into a warehouse in "general order" or otherwise, or whenever vessel or vessel's agent shall have removed the cocoa from the dock into warehouse, after tender and before expiration of the time limit of three business days specified in Part 3, such warehouse shall be deemed the dock.

Claims on account of quality shall be inadmissible as provided in Part 3. Where, however, such cocoa, within 20 calendar days after weighing on dock, discloses latent damage by seawater or otherwise, arbitration shall determine the extent of seller's liability, if any, but in such arbitration the seller shall

have the benefit of any reasonable doubt. Latent damage is defined as damage which could not have been determined by due diligence under the provisions of Part 3.

SECTION 8- COCOA TENDERED IN WAREHOUSE

The word "Delivery" shall mean delivery of cocoa beans on an ex-dock basis

"Spot delivery" shall mean a delivery of cocoa within three business days from date of contract.

"Immediate Delivery" shall mean a delivery within 15 calendar days from date of contract.

"Prompt Delivery" shall mean delivery within 30 calendar days from date of contract.

The addition of the clause "No-Pass, No-Sale" to the conditions of the contract shall mean that in the event the buyer rejects the tender because the quality of the tender does not meet the contract stipulations, the quantity rejected of the contract is null and void.

To be a valid tender, cocoa tendered against this contract must be tendered from a warehouse location with a valid Certificate of Inspection issued under the Association's Warehouse Inspection Program ("the Program") as ordered by the Association's Board of Directors from time-to-time, provided such program shall be in effect at the time tender is made, except for cocoa which has been entered into the warehouse prior to the inception of said Program.

Cocoa sold for delivery from warehouse shall be tendered by delivery order stating name of public weigher and date of expiration of storage and fire insurance for full contract value, co-terminating with storage. The date of expiration of storage and fire insurance shall not be prior to three business days from presentation of such delivery order to buyer.

Incorrect tender or tenders shall not invalidate the seller's right and obligation to make correct tender or tenders.

Tenders presented to buyers after 3:00 p.m. on any business day, Monday to Friday both inclusive, shall be timed as of 9:00 a.m. of the business day following.

Title passes to the buyer when payment is made against seller's proforma invoice or when the warehouse accepts lodging of seller's delivery order, or by noon of the first business day after expiration of the three business days from presentation of tender, whichever shall first occur.

Risk of condemnation or restriction by the U.S. Food & Drug Administration and/or other Governmental Agency passes to the buyer with title. A tender will be valid only if and when released by the U.S. Food & Drug Administration and/or other Governmental Agency.

Lodging of delivery order, with the warehouse, by buyer or buyer's endorsee, shall be deemed approval of quality of such delivery order except as to the number of bags indeterminable before weighing.

Seller, on expiration of storage stated in delivery order, may order the cocoa weighed up for the buyer's account; re-piling in warehouse is to be paid by the buyer.

The number of bags destroyed or damaged after sale and before weighing, if part of a sale of spot warehouse cocoa, shall be deducted from the contract.

The number of bags destroyed or damaged before weighing in warehouse shall be properly replaced by the seller in accordance with Section 3, whenever such cocoa shall have been tendered against a sale calling for shipment or equivalent delivery from warehouse and buyer shall accept such replacement or replacements.

The number of bags condemned or restricted by the U.S. Food & Drug Administration and/or other Governmental Agency, after sale and before risk of condemnation or restriction has passed to buyer, shall be deducted from the contract, provided such cocoa was all or part of a buyer shall accept such replacement or replacements.

The number of bags tendered against a contract calling for shipment and/or equivalent delivery from warehouse but condemned or restricted by the U.S. Food & Drug Administration and/or other Governmental Agency, after tender and before risk of condemnation or restriction has passed to buyer, shall be properly replaced by the seller within contract period, or 30 days from date of condemnation or restriction, whichever is later, and buyer shall accept such replacement or replacements.

Claims on account of quality shall be inadmissible as provided in this Section. Where, however, such cocoa, within 20 days after weighing in warehouse discloses latent damage by seawater or otherwise, arbitration shall determine the extent of seller's liability, if any, but in such arbitration the seller shall have the benefit of any reasonable doubt.

SECTION 9 – PAYMENTS

All invoices are payable in U.S. Dollars unless otherwise agreed by buyer and seller. All payments against proforma invoice shall be held in trust and seller shall immediately, upon demand, refund buyer to the extent of that portion of the cocoa so invoiced which shall have failed to pass into buyer's possession, on dock or in warehouse, unless such failure be due to unjustifiable obstruction on buyer's part.

SECTION 10 – QUALITY

Quality is to be equal to contract description. However, bona fide tenders inferior thereto, provided within the requirements of the U.S. Food & Drug Administration and/or other Governmental Agency shall be accepted by the buyer subject to an allowance to be fixed, if necessary, by arbitration. In the event however, that a shipment is detained by a Governmental Agency solely on account of infestation, seller shall promptly arrange for fumigation, all costs being for his account. If the Governmental Agency releases the shipment after such fumigation, the buyer shall accept the cocoa. Cocoa not released after fumigation shall be properly replaced by seller as hereinbefore provided in SECTION 7, Part 4.

If the cocoa is to be processed by the buyer, buyer agrees that they will clean the contracted cocoa as part of the manufacturing process. If the cocoa is not being processed by the buyer, buyer agrees that any contract for sale of the shipment shall include this provision.

SECTION 11 - ARBITRATION

Any dispute under this contract shall be settled by arbitration in accordance with the rules of The Cocoa Merchants' Association of America, Inc., whose award shall be final and binding upon buyer and seller, and judgment upon the award may be entered in any court having competent jurisdiction.

When either party to a contract claims that a default has occurred, than failing an amicable settlement, the dispute shall be referred to arbitration pursuant to the arbitration rules of The Cocoa Merchants' Association of America, Inc. If it is decided that a default has occurred, the contract shall be closed out at a price and weight, which price shall be the estimated market value of the cocoa contracted for on the day the default occurred or is established, within the discretion of the arbitrators. The arbitrators shall have

full discretion to fashion an award as they deem appropriate under the circumstances, including, but without limitation, an award of damages consisting of (i) the difference between the contract process and the closing out price; (ii) ordinary, special and/or consequential damages, and (iii) reasonable legal, professional and other costs incurred in connection with the default and/or arbitration and/or enforcement of an award. The award rendered shall be paid in cash or by certified funds within fifteen (15) working days, and payment shall constitute a final and complete settlement of all claims by either party in respect of said contract.

If the contract calls for "shipment" or for "shipment and/or equivalent delivery", and bona fide tender is rejected by mutual written agreement or at arbitration, it must be properly replaced by the seller by further tender or tenders, in accordance with the contract, and/or at seller's option, with shipment from origin or any intermediate point, within 30 days from date of rejection, irrespective of ocean Bill-of-Lading and declaration, if any, on dock and/or ex warehouse not later than 30 calendar days after such aforesaid rejection and buyer shall accept such replacement or replacements. Unless specifically permitted by mutual agreement or by arbitration, any such replacement shipment, tender or tenders shall be made not later than aforesaid 30 days after aforesaid rejection of the first bona fide tender, failing which the seller shall be deemed in default.

If the contract calls for "delivery", and a bona fide tender is rejected by mutual agreement or at arbitration, tender must be replaced by the seller with further tender or tenders, in accordance with the contract, not later than the last business day of the delivery periods originally called for in the contract, unless an extension has been mutually agreed or decided at arbitration, failing which the seller shall be deemed default. In any event, however, seller shall have not less than five working days from the date of the first rejection of the initial tender in which to make such replacement.

In case of a rejection of the first bona fide tender, either by mutual agreement or at arbitration, seller shall declare his ability to replace the tender, unless such declaration is waived by mutual agreement or at arbitration. Such declaration shall be in writing, and shall reach the buyer not later than at the close of business on the third business day following the date of such rejection or, after fumigation, of refusal of entry by any Governmental Agency, failing which the seller shall be deemed in default.

A tender of cocoa rejected at arbitration may be accepted by the buyer, in writing, within one business day from receipt of arbitration award; such award is to specify the allowance which the buyer shall receive should he thus elect to take delivery.

Where a buyer is otherwise in default the contract shall be forthwith closed and damages determined in accordance with SECTION 12.

SECTION 12 - INSOLVENCY OR OTHER FAILURE TO MEET ENGAGEMENTS

If before the completion of any contract either party thereto shall suspend payment or become bankrupt or insolvent or die without leaving executors or other willing and able to take over his liabilities under the contract, such contract shall be forthwith closed at the market price then current for similar goods for delivery at the time named in the contract. Such market price shall be ascertained either by repurchase or resale or by arbitration at the option of the other party to the contract and the difference between the contract price and the price ascertained shall be the measure of damage payable by or to either party under such contract.

If ascertained by repurchase or resale or arbitration, such damages shall be payable within 10 business days after determination thereof.

SECTION 13 – FORCE MAJEURE

Should shipment be prevented or delayed owing to prohibition of exports, fire, strikes, lockouts, riots, war, revolution or any other case of "Force Majeure", the time of shipment shall be extended by one month, but should the delay exceed one month the buyer shall have the option of canceling the contract for any quantity not shipped or of accepting the cocoa for shipment as soon the cause for prevention or delay of shipment shall have been removed, provided that if such shipment is not effected within five months following the expiration date of the first month's extension, the contract shall be automatically canceled for any quantity not shipped. Such option is to be exercised in writing as soon as the seller announces his inability to ship within the extended period, or, at the latest, seven days after the extended period has expired. Contract is void if the buyer fails to exercise such aforesaid option as hereinbefore provided. If required, seller must produce conclusive evidence to establish his claim for extension.

SECTION 14 – ASSIGNMENT

This contract may not be assigned by either party without the prior written consent of the other party.

SECTION 15 – SUCCESSORS

The covenants, conditions and agreements contained in this contract shall bind and inure to the benefit of the parties and their respective heirs, distributees, executors, administrators, successors and, except as otherwise provided herein, their assigns.