

THE COCOA MERCHANTS' ASSOCIATION
OF AMERICA, INC.



3A CONTRACT

**INCLUDES ALL AMENDMENTS APPROVED
BY THE BOARD OF DIRECTORS & MEMBERSHIP**

February 12, 2013

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TABLE OF CONTENTS

Introduction	3
Section 1 - Shipment	3
Section 2 - Declaration	3
Section 3 - Quantities and Weights	4
Section 4 - Packaging	5
Section 5 – Payments	5
Section 6 – Insurance	5
Section 7 - Quality	5
Section 8 – Defaults	6
Section 9 – Supervision	7
Section 10 – Duties, Taxes, Etc.	7
Section 11 – Marking	7
Section 12 – Force Majeure	7
Section 13 – Insolvency or Other Failure to Meet Engagements	7
Section 14 – Assignment	8
Section 15 – Successors	8
Section 16– Arbitration	8

THE COCOA MERCHANTS' ASSOCIATION OF AMERICA, INC.

CMAA STANDARD CONTRACT 3A
RULES AND DEFINITIONS

GOVERNING SALES OF COCOA ON COST, INSURANCE, AND FREIGHT (CIF) BASIS

INTRODUCTION

A Cocoa Merchants' Association of America, Inc Standard 3A 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 3A 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 3A as hereinafter set forth as though said Contract 3A 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 3A.

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.

Partial shipments may or may not be permitted.

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

1A-Containers: If this contract covers a sale of cocoa beans, shipment in containers shall not be allowed without Buyer's consent. If such consent is given, shipment shall be effected under observance of the 'Standard Guidelines for Shipment of Cocoa Beans in Containers' as amended from time to time by the Board of Directors.

SECTION 2 – DECLARATION

Each Bill of Lading from origin and/or Ship's Delivery Order shall be treated as a separate contract. Received on board Bills of Lading shall be proof and evidence of time of shipment.

To be communicated to Buyer, as soon as known by Seller, direct or through Seller's Agent, by electronic communication or facsimile transmission, and confirmed in writing, with name of steamer, quantity, grade, contract date, port of shipment and destination.

Seller shall be entitled to declare a shipment against this contract, ship lost or not lost.

Declarations shall be binding upon Seller and Buyer and cannot be changed except by mutual consent.

Declarations are subject to typographical error.

If the Buyer has not received a declaration by midnight of the fourteenth calendar day after the shipping period, he may refuse any subsequent declaration and declare the Seller to be in default.

In the case of indirect shipments Seller must communicate to the Buyer the name of the vessel carrying the cocoa to its final bill of lading destination not later than seven calendar days prior to the scheduled arrival of said vessel.

2-A Shipping Documents: Unless mutually agreed otherwise by Seller and Buyer, usual shipping documents shall consist of a full set of clean on board ocean Bills of Lading, shipper's invoice, and, in the case of a c.i.f. contract, a valid insurance certificate for not less than the invoice value of the shipment.

SECTION 3 – QUANTITIES AND WEIGHTS

Shipped Weights shall mean the net weight of cocoa beans shipped in bags weighed immediately before shipment and recorded on the weight note together with the tare of the bags.

Shipping weights shall mean the nominal weight of a bag of cocoa according to the custom of the origin multiplied by the total number of bags shown on the Bill of Lading.

Landed weights shall mean the pro-rata weight of the full and sound bags landed applied to the total number of bags shipped as shown on the Bill of Lading.

If contract on basis of net shipping weights, any loss in weight exceeding net shipping weights is for account of Buyer. If contract is on the basis of a franchise, any loss in weight exceeding the %franchise over the net shipping weight is for the account of the Seller.

Claims for excess loss in weight accompanied by certified official weights and tares shall be submitted and settled promptly.

If contract on basis of net landed weights, any variation from net invoice weight to be adjusted at contract price.

Provisional invoices, if any, shall normally be on the basis of ___% of shipping weights.

Final invoice shall be established promptly upon determination of final outturn weights.

Claims and final invoices to be established on the basis of the landed net weights of full, sound bags but applied to the whole parcel.

Cocoa to be weighed within 15 working days after completion of discharge of the vessel or release by U.S. Government, whichever occurs latest.

In case Buyer has consented to shipment of this cocoa in containers, cocoa to be weighed within 15 working days after completion of discharge of the vessel or release by U.S. Government, or 15 working days after completion of stripping of the container, whichever occurs latest.

The words "about" or "more or less" when used to define quantities and/or weights contracted for, shall mean the nearest amount which Seller can fairly and reasonably deliver, but no excess or deficiency shall be greater than three percent. This leeway shall be void whenever a contract is liquidated by payment of difference between purchase and sale prices, in lieu of shipment or tender. Unless otherwise stipulated, a ton shall be 2,240 lbs. net. If metric tons are specified, a ton shall be 2,204.6 lbs. net.

SECTION 4 – 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 material not permitted without Buyer's consent.

SECTION 5 – PAYMENT

All invoices are payable in US Dollars unless otherwise agreed by Buyer and Seller. In the event of the steamer becoming a casualty, payment shall be made by Buyer for full invoice value, net shipping weights, against usual shipping documents on presentation.

SECTION 6 - INSURANCE

If contract on a COST, INSURANCE, FREIGHT basis:

Marine insurance shall be covered by Seller at the price of this contract with Lloyds and/or equivalent first class underwriters or insurance companies, for whose solvency Seller is not to be responsible, on the terms of and according to the Institute of London Underwriters' Cargo Clauses (extended cover) with particular average (warehouse to warehouse), including theft, pilferage, short and non-delivery, shipowners' liability, and loss or damage by freshwater, oil, other cargo, sweat, hookhole and other loss or damage however arising, whether by perils of the sea or otherwise all irrespective of percentage; including war, riots, strikes and civil commotions as per Institute War Clauses and Strike Clauses (extended cover) current and available at time of shipment. Insurance policy to be made available in English translation promptly, upon Buyers' request.

All claims after adjustment payable in United States currency in New York.

If contract on a COST AND FREIGHT basis:

In the case of cost and freight contracts only, satisfactory letter of guarantee (or policy of insurance) if required, to be promptly deposited with Seller for his security.

SECTION 7 - QUALITY

Cocoa to be equal to contract description; however, bona fide shipments inferior thereto, provided within the standards of the U.S. Government, shall be accepted by the Buyer subject to an allowance to be fixed, if necessary, by arbitration in New York as herein specified.

Claims for inferior quality must be made and arbitration samples, if required, drawn within 15 working days after the cocoa is discharged from vessel or released by the U.S. Government, whichever occurs latest, and in any event prior to removal of cocoa from dock. If this contract covers the sale of cocoa in containers, and said claims must be made and such samples must be drawn within 15 working days after stripping of

the container, even if the container has been removed from the dock for stripping. Failing amicable adjustment, demand for arbitration-which may be submitted in writing or electronic communication - must be made not later than 30 calendar days after such removal or release.

Cocoa shipped against this contract is guaranteed by Seller to pass inspection by and comply with the standards of the U.S. Government.

In the event, however, that a shipment is detained by the Government solely on account of infestation, Buyer shall promptly arrange for fumigation. If the Government releases the shipment after such fumigation, the Buyer shall accept the cocoa, Seller paying all costs incurred in connection with fumigation. If the Government refuses release, Buyer may reject the cocoa and all costs incurred in connection with fumigation shall be paid by the Seller.

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.

Where a shipment of cocoa against this contract is rejected by Buyer because

(a) entry or release has been refused by U.S. Government,

or

(b) by mutual agreement or at arbitration

Seller shall, upon Buyer's demand, replace such cocoa within the contract period by delivery at destination specified herein, and/or by shipment from origin or any intermediate point, within 30 days after either of the contingencies enumerated under (a) or (b) has been established, whichever is the later period. Buyer shall hold in custody such unacceptable cocoa for the account of Seller until replacement and/or reimbursement for payment made against such cocoa, plus freight, insurance, labor, cartage, storage, interest and other bona fide expenses incurred by Buyer, have been paid; and Seller agrees to effect reimbursement of the principal amount of these expenses immediately upon Buyer's demand.

In the event that Seller cannot make replacement the contract shall be closed out as provided for under the heading "DEFAULTS".

SECTION 8 - DEFAULTS

When either party to a contract claims that a default has occurred, then 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 price 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 15 working days, and payment shall constitute a final and complete settlement of all claims by either party in respect to said contract.

SECTION 9 - SUPERVISION

Seller may appoint a representative to supervise weighing and sampling and must state the name of such representative in the advice of shipment, but should Seller not name his representative or should his representative fail to be present, after having received due notice of time and place of weighing and sampling, weights certified and samples sealed by sworn weighers and samplers provided by the Buyer shall be accepted by Seller.

Should Buyer fail to notify Seller's representative in accordance with this clause, shipping weights shall be accepted and no quality claim shall be admitted.

SECTION 10 – DUTIES, TAXES, ETC.

Any export duty or other tax imposed by the Government of the exporting country or political subdivision thereof or any levy imposed under the International Cocoa Agreement is assumed and shall be paid by the Seller. Any import duty or other tax imposed by the U.S. Government or political subdivision thereof is assumed and shall be paid by the Buyer.

Unless otherwise stipulated, any charges incurred in weighing and sampling shall be for account of Buyer.

SECTION 11 - MARKING

Bags to be branded in English with the name of country of origin and otherwise to comply with laws and regulations of U.S. Government, in effect at time of shipment, governing marking of import merchandise. Any expense incurred by failure to comply with these regulations is to be borne by Seller.

SECTION 12 – FORCE MAJEURE

Should shipment be prevented or delayed owing to prohibition of exports, fire, strikes, lockouts, riots, war, revolution or other cases of "Force Majeure" the time of shipment shall be extended by 30 calendar days, but should the delay exceed 30 calendar days the Buyer shall have the option of canceling the contract for any quantity not shipped or of accepting the cocoa for shipment as soon as the cause for prevention or delay of shipment shall have been removed provided if such shipment be 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 to be declared in writing as soon as the Seller announces his inability to ship within the extended period, or, at latest, seven days after the extended period has expired, as reasonable time being allowed for passing on such announcements. Contract void if the Buyer fails to declare such aforesaid option as herein before provided. If required, Seller must produce conclusive evidence to establish his claim for extension.

SECTION 13 – INSOLVENCY OR OTHER FAILURE TO MEET ENGAGEMENTS

In the event that

- (a) Buyer shall fail to make any payment required hereunder within three business days after its due date, or
- (b) at any time prior to the completion of this contract, there shall be filed by or against either party hereto, in any court, a petition in bankruptcy or insolvency or for reorganization or for appointment of a receiver or trustee of all or a portion of such party's property, or
- (c) at any time prior to completion of this contract,

either party shall make an assignment for the benefit of creditors, then and in any one of such events, this contract shall be forthwith closed at the market price then current for similar goods for delivery at the time or times, or for shipment during the period or periods, provided for in this contract. Such market price shall be ascertained, at the option of the aggrieved party, by repurchase or resale or by arbitration, and the loss, if any, suffered by such aggrieved party shall be the measure of damages to which such party shall be entitled and which shall be payable within 15 days after such determination. Such aggrieved party shall not be required to reimburse the other party for any profit derived from any repurchase or resale made pursuant to this provision.

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.

SECTION 16 – ARBITRATION

Any question, controversy, claim or dispute whatever arising out of, or under this contract, not adjusted by mutual agreement, shall be settled by arbitration in the City of New York, State of New York, under the auspices of and in accordance with rules of THE COCOA MERCHANTS' ASSOCIATION OF AMERICA, INC. and judgment upon the award rendered may be entered in the Supreme Court of the State of New York in accordance with the provisions of the laws of the State of New York.

The parties to this contract do hereby waive personal service of any papers, notices or process necessary or proper in connection with the foregoing. Such papers, notices or process may be served in accordance with the rules of THE COCOA MERCHANTS' ASSOCIATION OF AMERICA, INC. This contract is deemed made in New York and shall be construed pursuant to the laws of the State of New York.