

# GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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<sup>1</sup> Amended 26 May 2015

<sup>2</sup> Amended 26 May 2015

<sup>3</sup> Amended 01 August 2015

<sup>4</sup> Amended 26 May 2015

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<sup>5</sup> Amended 01 August 2015

<sup>6</sup> Amended 01 August 2015

<sup>7</sup> Amended 26 May 2015

<sup>8</sup> Amended 26 May 2015

<sup>9</sup> Amended 26 May 2015

<sup>10</sup> Amended 26 May 2015

<sup>11</sup> Amended 26 May 2015

<sup>12</sup> Amended 26 May 2015

<sup>13</sup> Amended 26 May 2015, 01 August 2015

<sup>14</sup> Amended 01 August 2015

<sup>15</sup> Amended 26 May 2015

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<sup>16</sup> Amended 26 May 2015

<sup>17</sup> Amended 26 May 2015

<sup>18</sup> Amended 26 May 2015

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## SECTION A: INTRODUCTION

- A 1. [Not used]
- A 2. Through contractual arrangements between the Exchange and the Clearing House, the Exchange is responsible for Grading and Warehousekeeping in respect of ICE Futures London Cocoa Futures Contracts, ICE Futures Euro Cocoa Futures Contracts and ICE Futures Robusta Coffee Futures Contracts executed on the Exchange.
- A 3. [Not used]
- A 4. These Grading and Warehousekeeping Procedures (“GWPs”) form part of the Regulations and prescribe the procedures which must be followed in respect of ICE Futures London Cocoa Futures Contracts, ICE Futures Euro Cocoa Futures Contracts and ICE Futures Robusta Coffee Futures Contracts, as the case may be, and in respect of all Cocoa and Robusta Coffee. These GWPs shall apply to and be contractually binding upon Warehousekeepers, Members, Graders, Nominated Members, Depositories, Owners and Supervision Companies. These GWPs will apply whether or not the Owner contemplates the delivery of such Cocoa and Robusta Coffee against a Contract.
- A.5 [Not used]
- A 6. These GWPs should be read in conjunction with the remainder of the Regulations, including the relevant Contract Rules and Administrative Procedures for the ICE Futures London Cocoa Futures Contracts, ICE Futures Euro Cocoa Futures Contracts or ICE Futures Robusta Coffee Futures Contracts, as the case may be.

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## SECTION B: INTERPRETATION<sup>19</sup>

- B 1. In these GWPs, a reference to a "GWP" is a reference to a term in these GWPs, as modified from time to time.
- B 2. Terms defined elsewhere in the Regulations shall have the same meaning in these GWPs, except where otherwise specified or defined in GWP B 3.
- B 3. In these GWPs:
- “abnormal odour” means any disagreeable odour or any odour foreign to coffee.
- “Appeal Panel” means a minimum of three Graders selected in accordance with GWP E 1.6 from the list of ICE Registered Cocoa or Robusta Coffee Graders, as the case may be, to grade a sample which is the subject of a notice of appeal submitted to the Exchange in accordance with these GWPs.
- “bag” shall, in respect of Robusta Coffee, mean a bag of a type described in GWP D 3.1.1.1 (a).
- “bean cluster” means, in respect of the ICE Futures London Cocoa Futures Contract or the ICE Futures Euro Cocoa Futures Contracts, two (or more) Cocoa beans which are joined together and which are unable to be split into two (or more) whole single Cocoa beans as a result of the exertion of reasonable hand pressure.
- “block stow” means the storage of a fifty tonne pile of bagged Cocoa on a single layer of pallets such that all sides of the stack are accessible for sampling.
- “Cocoa” means cocoa beans which are whole seeds of the cocoa tree (*Theobroma Cacao* L).
- “Cocoa Contract Rule” means Rule EEEE for the ICE Futures London Cocoa Futures Contracts, or EEEE1 for the ICE Futures Euro Cocoa Futures Contracts, as amended from time to time.
- “coffee bean” means the dried seed of the coffee plant.
- “Contract Rules” means the Contract Rules of the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contract or the ICE Futures Robusta Coffee Futures Contract, as the case may be.
- “Converted Delivery Unit” means a new Delivery Unit which is formed upon the conversion of part or all of a Nominated Delivery Unit.
- “Converted Original Delivery Unit” means a new Delivery Unit which is formed upon the conversion of an Original Delivery Unit, and shall include, unless the context otherwise requires, a Converted Delivery Unit.
- “Defects” means, in respect of Robusta Coffee, any defect determined to be a defect by the ICE Registered Robusta Coffee Graders pursuant to Rule GGGG.4(d).
- “Defective” shall have the meaning set out in Rule EEEE.1.
- “Delivery Unit” means a Standard Delivery Unit, a Large Delivery Unit or a Bulk Delivery Unit. A Delivery Unit must comprise Cocoa of the same Origin and shipment

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<sup>19</sup> Amended 26 May 2015

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	period.
“Depository”	means any person designated by the Exchange to receive, hold and administer Warrants in immobilised form; details of such persons shall be notified from time to time by notice posted on the Market.
“Dual Capacity Warehousekeeper”	means a Warehousekeeper which has been nominated by the Exchange in its absolute discretion to store in its Warehouse Goods piled as parcels, lots or Standard, Large or Bulk Delivery Units and to record details of the relevant Warrants on Guardian and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by notice posted on the Market.
“Exchange Official”	means any employee of the Exchange.
“FFA”	Free Fatty Acid – conventionally expressed as oleic acid (molecular weight 282).
“FIBC”	shall mean Flexible Intermediate Bulk Container of a type described in GWP D 3.1.2.1 (a) (ii).
“Fogging”	means the application within a Warehouse of a chemical agent designed to eradicate insect infestation either on or around the Goods.
“Fumigation”	means the use of either a chemical agent and/or a process designed to eradicate insect infestation either on and/or within the Goods.
“Goods”	means either Cocoa or Robusta Coffee, details of which are represented by the Warrants recorded on Guardian.
“Grader”	means an ICE Registered Cocoa Grader or ICE Registered Robusta Coffee Grader.
“Graders Contract”	means the consultancy agreement signed between ICE Futures Europe and an ICE Registered Cocoa Grader or an ICE Registered Robusta Coffee Grader.
“Grading Panel”	means a minimum of three Graders selected in accordance with Procedure E 1.6 from the list of ICE Registered Cocoa or Robusta Coffee Graders, as the case may be, to grade a sample submitted to the Exchange in accordance with these GWPs.
“Grading Room”	means the ICE Futures Europe Grading Room.
“Grading Station”	means the workbench where a Grading Panel or Appeal Panel grade a sample of Cocoa or Robusta Coffee.
“grouped lot”	shall mean two to five lots of Robusta Coffee which have been declared by the Owner and Member and confirmed by the Warehousekeeper as a grouped lot for grading purposes; the Robusta Coffee of which is from one Origin, ex one Vessel, shipped on one Bill of Lading, and stored in the same Warehouse under the control of the same Warehousekeeper. The results obtained by collectively grading samples from grouped lots under GWP D 3.4.2 shall apply to the individual lots.
“Guardian”	means the electronic system relating to the grading, tender, delivery and warrant management services, or any successor thereto, which amongst other things, records details on a Warrant relating to Cocoa and Robusta Coffee

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	stored in a Warehouse for delivery under a contract.
“ICE Futures Euro Cocoa Futures Contract”	means a Contract made expressly or impliedly under Rule EEEE1.
“ICE Futures London Cocoa Futures Contract”	means a Contract made expressly or impliedly under Rule EEEE.
“ICE Futures Robusta Coffee Contract”	means a Contract made expressly or impliedly under Rule GGGG.
“ICE Registered Cocoa Grader”	means an individual registered with the Exchange as an ICE Registered Cocoa Grader in accordance with GWP E 1.2.
“ICE Registered Robusta Coffee Grader”	means an individual registered with the Exchange as an ICE Registered Robusta Coffee Grader in accordance with GWP E 1.2.
“industry sample”	means any material drawn from Goods stored in a Warehouse for purposes other than submission to the Grading Room for grading.
“laboratory sample”	means the quantity of not less than 300 grams removed from the grading sample pursuant to GWP E 3.2.2.3 or E 3.2.3.5.
“Last weigh Date”	means the date on which a Delivery Unit was last re-weighed as attributed to it in Rule EEEE.5(g) or EEEE1.5(g).
“List of Nominated Warehousekeepers”	means the List of Nominated Warehousekeepers published by the Exchange by notice posted on the Market from time to time.
“Loading In”	means the movement of a lot of Robusta Coffee (in bags, bulk or FIBCs) or a Delivery Unit of Cocoa (in bags or bulk) from a vessel or current place of storage to a Warehouse.
“Loading In Charge”	means the fee charged by the Warehousekeeper in respect of the Loading In of a lot of Robusta Coffee (in bags, bulk or FIBCs) or a Delivery Unit of Cocoa (in bags or bulk) from a vessel or current place of storage to a Warehouse.
“Loading Out” or “Loaded Out” or “Load Out”	means the movement of a lot of Robusta Coffee (in bags or FIBCs) or a Delivery Unit of Cocoa (in bags and/or in bulk) from within a Warehouse on to transport.
“Loading Out Charge”	means the fee charged by a Warehousekeeper in respect of the Loading Out of a lot of Robusta Coffee (in bags or FIBCs) or a Delivery Unit of Cocoa (in bags and/or in bulk) from within a Warehouse on to a truck or lorry.
“Lodgement Request Form”	means the document produced by Guardian when the Nominated Member requests the immobilisation of a Warrant in Guardian. This Lodgement Request should be attached to the Warrants when presented to the Depository.
“Lodgement Statement”	means the report produced by Guardian and issued by the Depository when it accepts the lodgement of Warrants.
“London Agent”	means a person acceptable to the Exchange who is authorised by the appointing Warehousekeeper for the purposes of updating rent payments on Guardian, amendment of documents issued by the appointing

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	Warehousekeeper and for the service of process so that the Exchange and Owners may rely upon the acts of such London Agent without further enquiry.
“lot”	has the meaning attributed to it in Rule GGGG.2(b) (ICE Futures Robusta Coffee Futures Contract).
“Nominated Delivery Unit”	means each Delivery Unit to be converted by or on behalf of the Seller as notified to the Exchange under Rule EEEE.12(d)(i) or (ii) (ICE Futures London Cocoa Futures Contract), or Rule EEEE1.12(d)(i) or (ii) (ICE Futures Euro Cocoa Futures Contract).
“Nominated Member”	means a Clearing Member who, on behalf of an Owner, has been nominated by a Warehousekeeper or another Nominated Member in respect of the registration on Guardian of a Warrant that is to be, or has been, immobilised.
“Nominated Warehousekeeper”	means a Warehousekeeper appearing on the List of Nominated Warehousekeepers.
“Original Delivery Unit”	means a Delivery Unit which is converted into one or more Converted Original Delivery Units, and shall include, unless the context otherwise requires, a Nominated Delivery Unit in accordance with the relevant Cocoa Contract Rules.
“Original Weigh Date”	Means the date that a Delivery Unit was first weighed in an ICE Nominated Warehouse.
“Owner”	means, subject to GWP F 2.4.1, the person recorded as such on Guardian for the Goods to which a Warrant relates. A person may act as both Owner and Nominated Member for the same Warrant.
“parcel”	means, in respect of Robusta Coffee, all or any portion of a shipment of Robusta Coffee of one Origin, one class, ex one vessel, shipped on one Bill of Lading to the same destination and which is stored in one Warehouse.
“Preliminary sample”	is the material initially drawn from the Cocoa and Robusta Coffee.
“Published List of Rent and Loading Out Charges”	means a list so titled and published by the Exchange from time to time on the ICE website ( <a href="http://www.theice.com">www.theice.com</a> ) containing, by delivery area or port as applicable, details of the maximum Rent and Loading Out Charges per tonne levied by Warehousekeepers in respect of Robusta Coffee in bags or FIBCs and for Cocoa in both bags and/or in bulk.
“Quartering”	is the process by which sample material is mixed thoroughly and reduced by use of an appropriate riffle box or similar equipment so that the resulting reduced material is proportionally the same in all aspects as the original sample material. A “quartered sample” is a sample which has been created by quartering.
“Related Company”	means a subsidiary or parent company or any subsidiary or parent company thereof which form part of a group of companies.
“Rent”	means a periodic fee (not including any other charges) which a Warehousekeeper shall be entitled to charge in respect of the storage of a lot of Robusta Coffee (in bags or FIBCs) or a Delivery Unit (either in bags and/or in bulk) of Cocoa in a Warehouse and which is levied pursuant to these GWPs.



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“Robusta Coffee”	shall mean coffee of the botanical species <i>Coffea canephora</i> Pierre ex A. Froehner, with some varieties and cultivars of these species.
“Robusta Coffee Contract Rule”	means Rule GGGG, as amended from time to time.
“secure paper”	means paper which has special security features and is provided by the Exchange to the Warehousekeeper for the sole purpose of printing a Warrant using Guardian and must not be used for any other purpose.
“shipment period”	means, in respect of Robusta Coffee, the crop year for the country of origin of Robusta Coffee as defined by the International Coffee Organisation.
“Single Capacity Warehousekeeper”	means a Warehousekeeper which has been nominated by the Exchange in its absolute discretion to store in its Warehouse Goods piled as parcels, lots or Standard and Large Delivery Units and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by notice posted on the Market.
“Supervision Company”	is a company whose business is the supervision and/or inspection of goods and which is appointed by the Exchange for the purposes of performing inspections on behalf of the Exchange.
“Supervisor”	is a person employed exclusively by a Supervision Company and who is nominated by the Exchange to have sufficient experience and expertise in the sampling of Cocoa and Robusta Coffee.
“Top up”	means the addition of material to a Delivery Unit which has fallen below the relevant weight tolerance as specified in the Contract Rules.
“Warehouse”	means a warehouse in respect of which a Warehousekeeper has been nominated by the Exchange in its absolute discretion to store Goods and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by notice posted on the Market. A Warehouse shall, for the purposes of nomination under these GWPs, be a single structure designed or modified for the purpose of storing Goods, or groups of such structures connected by internal doors allowing for the passage of the relevant Goods. Where there are no such interconnecting doors between such structures these shall be nominated as separate Warehouses.
“Warehousekeeper”	means either a Single or Dual Capacity Warehousekeeper which has been nominated by the Exchange in its absolute discretion to store in its Warehouse Goods piled as either parcels, lots, Standard and Large Delivery Units or Standard, Large or Bulk Delivery Units, as the case may be, and to record such details that are represented by the Warrant on Guardian and which appears on the List of Nominated Warehouses and Warehousekeepers published from time to time by notice posted on the Market.
“Warrant”	means a Warrant for the delivery of a parcel, lot, or Delivery Unit stored in a Warehouse which authorises the possessor of such document to transfer or receive the parcel, lot or Delivery Unit referred to therein.
“Withdrawal Request Form”	means the document produced by Guardian when the Nominated Member selects within Guardian the Warrants to be withdrawn from the Depository.
“Withdrawal Statement”	means the report produced by Guardian when a Nominated Member requests the withdrawal of Warrants from the Depository in Guardian.

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B 4. [Not used]

B 5. [Not used]

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## SECTION C: STATEMENTS OF PRINCIPLE IN RESPECT OF WAREHOUSEKEEPERS NOMINATED BY THE EXCHANGE FOR THE STORAGE OF COCOA AND ROBUSTA COFFEE

- C1. The following are a statement of the standards expected of a Warehousekeeper nominated by the Exchange for the storage of Goods. These standards are not exhaustive of the standards expected. Observance of these standards by a Warehousekeeper does not absolve a failure to observe other requirements specified in these GWP's or elsewhere, furthermore observance of such other requirements does not necessarily amount to conformity with these Statements of Principle.
- C2. Failure to observe these standards may result in either, an instruction by the Exchange for remedial action to be taken by the Warehousekeeper to ensure observance and/or, disciplinary action being instigated.
- C3. A Warehousekeeper:
- (a) shall at all times observe high standards of integrity and shall not perform any actions which may disadvantage any current or potential owner of Goods stored within his Warehouse;
  - (b) shall observe high standards of conduct, complying with any procedures or requirements of the Exchange and any state or local requirements that may be relevant to the storage of Cocoa and Robusta Coffee in force at any particular time;
  - (c) should either avoid any conflict of interest or, where conflict arises, should ensure fair treatment to any owner of Goods stored within his Warehouse;
  - (d) should ensure that it maintains adequate financial resources to provide continuity in the provision of services for any current and potential owner of Goods stored within his Warehouse, and makes such other financial provisions as may be prescribed by the Exchange from time to time for the protection of any owner's interests;
  - (e) should ensure that all Goods stored for potential delivery against the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contracts or ICE Futures Robusta Coffee Futures Contract are properly segregated and identified, and that proper action has been taken to protect such Goods against potential risks to their security and integrity;
  - (f) should organise and control its internal affairs in a responsible manner, keeping proper records, and should have adequate arrangements to ensure that persons employed by the Warehousekeeper to perform duties relating to the storage of Goods are suitable, adequately trained and properly supervised and that well-defined procedures exist for all relevant duties;
  - (g) shall deal with the Exchange in an open and co-operative manner and keep the Exchange promptly informed of anything concerning the Warehousekeeper or Goods stored within his Warehouse which might reasonably be expected to be disclosed to the Exchange; and
  - (h) shall ensure that all charges, whether published by the Exchange or not, be reasonable and comparable with the commercial charges levied for similar services and reflect actual services rendered.

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## SECTION D: WAREHOUSEKEEPING PROCEDURES IN RESPECT OF WAREHOUSEKEEPERS AND WAREHOUSES NOMINATED BY THE EXCHANGE FOR THE STORAGE OF COCOA AND ROBUSTA COFFEE

### D 1. GENERAL

#### D 1.1 Exchange Warehousekeeping Operations

D 1.1.1 The warehousekeeping operations necessary to support the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contracts and ICE Futures Robusta Coffee Futures Contracts are supervised by the Exchange.

D 1.1.2 In respect of warehousekeeping operations, the Exchange is responsible for:

- (a) listing or delisting Warehousekeepers on the Exchange's List of Nominated Warehousekeepers and Nominated Warehouses;
- (b) the approval of a Warehouse;
- (c) the publication of the List of Nominated Warehousekeepers, Nominated Warehouses, the Published List of Rent and Loading Out Charges and publication of Certified Stock reports per port or Delivery Area;
- (d) the inspection of the internal management controls and operating procedures of Warehousekeepers and the inspection of related Warehouses; and
- (e) monitoring the compliance by Warehousekeepers and Members with the Regulations, including the relevant Contract Rules, these GWP's and any other such procedures as may be issued by the Exchange from time to time.

#### D 1.2 Inspection of a Warehouse and Warehousekeeper

D 1.2.1 The Exchange operates an inspection programme in respect of which it aims to inspect each Warehouse and Warehousekeeper on a regular basis.

D 1.2.2 In addition, a Warehouse or a Warehousekeeper may be inspected at any other time, at the absolute discretion of the Exchange.

D 1.2.3 The inspection has six primary objectives:

- (a) to satisfy the Exchange that a Warehouse is in good order and to verify that any faults previously identified have been corrected;
- (b) to ensure that the storage of Goods complies with the relevant Contract Rules and these GWP's;
- (c) to satisfy the Exchange that the Warehousekeeper has adequate procedures for the receipt, storage, sampling, weighing and loading out of Goods to ensure compliance with the relevant Contract Rules and these GWP's;
- (d) to verify that sufficient appropriate documentary records are properly maintained by the Warehousekeeper to ensure an audit trail of the history of the Goods can be constructed;
- (e) to verify that sufficient appropriate documentary records are properly maintained by the Warehousekeeper in relation charges made by the Warehousekeeper and to satisfy the

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Exchange that the Warehousekeeper is, or has been, complying with GWP D 1.26 in relation to the application of those charges; and

- (f) to verify the proper maintenance of information in respect of Goods stored by the Warehousekeeper, details of which are represented by the Warrants recorded on Guardian.

D 1.2.4 The inspectors shall be employees of the Exchange who it considers to be properly qualified to conduct Warehouse inspections or, such other persons appointed by the Exchange whom it considers to be properly qualified and with no material or financial interest in any Warehousekeeper, or in Goods stored by such Warehousekeeper.

D 1.2.5 The Exchange will give instructions to the Warehousekeeper in respect of the rectification of any faults that are found and of any subsequent inspection considered necessary.

D 1.2.6 Exchange inspectors have no obligation to inspect the condition, external or otherwise, of Goods stored by the Warehousekeepers, nor to make their findings known to the Owner of the Goods.

D 1.2.7 A Warehousekeeper shall allow representatives of the Exchange to inspect the Warehouse (or premises that were previously nominated by the Exchange), its facilities for the receipt and delivery of any Goods and the Warehousekeeper's records relating to the Warehouse and the Goods currently or previously stored within it, and the records relating to the Rent and Loading Out Charges levied by it during normal working hours. The Exchange may, at its absolute discretion, make or request copies of any such records.

D 1.2.8 A Warehousekeeper shall allow the Owner to inspect the Goods referred to therein during normal working hours.

## **D 1.3 Guardian<sup>20</sup>**

D 1.3.1 A Warehousekeeper shall, where information is to be made available to or by him via Guardian, comply with the applicable procedures relating to the operation and maintenance of that data system, such procedures being issued by the Exchange.

D 1.3.2 A Warehousekeeper shall ensure that a sufficient number of members of his staff are competent in the operation of Guardian or that he has arrangements in place for the operation of Guardian via a third party.

D 1.3.3 A Warehousekeeper shall,

- (a) when submitting a sampling notification to the Exchange in respect of the initial grading, enter on to Guardian, as a minimum the following Warrant details as specified in GWP F 3.1.1:
- (i) port;
  - (ii) Warehousekeeper;
  - (iii) Warrant Number;
  - (iv) Commodity;
  - (v) Vessel; and
  - (vi) Origin.

In addition, the Warehousekeeper shall also enter on to Guardian the following details;

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<sup>20</sup> Amended 26 May 2015

## GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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(vii) Delivery Unit (Cocoa only); and

(viii) Crop year.

Subject to GWPs D 2.4.2(c) and D 3.4.3(c) the following details shall be entered on to Guardian by the Warehousekeeper no later than two business days after the sample has been received at the Grading Room:

(ix) In respect of Cocoa or Robusta Coffee stored in bags, the number of bags comprising the parcel, lot or Delivery Unit;

(x) Warehouse in which stored;

(xi) Final day of landing;

(xii) Date on which loading into the Warehouse was completed;

(xiii) Original Weigh Date (in the case of a Cocoa Bulk Delivery Unit this should be taken as the date on which weighing was completed);

(xiv) Gross weight and tare;

(xv) Number and date of issue of the Bill(s) of Lading for the shipment of the Cocoa or Robusta Coffee from Origin,

(xvi) Owner;

(xvii) Whether the Cocoa or Robusta Coffee are subject to preferential or non-preferential rate of duty;

(xviii) Where the Cocoa or Robusta Coffee are subject to preferential duty, that the documents referred to in the relevant Contract Rules are available in accordance with those terms; and

(xix) Any Re-weigh Date.

(b) where a Delivery Unit is the subject of an application for re-grading, prior to the taking of a sample for submission to the Grading Room and in accordance with GWP D 1.3.4, ensure that all details recorded on Guardian relating to the Delivery Unit are accurate and up to date.

D 1.3.4 A Warehousekeeper shall ensure that all details of Warrants recorded on Guardian relating to Goods are correct and updated within one business day of any relevant physical process having been completed. Such physical process may include, without limitation, reweighing, sampling including industry samples, re-piling or conversion of a Delivery Unit and removal of Goods from the Warehouse. For the avoidance of doubt, where all or part of the Goods comprising a Lot or Delivery Unit are removed from the Warehouse the record of the relevant Warrant must be removed from Guardian.

D 1.3.5 A Warehousekeeper shall ensure that at all times the information recorded on Guardian accurately reflects the rent paid in respect of any Warrant.

D 1.3.6 Warrants on Guardian

D 1.3.6.1 A Warehousekeeper shall be responsible for the issue of Warrants in respect of Goods stored by the Warehousekeeper in a Warehouse. A Warrant must be issued and printed prior to the initial grading of the Goods.

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D 1.3.6.2 When nominating the Clearing Member on Guardian the Warehousekeeper shall be responsible for entering the name of the Owner on Guardian.

## **D 1.4 Beneficial Interest**

D 1.4.1 If either the Member or, if he is not the Owner of the Goods, the Owner on whose behalf the Member is making an application for grading under GWPs D 2.4.1 or D 3.4.1, and E 1.10:

- (a) has an interest of 5 per cent or more in the capital of;
- (b) is a partner of; or
- (c) has any other financial interest in,

the Warehousekeeper storing the Goods, the Nominated Member, or the Owner of the Goods, as the case may be, shall inform the Warehousekeeper and the Exchange of that fact. Where the Warehousekeeper has knowledge of any beneficial interest it shall be obliged to inform the Exchange as soon as the Warehousekeeper becomes aware.

## **D 1.5 Supervision of Sampling**

D 1.5.1 The Exchange may at its absolute discretion, supervise, or have supervised by a Supervision Company the sampling of any Goods stored in a Warehouse.

D 1.5.2 Following the notification of sampling under GWPs D 2.4.2 or D 3.4.2 the Exchange may request a Supervision Company to appoint a Supervisor to supervise the drawing (and if required quartering) and sealing of the sample at the Exchange's expense subject to the provisions of GWP D 1.5.7.

D 1.5.3 Where the Exchange has determined in accordance with GWP D 1.5.2 that sampling notified under GWPs D 2.4.2 or D 3.4.2 will be supervised and has notified the Warehousekeeper of such determination, the Warehousekeeper shall provide the Exchange with information as requested and in a form determined by the Exchange from time to time.

D 1.5.4 The Exchange will advise the Supervision Company and the Warehousekeeper of the appointment and the Exchange reference number. The Exchange reference number may be for Goods which are:

- (a) stored on a specific Warrant; or
- (b) stored on a number of Warrants; or
- (c) covered by one or more Bill(s) of Lading or similar document and are due to be stored or already stored by the Warehousekeeper.

D 1.5.5 The Warehousekeeper shall advise the Exchange and Supervision Company of any changes to the details supplied in accordance with GWP D 1.5.2 and D 1.5.3 immediately upon the Warehousekeeper becoming aware of such changes.

D 1.5.6 On occasions where the Exchange has advised the Warehousekeeper that supervision of a sampling operation is to occur under these GWPs, the Warehousekeeper shall allow Supervisors and/or Exchange officials, access to the relevant Goods and documents for the purpose of supervising the sampling.

D 1.5.7 When the Exchange appoints a Supervision Company to supervise sampling, the sampling operation covering the sampling of Goods under a specific Exchange reference number may only start in the Warehouse(s) during normal port or Delivery Area working hours. In the event that the Warehousekeeper or Owner wishes to sample outside of normal port or Delivery Area working hours and subject to GWPs D 2.4.3 and D 3.4.3 any additional cost of supervision incurred by the Exchange shall be for the account of the Warehousekeeper.

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D 1.5.8 The Exchange may, and at its sole discretion, specify the start time and date of any sampling operation. If the Exchange specifies a start time and date for a sampling operation which is outside of normal port or Delivery Area working hours, any additional costs incurred by the Warehousekeeper shall be for the account of the Exchange.

D 1.5.9 In the event that the Supervisor is not in attendance at the specified time and place, the Warehousekeeper shall immediately advise the Exchange and may start sampling at the agreed time.

### **D 1.6 Liability for Warehousekeepers and Supervision Companies**

D 1.6.1 Without prejudice to any exclusion of liability provision in the Regulations or the Clearing House Rules, none of the Exchange, the Directors or the Clearing House shall be liable for any loss or damage whatsoever, whether for negligence, breach of contract, misrepresentation or otherwise, in respect of any failure whatsoever by a Warehousekeeper, Member or Depository to comply with any of its obligations under the Regulations, including the relevant Contract Rules and these GWPs, including (without prejudice to the generality of the foregoing):

- (a) any failure by a Warehousekeeper, Member or Depository to comply with its obligations in relation to the use of the Warrant service provided in Guardian;
- (b) any failure by a Warehousekeeper or Supervision Company to comply with its obligations;
- (c) any failure by a Warehousekeeper to comply with its obligations under the Regulations, including the relevant Contract Rules and these GWPs, or of any responsibilities which he may assume towards Members or any other person pursuant to the terms of any receipt, Warrant or contract, or in respect of the condition of a Warehouse or its suitability for the storage of Goods; or
- (d) any failure by a Warehousekeeper to comply with its obligations pursuant to GWP D 1.26 (irrespective of whether or not the Exchange or the Directors have taken disciplinary or enforcement action against a Warehousekeeper in respect of such failure).

D 1.6.2 Nothing in this provision shall operate to exclude or restrict the liability of the Exchange, the Directors or the Clearing House for fraud, wilful default, or death or personal injury due to negligence.

D 1.6.3 Parties placing Cocoa or Robusta Coffee into a Warehouse or taking delivery of Cocoa or Robusta Coffee in or from such Warehouse shall accordingly have no claim against the Directors, the Exchange, the Clearing House or any committee or employee thereof, which is excluded in this GWP D 1.6.

### **D 1.7 Criteria for Approval as a Warehousekeeper**

D 1.7.1 For a Warehousekeeper to be approved as a Warehousekeeper and in order to maintain that status, the Exchange must be satisfied that he:

- (a) carries on business in a port or Delivery Area where Warehouses are eligible for nomination under the relevant Contract Rules;
- (b) is of sufficient business and financial standing, meets the financial requirements prescribed by the Exchange from time to time and has in place a performance bond as prescribed by the Exchange from time to time for the protection of an Owner's interests (or such other financial provisions as may be prescribed by the Exchange from time to time). The Exchange may, at any time, request information regarding the financial status of a Warehousekeeper;
- (c) has been, or is part of a Related Company that has been, a Warehousekeeper for a reasonable period. A reasonable period will usually be considered to be at least two years, with a



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minimum of one year's experience of storing either Cocoa or Robusta Coffee or both, or that the Warehousekeeper employs staff with such experience;

- (d) has in place the necessary procedures and management controls to ensure his compliance with the Regulations, including the relevant Contract Rules and these GWP's for the classification of Warehousekeeper in respect of which he is or is seeking to be nominated;
- (e) shall organise and control his affairs in a responsible manner, keep proper records, have well defined procedures for handling and storing Cocoa and Robusta Coffee and ensure that his employees, contractors or agents are suitable, adequately trained and properly supervised;
- (f) has in place such insurance as shall be specified by the Exchange in its absolute discretion from time to time;
- (g) where applicable, is licensed to issue a Warrant for the delivery of Cocoa or Robusta Coffee to the bearer of the Warrant, by a National or State licensing authority, and shall not breach any applicable National or State law;
- (h) has satisfactory communication and office facilities for the production of Warrants and such other documents relating to delivery;
- (i) shall undertake to use Guardian, either directly or via a third party, prior to taking Goods into store and piling them for potential delivery against positions in the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contracts or ICE Futures Robusta Coffee Futures Contract, as the case may be;
- (j) shall undertake to appoint a London agent where deemed necessary at the absolute discretion of the Exchange;
- (k) satisfies any other requirements that the Exchange may prescribe from time to time; and
- (l) shall undertake, with the full understanding of the provisions of GWP D 1.27.8, to provide, where necessary, adequate resources to facilitate the Loading Out of all Goods stored in his Warehouses within 60 calendar days of receiving the necessary Loading Out requests under GWP D 1.27.1.

D 1.7.2 In respect of a Warehousekeeper who is, or who is seeking to be approved as a Dual Capacity Warehousekeeper, in addition to the above, the Exchange must also be satisfied that he:

- (a) has, or is part of a Related Company that has, adequate experience of the handling of bulk Cocoa, or that the Warehousekeeper employs staff with such experience; and
- (b) possesses or has access to equipment and bags to enable compliance with the requirements of GWP D 1.16.7.

D 1.7.3 Pursuant to GWP D 1.7.1(e), a Warehousekeeper shall have appropriate and detailed procedures to evaluate on a continuing basis the suitability of senior management, which for the purposes of this GWP includes any director, partner, sole practitioner, senior manager or any other individual whose position enables them to assert a material influence over the management of the Warehousekeeper's operation. Such procedures shall include, but are not limited to, an assessment against the criteria detailed below:

- (a) whether any such person has been convicted of any criminal offence. Particular consideration should be given to offences of dishonesty, fraud, financial crime or other offences relating to companies, insolvency, money laundering, market manipulation or insider dealing;
- (b) whether any such person has been the subject of an adverse finding or any settlement in civil proceedings particularly in connection with the formation or management of a body corporate;

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- (c) whether any such person has been the subject of, or has been interviewed in the course of, any existing or previous investigation or disciplinary proceedings by a regulatory authority, clearing house or exchange, professional or trade body, or government body or agency;
- (d) whether any such person has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings;
- (e) whether any such person has been involved with a company, partnership or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body;
- (f) whether any such person has been a director, partner, or has been concerned in the management, of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;
- (g) whether any such person has been dismissed, or has been asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;
- (h) whether any such person has ever been disqualified from acting as a director or from acting in any managerial capacity; and
- (i) whether any such person being an individual has ever been declared bankrupt or has made any arrangement or composition with his creditors.

D 1.7.4 Where a Warehousekeeper assesses that any criterion detailed in GWP D 1.7.3 has been met by any person in a senior management position, the Warehousekeeper shall immediately notify the Exchange with details of all facts and circumstances surrounding the assessment including:

- (a) whether the Warehousekeeper believes, notwithstanding that one or more of the criteria has been met, that the person remains suitable for senior management; and, if so
- (b) the reasons, facts, or circumstances why the Warehousekeeper believes the person remains suitable.

D 1.7.5 In order to satisfy itself that a prospective or existing Warehousekeeper fulfils the criteria detailed in this GWP D 1.7, the Exchange may seek references from any organisation or body it considers appropriate (e.g. Members, other Warehousekeepers, bankers or Dun & Bradstreet).

### D 1.8 Application to become a Warehousekeeper

D 1.8.1 To be approved and to remain approved as a Warehousekeeper an applicant must:

- (a) meet the criteria for approval specified in GWP D 1.7 for the classification of Warehousekeeper in respect of which he is applying;
- (b) sign the Terms and Conditions of Appointment for Nominated Warehousekeepers;
- (c) register at least one Warehouse suitable for the storage of Goods. For the avoidance of doubt, a Warehousekeeper wishing to remain on the list of Nominated Warehousekeepers will be required to have at least one Warehouse in respect of which he is the Nominated Warehousekeeper; and
- (d) submit to the Exchange details of its charges as required by GWP D 1.26.1. Such charges must satisfy the requirements of GWP D 1.26.2.

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- D 1.8.2 To apply for nomination the applicant shall complete a Nominated Warehousekeeper's Application Form and submit it to the Exchange together with a copy of his latest accounts and such other documents as the Exchange may require. To support the application, the Exchange will require references from a minimum of two persons who have stored Cocoa or Robusta Coffee with the applicant within the previous two years. The Exchange may, at any time, request information from the Warehousekeeper as to any matter relevant to preserving the integrity of the contract.
- D 1.8.3 The Exchange will, when considering an application or readmission, and at the applicant's expense, inspect the facilities which are the subject of the application.
- D 1.8.4 A successful applicant will be required to sign the Terms and Conditions of Appointment of Nominated Warehousekeepers.
- D 1.8.5 Subject to GWP D 1.8 being completed satisfactorily and upon payment of both the annual Nominated Warehousekeeper Fee and the annual Nominated Warehouse Fee, as determined by the Exchange from time to time, and having made such other financial provisions as may be prescribed by the Exchange from time to time for the protection of an Owner's interests, the applicant will be added to the List of Nominated Warehousekeepers and Nominated Warehouses published by the Exchange from time to time.
- D 1.8.6 The acceptance of an application to become a Warehousekeeper will be at the absolute discretion of the Exchange. Where the Exchange decides not to accept the application to become a Warehousekeeper the Warehousekeeper may appeal the decision of the Exchange. An appeal made under this GWP must be made to the Directors (or to a committee appointed by the Directors for this purpose) in writing within five business days of the decision not to accept the application. The Directors or such committee shall determine the appeal within 28 days of the Exchange's receipt of the written appeal.

## **D 1.9 Application to add a Warehouse**

- D 1.9.1 To have a Warehouse approved and for such Warehouse to remain approved, the applicant Warehousekeeper must ensure that it meets the requirements specified in GWP D 1.16 for the classification of Warehouse in respect of which he is applying.
- D 1.9.2 To apply for nomination of a Warehouse the applicant shall complete a Nominated Warehouse Application Form and submit it to the Exchange together with such other documents as the Exchange may require.
- D 1.9.3 The Exchange will, at the applicant's expense, inspect the facilities which are the subject of the application when considering the application.
- D 1.9.4 Subject to GWP D 1.9 being completed satisfactorily, the Warehouse will be added to the List of Nominated Warehousekeepers and Nominated Warehouses.
- D 1.9.5 The acceptance of an application for the nomination of a Warehouse will be at the absolute discretion of the Exchange.

## **D 1.10 Annual Renewal of Nomination**

- D 1.10.1 In order for the Warehousekeeper to continue to be eligible for nominated status, the Warehousekeeper is required by no later than 30 business days prior to 1 May, or on such other date as may be notified by the Exchange, to submit to the Exchange each year:
- (a) an Application Form for Renewal of Appointment to the ICE List of Nominated Warehousekeepers and Warehouses; and
  - (b) details of its charges as required by GWP D 1.26.1. Such charges must satisfy the requirements of GWP D 1.26.2.

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D 1.10.2 A Warehousekeeper shall notify the Exchange immediately if he has reason to believe that any of the information supplied to the Exchange in the original Nominated Warehousekeepers Application Form or the annual Nominated Warehousekeepers Renewal Form has ceased to be accurate, or, if he ceases to comply with the requirements stated in these GWPs.

D 1.10.3 A Warehousekeeper shall pay to the Exchange both the annual Nominated Warehousekeeper Fee and the annual Nominated Warehouse Fee, as determined by the Exchange, by no later than 30 April each year, or on such other date as may be notified by the Exchange.

## **D 1.11 Resignation**

D 1.11.1 A Warehousekeeper wishing to resign from his nominated status shall give six months' notice in writing to the Exchange.

D 1.11.2 Before the resignation of a Warehousekeeper can be accepted he will be required to confirm in writing to the Exchange that he no longer has any Goods with a Valid Grading Results held in Warehouses under his control or; either

- (a) he has received the consent of all current holders of the relevant Warrants for the Goods to be transferred in accordance with GWPs D 1.19 and D 1.20, D 1.23, D 1.24 or D 1.25, as the case may be, into the control of another Warehousekeeper; or
- (b) he has received the agreement of the current holders of the relevant Warrants that the Goods will no longer be stored in a Warehouse.

D 1.11.3 Any movement or change in control of Goods which have a Valid Grading Result which are required to be made by the Warehousekeeper must comply with GWPs D 1.19 and D 1.20, D 1.21, D 1.23 or D 1.24, as the case may be.

D 1.11.4 Any costs incurred in connection with the movement or change in control of Goods necessitated by the resignation of the Warehousekeeper shall be for the account of the Warehousekeeper.

D 1.11.5 Where a Warehousekeeper wishes to resign the nominated status of a Warehouse he may do so by giving reasonable notice in writing to the Exchange. Reasonable notice shall be considered to be six full calendar months or until such time as any Goods have been removed from the Warehouse, whichever is the sooner. The Exchange may from time to time declare what is to be taken as reasonable notice for the purposes of this GWP, and different periods may be so declared for different cases.

D 1.11.6 Any movement of Goods which is required to be made by the Warehousekeeper must comply with GWPs D 1.19, D 1.21, D 1.23 or D 1.24, as the case may be.

D 1.11.7 Any costs incurred in connection with the movement of Goods necessitated by the resignation of a Warehouse by the Warehousekeeper shall be for the account of the Warehousekeeper.

## **D 1.12 Insolvency**

D 1.12.1 The Exchange must be informed immediately, in writing, either directly by the Warehousekeeper or via the appointed liquidator or receiver, as the case may be:

- (a) where the Warehousekeeper is a company, if the Warehousekeeper passes a resolution for its winding up or a court of competent jurisdiction makes an order for the Warehousekeeper's winding up or dissolution;
- (b) where the Warehousekeeper is a partnership, if the Warehousekeeper is dissolved;
- (c) if the Warehousekeeper fails to pay any sum due and payable or suspends any payment;

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- (d) of the making of an administration order in relation to the Warehousekeeper or the appointment of a receiver over, or an encumbrancer taking possession of or selling, an asset of the Warehousekeeper;
- (e) if the Warehousekeeper makes an arrangement or composition with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally;
- (f) of the making of a bankruptcy order against the Warehousekeeper; or
- (g) if the Warehousekeeper is subject to any other insolvency or bankruptcy procedure under the Insolvency Act 1986 or Insolvent Partnerships Order 1994 or an analogous procedure under the law of the jurisdiction in which the Warehousekeeper is incorporated or any jurisdiction in which it carries on business.

For these purposes the “winding up” or “dissolution” of a company or partnership, an “administration order” or “bankruptcy order” is to be construed so as to include any equivalent or analogous proceedings or orders under the law of the jurisdiction in which the Warehousekeeper is formed or any jurisdiction in which it carries on business.

- D 1.12.2 Upon receiving a notification under GWP D 1.12.1, the Exchange will immediately suspend the Warehousekeeper from the List of Nominated Warehousekeepers and Nominated Warehouses and shall publish such information by notice posted on the Market. The suspended Warehousekeeper will continue to be bound by the Exchange’s requirements and the Exchange may give directions as to the status and disposal of Warrants issued by the suspended Warehousekeeper which relate to Goods stored for potential delivery against the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contracts or ICE Futures Robusta Coffee Futures Contract.
- D 1.12.3 Following the suspension of the Warehousekeeper an Owner of Goods under the control of the suspended Warehousekeeper may make an application for the movement of the Goods to another Warehousekeeper in accordance with GWPs D 1.20, D 1.23 or D 1.24 as the case may be.
- D 1.12.4 Any movement undertaken under GWP D 1.12.3 must comply with GWPs D 1.19 and GWPs D 1.20, D 1.23, D 1.24 or D 1.25 as the case may be, or as otherwise instructed by the Exchange in its absolute discretion.
- D 1.12.5 Any movement undertaken under GWP D 1.12.3 shall be the responsibility of, and for the account of the Owner of the Goods. The Owner may make an application for the Exchange to utilise the performance bond of the Warehousekeeper who has been suspended to contribute to the costs incurred by the Owner in relation to the movement of the Goods.
- D 1.12.6 On consideration of an application under GWP D 1.12.5 the Exchange may, at its absolute discretion, determine not to utilise the performance bond where, at the time of the application:
- (a) the business of the suspended Warehousekeeper has been taken over by another Nominated Warehousekeeper and that Warehousekeeper has consented to taking control of the Goods; or
  - (b) the Goods are currently stored in a Warehouse which is registered by another Warehousekeeper and that Warehousekeeper has consented to taking control of the Goods.
- D 1.12.7 Subject to GWP D 1.12.6 the Owner shall, upon completion of the movement of the Goods, present to the Exchange a detailed account of the costs incurred in the movement of the Goods. The Exchange may, in its absolute discretion, utilise the performance bond of the Warehousekeeper who has been suspended to contribute to the costs incurred by the Owner in the movement of Goods which have a Valid Grading Result or an expired Valid Grading Result. Any such funds made available by the utilisation of the performance bond in accordance with these GWPs can only be used to contribute to the costs of the movement of Goods within the same Delivery Area.

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- D 1.12.8 For the purpose of these GWP's the cost of the movement of Goods will be limited to:
- (a) the cost of loading of the Goods onto the means of transportation;
  - (b) the cost of transportation of the Goods to the receiving Warehouse;
  - (c) the cost of unloading of the Goods into the receiving Warehouse; and
  - (d) the cost of weighing the Goods at the receiving Warehouse.
- D 1.12.9 The Exchange, once satisfied that it is in possession of all requests for funds in accordance with GWP D 1.12.7, in relation to the suspension of a particular Warehousekeeper, will allocate to the Owners of the Goods the funds deriving from utilisation of the performance bond in the following manner:
- (a) where sufficient funds are available, the cost of moving all relevant Goods which have a Valid Grading Result or expired Valid Grading Result will be met. Any surplus funds will be returned to the issuer of the performance bond; or
  - (b) where the funds are not sufficient to meet the costs of moving all Goods which have a Valid Grading Result or expired Valid Grading Result then the funds will be allocated to meet the cost of moving:
    - (i) all relevant Goods which have a Valid Grading Result. Where the funds are not sufficient to meet the cost of moving all such Goods then the funds will be allocated pro-rata by Owner across those Goods; and
    - (ii) if any further funds are available, such funds will be allocated pro-rata by Owner across all relevant Goods which have an expired Valid Grading Result.
- The Owner may seek to recover any remaining costs from the Warehousekeeper, his liquidator or receiver as the case may be.
- D 1.12.10 Following any suspension under GWP D 1.12.2, the nomination of a Warehousekeeper may be terminated in accordance with GWP D 1.13.
- D 1.12.11 Following any suspension under GWP D 1.12.2 samples may only be drawn from Goods under the supervision of the Exchange or a Supervision Company.
- D 1.12.12 A Warehousekeeper that has been suspended under GWP D 1.12.2 may not create any new records on Guardian in respect of any Cocoa or Robusta Coffee currently stored, or expected to be stored, by that Warehousekeeper.
- D 1.12.13 A tender against a position held in the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contracts or ICE Futures Robusta Coffee Futures Contract of a Warrant issued by a Warehousekeeper which is made prior to the suspension of that Warehousekeeper shall not be invalidated, but no further tenders of Warrants issued by the suspended Warehousekeeper may be made after his suspension.
- D 1.13 Termination of Nomination**
- D 1.13.1 The Exchange may, in its sole and absolute discretion, suspend or terminate at any time the nominated status of any Warehouse or Warehousekeeper.
- D 1.13.2 Except as provided under GWP D 1.12, a Warehousekeeper may appeal the decision of the Exchange to suspend or terminate its nomination or the nomination of a Warehouse for which it is the Nominated Warehousekeeper. An appeal made under this GWP must be made to the Directors (or to a committee appointed by the Directors for this purpose) in writing within five business days of the termination or

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suspension of the nomination and must contain evidence as to why the nomination should not be suspended or terminated. The Directors or such committee shall determine the appeal within 28 days of the Exchange's receipt of the written appeal.

- D 1.13.3 In the event of the termination of a nominated:
- (a) Warehousekeeper, the nomination of all Warehouses under the control of such Warehousekeeper shall be terminated and the Warehousekeeper and all Warehouses under the control of such Warehousekeeper shall immediately be removed from the list of nominated Warehousekeepers and Warehouses.
  - (b) Warehouse, the Warehouse shall immediately be removed from the list of nominated Warehouses.
- Warehouse or Warehousekeeper, the Directors may impose such other and further restrictions in connection with any such suspension or termination as it may deem necessary and appropriate.
- D 1.13.4 Unless the Directors otherwise determine, if the nomination of any Warehouse is suspended or terminated for any reason, any Goods with a Valid Grading Result stored in such Warehouse must be moved to a nominated Warehouse within sixty (60) calendar days of such suspension or termination.
- D 1.13.5 Any movement undertaken under GWP D 1.13.4 shall be the responsibility of the Owner of the Goods. Any costs incurred in the movement of the Goods shall be for the account of the Warehousekeeper whose nomination has been terminated. Should the Warehousekeeper refuse to co-operate with the Owner of the Goods with regard to meeting any reasonable costs incurred in the movement of the Goods, the Owner shall inform the Exchange of this in writing and provide a detailed account of the costs incurred in the movement of the Goods.
- D 1.13.6 Where the Exchange considers, that such costs as may be advised to it in accordance with GWP D 1.13.5 are reasonable, the Exchange may, in its absolute discretion, utilise the performance bond of the Warehousekeeper whose nomination has been terminated to contribute to the costs incurred by the Owner in the movement of Goods which have a Valid Grading Result or an expired Valid Grading Result. Any such funds made available by the utilisation of the performance bond in accordance with these GWPs can only be used to contribute to the costs of the movement of Goods within the same Delivery Area.
- D 1.13.7 For the purpose of these GWPs the cost of the movement of Goods will be limited to:
- (a) the cost of loading of the Goods onto the means of transportation;
  - (b) the cost of transportation of the Goods to the receiving Warehouse;
  - (c) the cost of unloading of the Goods into the receiving Warehouse; and
  - (d) the cost of weighing the Goods at the receiving Warehouse.
- D 1.13.8 The Exchange, once satisfied that it is in possession of all requests for funds in accordance with GWP D 1.13.5, in relation to the termination of nomination of a particular Warehousekeeper, will allocate to the Owners of the Goods the funds deriving from utilisation of the performance bond in the following manner:
- (a) where sufficient funds are available, the cost of moving all relevant Goods which have a Valid Grading Result or expired Valid Grading Result will be met. Any surplus funds will be returned to the issuer of the performance bond; or
  - (b) where the funds are not sufficient to meet the costs of moving all Goods which have a Valid Grading Result or expired Valid Grading Result then the funds will be allocated to meet the cost of moving:

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- (i) all relevant Goods which have a Valid Grading Result. Where the funds are not sufficient to meet the cost of moving all such Goods then the funds will be allocated pro-rata by Owner across those Goods ; and
- (ii) if any further funds are available, such funds will be allocated pro-rata by Owner across all relevant Goods which have an expired Valid Grading Result.

The Owner may seek to recover any remaining costs from the Warehousekeeper.

D 1.13.9 Where the nomination of a Warehousekeeper or Warehouse has been suspended or terminated by the Exchange and if any Goods are being stored in the Warehouse in question, or by the Warehousekeeper, then:

- (a) further samples from such Goods for submission to the Exchange for grading shall only be drawn under supervision of the Exchange or a Supervision Company; and
- (b) no tender shall be permitted of Goods with a Valid Grading Result until such time as;
  - (i) the Goods have been moved to another Warehouse, is so required, in accordance with GWPs D1.19, D 1.23, D 1.24 or D 1.25 as the case may be;
  - (ii) change in control of the Goods has occurred, in accordance with GWPs D 1.19 and D 1.20; or

the suspension of nomination has been lifted.

D 1.13.10 Members of the Exchange shall be informed of the suspension or termination of the nomination of a Warehousekeeper or Warehouse and, where relevant, the status of the Goods which have a Valid Grading Result or expired Valid Grading Result stored by the Warehousekeeper or within the Warehouse, in such manner and at such time as may be determined by the Exchange.

D 1.13.11 The Exchange may from time to time give directions as to the status and disposal of outstanding Warrants where the nominated status of a Warehouse or a Warehousekeeper has been suspended or terminated.

D 1.13.12 A Warehousekeeper who ceases to be a Warehousekeeper in relation to a Warehouse shall remain subject to the Regulations, including these GWPs, and to the jurisdiction of the Exchange in respect of all acts and omissions while he was a Warehousekeeper and in respect of any investigation or disciplinary proceedings relating thereto (including the payment of any fine or application or any other sanction imposed) as if he were a Warehousekeeper, for the longer of:

- (a) the period of twelve months from the date on which he ceased to be a Warehousekeeper in relation to such Warehouse; or
- (b) the period during which any disciplinary proceedings continue against him, being proceedings started by the Exchange no later than twelve months after the date on which he ceased to be a Warehousekeeper subject to any extension of the period.

Where a Warehousekeeper has ceased to be a Warehousekeeper in relation to a Warehouse, it shall be open to the Exchange to rely upon any breach of the Regulations, including these GWPs, in respect of the time when the Warehousekeeper was subject thereto any investigation or disciplinary proceedings.

### D 1.13.A Duty to Notify

D 1.13.A.1 Without prejudice to any similar obligations to notify the Exchange of matters arising pursuant to terms and conditions of acceptance as a Nominated Warehousekeeper or elsewhere in the Regulations, a



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Warehousekeeper shall immediately notify the Exchange in writing by facsimile or electronic transmission of the occurrence of any of the following events:

- (a) acquisition of a licence issued by any other commodity exchange;
- (b) any material and adverse change in financial condition or of an emergency event or a financial emergency;
- (c) if the Warehousekeeper is a corporate entity, any change in the ownership of or controlling interest in the corporate entity if it is a corporation, limited liability company or similar and, if the Warehousekeeper is a partnership, any change in the identity of the partners;
- (d) any conviction, finding of guilt, confession of guilt, plea of guilty, or plea of *nolo contendere* to a crime or misdemeanor charging misrepresentation, fraud, deceit, theft, embezzlement, gambling, conversion, abuse of a fiduciary relationship or other such act on the part of the Warehousekeeper;
- (e) any refusal to be granted a license of any type by any commodity exchange; withdrawal of any application for a license from any commodity exchange; suspension, or cancellation of a license or the issuance of any bar, fine, or censure against such licensee by any commodity exchange; issuance of a cease and desist order, temporary or permanent injunction, or any other sanction or discipline through an adverse determination, voluntary settlement or otherwise, by any commodity exchange, related central counterparty or clearing organization or competent regulatory authority or quasi governmental body or under the authority of a competent court.
- (f) becoming subject to any material unsatisfied liens or judgments;
- (g) the discovery of any false statement made in or in connection with any application filed with the Exchange;
- (h) failure or inability to meet continuously the criteria for eligibility as a Nominated Warehousekeeper, including without limitation the eligibility of any Warehouse operated by a Nominated Warehousekeeper, or such other qualifications as the Directors may from time to time determine are in the best interests of the Exchange;
- (i) any irregularity or fraud, or neglect or infraction of the Regulations by any Member, or any licensee, that may come to its knowledge;
- (j) any damage relevant or material damage suffered by any Goods;
- (k) failure to meet the requirements prescribed in the Regulations or specified by the Exchange or the Warehouse and License Committee from time to time; and
- (j) the inability to function as a Warehousekeeper, or the inability of a Warehouse to be used as such, due to a physical emergency such as damage to or destruction of business facilities, strike or other labor dispute, or other similar events.

## D 1.14 Disciplinary Proceedings

D 1.14.1 Any breach of these GWPs by a Warehousekeeper, or failure on his part to observe the terms of or facilitate the performance of ICE Futures London Cocoa Futures Contracts or ICE Futures Robusta Coffee Futures Contracts, ICE Futures Euro Cocoa Futures Contracts made under the Regulations, may be investigated under Section E of the Regulations, and disciplinary proceedings may be commenced against him thereunder.

## D 1.15 Role and Responsibilities of a Warehousekeeper

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- D 1.15.1 Goods shall be stored by a Warehousekeeper, in a Warehouse nominated by the Exchange for the storage of such Goods.
- D 1.15.2 Warehousekeepers have the following primary responsibilities under the Regulations, including the relevant Contract Rules and these GWPs:
- (a) to provide and properly maintain facilities for the receipt, storage, sampling and delivery out of Goods from a Warehouse in accordance with the Regulations, including the relevant Contract Rules and these GWPs for the classification of Warehousekeeper for which he is nominated;
  - (b) to issue Warrants and other documents in respect of Goods stored in a Warehouse, as required by the Regulations, including the relevant Contract Rules and these GWPs. The Warehousekeeper may deliver Goods out of a Warehouse where the original Warrant has been destroyed or mislaid once the Warehousekeeper is satisfied upon diligent enquiry and after completion of all relevant procedural requirements in that jurisdiction that the person claiming ownership of the relevant Goods has a proper right to do so;
  - (c) to enter onto Guardian and properly maintain Warrant details of Goods in store as required by the relevant Contract Rules and these GWPs;
  - (d) to ensure that Goods are at all times correctly stored and identified as required by:
    - (i) in respect of Cocoa, GWPs D 1.16, D 2.1 and D 2.2; or
    - (ii) in respect of Robusta Coffee, GWPs D 1.16, D 3.1 and D 3.2.
  - (e) a Warehousekeeper shall maintain Goods in external good order and externally free from any insect, rodent or any other type of infestation;
  - (f) to draw samples in accordance with GWPs D 2.4, D 2.5, D 2.6 and D 2.7 in respect of Cocoa and GWPs D 3.4 and D 3.5 in respect of Robusta Coffee for despatch to the Grading Room;
  - (g) to pay to the Exchange such registration and other fees as are provided for in or under the Regulations and in the Nominated Warehousekeeper's Application Form or as prescribed by the Exchange from time to time. Such fees shall not be refundable in the event of resignation or termination of nomination;
  - (h) to maintain such other financial provisions as may be prescribed by the Exchange from time to time for the protection of an Owner's interests;
  - (i) to maintain appropriate insurance to ensure that the interests of Owners are protected should a claimable event occur;
  - (j) to act in such a way that ensures that any landlord, authority or other person will not acquire a lien, right of pledge or similar charge over the Goods stored in the Warehouse, and to agree not to exercise any lien, right of pledge or similar charge in relation to the Goods save in respect of charges owed to him in relation to the storage of those Goods. If, notwithstanding this GWP a lien or other right does arise the Warehousekeeper shall notify the Exchange in writing immediately. Where the Warehousekeeper could discharge the lien he must do so immediately or where this is not possible he must arrange for all the Goods stored in the Warehouse to be transferred to another Warehouse, or as the Exchange shall direct, and upon such transfer shall ensure that the provisions of GWPs D 1.19, D 1.20, D 1.23, D 1.24 and D 1.25 are complied with; and
  - (k) to abide by any other procedures published by the Exchange from time to time.
- (l) [Warehousekeepers shall be registered at all times with the U.S. Food and Drug Administration as a "Food Facility" or "Foreign Food Facility", as applicable.](#)

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## D 1.16 Storage Requirements

- D 1.16.1 A Warehouse may only be registered by one Warehousekeeper. A Warehousekeeper may store Goods in bags in a Warehouse in respect of which he is not the nominated Warehousekeeper. However, a Warehousekeeper may only store Goods in bulk in a Warehouse for which he is the nominated Warehousekeeper.
- D 1.16.2 Goods must be stored in accordance with GWPs D 2.1 and D 2.2 in respect of Cocoa and GWPs D 3.1 and D 3.2 in respect of Robusta Coffee.
- D 1.16.3 In instances where a Warehousekeeper is storing Goods in bags in a Warehouse registered by another Warehousekeeper the following conditions will apply:
- (a) the Warehousekeeper who has registered the Warehouse will be responsible for the payment of the annual Nominated Warehouse Fee and the provision of an appropriate performance bond to cover that Warehouse, even though Goods which are under the control of other Warehousekeepers may from time to time be stored in that Warehouse;
  - (b) the Warehousekeeper who has registered the Warehouse will be responsible for any failure to maintain that Warehouse to the standard required in these GWPs and will be sanctioned accordingly, notwithstanding that such a failure may have been as a result of the storage of Goods in that Warehouse by another Warehousekeeper;
  - (c) the Warehousekeeper recorded on Guardian as storing Goods in a Warehouse will be responsible for any failure to maintain those Goods to the standard required by these GWPs and will be sanctioned accordingly, even though such a failure may be as a result of the actions of another Warehousekeeper in whose Warehouse the Goods are stored or the failure of that Warehousekeeper to maintain that Warehouse to the standard required by these GWPs;
  - (d) any sampling, weighing or other activity required by the Owner of the Goods in relation to Goods stored in the Warehouse of another Warehousekeeper shall be carried out by the Warehousekeeper who issued the Warrants in respect of those Goods; and
  - (e) a Warehousekeeper may not undertake any movement of Goods which are stored in his Warehouse and that are under the control of another Warehousekeeper unless directed to do so by the responsible Warehousekeeper who in turn will have, where necessary, gained permission from the Owner and the Exchange.
- D 1.16.4 Each Warehouse shall be clearly identified with a name, letter or number and such designation shall be recorded in the List of Nominated Warehousekeepers and Warehouses.
- D 1.16.5 A Warehousekeeper shall:
- (a) keep any Warehouse, in respect of which he is registered as the Warehousekeeper, in a good state of repair at all times. Windows, doors and drainpipes shall be weatherproof and properly fitted to prevent the entry of pests. Guttering shall be sound and free from weeds and debris. Downpipes shall be sound and lead immediately to an adequate drain or soak-away. Where internal downpipes are vulnerable to collision damage, they must be adequately protected;
  - (b) keep ground around the outside of a Warehouse free from waste, lumber, weeds and other debris, to discourage pests and reduce the risk of fire. The immediate area should also be kept free of trees and other vegetation whose growth could present a threat to the structure of the Warehouse;

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- (c) provide effective lighting in all areas where Goods are stored or handled. In respect of Warehouses approved for the storage of Bulk Delivery Units, such lighting should be protected to prevent breakages falling upon the Goods;
- (d) keep pest control logs and records of visits made by the pest control company;
- (e) ensure that a Warehouse is equipped with adequate fire-fighting facilities, which comply with an applicable local, port, state and or national regulations. Access to extinguishers and hoses must not be blocked. Equipment must be checked regularly and each inspection recorded;
- (f) prohibit smoking in storage areas;
- (g) ensure that all animals, both domestic and wild, are excluded from the Warehouse;
- (h) bear the cost of maintaining the Goods stored in his Warehouse to the standard required in GWP D 1.15.2. In respect of Cocoa, it is understood that the Warehousekeeper shall make a periodic charge to cover the cost of fumigation and fogging, in addition to rent that is charged; and
- (i) in respect of Bulk Delivery Units, undertake regular raking of the bulk pile as appropriate to maintain the pile in good condition.

D 1.16.6

In respect of Warehouses nominated for the storage of Goods in bags the following requirements shall apply:

- (a) Goods shall be stored in sound bags in external good order and meeting the criteria prescribed by the Exchange from time to time;
- (b) the following substances must not be stored with Goods stored in a Warehouse:
  - (j) dangerous chemicals or inflammable materials, as classified in the International Maritime Dangerous goods Code;
  - (ii) spices of any kind;
  - (iii) any type of animal hides;
  - (iv) odorous substances; or
  - (v) any other materials that the Exchange may deem to be harmful to the Goods; and

Robusta Coffee and Cocoa may only be stored in the same Warehouse when they are piled in such a manner that they could not be affected by taint e.g. segregated in separate areas of the shed;

- (c) a Warehouse shall be adequately ventilated;
- (d) a Warehouse shall be kept broom clean, with cleaning materials close to hand. All spillages shall be tidied up promptly;
- (e) a Warehouse and any Goods stored therein shall be kept clear of infestation by:
  - (i) closed rodent prevention bait boxes/traps, which shall be in sufficient numbers and well maintained at ground level at regular intervals along the internal walls of the building. These should be inspected by the pest control company on a regular basis but not less than once a month;
  - (ii) fumigating as and when necessary;

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(iii) fogging as and when necessary; and

- (f) each Warehouse, or group of Warehouses, shall have accurate scales for weighing palletised Goods which shall weigh to a minimum interval of 1 kg with a tolerance of 1.5 kg above or below the true weight. The scales shall be regularly serviced and re-calibrated at least once a year and tested every shift prior to use or following any change in location of the scales. Service records shall be available to demonstrate compliance with these requirements.

D 1.16.7 In respect of Warehouses nominated for the storage of Cocoa in bulk, the following requirements shall apply in addition to those in GWP D 1.16.6:

- (a) the Warehouse shall either be used solely for the purpose of storing bulk Cocoa, or be fitted with a permanent or temporary screen across the full height and width of the Warehouse segregating the bulk Cocoa from all other Goods, including bagged Cocoa, stored within the Warehouse;
- (b) the Warehouse, or area intended for the storage of bulk Cocoa within the Warehouse, shall be of a size capable of accommodating a minimum of two Bulk Delivery Units;
- (c) the Warehouse must be equipped with such permanent or temporary partitioning which allows the retention and segregation of Cocoa, ensures its security from theft, and which is otherwise in accordance with these GWPs;
- (d) equipment should be readily available for the stowage into, loading out from or movement of Cocoa within the Warehouse;
- (e) equipment should be readily available for the batch weighing of Cocoa stored in bulk. Where the equipment is used to weigh quantities of 5 tonnes or less of Cocoa it shall weigh to a minimum interval of 5 kg with a tolerance of 7.5 kg above or below the true weight. Where the equipment is used to weigh quantities of more than 5 tonnes of Cocoa it shall weigh to a minimum interval of 20 kg with a tolerance of 30 kg above or below the true weight. The equipment shall be regularly serviced and re-calibrated at least once a year and tested every shift prior to use or following any change in location of the equipment. Service records shall be available to demonstrate compliance with these requirements. In the event that a public weighbridge is used, such weighbridge must comply with these requirements and be appropriately certified by the local authorities;
- (f) equipment should be readily available for the bagging of a Bulk Delivery Unit into bags of a size and standard meeting the criteria prescribed by the Exchange from time to time; and
- (g) bags meeting the criteria prescribed by the Exchange from time to time must be readily available in sufficient quantities to allow for the bagging of a Bulk Delivery Unit.

## D 1.17 Maintenance of Records

D 1.17.1 A Warehousekeeper shall maintain full and appropriate records:

- (a) that are arranged, filed and indexed so as to allow prompt access to any particular record;
- (b) from which the precise identity of Goods stored in a Warehouse may be ascertained;
- (c) which provide a complete audit trail of the Goods from the time that they were taken into store by the Warehousekeeper; and
- (d) which identify the charges made by a Warehousekeeper in respect of the Robusta Coffee comprising a Lot and the Cocoa comprising a Delivery Unit.

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- D 1.17.2 In respect of Cocoa, a Warehousekeeper shall maintain on file:
- (a) proof of identity of Goods including but not limited to, Bills of Lading, Warehouse receipts, storage instructions received from the Owner of the Goods and any other such documents which may aid in identifying the relevant Goods and their date of shipment from Origin; and
  - (b) records providing a complete history of the Goods whilst stored by the Warehousekeeper shall include, but is not limited to, those relating to the weighing, sampling, movement, and fumigation of the Goods (including the identity of the personnel executing such functions) and in respect of Bulk Delivery Units, the dates and times of ventilation and extraction performed in respect of such Cocoa as well as any other information considered relevant to such exercise, and any instructions received from the Owner of the Goods relating to these Goods.
- D 1.17.3 The position of Goods within the warehouse shall be recorded and maintained by the Warehousekeeper on a storage plan of the warehouse or on a list of storage zones or locations of the Warehouse in a manner that will allow an Exchange official or other third party readily to locate and identify the Goods.
- D 1.17.4 A Warehousekeeper may keep a record in electronic form, provided that:
- (a) a hard copy can be reproduced if so required; and
  - (b) the system is adequately safeguarded against loss of information by way of appropriate back-up systems.
- D 1.17.5 All records relating to Goods stored in a Warehouse shall be retained for a minimum of two years following delivery out of the Goods) and shall be held in such a manner that they may be promptly accessed upon request and are reasonably safeguarded against loss, alteration or destruction.
- D 1.17.6 A Warehousekeeper shall keep all the records specified in GWP D 1.17 and all information held in its capacity as Warehousekeeper confidential at all times except where directed to disclose such information by the Exchange in its absolute discretion or where otherwise required by these GWPs.
- D 1.18 Stock Figures**
- D 1.18.1 Following the grading of a sample by ICE Registered Cocoa or Robusta Coffee Graders, the Exchange shall inform the Warehousekeeper responsible for the drawing of the sample from the Goods in such a manner as may be prescribed by the Exchange from time to time, whether the Goods to which the sample relates has been graded tenderable or not tenderable. The Warehousekeeper shall keep a record of such results.
- D1.18.2 At a time and in such a manner as may be prescribed by the Exchange from time to time, any Warehousekeeper having a Warehouse nominated for the storage of:
- (a) Cocoa shall advise the Exchange of the number of Standard, Large and Bulk Delivery Units which are in store in the Warehouse and are the subject of:
    - (i) a Valid Grading Result;
    - (ii) an expired grading result; and
    - (iii) a not tenderable grading result;or
  - (b) Robusta Coffee, shall advise the Exchange of the number of parcels and the number of lots which are in store in the Warehouse and are the subject of:

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- (i) a Valid Grading Result; and
- (ii) a not tenderable Grading Result.

D 1.18.3 The Exchange will use such information to compile data relating to the total number of lots of Robusta Coffee or Delivery Units of Cocoa, as the case may be, stored in Warehouses. The Exchange may, in its absolute discretion, publish information relating to the total number and type of lots of Robusta Coffee or Delivery Units of Cocoa, which are the subject of Valid Grading Results, expired grading results, or which are not tenderable, stored in each port or Delivery Area.

## D 1.19 **Movement of Goods and change in control of a Warehouse or Warehousekeeper – General Requirements and GWPs<sup>21</sup>**

D 1.19.1 From time to time a Warehousekeeper may:

- (a) determine to either:
  - (i) move Goods to another Warehouse under his control;
  - (ii) relinquish the control of a Warehouse to another Warehousekeeper;
  - (iii) move Goods from a Warehouse under his control to another Warehouse under the control of another Warehousekeeper; or
- (b) in respect of Cocoa, be instructed by the Owner of the Cocoa to move or convert Delivery Units; or
- (c) in respect of Robusta Coffee be instructed by the Owner of the Robusta Coffee to move a parcel or lot.

In such circumstances, GWPs D 1.19.2 to D 1.19.8 shall apply, as the case may be, in respect of GWPs D 1.20 to D 1.24 inclusive.

D 1.19.2 Goods that have been moved during a Delivery Month shall not be tendered in that same Delivery Month.

D 1.19.3 For the purpose of these GWPs, control of the Goods shall be deemed to be exercised by the Warehousekeeper recorded on Guardian as storing the Goods in his Warehouse.

D 1.19.4 In respect of Goods having a Valid Grading Result and which do not, according to these GWPs, require re-grading before they may be tendered, then:

- (a) prior to the change of control and where relevant, movement, of Goods between different Warehousekeepers, the current and new Warehousekeepers shall jointly inspect the Goods at the Warehouse of the current Warehousekeeper to verify the identity of the Goods which are the subject of the change in control, and to determine the external good order of such Goods; and
- (b) once both Warehousekeepers are satisfied as to the identity and external good order of the Goods they shall countersign appropriate documentation to that effect and, where relevant, may undertake the movement of such Goods. In the event that such agreement cannot be reached, then the opinion of a mutually acceptable competent independent authority shall be sought by the Warehousekeepers.

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<sup>21</sup> Amended 26 May 2015

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- D 1.19.5 The Exchange shall have the discretion to require independent supervision of the movement of Goods having a Valid Grading Result.
- D 1.19.6 All costs incurred in following the requirements laid out in GWP D 1.19 to D 1.24, as the case may be, and including, inter alia, the costs of independent supervision, where relevant, shall be for the account of the:
- (a) Owner of the Goods where such movement or change in control is at the request of, or caused by, the Owner of the Goods, including where such movement is the result of an instruction from the Exchange to the Seller to convert a Delivery Unit in accordance with Rule EEEE.12(c) (ICE Futures London Cocoa Futures Contract) or Rule EEEE1.12(c) (ICE Futures Euro Cocoa Futures Contract), as the case may be; or
  - (b) Warehousekeeper, where any such movement or change in control is at the request of, or caused by, the Warehousekeeper.
- D 1.19.7 In order to ensure the integrity of the audit trail in circumstances where movement of Goods occurs, the following shall be provided by the current Warehousekeeper to the new Warehousekeeper:
- (a) where such Goods stored in a Warehouse have a final day of landing:
    - (i) on or prior to 31 March 2000; either
      - (A) a copy of the relevant Bill(s) of Lading, with any confidential counterparty details deleted; or
      - (B) appropriate documentation, dated and signed by the current Warehousekeeper, detailing in respect of such Goods the Origin, name of vessel(s), mark(s) on the bags, and, where such date(s) can be determined, dates of issue of the Bill(s) of Lading for the shipment of the Goods from Origin as well as, where relevant, crop year of the Goods as specified on the original shipping documents relating to such Goods;
    - (ii) on or after 1 April 2000; a copy of the relevant Bill(s) of Lading, with any confidential counterparty details deleted; and
  - (b) details of the existing warrant number of such Goods; and
  - (c) any other information as the Exchange may require from time to time.
- In the event that the current Warehousekeeper is not in possession of copy or original Bill(s) of Lading required in order to comply with GWP D 1.19.7(a)(ii), he shall advise the Exchange in writing, including the reason for the absence of such documentation, and the Exchange shall determine in its absolute discretion what other information or documentation may instead be provided.
- D 1.19.8 The Exchange may if it deems it necessary and if it is considered that a movement or change in control of Goods stored in a Warehouse will harm or may have the potential to harm the integrity of the contract:
- (a) refuse permission for the movement of Goods if it is considered that a particular Warehousekeeper would, as a result, control a disproportionately large amount of Goods having Valid or expired grading results;
  - (b) require the re-grading of any Goods having a Valid Grading Result under circumstances where it is the subject of a movement or change in control; or
  - (c) require a Warehousekeeper or the Owner of the Goods to demonstrate that there were sound commercial reasons for a change in control to take place, before granting its permission.



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- D 1.19.9 In respect of the movement of Robusta Coffee under GWPs D 1.23 and D 1.25, GWP D 1.27 shall also apply.
- D 1.20 Change in control of Goods between different Warehousekeepers – Goods remaining in the same Warehouse**
- D 1.20.1 Prior to any change in control of Goods between different Warehousekeepers where the Goods remain in the same Warehouse:
- (a) the current Warehousekeeper shall make a written application to the Exchange giving the following information:
    - (i) the reason for the intended change in control of the Goods; and
    - (ii) where the change in control of the Goods is at the request of the Warehousekeeper, evidence that the written consent of the Owner of the Goods has been obtained.
  - (b) the new Warehousekeeper shall confirm to the Exchange in writing that he will:
    - (i) either re-weigh the Goods and, unless otherwise agreed with the Owner, take responsibility for any loss in weight, if applicable, or accept the weights detailed on the Warrant recorded on Guardian;
    - (ii) issue new Warrants against the Goods stored in a Warehouse;
    - (iii) provide the Exchange with the new Warrant number relating to the cancelled Warrant; and
    - (iv) where applicable update the weight details of the Warrant recorded on Guardian.
- D 1.20.2 Change in control of the Goods may not take place until such time as the Exchange has received the above and any additional information it may require, and has given its written consent. The new Warehousekeeper shall inform the Exchange upon completion of the change in control.
- D 1.21 Movement of Goods within the same Delivery Area – Warehouses under the control of the same Warehousekeeper**
- D 1.21.1 Prior to any movement of Goods from one Warehouse directly to another Warehouse within the same Delivery Area and under the control of the same Warehousekeeper, the Warehousekeeper shall make a written application to the Exchange, giving the following information:
- (a) the reason for the intended movement;
  - (b) the approximate distance between the relevant Warehouses;
  - (c) where the movement of the Goods is at the request of the Warehousekeeper, evidence that the written consent of the Owner of the Goods has been obtained; and
  - (d) an undertaking to re-weigh the Goods and, unless otherwise agreed with the Owner, take responsibility for any loss of weight, if applicable.
- D 1.21.2 Movement of the Goods may not commence until such time as the Exchange has received the above and any additional information it may require and has given its written consent. Upon completion of the movement of the Goods the Warehousekeeper shall inform the Exchange of the new Warehouse details and shall enter onto Guardian the new weight details where applicable.

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D 1.21.3 A Bulk Delivery Unit which has been moved from one Warehouse to another pursuant to GWP D 1.21 may not be tendered until it has been re-graded as tenderable.

### **D 1.22 Movement of Goods within the same Delivery Area for the purpose of fumigation**

D 1.22.1 For the purpose of fumigation, a Warehousekeeper may move Goods to another Warehouse within the same Delivery Area and under the control of the same Warehousekeeper, provided that the Warehousekeeper:

- (a) gives the Exchange two working days' notice of the intended movement of the Goods; and
- (b) provides written confirmation to the Exchange that:
  - (i) on completion of the fumigation, the Goods will be moved back to the Warehouse in which they were stored prior to fumigation; and
  - (ii) he will re-weigh the Goods and, unless otherwise agreed with the Owner, take responsibility for any loss in weight, if applicable.

### **D 1.23 Movement of Goods within the same Delivery Area - Warehouses under the control of different Warehousekeepers**

D 1.23.1 Prior to any movement of Goods from a Warehouse of one Warehousekeeper directly to another Warehouse under the control of a different Warehousekeeper within the same Delivery Area:

- (a) the current Warehousekeeper shall make a written application to the Exchange giving the following information:
  - (i) the reason for the intended movement and change in control of the Goods; and
  - (ii) where the movement and change in control of the Goods is at the request of the Warehousekeeper, evidence that the written consent of the Owner of the Goods has been obtained; and
- (b) the new Warehousekeeper shall confirm to the Exchange in writing that he will:
  - (i) re-weigh the Goods and, unless otherwise agreed with the Owner, will take responsibility for any loss in weight;
  - (ii) issue new Warrants against the Goods stored in a Warehouse;
  - (iii) provide the Exchange with the new warrant numbers and warehouse details; and
  - (iv) update the weight details of the Warrant recorded on Guardian.

D 1.23.2 Movement and change in control of the Goods may not commence until such time as the Exchange has received the above and any additional information it may require, and has given its written consent. The new Warehousekeeper shall inform the Exchange upon completion of the movement and change in control of the Goods.

D 1.23.3 A Bulk Delivery Unit which has been moved from one Warehouse to another pursuant to GWP D 1.23 may not be tendered until it has been re-graded as tenderable.

### **D 1.24 Movement of Goods across different Delivery Areas – Warehouses under the control of the same or different Warehousekeepers**

D 1.24.1 In the event that movement of Goods from one Warehouse to another in a different Delivery Area under the control of:

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- (a) the same Warehousekeeper is required, the GWPs in D 1.21 shall apply; or
- (b) different Warehousekeepers is required, the GWPs in D 1.20 shall apply.

D 1.24.2 Any such Goods having a Valid Grading Result may not be tendered following such movement until the Goods have been re-graded as tenderable.

## D 1.25 **Insolvency or delisting of a Warehousekeeper causing movement or change in control of Goods**

D 1.25.1 Where movement or change in control of Goods occurs in circumstances where the Exchange determines in its sole discretion that the original Warehousekeeper is no longer able to carry on business in the capacity of a Warehousekeeper or has been delisted from the List of Nominated Warehousekeepers and Nominated Warehouses, and the Goods):

- (a) do not move out of a Warehouse but the control of the Goods changes from one Warehousekeeper to another Warehousekeeper; or
- (b) move directly between the Warehouses of different Warehousekeepers within the same Delivery Area;

then the Exchange may require that the Goods are re-graded as tenderable before they may be tendered if the Exchange concludes that the specific circumstances warrant such an approach.

D 1.25.2 Where movement or change in control of Goods having a Valid Grading Result occurs in circumstances where the Exchange determines in its sole discretion that the original Warehousekeeper is no longer able to carry on business in the capacity of a Warehousekeeper or has been delisted from the List of Nominated Warehousekeepers and Nominated Warehouses and the Goods move from one Warehouse to another in a different Delivery Area under the control of either the same or different Warehousekeepers, then the Exchange may determine that the Goods do not require re-grading before they may be tendered if the Exchange concludes that the specific circumstances warrant such an approach.

## D 1.26 **Warehouse Charges**

D 1.26.1 At the time of application to be approved as a Nominated Warehousekeeper in accordance with GWP D 1.8, and at each subsequent annual renewal of nomination in accordance with GWP D 1.10, a Warehousekeeper shall submit to the Exchange details of the charges which it may make in respect of both:

- (a) Robusta Coffee (in bags or FIBCs) and Cocoa (in bags and/or in bulk) which is stored in its Warehouses and listed on Guardian; and
- (b) Robusta Coffee (in bags or FIBCs) and Cocoa (in bags and/or in bulk) which is stored in its Warehouses under a commercial agreement.

Details of the charges notified to the Exchange under GWP D 1.26.1 shall include, but are not limited to, Loading In Charge, Rent, Weighing, Sampling, rebagging and Loading Out Charge and shall be for the period up to the next annual renewal of nomination. Charges submitted in accordance with GWP D 1.26(1)(b) should be accompanied by commercial term sheets as a means to substantiate those charges.

D 1.26.2 The details of the charges notified to the Exchange pursuant to GWP D 1.26.1(a) above shall be reasonable and comparable with the commercial charges levied for similar services and shall be justified by the applicant as such.

D 1.26.3 The charges submitted pursuant to GWP D 1.26.1(a) in respect of Rent and the Loading Out Charge shall state the **maximum** amount (inclusive of any applicable taxes) which the Warehousekeeper may charge.

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- D 1.26.4 Except pursuant to GWP D 1.26.10, Rent and Loading Out Charges submitted in accordance with GWP D 1.26.1(a) may only be increased once a year at the annual renewal of nomination. The Exchange must receive written notice of any proposed increase in the charges at least ninety days prior to the Warehousekeeper's annual renewal of nomination.
- D 1.26.5 On receipt of a notification under GWP D 1.26.4 the Exchange will invite the Warehousekeeper to justify any proposed increase as reasonable and comparable with commercial charges levied for similar services. If the proposed increase in charges can be so reasonably justified to the Exchange then the increase shall become effective on the date of the Warehousekeeper's annual renewal of nomination. If the proposed increase in charges cannot be justified to the Exchange then the increase shall not become effective with respect to Robusta Coffee and Cocoa stored by the Warehousekeeper and listed on Guardian.
- D 1.26.6 A Warehousekeeper may not impose any charges in relation to the delivery of Goods out of a Warehouse on to a truck or a lorry other than a Loading Out Charge. However, nothing in this GWP D 1.26 shall prevent a Warehousekeeper from agreeing with an Owner:
- (a) to levy any charges which are lower than the maximum amount published by the Exchange pursuant to GWP D 1.26.8;
  - (b) to charge a different amount from the Loading Out Charge for the delivery of Goods from within a Warehouse on to a different means of transport; or
  - (c) for the provision of additional services, and additional charges for such services, in addition to those services covered by the Rent and Loading Out Charge,
- where so requested by, or agreed with, an Owner.
- D 1.26.7 A Warehousekeeper shall, upon a request from the Exchange, provide details to the Exchange of any charges made, or agreed to be made, between the Warehousekeeper and an Owner in respect of the Robusta Coffee comprising a Lot or the Cocoa comprising a Delivery Unit.
- D 1.26.8 The Exchange will publish, in respect of the nomination period, details of the maximum Rent and Loading Out Charges accepted by the Exchange pursuant to GWP D 1.26.1(a) in a format as determined by the Exchange from time to time in the Published List of Rent and Loading Out Charges on the ICE website ([www.theice.com](http://www.theice.com)).
- D 1.26.9 A Warehousekeeper may not charge Rent or Loading Out Charges which exceed the maximum amount published by the Exchange in respect of a nomination period.
- D 1.26.10 Notwithstanding GWP D 1.26.4, a Warehousekeeper may, in exceptional circumstances, submit a written request to the Exchange seeking approval to increase the maximum amount of Rent and/or Loading Out Charges levied by it in respect of the nomination period. The Exchange may permit or reject such an increase at its absolute discretion and the decision shall be final.
- D 1.27 Loading Out of Goods from a Nominated Warehousekeeper**
- D 1.27.1 In respect of a lot or Delivery Unit which has been awarded a Valid Grading Result and which is to be Loaded Out of a Nominated Warehouse for reasons other than those detailed in GWPs D 1.21, D 1.22 and D 1.24, the Member or, if he is not the Owner of the Goods, the Owner on whose behalf the Member is making the request for Loading Out of the Goods, shall inform the Warehousekeeper in writing that the Goods are to be Loaded Out of the Nominated Warehouse.
- D 1.27.2 On receipt of an application under GWP D 1.27.1 the Warehousekeeper will, subject to GWPs D 1.23 and D 1.25 where applicable, schedule and agree with the Owner date(s) for the Loading Out of the Goods.

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- D 1.27.3 The Owner must present the Warehousekeeper or his London Agent with the relevant Warrants a minimum of 48 hours prior to the scheduled commencement of the Loading Out.
- D 1.27.4 When carrying out a request for the Loading Out of Goods under GWP D 1.27.1, the Nominated Warehousekeeper shall comply with the minimum Loading Out rates and the procedures relating thereto, as published by the Exchange by notice posted on the Market from time to time.
- D 1.27.5 Where a Warehousekeeper is in receipt at the same time of requests to both:
- (a) Load Out Goods to be taken up from Guardian under GWP D 1.27.1; and
  - (b) Load Out Goods under GWPs D 1.23 and D 1.25,
- the Warehousekeeper shall ensure that the Movement Out of Goods which is to be Loaded Out under GWP D 1.27.1 and taken up from Guardian is prioritised and undertaken first in accordance with the Loading Out rate as published by the Exchange from time to time.
- D 1.27.6 Where the Warehousekeeper is in receipt of more than one request to load out either:
- (a) Goods to be taken up from Guardian under GWP D 1.27.1; or
  - (b) Goods under GWPs D 1.23 and D 1.25,
- the Warehousekeeper shall treat each request equitably and schedule the Loading Out for such requests in a fair and reasonable manner.
- D 1.27.7 Where the Warrants in respect of the Goods scheduled to be Loaded Out of a Warehouse have not been presented to the Warehousekeeper or his London Agent a minimum of 48 hours prior to the scheduled commencement of the Loading Out, the Warehousekeeper may cancel the Loading Out.
- D 1.27.8 Where after the expiry of 60 calendar days from the receipt by the Warehousekeeper of a Loading Out request under GWP D 1.27.1, that Loading request has not been completed in full, the Warehousekeeper may not, from that point onwards, levy any further Rent against the Goods forming part of the Loading Out request that are remaining in its Warehouses, unless so agreed with the Owner of those Goods.
- D 1.27.9 The provisions of GWP D 1.27.8 shall not apply where the Warehousekeeper has cancelled the Loading Out in accordance with GWP D 1.27.7 or where the Exchange is satisfied that circumstances outside the control of the Warehousekeeper have hindered or prevented the Warehousekeeper from fulfilling the Loading Out request and, provided that such circumstances have been documented and reported to the Exchange in a timely manner.
- D 1.27.10 Once all or part of the Goods have been Loaded Out from the Nominated Warehouse the Warehousekeeper must, with the exception of Goods moved under GWPs D 1.23 and D 1.25, remove the relevant record from Guardian in accordance with GWP D 1.3.4.
- D 1.27.11 For the avoidance of doubt the minimum Loading Out rate may be achieved by a Warehousekeeper as an average over the period during which the Goods are to be moved.
- D 1.27.12 Where the Warehousekeeper is in receipt of requests from one or more Members to Load Out both Robusta Coffee and Cocoa at the same time, the Warehousekeeper must meet the minimum Loading Out rates for both Robusta Coffee and Cocoa.
- D 1.27.13 It should be noted that where a Dual Capacity Warehousekeeper is in receipt of requests from one or more Members to Load Out Cocoa stored in both bags and bulk at the same time the Dual Capacity Warehousekeeper must meet the minimum Loading Out rates for both the bagged and bulk Cocoa.

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Further, should a Dual Capacity Warehousekeeper receive requests from one or more Members to load out Robusta Coffee and Cocoa stored in bags and bulk at the same time the Dual Capacity Warehousekeeper must meet the minimum Loading Out rates in respect of the Robust Coffee and the bagged and bulk Cocoa.

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## D 2. COCOA<sup>22</sup>

### D 2.1 Piling of Cocoa

D 2.1.1 Subject to Schedule 1 of these GWP's in respect of Cocoa Goods stored in bags, details of which are represented by the Warrant recorded on Guardian, the following storage requirements shall be observed:

- (a) each Delivery Unit shall be stored in a single Warehouse on pallets at ground level, with the exception of multi-storey Warehouses with wooden floors where the bags of Cocoa may be stored directly on the floor;
- (b) Cocoa comprising a Standard Delivery Unit shall be stored, subject to GWP D 2.1.1(d), together in a single row, pile or component of a block stow;
- (c) Cocoa comprising a Large Delivery Unit shall be stored in no more than two adjacent rows, piles or block stows. GWP D 2.1.1(f) shall apply to each non-adjoining row or pile;
- (d) where a Delivery Unit is composed of palletised bags the bags on each pallet shall relate only to that Delivery Unit. Where there is a balance of bags making up a Delivery Unit which is insufficient to fill a pallet to capacity, those remaining bags shall be exclusively stored on a pallet which shall be marked in accordance with GWP D 2.2 and placed either on top of the column of pallets comprising the majority of the Delivery Unit or at the end of the row in which the Delivery Unit is piled;
- (e) Cocoa shall be stored with a gap of at least 45 centimetres:
  - (i) from any wall; and
  - (ii) from any other Cocoa or other material stored in the Warehouse to allow compliance with GWP D 2.1.1(f); or
- (f) at least 40% of the bags in a Delivery Unit or non-adjoining row or pile of a Large Delivery Unit must be accessible for sampling. Where the Delivery Unit is composed of palletised bags stored in columns or rows, at least one side of each pallet shall be readily accessible for sampling. Where the parcel, lot or Delivery Unit forms all or part of a block stow, or is composed of two block stows, all sides of the block stow shall be readily accessible for sampling;

D 2.1.2 In respect of Cocoa Goods stored in bulk, the following storage requirements shall be observed in addition to those in GWP D 1.16.7:

- (a) each Bulk Delivery Unit must be readily identifiable by the Warehousekeeper and the Exchange inspectors;
- (b) each Bulk Delivery Unit shall be stored:
  - (i) in one pile segregated from all other Bulk Delivery Units or, other Cocoa stored in bulk, by temporary or permanent partitioning as detailed in GWP D 1.16.7(c) and in such a way as to ensure the Cocoa is secure from theft; or
  - (ii) in accordance with such other requirements as may be determined by the Exchange from time to time;
  - (iii) in such a way as to allow the optimum level of ventilation, and

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<sup>22</sup> Amended 01 August 2015

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- (iv) in such a way that would facilitate the sampling of the Bulk Delivery Unit within 5 business days of the Warehousekeeper receiving the instruction to sample under Procedure D 2.4.1.

D 2.1.3 In respect of Cocoa stored for potential delivery against a Contract in each Delivery Unit shall be comprised of sound Cocoa which shall be the product of a single Origin, of the same shipment period and stored in one Warehouse.

D 2.1.4 A Delivery Unit may not, in whole or in part, be comprised of Cocoa which previously comprised a Delivery Unit graded as not tenderable.

## D 2.2 Identification of a Delivery Unit

D 2.2.1 Subject to Schedule 1 of these GWPs, each Delivery Unit shall be readily identifiable by the Warehousekeeper and the Exchange officials. The following minimum requirements for the identification of a Delivery Unit shall apply:

- (a) where a Delivery Unit is composed of bags placed on pallets which are stored in rows and/or columns;
  - (i) a hard wearing and durable label, visible from the aisle side of the column and/or row shall be securely fastened to either a bag lying on the first of the storage sequence or the pallet itself and shall show, as minimum, the Warrant number relating to the Delivery unit and the number of bags comprising the Delivery Unit; and
  - (ii) a bag on the bottom layer of bags of each pallet and visible from the aisle side of the column and/or row shall be marked clearly, legibly and indelibly on the fabric of the bag with the Warrant number of the Delivery Unit;
- (b) where a Delivery Unit forms part of a block stow;
  - (i) the boundary of each individual Delivery Unit shall be marked. A label showing as a minimum the Warrant number relating to the Delivery Unit and number of bags comprising the Delivery Unit, shall be securely fastened to one bag on each face of the Delivery Unit; and
  - (ii) subject to Schedule 1 of these GWPs , a bag on the bottom, middle and top row of each face of the Delivery Unit shall be marked clearly, legibly and indelibly on the fabric of the bag with the Warrant number of the Delivery Unit.
- (c) for a Bulk Delivery Unit a label, showing as a minimum the Warrant number, shall be attached to the front wall or edge of the storage area. In addition, an A4 size label attached to a post and showing as a minimum the Warrant number, shall be placed no further than two metres into the front of the bulk pile.

## D 2.3 Weighing of a Delivery Unit

D 2.3.1 A Delivery Unit shall be weighed or reweighed:

- (a) when the Cocoa is combined to form the Delivery Unit in accordance with GWP D 2.1;
- (b) each time Cocoa contained in the Delivery Unit is bagged, rebagged or debagged in accordance with GWPs D 2.10 to D 2.13, as the case may be;
- (c) upon conversion or formation of the Delivery Unit in accordance with GWPs D 2.10 to 2.12, as the case may be;



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- (d) each time the Delivery Unit is moved or is the subject of a change in control, in accordance with GWPs D 1.19 to D 1.25, as the case may be; and
- (e) in respect of a Bulk Delivery Unit, each time the Bulk Delivery Unit is re-piled, including, without limitation, when it is re-piled in order to be sampled for grading under GWP D 2.6.

D 2.3.2 The tare weight of the bags shall be that ascertained when the Cocoa was originally weighed and Warrant details recorded on Guardian.

## D 2.4 Sampling of a Delivery Unit

D 2.4.1 In respect of a Delivery Unit which is to be graded pursuant to Section E of these GWPs, the Member or, if he is not the Owner of the Cocoa, the Owner on whose behalf the Member is making the application for grading, shall instruct the Warehousekeeper in writing to draw a sample from the Delivery Unit to be graded. Upon receipt of such instruction, the Warehousekeeper shall act without delay and, in the case of a Bulk Delivery Unit, commence the sampling operation no later than 5 business days after receiving the notification in accordance with GWP D 2.1.2(b)(iv).

D 2.4.2 Where the Warehousekeeper has provided notification of sampling to the Exchange on any business day by 12:00 hours London time, sampling may commence on the following business day. Where notification of sampling is received after this time, sampling may only begin on the second business day. The Warehousekeeper shall:

- (a) draw the sample in accordance with these GWPs;
- (b) upon completion of drawing the sample, send the sample direct to the Grading Room, for assessment by a Grading Panel appointed by the Exchange; and
- (c) in accordance with GWP D 1.3.3 enter onto Guardian all Warrant details no later than two business days after the arrival of the sample at the Grading Room. Grading will not commence until such details are complete. Samples which have been in the Grading Room for more than two business days, and for which details are not complete, may be removed from the grading queue.

D 2.4.3 Subject to GWPs D 1.5.7 and D 1.5.8, if sampling is to occur outside of normal Delivery Area working hours and the sampling is determined to require supervision, then such sampling shall take place at times mutually agreed between the Warehousekeeper and the Exchange.

D 2.4.4 Before sampling, the Delivery Unit identified correctly in accordance with GWP D 2.2 shall be inspected by the Warehousekeeper and, if nominated, the Supervisor shall confirm that;

- (a) the Cocoa complies with GWPs D 2.1.1 and D 2.2; and
- (b) all sampling apparatus is clean, dry and free from foreign odours.

D 2.4.5 Where the conditions of GWP D 2.4.4 are not met the Warehousekeeper or, if nominated, the Supervisor shall immediately contact the Exchange which shall determine what action shall be taken before sampling can commence.

D 2.4.6 Any sample which is to be presented to the Grading Room and represents either a Standard or Large Delivery Unit shall be drawn (and if required quartered) and sealed, on the same day. Any sample which is to be presented to the Grading Room and represents a Bulk Delivery Unit shall be quartered and sealed on the day on which the last portion of Cocoa which is part of the Bulk Delivery Unit is stored.

## D 2.5 Sampling of Cocoa Stored in Bags

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- D 2.5.1 In respect of each sample drawn from a Standard Delivery Unit:
- (a) a sample of 2 kg minimum weight shall be drawn which shall be representative of the Standard Delivery Unit as a whole, and shall be taken randomly from a minimum of 30% of the number of sound bags forming the Standard Delivery Unit and over the full height and width of the Standard Delivery Unit directly into a clean dry and odourless cotton or linen sample bag with a tare not exceeding 100g; and
  - (b) the sample bag shall be sealed with the Warehousekeeper's seal and also if supervised the Supervision Company's seal and the sample bag shall be marked with the following as a minimum:
    - (i) the name of the Warehousekeeper responsible for drawing the sample
    - (ii) Warrant number;
    - (iii) Delivery Area;
    - (iv) Origin;
    - (v) Date on which the Cocoa was landed; and
    - (vi) The bar code issued by or recorded on Guardian in respect of the sample.

- D 2.5.2 In respect of a sample drawn from a Large Delivery Unit:
- (a) sample material of 12 kg minimum weight shall be drawn from a minimum of 30% or more of the number of sound bags over the full height and width of the Large Delivery Unit;
  - (b) the sample material shall be quartered to provide a grading sample weighing not less than 3kg. The remaining beans from the preliminary sample shall be bagged, clearly marked and stored with the Large Delivery Unit from which they were drawn;
  - (c) the grading sample material shall be placed in a cotton or linen sample bag with a tare not exceeding 150g. The grading sample bag shall be sealed with the Warehousekeepers seal, and also if supervised the Supervision Company's seal and the details specified in GWP D 2.5.1 (b) shall be marked on the bag;
  - (d) the sampling, quartering and sealing of each sample from a Large Delivery Unit shall be completed on the same day that sampling started: and
  - (e) the Warehousekeeper shall record on Guardian that the 3 kg sample has been drawn.

### **D 2.6 Sampling of Cocoa Stored in Bulk**

- D 2.6.1 In respect of each sample drawn from a Bulk Delivery Unit:
- (a) sample material of 50 kg minimum weight which is representative of the Bulk Delivery Unit as a whole shall be derived from Cocoa drawn on an incremental basis perpendicularly across the whole flow of a moving stream of Cocoa (but excluding the 'fall') comprising the whole Bulk Delivery Unit, while the Cocoa is being re-piled. The incremental samples shall be drawn at regular intervals dependent on the speed of the flow, each comprising of a minimum of 500g of Cocoa such that a total of a minimum 100 individual samples are drawn from the Bulk Delivery Unit into bags which are clean, dry, empty and odourless;
  - (b) sampling of each Bulk Delivery Unit shall be completed within a period of 30 calendar days from the date on which sampling commenced. During such period, the bag(s) containing the

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incremental samples shall be sealed at all times when sampling is not taking place, and shall be clearly marked and stored in a secure location;

- (c) following completion of movement and weighing or reweighing, the Cocoa drawn, which shall be a minimum of 50 kg, shall be quartered to provide a grading sample of 5 kg minimum weight. The balance of the 50 kg drawn shall be returned to the relevant Bulk Delivery Unit;
- (d) the grading sample shall be placed in a clean, dry, empty and odourless cotton or linen sample bag with a tare not exceeding 250 g. The sample bag shall be sealed with the Warehousekeeper's seal, and also if supervised the Supervision Company's seal and the sample bag shall be marked with the details specified in GWP D 2.5.1(b);
- (e) the Warehousekeeper shall record on Guardian that the 5 kg sample has been drawn; and
- (f) the Warehousekeeper shall maintain a record of the equipment used for the repiling and sampling, the speed of the Cocoa flow and the intervals during which the incremental samples were drawn, and the individual dates on which each incremental sample, or consecutive incremental samples, were drawn.

## **D 2.7 Submission of a Sample**

D 2.7.1 A Warehousekeeper shall draw a sample in accordance with GWPs D 2.4 to D 2.6, as the case may be, and shall submit such sample directly to the Grading Room for grading. Customs duties, if any, shall be for the account of the Warehousekeeper.

D 2.7.2 Samples for grading, and the related application for grading, must be submitted directly to the Grading Room:

- (a) in respect of a Standard Delivery Unit or Large Delivery Unit, within 60 calendar days of the date on which the sample was drawn; and
- (b) in respect of a Bulk Delivery Unit, within 60 calendar days of the date on which the first incremental sample forming part of the sample material was drawn.

D 2.7.3 The Exchange may at its sole discretion, designate the time or day at which samples may be delivered to the Grading Room.

D 2.7.4 A Member may request the Exchange to withdraw a sample submitted to the Grading Room for grading in accordance with the procedures detailed in Section E of these GWPs. Any such request must be made to the Grading Room via Guardian. Requests to withdraw samples submitted to the Grading Room for grading may be made at any time prior to the sample being presented to the Grading Panel for grading.

D 2.7.5 Where a valid request to withdraw a sample submitted to the Grading Room for grading has been received, the Exchange may charge the Member requesting the withdrawal a fee as prescribed from time to time by the Exchange.

## **D 2.8 Fumigation and Fogging**

D 2.8.1 Pursuant to GWP D 1.15.2(e), the cost of fumigating and fogging Cocoa stored in accordance with the Cocoa Contract Rules shall be for the account of the Warehousekeeper. It is understood that the Warehousekeeper shall charge a periodic fee, to cover the cost of fumigation and/or fogging, in addition to the Rent that is charged.

D 2.8.2 In the event of ICE Registered Cocoa Graders finding live infestation in a sample, the applicant Member may submit a new sample together with documentary evidence from the Warehousekeeper that the relevant Delivery Unit has been fumigated.

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- D 2.8.3 All Warrants tendered shall be endorsed by the Warehousekeeper to the effect that fumigation and/or fogging fees have been paid in respect of the period up to and including the Settlement Day and in the case of a Nominated Bulk Delivery Unit up to the Conversion Settlement Day or the Extended Conversion Settlement Day as the case may be.
- D 2.8.4 Once the Warehousekeeper has charged a fumigation and/or fogging fee on Cocoa, a fee may continue to be charged regardless of whether or not a current grading result is in effect. Movement of the Cocoa for fumigation purposes, shall be subject to GWP D 1.22.
- D 2.8.5 An Owner of Cocoa may only cease to pay the fumigation and/or fogging fee if the Cocoa:
- (a) is graded not tenderable and is de-listed from Guardian;
  - (b) is sold commercially and de-listed from Guardian; or
  - (c) is re-piled and de-listed from Guardian.
- D 2.8.6 If, within 28 days of being de-listed under the circumstances outlined in GWP D 2.8.5, the Cocoa is found to be infested, the cost of fumigation shall be borne by the Warehousekeeper.
- D 2.8.7 The cost of such fumigation and/or fogging shall be for the Owners account where:
- (a) the Cocoa stored in a Warehouse is sold other than under a Contract;
  - (b) a Phytosanitary Certificate is required; or
  - (c) the Owner requests the Cocoa to be fumigated, notwithstanding the apparent absence of infestation,
- D 2.8.8 If, under these GWPs, the Owner of the Cocoa is of the opinion that fumigation is necessary to eradicate current infestation but the Warehousekeeper disagrees, then, in order to establish the need for fumigation, the Owner must provide either:
- (a) an order from a local official body (e.g. Port Health Authority) that fumigation must be carried out; or
  - (b) a report from a competent independent authority confirming that fumigation is necessary.

If the local official body or the competent independent authority should deem it unnecessary for the Cocoa to be fumigated all charges and fees in respect of such inspections/reports will be for the account of the Owner of the Cocoa, otherwise such costs, if any, shall be borne by the Warehousekeeper.

### D 2.9 Conversion of a Delivery Unit<sup>23</sup>

- D 2.9.1 In addition to his obligations under GWP D 1.17 a Warehousekeeper will be required to identify a Delivery Unit that has been converted by including the following on Guardian as a suffix to the Warrant number:
- (a) “DFB” (derived from Bulk);
  - (b) “DFL” (derived from Large); or
  - (c) “DFS” (derived from Standard).

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<sup>23</sup> Amended 26 May 2015

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- D 2.9.2 The Owner of the Cocoa comprising a Delivery Unit, details of which are represented by the Warrant recorded on Guardian, may instruct a Warehousekeeper to convert such a Delivery Unit provided that:
- (a) the prior written consent of the Exchange is obtained and, subject to Rule EEEE.12(d)(i) (ICE Futures London Cocoa Futures Contract) or Rule EEEE1.12(d)(i) (ICE Futures Euro Cocoa Futures Contract), as the case may be, such Delivery Unit is not the subject of a Tender; and
  - (b) such conversion is made in accordance with these GWPs and the status of the Warehousekeeper.
- D 2.9.3 A Warehousekeeper may:
- (a) convert a Bulk Delivery Unit to Large and/or Standard Delivery Units, or a Large Delivery Unit to Standard Delivery Units either:
    - (i) upon instruction from the Exchange to the Seller to convert a Delivery Unit in accordance with Rule EEEE.12(c) (ICE Futures London Cocoa Futures Contract) or Rule EEEE1.12(c) (ICE Futures Euro Cocoa Futures Contract), as the case may be; or
    - (ii) at the request of the Owner of the Cocoa; or
  - (b) convert Standard or Large Delivery Units to form a Large or Bulk Delivery Unit at the request of the Owner of the Cocoa.
- D 2.9.4 (a) A conversion of:
- (i) a Bulk Delivery Unit into Standard and/or Large Delivery Units; or
  - (ii) Standard and/or Large Delivery Units into a Bulk Delivery Unit;
- or
- (b) the formation of a Bulk Delivery Unit from any other Cocoa (subject to GWPs D 2.9.11 and D 2.9.12), for delivery under a Contract, shall only be undertaken by a Dual Capacity Warehousekeeper.
- D 2.9.5 (a) A conversion of:
- (i) a Large Delivery Unit into Standard Delivery Units; or
  - (ii) Standard Delivery Units into a Large Delivery Unit; or
- (b) the formation of a Standard or Large Delivery Unit from any other Cocoa (subject to GWPs D 2.9.11 and D 2.9.12),  
for delivery under a Contract, may be undertaken by either a Dual or Single Capacity Warehousekeeper.
- D 2.9.6 A Warehousekeeper storing a Bulk Delivery Unit shall ensure the availability of bags meeting the criteria prescribed by the Exchange, in order to meet the requirements to convert a Bulk Delivery Unit if so required by the Exchange in accordance with Rule EEEE.12(c) (ICE Futures London Cocoa Futures Contract) or Rule EEEE1.12(c) (ICE Futures Euro Cocoa Futures Contract).
- D 2.9.7 Upon conversion of an Original Delivery Unit:
- (a) the Valid Grading Result for the Original Delivery Unit shall immediately lapse, unless the Original Delivery Unit is a Nominated Delivery Unit, in which case the Valid Grading Result for the Nominated Delivery Unit shall apply to each Converted Delivery Unit;
  - (b) each Converted Original Delivery Unit shall be weighed;

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- (c) a new Warrant number for each Converted Original Delivery Unit shall be issued by the Warehousekeeper in accordance with these GWPs;
- (d) new Warrant details of the Delivery Unit shall be recorded on Guardian for each Converted Original Delivery Unit in accordance with GWP D 1.3; and
- (e) any FFA allowance attached to an Original Delivery Unit in respect of contract months from and including May 2017, will continue to be reflected on any Converted Original Delivery Unit regardless of the lapse of the Valid Grading Result.

D 2.9.8 A Converted Original Delivery Unit, which is not a Converted Delivery Unit, may only be delivered under a Contract if it has been re-graded in accordance with these GWPs and a Valid Grading Result has been issued upon such re-grading.

D 2.9.9 If, as a result of a conversion, a Delivery Unit is moved by a Warehousekeeper from one of its Warehouses to another, such Delivery Unit may only be delivered under a Contract:

- (a) if it is reweighed and new Warrant details are recorded on Guardian prior to the day specified in the Administrative GWPs in the Cocoa Contract Rules for the relevant Delivery Month; or
- (b) in respect of a Converted Delivery Unit, if it is reweighed, and revised Warrant details are recorded on Guardian prior to the first Business Day prior to the Conversion Settlement Day or the first Business Day prior to the Extended Conversion Settlement Day, as the case may be, for the relevant Delivery Month.

D 2.9.10 If, as a result of conversion, a Delivery Unit is moved out of the control of a Warehousekeeper, such Delivery Unit may only be delivered against a Contract if it is reweighed at the Warehouse of the new Nominated Warehousekeeper or otherwise in accordance with these GWPs, revised Warrant details are recorded on Guardian, and it is re-graded as tenderable.

D 2.9.11 The costs of converting a Delivery Unit shall be borne by the Owner of the Cocoa comprising such Delivery Unit.

D 2.9.12 The Exchange may, at its absolute discretion, supervise the conversion of a Delivery Unit.

### **D 2.10 Conversion of a Nominated Delivery Unit**

D 2.10.1 Where the Owner of Cocoa comprising a Bulk Delivery Unit instructs a Warehousekeeper to convert such Delivery Unit to Large and/or Standard Delivery Units, the following procedures shall apply:

- (a) the Owner of the Cocoa shall advise the Warehousekeeper of the identity of the Bulk Delivery Unit to be converted, and the type of Delivery Units to which it is to be converted;
- (b) the Warehousekeeper shall give the Exchange a minimum of one clear business day notice of the commencement of the conversion process;
- (c) during conversion, Cocoa comprising the Bulk Delivery Unit shall be packed into bags meeting the criteria prescribed by the Exchange from time to time. The bags shall be marked with the following information:
  - (i) Origin of the Cocoa;
  - (ii) shipment period (as determined from the Delivery Unit details);
  - (iii) the name or identifying mark of the Warehousekeeper storing the BDU; and
  - (iv) the letters “DFB” (derived from bulk);

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- (d) the bagged Cocoa shall be palletised in accordance with the requirements prescribed by the Exchange from time to time, and moved to a Warehouse nominated by the Exchange for the storage of Cocoa in bags. Upon arrival at such Warehouse, the Cocoa shall be weighed and piled into the appropriate Delivery Units in accordance with the requirements prescribed by the Exchange from time to time and otherwise conforming with the requirements of the Contract Rules and these GWPs; and
- (e) the Warehousekeeper shall, record on Guardian the new Warrant details including any new weight details.

D 2.10.2 Where the Owner of the Cocoa comprising a Large Delivery Unit instructs a Warehousekeeper to convert such Delivery Unit to Standard Delivery Units, the following procedures shall apply:

- (a) the Owner of the Cocoa shall advise the Warehousekeeper of the identity of the Large Delivery Unit to be converted;
- (b) the Warehousekeeper shall give the Exchange a minimum of one clear business day notice of the commencement of the conversion process;
- (c) the Cocoa shall be weighed and piled into the appropriate Delivery Units in accordance with the requirements prescribed by the Exchange from time to time and otherwise conforming with the requirements of the Contract Rules and these GWPs; and
- (d) the Warehousekeeper shall record on Guardian the new Warrant details including any new weight details.

### **D 2.11 Conversion of an Original Delivery Unit**

D 2.11.1 Where the Owner of Cocoa comprising a Bulk Delivery Unit instructs a Warehousekeeper to convert such Delivery Units to Large and/or Standard Delivery Units, the following procedures shall apply:

- (a) the Warehousekeeper shall inform the Exchange of the details of the instructions and request approval to convert the Delivery Unit;
- (b) the Exchange shall not approve such conversion if the Delivery Unit has been previously graded as not tenderable, or for any other reason at the absolute discretion of the Exchange;
- (c) the Warehousekeeper shall give the Exchange a minimum of one clear business day notice of the commencement of the conversion process;
- (d) during conversion, Cocoa comprising the Bulk Delivery Unit shall be packed into bags meeting the criteria prescribed by the Exchange from time to time. The bags shall be marked with the following information:
  - (i) Origin;
  - (ii) shipment period (as determined from the Delivery Unit details);
  - (iii) the name or identifying mark of the Warehousekeeper storing the BDU; and
  - (iv) the letters “DFB” (derived from bulk);
- (e) the bagged Cocoa shall be palletised and moved to:
  - (i) a segregated area of the Warehouse if such Warehouse meets the requirements outlined in GWP D 1.16.6 or
  - (ii) to a Warehouse nominated by the Exchange for the storage of Cocoa in bags.

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The Cocoa shall be weighed and piled into the appropriate Delivery Units conforming with the requirements of the Contract Rules and these GWPs; and

- (f) the Warehousekeeper shall enter onto Guardian the new Warrant details including any new weight details.

D 2.11.2

Where the Owner of Cocoa comprising a Large Delivery Unit instructs a Warehousekeeper to convert such Delivery Unit to Standard Delivery Units, the following procedures shall apply:

- (a) the Warehousekeeper shall inform the Exchange of the details of the instructions and request approval to convert the Delivery Unit;
- (b) the Exchange shall not approve such conversion if the Delivery Unit has previously been graded not tenderable, or for any other reason at the absolute discretion of the Exchange;
- (c) the Warehousekeeper shall give the Exchange a minimum of one clear business day notice of the commencement of the conversion process; and
- (d) the Warehousekeeper shall, enter onto Guardian the new Warrant details including any new weight details.

D 2.11.3

Where the Owner of Cocoa comprising a Standard or Large Delivery Unit instructs a Warehousekeeper to convert such Delivery Units to Large or Bulk Delivery Units, the following procedures shall apply:

- (a) the Warehousekeeper shall:
  - (i) inform the Exchange of the details of the instructions including:
    - (A) the Warrant numbers of the Delivery Units to be converted and Warehouse in which each is stored;
    - (B) the Warehouse in which the resulting Delivery Unit is to be stored;
    - (C) any further information which the Exchange may request; and
  - (ii) request approval to convert the Delivery Unit;
- (b) the Exchange shall not approve such conversion if any of the relevant Delivery Units has previously been graded not tenderable, or for any other reason at the absolute discretion of the Exchange; and
- (c) upon receipt of the Exchange's approval to convert the Delivery Unit, the Warehousekeeper shall:
  - (i) in respect of the formation of a Bulk Delivery Unit:
    - (A) remove the Cocoa being converted to a Warehouse nominated for the storage of bulk Cocoa;
    - (B) de-bag the Cocoa, weigh and pile it; and
  - (ii) in respect of the creation of a Large Delivery Unit, weigh such Delivery Unit and re-pile in accordance with GWP D 2.1;



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and if so instructed by the Owner of the Cocoa sample the Cocoa in accordance with GWPs D 2.3 and D 2.4 or D 2.5, as the case may be.

## **D 2.12            Rebagging of Cocoa in Unsound or Damaged Bags<sup>24</sup>**

D 2.12.1            In respect of a Standard Delivery Unit or Large Delivery Unit, details of which are represented by the Warrants recorded on Guardian and which is, or has been, the subject of a Valid Grading Result, the Cocoa may be rebagged at the discretion of the Exchange where the fabric of the bags comprising all or part of the Delivery Unit has become unsound or damaged, providing the Cocoa contained in such bags remains sound.

D 2.12.2            In the event that such rebagging is required, the Warehousekeeper storing the Cocoa shall inform the Exchange of the details, including the following information:

- (a)            proof of the instructions from the Owner of the Cocoa to rebag such Cocoa;
- (b)            the reason why rebagging is necessary;
- (c)            the Warrant number of the relevant Delivery Unit; and
- (d)            the approximate number of bags requiring rebagging

and request approval to rebag the Cocoa.

D 2.12.3            In considering such a request, the Exchange may require further information to be provided by the Warehousekeeper. In the event that such rebagging is authorised by the Exchange, it may, at its absolute discretion, supervise such rebagging.

D 2.12.4            Where such rebagging occurs, the Warehousekeeper shall rebag the Cocoa into bag(s) meeting the criteria prescribed by the Exchange from time to time. Where the Exchange has appointed a supervisor, the rebagging shall only take place in the presence of such supervisor.

D 2.12.5            The bag(s) into which the Cocoa is rebagged shall be marked with the mark or marks of the original bag(s).

D 2.12.6            The Warehousekeeper shall amend the details on the Warrant for the Delivery Unit to show the number of original bags which have been rebagged.

D 2.12.7            Upon the rebagging of any such Cocoa comprised in a Delivery Unit, any Valid Grading Result for such Delivery Unit shall, subject to Rule EEEE.3(e)(iii) (ICE Futures London Cocoa Futures Contract) or Rule EEEE1.3(e)(iii) (ICE Futures Euro Cocoa Futures Contract), immediately lapse, unless the Exchange determines, in its absolute discretion, that the Valid Grading Result shall continue to apply to Cocoa contained in a Delivery Unit which has been rebagged in whole or in part:

- (a)            as a consequence of one or more bags contained in the Delivery Unit becoming damaged in the Warehouse or in transit; and
- (b)            in accordance with any instructions or other directions given by the Exchange.

D 2.12.8            The costs of rebagging Cocoa comprised in a Delivery Unit shall be borne by the Owner of the Cocoa.

## **D 2.13            Top-up of a Delivery Unit<sup>25</sup>**

D 2.13.1            In respect of a Delivery Unit, details of which are represented by the Warrant recorded on Guardian and which is, or has been, the subject of a Valid Grading Result, and upon reweighing is found to be of a

<sup>24</sup> Amended 26 May 2015

<sup>25</sup> Amended 26 May 2015

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weight less than the tolerance specified in Rule EEEE.5(e) (ICE Futures London Cocoa Futures Contract) or Rule EEEE1.5(e) (ICE Futures Euro Cocoa Futures Contract), Cocoa may be added to the Delivery Unit provided that:

- (a) following the addition of Cocoa the Delivery Unit is in compliance with Rule EEEE (ICE Futures London Cocoa Futures Contract) or Rule EEEE1 (ICE Futures Euro Cocoa Futures Contract), and with GWP D 2.1.3;
- (b) the additional Cocoa has never been graded as not tenderable; and
- (c) in respect of Standard or Large Delivery Units the additional Cocoa is contained in bag(s) meeting the criteria prescribed by the Exchange from time to time.

D 2.13.2 Any Delivery Unit having a Valid Grading Result which has been the subject of a top-up may not be tendered following the top up until the Delivery Unit has been weighed and re graded as tenderable.

D 2.13.3 The cost of a top-up of a Delivery Unit shall be borne by the Owner of the Cocoa.

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## D 3. Robusta Coffee

### D 3.1 Piling of Robusta Coffee

#### D 3.1.1 Robusta Coffee Shipped from Origin in Bags

D 3.1.1.1 In respect of Robusta Coffee Goods, details of which are represented by the Warrant recorded on Guardian, the following storage requirements shall be observed:

- (a) each lot shall all be packed in sound bags which are in external good order, are woven from natural fibres, are of sufficient strength to withstand transit and storage, are previously unused, clean and suitable for food contact use and meet such other criteria as may be prescribed by the Board from time to time;
- (b) each parcel or lot shall be stored on pallets at ground level, with the exception of multi-storey Warehouses with wooden floors where the bags of Robusta Coffee may be stored directly on the floor;
- (c) the Robusta Coffee comprising a parcel or lot shall be stored, subject to GWP D 3.1.1.1(d) together in a single row or pile;
- (d) subject to Schedule 1 of these GWPs, where a lot or parcel is composed of palletised bags, the bags on each pallet shall relate only to that lot or parcel. Where there is a balance of bags making up a parcel or lot which is insufficient to fill a pallet to capacity those remaining bags shall be exclusively stored on a pallet which shall be marked in accordance with GWP D 3.2 and placed either on top of the column of pallets comprising the majority of the lot or parcel or at the end of the row in which the lot or parcel is piled;
- (e) Robusta Coffee shall be stored with a gap of at least 45 centimetres:
  - (i) from any wall;
  - (ii) from any other Robusta Coffee or other material stored in the Warehouse to allow compliance with GWP D 3.1.1.1(f); and
- (f) at least 40% of the bags in a parcel or lot must be accessible for inspection. Where the parcel or lot is composed of palletised bags stored in columns or rows, at least one side of each pallet shall be readily accessible for inspection.

D 3.1.1.2 A lot may not, in whole or in part, be comprised of Robusta Coffee which previously comprised a lot graded under GWP E 3.

#### D 3.1.2 Shipped from Origin in Bulk

D 3.1.2.1 In respect of Robusta Coffee Goods, details of which are represented by the Warrant recorded on Guardian, the following storage requirements shall be observed:

- (a) Each lot shall all be packed in either;
  - (i) sound bags which are in external good order, are woven from natural fibres, are of sufficient strength to withstand transit and storage, are previously unused, clean and suitable for food contact use and meet such other criteria as may be prescribed by the Exchange from time to time and which shall have a gross weight of no more than 80 kilograms and shall comply with GWP D 3.1.1.1; or
  - (ii) sound FIBCs which must be sealed by means of a numbered and suitably recorded seal, are in external good order, are constructed using woven material such that they prevent

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condensation occurring during storage, are of sufficient strength to withstand transit and storage, are previously unused, clean and suitable for food contact use and meet such other criteria as may be prescribed by the Exchange from time to time and which shall have a gross weight of no less than 900 kilograms and no more than 1,100 kilograms and shall comply with GWP D 3.1.2.1(b) to (f) inclusive.

- (b) Each lot shall be stored on pallets at ground level.
- (c) The Robusta Coffee comprising a lot shall be stored together in a single row or pile.
- (d) Robusta Coffee stored in one FIBC may only relate to the same lot.
- (e) Robusta Coffee shall be stored with a gap of at least 45 centimetres:
  - (i) from any wall; and
  - (ii) from any other Robusta Coffee or other material stored in the Warehouse to allow compliance with GWP D 3.1.2.1(f); and
- (f) all of the FIBCs must be accessible for inspection.

D 3.1.2.2 A lot may not, in whole or in part, be comprised of Robusta Coffee which previously comprised a lot graded under GWP E 3.

## D 3.2 Identification of a parcel or lot

D 3.2.1 Each parcel or lot shall be readily identifiable by the Warehousekeeper and the Exchange officials. The following minimum requirement for the identification of a parcel or lot shall apply:

- (a) A label, visible from the aisle side of the column and/or row shall be securely fastened to either a bag or FIBC lying on the first pallet of the storage sequence or the pallet itself and shall show, as a minimum, the Warrant number relating to the parcel or lot and the number of bags or FIBCs comprising the parcel or lot; and;
- (b)
  - (i) For bags  
A bag on the bottom layer of bags of each pallet and visible from the aisle side of the column and/or row shall be marked clearly, legibly and indelibly on the fabric of the bag with the Warrant number of the parcel or lot.
  - (ii) For FIBCs  
Each FIBC visible from the aisle side of the column and/or row shall be marked clearly, legibly and indelibly on the fabric of the FIBC with the Warrant number of the lot and the gross weight.

## D 3.3 Weighing of a parcel or lot

D 3.3.1 A parcel or lot shall be weighed or reweighed:

- (a) when the parcel or lot is piled for tendering;
- (b) each time the Robusta Coffee contained in the parcel or lot is re-bagged in accordance with GWP D 3.7; and
- (c) each time the parcel or lot is moved or is the subject of a change in control, in accordance with GWPs D 1.19 to D 1.24, as the case may be.

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- D 3.3.2 Rule GGGG.5(f) (ICE Futures Robusta Coffee Futures Contract) sets out the requirements for periodic reweighing and applicable weight allowances. Should Robusta Coffee require reweighing before delivery, such reweighing shall be at the Owner's expense.
- D 3.3.3 The tare weight of the bags or FIBCs shall be that ascertained when the Robusta Coffee was originally weighed and the Warrant details recorded on Guardian.
- D 3.3.4 In the event of reweighing, if not already stored in adjacent piles, parcels forming lots should be moved into adjacent piles.
- D 3.4 Sampling of a parcel or lot**
- D 3.4.1 In respect of a parcel or lot which is to be graded pursuant to GWPs E.1 and E.3, the Member or, if he is not the Owner of the Robusta Coffee, the Owner on whose behalf the Member is making the application for grading, shall instruct the Warehousekeeper in writing to draw a sample from the parcel or lot to be graded. Upon receipt of such instruction, the Warehousekeeper shall act without delay.
- D 3.4.2 If two to five lots are to be sampled from the same consignment, and those lots consist of Robusta Coffee from one Origin, ex one Vessel shipped on one Bill of Lading, and stored in the same Warehouse under the control of the same Warehousekeeper then the Owner may instruct the Warehousekeeper to draw and present the individual samples to be graded as grouped lots.
- D 3.4.3 Where the Warehousekeeper has provided sampling notification to the Exchange on any business day by 12:00 hours London time, sampling may commence on the following business day. Where sampling notification is received after this time, sampling may only begin on the second business day. The Warehousekeeper shall advise the Exchange whether or not the samples are to be delivered to be graded as grouped lots. The Warehousekeeper shall:
- (a) draw the sample in accordance with these GWPs;
  - (b) upon completion of drawing the sample, send the sample direct to the Grading Room, for assessment by a Grading Panel appointed by the Exchange. Samples forming grouped lots shall all be presented to the Grading Room together;
  - (c) in accordance with GWP D 1.3.3 enter all Warrant details of a parcel or lot on Guardian no later than two business days after the arrival of the sample at the Grading Room. Grading will not commence until such details are complete. Samples which have been in the Grading Room for more than two business days, and for which details are not complete, may be removed from the grading queue.
- D 3.4.4 Subject to GWP D 1.5.7 and D 1.5.8, if sampling is to occur outside of normal port working hours and that the sampling is deemed to require supervision, then this is to occur at times mutually agreed between the Warehousekeeper and the Exchange.
- D 3.4.5 Before sampling, the parcel or lot identified correctly in accordance with GWP D 3.2 shall be inspected by the Warehousekeeper and, if supervised, the Supervision Company shall confirm:
- (a) that the Robusta Coffee complies with GWP D 3.1; and
  - (b) all sampling apparatus is clean, dry and free from foreign odours.
- D 3.4.6 Where one or both of the conditions in GWP D 3.4.5 are not met the Warehousekeeper or, if supervised, the Supervision Company shall immediately contact the Exchange which shall determine what action shall be taken before sampling can commence.
- D 3.4.7 Any sample to be presented to the Grading Room shall be drawn and sealed, all of which is to occur on the same day. All samples forming grouped lots shall be drawn and sealed on the same day.

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- D 3.4.8 Each lot shall comprise of not more than two parcels of Robusta Coffee. Where a lot is to be formed of two parcels, a sample from each parcel must be submitted for grading and both samples must be covered by a Valid Grading Result for the lot to be tenderable. Where a sample relating to a parcel is graded not tenderable then the whole lot comprising of both parcels shall be not tenderable. The parcel comprising such lot which was graded as tenderable may not be combined with another tenderable parcel to form a tenderable lot.
- D 3.4.9 In respect of each sample drawn from a parcel or lot stored in bags:
- (a) a grading sample of 1.5 kg minimum weight shall be drawn which; shall be representative of the parcel or lot as a whole, and shall be taken randomly from a minimum of 30% of the number of sound bags forming the parcel or lot and over the full height and width of the parcel or lot directly into a clean, dry, empty and odourless cotton or linen sample bag; with a tare not exceeding 100 g to be presented to the Grading Room.
  - (b) The sample bag shall be sealed with the Warehousekeeper's seal and also if supervised the Supervision Company's seal. The following minimum details shall be marked on the bag:
    - (i) the Warehousekeeper responsible for drawing the sample;
    - (ii) Warrant number;
    - (iii) port;
    - (iv) Origin;
    - (v) date on which the Robusta Coffee was landed; and
    - (vi) the bar code issued by or recorded on Guardian in respect of the sample.
- D 3.4.10 In respect of each sample drawn from a lot stored in FIBCs:
- (a) a grading sample of 1.5 kg minimum weight shall be drawn which; shall be representative of the lot as a whole, and shall be taken by means of one of the following procedures:
    - (i) **Sampling from a conveyor during bagging**  
Sample material of 12.5 kg minimum weight (the bulk sample) which is representative of the lot as a whole shall be derived from Robusta Coffee drawn on an incremental basis perpendicularly across the whole flow of a moving stream of Robusta Coffee (but excluding the 'fall') comprising the whole lot, while the Robusta Coffee is being bagged. The incremental samples shall be drawn at regular intervals dependent on the speed of the flow, each comprising of a minimum of 250g of Robusta Coffee such that a total of a minimum 50 individual samples are drawn from the lot. The Warehousekeeper shall maintain a record of the equipment used for the bagging and sampling, the speed of the Robusta Coffee flow and the intervals during which the incremental samples were drawn.
    - (ii) **Sampling using a compartmentalised sampling iron**  
Sample material of 12.5 kg minimum weight (the bulk sample) which is representative of the lot as a whole shall be derived from Robusta Coffee drawn once the FIBCs are filled with Robusta Coffee but before they are sealed. Samples may be drawn from each FIBC by use of a sampling iron which has a minimum of four compartments in its length. Each FIBC shall be sampled a minimum of five times by access through the loading chute, such that the sampling iron reaches the bottom of the FIBC's four corners, or each quadrant, and once central vertically down the middle of the FIBC. A minimum of 1.25kg per FIBC shall be drawn.

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(iii) **Sampling using a sampling iron**

Sample material of 12.5 kg minimum weight (the bulk sample) which is representative of the lot as a whole shall be derived from Robusta Coffee drawn once the FIBCs are filled with Robusta Coffee and before they are sealed. Samples may be drawn from each FIBC by use of a sampling iron which is of sufficient length to reach the centre of the FIBC. Sampling must be on one side of the FIBC with a minimum of five incremental samples being drawn, such that each facing corner is sampled with one taken from the middle of the bag. A minimum of 1.25kg per FIBC shall be drawn. The sampling holes shall be immediately repaired such that neither the contents nor the FIBC are compromised.

- (b) The bulk sample, which shall be a minimum of 12.5 kg, shall be quartered to provide a grading sample of 1.5 kg minimum weight. The balance of the bulk sample shall be returned to the relevant lot before the FIBCs are sealed and weighed.
- (c) the grading sample shall be placed in a clean, dry, empty and odourless cotton or linen sample bag with a tare not exceeding 100 g.
- (d) The sample bag shall be sealed with the Warehousekeeper's seal, and also if supervised the Supervision Company's seal. The sample bag shall be marked as specified in GWP D 3.4.9 (b).

## **D 3.5 Submission of a Sample**

- D 3.5.1 A Warehousekeeper shall draw a grading sample in accordance with GWP D 3.4, and shall submit such sample directly to the Grading Room for grading. Customs duties, if any, shall be for the account of the Warehousekeeper.
- D 3.5.2 Grading samples, and the related application for grading, must be submitted directly to the Grading Room within 28 calendar days of the date on which they were drawn.
- D 3.5.3 The Exchange may at its sole discretion, designate the time or day at which samples may be delivered to the Grading Room.

## **D 3.6 Fumigation and Fogging**

- D 3.6.1 Pursuant to GWP D 1.15.2(e), the cost of fumigating and fogging of Robusta Coffee stored in accordance with the Robusta Coffee Contract Rules shall be for the account of the Warehousekeeper.
- D 3.6.2 In the event of ICE Registered Robusta Coffee Graders finding live infestation in a sample, the Owner of the Robusta Coffee may submit a new sample together with documentary evidence from the Warehousekeeper that the relevant parcel or lot has been fumigated.
- D 3.6.3 The cost of such fumigation and/or fogging shall be for the Owner's account where:
  - (a) the Robusta Coffee stored in a Warehouse is sold other than under a Contract; or
  - (b) a Phytosanitary Certificate is required; or
  - (c) the Owner requests the Robusta Coffee to be fumigated notwithstanding the apparent absence of infestation.
- D 3.6.4 If, under these GWPs, the Owner of the Robusta Coffee is of the opinion that fumigation and/or fogging is necessary to eradicate current infestation but the Warehousekeeper disagrees, then, in order to establish the need for fumigation and/or fogging, the Owner must provide either:
  - (a) an order from a local official body (e.g. Port Health Authority) that fumigation must be carried out; or

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- (b) a report from a competent independent authority confirming that fumigation and/or fogging is necessary.

If the local official body or the competent independent authority should deem it unnecessary for the Robusta Coffee to be fumigated and/or fogged all charges and fees in respect of such inspections/reports will be for the account of the Owner of the Robusta Coffee, otherwise such costs, if any, shall be borne by the Warehousekeeper.

### **D 3.7 Re-bagging of Robusta Coffee stored in Unsound or Damaged Bags**

D 3.7.1 Robusta Coffee Goods stored in a parcel or lot which is, or has been, the subject of a Valid Grading Result may be re-bagged at the discretion of the Exchange where the fabric of the bags comprising all or part of a parcel or lot or the FIBCs comprising all or part of a lot have become unsound or damaged, providing the Robusta Coffee contained in such bags remains sound.

D 3.7.2 In the event that such re-bagging is required, the Warehousekeeper storing the Robusta Coffee shall inform the Exchange of the details, including the following information:

- (a) proof of the instructions from the Owner of the Robusta Coffee to re-bag such Robusta Coffee;
- (b) the reason why re-bagging is necessary;
- (c) the Warrant number of the relevant parcel or lot; and
- (d) the approximate number of bags or FIBCs requiring re-bagging,

and request approval to re-bag the Robusta Coffee.

D 3.7.3 In considering such a request, the Exchange may require further information to be provided by the Warehousekeeper. In the event that such re-bagging is authorised by the Exchange, it may, at its absolute discretion, supervise such re-bagging.

D 3.7.4 Where such re-bagging occurs, the Warehousekeeper shall re-bag the Robusta Coffee into bags or FIBCs meeting the criteria prescribed by the Exchange from time to time. Where the Exchange has appointed a supervisor, the re-bagging shall only take place in the presence of such supervisor.

D 3.7.5 The bag(s) into which the Robusta Coffee is rebagged shall be marked with the mark or marks of the original bag(s).

D 3.7.6 The Warehousekeeper shall amend the details on the Warrant for the parcel or lot to show the number of original bags which have been rebagged.

D 3.7.7 Upon the rebagging of any such Robusta Coffee comprised in a parcel or lot, any Valid Grading Result for such parcel or lot shall immediately lapse, unless the Exchange determines, in its absolute discretion, that the Valid Grading Result shall continue to apply to Robusta Coffee comprised in a parcel or lot which has been rebagged in whole or in part:

- (a) as a consequence of one or more bags contained in the parcel becoming damaged in the Warehouse or in transit; and
- (b) in accordance with any instructions or other directions given by the Exchange.

D 3.7.8 The costs of rebagging Robusta Coffee comprised in a parcel shall be borne by the Owner of the Robusta Coffee.



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## SECTION E: GRADING PROCEDURES IN RESPECT OF COCOA AND ROBUSTA COFFEE

### E 1. GENERAL

#### E 1.1 Exchange Grading Operations

E 1.1.1 The grading operations necessary to support the ICE Futures London Cocoa Futures Contracts, ICE Futures Euro Cocoa Futures Contracts and ICE Futures Robusta Coffee Futures Contracts are managed by the Exchange.

E 1.1.2 In respect of grading operations, the Exchange is responsible for:

- (a) maintaining a list of suitably qualified and Graders;
- (b) convening Grading Panels and Appeal Panels;
- (c) supervising the grading and appeal process, where necessary;
- (d) recording and disseminating grading results; and
- (e) overseeing the return of a graded sample to an applicant or his appointed agent.

E 1.1.3 Neither the Exchange nor any department, panel or individual operating on behalf of or in association with the Exchange shall do anything under these GWPs or take any other action which shall put the Exchange in breach of any legislation, restriction or sanction to which it is subject.

#### E 1.2 Application and Qualification as an ICE Registered Cocoa or ICE Robusta Coffee Grader<sup>26</sup>

E 1.2.1 To be registered with the Exchange as an ICE Registered Cocoa or ICE Robusta Coffee Grader, an individual must complete an application in the form prescribed by the Exchange from time to time. The Exchange will determine, in its absolute discretion, whether the applicant is suitable and if so, the applicant will be invited to attend either a Cocoa or Robusta Coffee grading course, as the case may be, held by the Exchange. Such courses are held by the Exchange at such times and at such cost to the applicant as the Exchange may determine in its absolute discretion.

E 1.2.2 An employee of, or a person in regular employment by a Warehousekeeper or Supervision Company is ineligible to be registered as a Grader, as such person may have a potential conflict of interest.

E 1.2.3 Registered Cocoa or Robusta Coffee graders, who may be employees of the Exchange, must on completion of the grading course, undertake the written and practical examinations prescribed by the Exchange.

E 1.2.4 All applicants who successfully complete the examination process must sign a Graders Contract before undergoing a series of “grading observations”, the nature and duration of which shall be determined by the Exchange.

E 1.2.5 Notwithstanding that an applicant has complied with GWPs E 1.2.1 to 1.2.4, the Exchange may, in its absolute discretion, deny the applicant registration as an ICE Registered Cocoa or Robusta Coffee Grader.

E 1.2.6 The Exchange may require a Grader to undergo a series of grading observations as specified in GWP E 1.2.4, if the Grader has not participated in a Grading Panel for six months or more.

#### E 1.3 Conduct of Graders<sup>27</sup>

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<sup>26</sup> Amended 26 May 2015

## GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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- E 1.3.1 A Grader must act in accordance with the standards required by these GWPs and the Graders Contract.
- E 1.3.2 During the course of grading, whilst conducting other duties pertaining to their office or while on the Exchange's premises, a Grader shall maintain the highest standards of professional conduct and orderly behaviour.
- E 1.3.3 Where a Grader is called to join a Grading Panel or Appeal Panel, as the case may be, and the Grader is, or becomes, aware that the company of which he is an employee, or any Related Company, has an interest in Cocoa or Robusta Coffee that is the subject of the relevant application for grading, he shall inform the Exchange of such interest immediately. The Exchange shall either:
- (a) arrange for the Grading Panel or Appeal Panel, as the case may be, of which such Grader is a member, to grade samples in which there is no such interest; or
  - (b) defer grading until such time as another Grading Panel or Appeal Panel, as the case may be, can be constituted, or where circumstances are such that grading cannot be deferred, call another Grader to replace the Grader on the relevant Grading Panel or Appeal Panel.
- E 1.3.4 If a member of a Grading Panel or Appeal Panel is believed, in the opinion of an Exchange official, to be under the influence of alcohol or drugs, such Grader will not be permitted to undertake grading on behalf of the Exchange.
- E 1.3.5 While in the Grading Room, a Grader must refrain from behaviour which might distract any member of another Grading Panel or Appeal Panel.
- E 1.3.6 A Grader should not observe the grading taking place at other Grading Stations or confer with other Graders not forming part of his Grading Panel or Appeal Panel, in respect of samples that such Grading Panel or Appeal Panel are grading.
- E 1.3.7 An Exchange official may stop or suspend grading at any time, if he considers that the Regulations or these GWPs are being breached, or that the fairness of the grading of any sample has been compromised.
- E 1.3.8 [DELETED]
- E 1.3.9 If an Exchange official has reason to believe that a Grader has acted or is acting in breach of the Regulations or these GWPs then a senior Exchange Official must be informed as soon as possible of the suspected breach.
- E 1.3.10 A Grader must not remove samples of Cocoa or Robusta Coffee from the Grading Room.
- E 1.3.11 Graders must leave the Grading Room promptly once they have completed grading the samples allocated to their Grading Panel or Appeal Panel, as the case may be.
- E 1.3.12 Smoking or eating in the Grading Room is prohibited.
- E 1.3.13 A Grader who fails to follow these GWPs, may be liable to further investigation. Should such an investigation provide evidence that the Grader has breached the Regulations or these GWPs then the Exchange shall take such disciplinary action it deems appropriate, which may include de-registration. Any such disciplinary action will only be imposed after the Grader concerned has been given a fair and appropriate opportunity to present his case to the Exchange.

### E 1.4 Interested Parties

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<sup>27</sup> Amended 26 May 2015

# GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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- E 1.4.1 A Grader who is employed by, or otherwise associated with, a company which is an interested party with regard to any parcel, lot or Delivery Unit, shall not be appointed to, and must not knowingly participate in, a Grading Panel or an Appeal Panel in respect of such parcel, lot or Delivery Unit. Whether such association exists shall be at the sole determination of the Exchange.
- E 1.4.2 The following are interested parties for the purpose of GWP E 1.4.1:
- (a) the applicant for grading;
  - (b) the Owner of the Goods; and
  - (c) where either the applicant or Owner of the Goods is a company, a Related Company.
- E 1.4.3 Notwithstanding GWPs E 1.4.1 and E 1.4.2, a grading result shall not be invalidated in the event that the parcel, lot or Delivery Unit to which it applies is subsequently received, by way of tender against an Exchange contract, by a company which employs, or is otherwise associated with a Grader who participated in the grading of such parcel, lot or Delivery Unit.
- E 1.5 Termination of Registration as a Grader**
- E 1.5.1 The registration of a Grader may be terminated:
- (a) upon such notice as the Exchange may deem expedient, if the Grader does not continue to meet the criteria for registration as determined by the Exchange in its absolute discretion; or
  - (b) either summarily or upon such notice as the Exchange may in its absolute discretion deem expedient, if the Grader's acts, or the Grader's failure to act, is in breach of the requirements of the Regulations, the Grader's Contract or these GWPs and, as a consequence of disciplinary action by the Exchange, the Exchange determines such termination is appropriate.
- E 1.5.2 If a Grader wishes to resign from being a ICE Registered Cocoa or Robusta Coffee Grader, the Grader must give four weeks notice to the Exchange. A Grader must comply with any conditions the Exchange may impose on his resignation.
- E 1.6 Grading and Appeal Panels<sup>28</sup>**
- E 1.6.1 On receiving an application for grading or notice of an appeal in respect of a grading result, the Exchange will, at its absolute discretion, convene a Grading Panel or Appeal Panel, respectively, from the list of the ICE Registered Cocoa or Robusta Coffee Graders, as the case may be, who are eligible to grade. The Exchange will endeavour to ensure that each Grading Panel or Appeal Panel includes Graders with appropriate experience of the Appeal process.
- E 1.6.2 The Exchange will as far as practicable select a ICE Registered Cocoa or Robusta Coffee Grader, as the case may be, to form part of a Grading Panel or Appeal Panel in rotation provided that:
- (a) not more than one Grader from the same company, or a Related Company, will be selected to form the same Grading Panel or Appeal Panel;
  - (b) a Grader who is an employee of the Member, or a Related Company, submitting an application for grading or, if such Member is not the Owner of the Goods from which the sample was drawn, then the Owner of such Goods, or a Related Company, shall not form part of the Grading Panel or Appeal Panel undertaking the grading of such sample; and
  - (c) a Grader will not form part of an Appeal Panel if such Grader formed part of the Grading Panel that originally graded such sample.

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<sup>28</sup> Amended 26 May 2015

## GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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### E 1.7 Grading Appeals<sup>29</sup>

E 1.7.1 In respect of Robusta Coffee:

- (a) There shall be no appeal in respect of a parcel or lot graded as tenderable. The applicant Member may appeal the grading result in respect of a parcel or lot graded as not tenderable, provided such appeal is made in accordance with these GWPs and within five business days after the date of the grading result;

In respect of Cocoa:

- (b) all Cocoa Delivery Units which have failed Grading due to excess Residue and Foreign Matter only, an application may be made in accordance with these GWPs to recondition the Goods removing the Residue and Foreign Matter and enter subsequent sample and grading application in Guardian;

For contract months up to and excluding May 2017, in respect of Cocoa:

- (c) The applicant Member may appeal the grading result issued by the Exchange provided such appeal is made in accordance with these GWPs and within twenty business days after the date of the grading result;

For contract months from and including May 2017, in respect of Cocoa:

- (d) the applicant Member may appeal the grading result issued by the Exchange provided such appeal is made in accordance with these GWPs and within twenty business days after the date of the grading result; and
- (e) in addition to the above appeal process, in respect of Cocoa in Bulk, the applicant Member may appeal the FFA test results separately in accordance with these GWPs and within twenty business days after the date of the grading result.

E 1.7.2 An appeal may be lodged by the Nominated Member via Guardian complete with the details of the relevant Warrant number.

E 1.7.3 In respect of:

- (a) Cocoa, the original sample shall be submitted within twenty business days after the date of the grading result; and
- (b) Robusta Coffee, for a lot or parcel graded individually the original sample shall be submitted within ten business days after the date of the grading result. For grouped lots, sample material weighing a minimum of 1.5kg representing the grading sample in GWP E 3.2.2 shall be submitted within ten business days after the date of the grading result.

E 1.7.4 In all cases the original sample must be submitted with the Exchange's seal intact. Where such a seal is broken, an appeal will not be undertaken.

E 1.7.5 Grading appeals shall be conducted on the sample, or for samples graded as grouped lots a portion of sample material, originally submitted for grading.

E 1.7.6 If the Appeal Panel decide that the original decision of the Grading Panel should be changed, the previous grading result will cease to be valid. The Exchange shall notify the applicant Member of the appeal grading result by such means and in a form prescribed by the Exchange from time to time.

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<sup>29</sup> Amended 26 May 2015, 01 August 2015

# GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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## **E 1.8 Grading and Appeal Fees**

- E 1.8.1 The fee payable in respect of an application for grading a Delivery Unit of Cocoa or a parcel, lot or grouped lots of Robusta Coffee or in respect of a notice of appeal, as the case may be, shall be prescribed from time to time by the Exchange. It shall be payable on demand, or at such other time and in such manner as may be prescribed by the Exchange from time to time.
- E 1.8.2 Appeal fees in respect of grading appeals conducted in accordance with the Cocoa and Robusta Coffee Contract Rules shall not be reimbursed to the applicant in any circumstances.
- E 1.8.3 The Exchange shall pay to the members of a Grading Panel or Appeal Panel such fee as it shall from time to time determine.

## **E 1.9 Liability for Grading**

- E 1.9.1 Without prejudice to any exclusion of liability provision in the Regulations, none of the Exchange, the Directors or the Clearing House shall be liable for any loss or damage whatsoever, whether for negligence, breach of contract, misrepresentation or otherwise, in respect of the failure to grade a sample of Cocoa or Robusta Coffee or to issue a grading result by a particular date.
- E 1.9.2 Nothing in this GWP shall operate to exclude or restrict the liability of the Exchange, the Directors or the Clearing House for fraud, wilful default or death or personal injury due to negligence.
- E 1.9.3 No person serving on any Grading Panel or Appeal Panel shall, in the absence of bad faith or wilful default, be under any liability whatsoever whether in contract, in tort or otherwise to any Member or other person for any decision taken or other act or omission in respect of an application for grading.

## **E 1.10 Application for Grading or Re-grading<sup>30</sup>**

- E 1.10.1 An application for grading or re-grading, as the case may be, shall be made by a Nominated Member, via Guardian.
- E 1.10.2 A Member may apply to the Exchange for grading or re-grading, as the case may be, if, in respect of Cocoa, and subject to GWP E 2.1:
- (i) the Delivery Unit does not have a Valid Grading Result; or
  - (ii) the Delivery Unit does have a Valid Grading Result and the application for grading is made no earlier than the beginning of the calendar month immediately prior to the calendar month in which the Valid Grading Result expires;
- E 1.10.3 Irrespective of the usual validity period of a grading result for Cocoa which is the subject of an application for re-grading in accordance with GWP E.1.10.2 shall immediately lapse upon commencement of such re-grading.
- E 1.10.4 In respect of Cocoa, no application for re-grading of a Delivery Unit may be made where the Cocoa comprising the Delivery Unit has previously been graded as not tenderable, with the exception where a Delivery Unit has failed due to Residue and Foreign Matter only.
- E 1.10.5 A Member may apply to the Exchange for grading of a lot or grouped lots of Robusta Coffee at any time, subject to GWPE 1.10.6.
- E 1.10.6 In respect of Robusta Coffee, no application for grading of a lot may be made where part or all of the Robusta Coffee comprising the lot has previously been graded.

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<sup>30</sup> Amended 01 August 2015

## GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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### E 1.11 Grading Process – General<sup>31</sup>

E 1.11.1 Upon receipt of one or more applications for the initial grading of Cocoa or Robusta Coffee, or the re-grading of Cocoa Goods pursuant to the relevant Contract Rules and these GWPs, or if otherwise required to do so under GWP E 1.7, the Exchange shall, at its absolute discretion, convene a Grading Panel or Appeal Panel, as the case may be. Such Grading Panel or Appeal Panel shall consist (subject to GWP E 1.6.2) of a minimum of:

- (a) three Cocoa Graders in respect of a Delivery Unit;
- (b) three Robusta Coffee Graders in respect of a lot or grouped lots.

E 1.11.2 In respect of each parcel, lot, grouped lots or Delivery Unit for which an application for grading is made, the Grading Panel shall examine the sample submitted and shall determine the grading result.

E 1.11.3 Subject to GWP E 1.11.1, grading for Robusta Coffee will only commence once all the Graders selected to form a Grading Panel or Appeal Panel are present at the relevant Grading Station, and ready to commence.

E 1.11.4 Prior to grading commencing, the Grading Panel will check that:

- (a) the seal(s) on the sample is/are in place and intact; and
- (b) the sample does not weigh less than the weight prescribed in these GWPs for a sample from the relevant parcel lot or Delivery Unit.

In addition, the Grading Panel may check that the tare weight of the sample bag does not exceed the weight prescribed in these GWPs for a sample from the relevant parcel, lot or Delivery Unit.

E 1.11.5 If the details on a sample bag do not correspond to those on the relevant application for grading, an Exchange Official will advise the applicant Member. The applicant Member, or, if he is not the Owner of the Goods, the Owner on whose behalf the Member is making the application for grading, may arrange for either the Warehousekeeper, or his appointed agent, to alter the details on the sample bag and initial and stamp the alteration.

E 1.11.6 If in the opinion of an Exchange official, or the Grading Panel, the sample bag is insecure, incorrectly sealed, appears to have been tampered with or a sample weighs less than the correct weight prescribed for a sample from the relevant parcel, lot or Delivery Unit such sample shall not be graded. The applicant Member will be informed of such fact and they, or the Owner of the Goods may, instruct the Warehousekeeper to draw a fresh sample in accordance with the Regulations, including the relevant Contract Rules, and these GWPs and may then submit a new application for grading in respect of the relevant Goods.

E 1.11.7 The original sample shall be held by the Exchange until either a fresh sample is received, or until sixty calendar days has elapsed, whichever is the sooner. At such time, the applicant Member may, subject to the agreement of the Exchange, arrange for the sample to be collected from the Grading Room. If, however, it is suspected that a sample has been tampered with then it will be held for further investigation by the Exchange.

E 1.11.8 If the Grading Panel determine, in their absolute discretion, that the sample contents do not correspond with the details on the sample bag and the relevant application for grading, the Grading Panel shall immediately advise an Exchange Official. If the Exchange Official is unable, for whatever reason, to agree a course of action the matter shall be immediately referred to a senior Exchange Official who will determine what action shall be taken by the Exchange. The applicant Member will be informed of the course of action determined by the Exchange.

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<sup>31</sup> Amended 26 May 2015

# GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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- E 1.11.9 Should at any time a Grading Panel discover live infestation in a sample, the grading of that sample will be discontinued and the sample contents will be returned to the sample bag which shall be sealed and marked as having live infestation. The presence of live infestation will be noted on Guardian and an Exchange Official will instruct the applicant Member to make arrangements for the sample to be removed within 24 hours. If the Member fails to remove the sample within 24 hours of notification, the Exchange may, at its absolute discretion, arrange for its disposal. Subject to GWP D 2.8.2 or 3.6.2, as the case may be, a Member may submit a new sample of the relevant parcel, lot or Delivery Unit for grading in accordance with GWP E 1.10.
- E 1.11.10 Where a lot comprises of two parcels and live infestation is discovered in the sample relating to one parcel only, then the Grading Panel shall continue to grade the sample in respect of the other parcel comprising such lot. The Exchange shall notify the applicant Member of the grading result in respect of the uninfested parcel by such means and in a form prescribed by the Exchange from time to time.
- E 1.11.11 Subject to GWPs D 2.8.2 or D 3.6.2, as the case may be, a Member may submit a new sample in accordance with GWP E 1.10, in respect of the parcel which is infested.
- E 1.11.12 Prior to leaving the Grading Room, the Senior Grader will ensure that all results relevant to the samples graded by the Grading Panel or Appeal Panel have been recorded on Guardian.
- E 1.11.13 Once grading of each sample is completed, the Exchange will re-seal such sample with the Exchange's seal. The applicant Member, or his appointed agent, will be contacted to arrange collection of the sample. Should the sample not be collected promptly, it shall become the property of the Exchange who may, at its absolute discretion, arrange for its storage or disposal.
- E 1.11.14 Following completion of grading, the Exchange shall in respect of:
- (a) Cocoa, notify the applicant Member and if so determined by the Exchange also notify the Warehousekeeper; or
  - (b) Robusta Coffee, notify the applicant Member and the Warehousekeeper;
- of the grading result in respect of the Goods which are the subject of the application, by such means and in a form prescribed by the Exchange from time to time. If the Exchange notifies the Member of the grading result via Guardian and the Member is unable to access such facility, or is prevented from accessing such facility due to its malfunction or failure, the Exchange may prescribe an alternative means and, if required, form in which the grading result will be provided to the Nominated Member.
- E 1.11.15 In respect of Robusta Coffee, where a lot comprises of two parcels, the Valid Grading Result of such lot shall state the discounts applicable, if any, in respect of the inferior parcel. Where such parcel is graded as not tenderable then the whole lot comprising of both parcels shall not be tenderable.

## **E 2. COCOA**

### **E 2.1 General**

- E 2.1.1 If a parcel or lot is graded by ICE Registered Cocoa Graders as not tenderable under the previous Cocoa contract rules (see E 2.1.2 below), a Member may submit such Cocoa as part or all of a Delivery Unit for re-grading under the Cocoa Contract Rules.
- E 2.1.2 If a Delivery Unit is graded by ICE Registered Cocoa Graders as not tenderable under the Cocoa Contract Rules, a Member shall not submit such Delivery Unit for re-grading under the Cocoa Contract Rules, except in accordance with the following:

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A Member may, on one occasion only, apply to the Exchange for re-grading of a Delivery Unit where a previous application resulted in the sample being graded as not tenderable. This GWP will only apply where both of the following conditions are satisfied:

- (a) where the original sample was graded as not tenderable under the terms of the revised Cocoa contract rules in the period from 1 November 1999 to and including 31 May 2001; and
- (b) where the reason, marked on the grading result, for the sample being graded as not tenderable was indicated to be "Residue".

Notwithstanding the above, the Exchange may, in its absolute discretion, require Members to provide it with such other documentary evidence as the Exchange considers necessary in order to satisfy the Exchange that the Member meets the requirements detailed above.

## E 2.2 Grading Process<sup>32</sup>

### E 2.2.1 Residue and Foreign Matter Test

E 2.2.1.1 A member of the Grading Panel shall, having satisfied himself that all seals are intact, break the sample-seal(s) and shall sieve the entire sample, using a sieve with a square mesh of 6mm. The Residue and Foreign Matter falling through the sieve, as well as any Residue and Foreign Matter remaining in the sieve but identified by the Graders as being Residue or Foreign Matter, shall be weighed and such weight shall be recorded on Guardian.

A sample drawn from a Bulk Delivery Unit or Large Delivery Unit (i.e. 5 kg or 3 kg respectively), shall be sieved in two halves and the resulting weight of Residue (but excluding bean clusters) and Foreign Matter added together.

E 2.2.1.1.1 For contract months up to and excluding May 2017, an allowance will be awarded against the weight of the Residue and Foreign Matter recorded on Guardian by reference to the relevant scale of Allowances for Residue and Foreign Matter where the quantity of Residue and Foreign Matter does not exceed:

- (a) in respect of all Origins other than Papua New Guinea:
  - (i) 75 grams for a sample drawn from a Standard Delivery Unit;
  - (ii) 113 grams for a sample drawn from a Large Delivery Unit; or
  - (iii) 188 grams for a sample drawn from a Bulk Delivery Unit.

and

- (b) in respect of Papua New Guinea:
  - (i) 100 grams for a sample drawn from a Standard Delivery Unit;
  - (ii) 150 grams for a sample drawn from a Large Delivery Unit; or
  - (iii) 250 grams for a sample drawn from a Bulk Delivery Unit.

If the quantity of Residue and Foreign Matter marked on the grading sheet exceeds the applicable weight for the relevant Origin set out in (a) or (b) above, the sample shall be graded as not tenderable and the affected Delivery Unit cannot be delivered.

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<sup>32</sup> Amended 26 May 2015



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- E 2.2.1.1.2 For contract months from and including May 2017, an allowance will be awarded against the weight of the Residue and Foreign Matter recorded on Guardian by reference to the relevant scale of Allowances for Residue and Foreign Matter where the quantity of Residue and Foreign Matter does not exceed:
- (a) 105 grams for a sample drawn from a Standard Delivery Unit;
  - (b) 157 grams for a sample drawn from a Large Delivery Unit; or
  - (c) 262 grams for a sample drawn from a Bulk Delivery Unit.

If the quantity of Residue and Foreign Matter marked on the grading sheet exceeds the applicable weight, the sample shall be graded as not tenderable and the affected Delivery Unit cannot be delivered.

- E 2.2.1.2 If, by looking at the contents of the sieve, the Graders are of the opinion that there are excessive bean clusters in the sample, the bean clusters identified in the sieve shall be weighed and an Allowance will be made if, in respect of a sample drawn from a:
- (a) Standard Delivery Unit, 51 grams or more in weight of bean clusters are identified;
  - (b) Large Delivery Unit, 76 grams or more in weight of bean clusters are identified; or
  - (c) Bulk Delivery Unit, 126 grams or more in weight of bean clusters are identified.

In each case, the resulting gross weight of bean clusters shall be recorded on Guardian.

In the event that the gross weight of bean clusters stated on the grading sheet is greater than:

- (d) 150 grams for a sample drawn from a Standard Delivery Unit;
- (e) 225 grams for a sample drawn from a Large Delivery Unit; or
- (f) 375 grams for a sample drawn from a Bulk Delivery Unit;

the sample shall be graded as not tenderable and the affected Delivery Unit cannot be delivered.

For contract months up to and excluding May 2017, for the purpose of calculating any Allowance for bean clusters, the gross weight stated on the grading sheet (if equal to or in excess of the applicable amount in (a), (b) or (c)) shall be reduced by 50% (and rounded down, if applicable, to the nearest whole gram). An Allowance in respect of the net weight shall be determined by reference to the relevant scale of Allowances for Residue and Foreign Matter entitled “Residue and Foreign Matter Allowances (all origins except Papua New Guinea)”, irrespective of the Origin of the Cocoa in the sample.

For contract months from and including May 2017, an allowance will be awarded against the weight of the Bean Clusters recorded on Guardian by reference to the relevant scale of Allowances for Bean Clusters as published by the Exchange from time to time.

## E 2.2.2 Standard Deviation of the Bean Count Test and Bean Count

- E 2.2.2.1 This test is to be conducted on all Delivery Units in accordance with the provisions of the relevant Cocoa Contract Rules and these GWPs:

- (a) the entire sample in respect of a Delivery Unit (i.e. 2 kg, 3 kg or 5 kg for Standard, Large or Bulk Delivery Units respectively) will be poured into a mixing container, hand mixed and passed through a sample divider. A representative sub-sample of 300 g (“300 g Sub-Sample”) will be withdrawn from the Cocoa which passed through the sample divider. Any Residue or Foreign Matter remaining in the Sub-Sample will be removed, weighed and replaced with whole beans of an equivalent weight;

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- (b) three sieves, with a round mesh of 13mm, 11.5mm and 10.5mm respectively, shall be assembled in descending mesh size order onto a base and placed on the sieving machine. The 300 g Sub-Sample shall be poured onto the upper sieve, and the sieves sealed;
- (c) the sieving machine shall be set to 180rpm, and operated for three minutes. After such time, the Cocoa beans retained on each sieve and in the base shall be counted and weighed separately. Any Cocoa beans remaining in the apertures of a sieve shall be deemed to be retained on such sieve. Any Cocoa beans which subsequently fall through the mesh when dismantling the sieve shall be added to the numbers of Cocoa beans from the sieve onto which they fall. The total weight of the Cocoa beans retained in each sieve and in the base shall be rounded down to the nearest 0.1 g.  

In the event that any bean clusters are found on any of the sieves following the sieving process, they shall be removed, weighed down and replaced with whole beans of an equivalent weight and the sieving process shall be repeated; and
- (d) the information obtained in GWP E 2.2.2.1(c) including the number of beans forming the 300g (the “bean count”) shall be recorded on Guardian

### E 2.2.3 Bean Cut-test

E 2.2.3.1 For the purpose of determining the percentage of Defective and Slaty beans, a quantity of Cocoa beans must be cut open along their full length, creating two halves which clearly expose both cotyledons of the Cocoa bean for examination. Cocoa beans have to be cleanly cut through the widest section and shall not be cut whilst laying flat.

E 2.2.3.2 In respect of:

- (a) an application for grading, the number of Cocoa beans cut per sample will be as follows:
  - (i) in respect of a sample drawn from a Standard or Large Delivery Unit, a minimum of 300 Cocoa beans will be cut; and
  - (ii) in respect of a sample drawn from a Bulk Delivery Unit, a minimum of 500 Cocoa beans will be cut, or
- (b) a grading appeal, the number of Cocoa beans cut per sample will be as follows:
  - (i) in respect of a sample drawn from a Standard or Large Delivery Unit, a minimum of 450 Cocoa beans will be cut; and
  - (ii) in respect of a sample drawn from a Bulk Delivery Unit, a minimum of 750 Cocoa beans will be cut.

E 2.2.3.3 The number of Defective and Slaty Cocoa beans shall be recorded on Guardian.

### E 2.2.4 Smoky/Hammy/Unsound Cocoa

E 2.2.4.1 Cocoa which is considered by the Grading or Appeal Panel:

- (a) to have a smoky, hammy or other taint or smell;
- (b) to contain a substance not inherent to Cocoa; or
- (c) to be unsound,

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will be graded as not tenderable and the grading sheet noted on Guardian accordingly. Any such beans that have been cut shall not be returned to the sample bag with the rest of the contents.

E 2.2.5 Determination of Free Fatty Acid (FFA) for Bulk units, for contract months from and including May 2017:

E 2.2.5.1 In respect of a sample drawn from a Bulk Delivery Unit, a test sample shall be analysed by using the International Confectionary Association Analytical Method 42.

For the purpose of calculation the test sample shall undergo 3 individual cycles of analysis, the result will be averaged and registered in Guardian.

In the event that the FFA level is above 3.5%, the BDU shall be graded as not tenderable and the effected Delivery Unit cannot be delivered.

E 2.2.6 Cocoa graded as non- tenderable

E 2.2.6.1 If, during the course of grading, a sample is found not to conform to the contract requirements in any category, such sample shall be graded as not tenderable and grading of the sample shall cease.

E 2.2.6.2 A Delivery Unit which has been graded as not tenderable will be noted as such on Guardian, and the Guardian record shall specify under which category the sample has failed. In respect of gradings conducted pursuant to the Cocoa Contract Rules and these GWPs, it shall be noted on Guardian at which stage of the grading process for that particular category the Delivery Unit became not tenderable.

## E 3. Robusta Coffee

### E 3.1 General

E 3.1.1 In accordance with Rule GGGG.4 the following grading procedures shall apply, such that they do not conflict with GWP E 1.11.

### E 3.2 Grading Procedure

#### E 3.2.1 Samples representing parcels, single lots or grouped lots

The Grading Panel shall satisfy themselves that the samples presented are identified as either:

- (a) each representing a single parcel or lot and are not presented as being connected to any other parcels or lots; or
- (b) are presented as being grouped lots.

Those samples submitted as not representing grouped lots shall follow the GWPs E 3.2.2 and 3.2.4 to 3.2.7. Those samples submitted representing grouped lots shall follow GWPs E 3.2.3 and 3.2.4 to 3.2.7.

#### E 3.2.2 Sample preparation for a single lot

E 3.2.2.1 A member of the Grading Panel shall check that the sample complies with GWP E 1.11.

E 3.2.2.2 If so, a member of the Grading Panel shall then break the sample-seal(s) and empty the entire contents of the grading sample into a tray and thoroughly mix the grading sample by hand.

E 3.2.2.3 A laboratory sample shall then be prepared by use of a flat-bottomed scoop to remove a quantity of beans weighing not less than 300g from the grading sample which shall be placed in a clean and odourless container. The net weight of the laboratory sample shall be recorded on Guardian.

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## **E 3.2.3 Sample preparation for grouped lots**

- E 3.2.3.1 A member of the Grading Panel shall check that all the samples presented for grading as grouped lots comply with GWP E 1.11.
- E 3.2.3.2 If so, a member of the Grading Panel shall then break the sample-seals and empty the entire contents of each grading sample into separate trays and thoroughly mix each one separately by hand.
- E 3.2.3.3 The Grading Panel will then visually examine the general appearance of each grading sample and be satisfied that all are homogenous in overall uniformity with each other. If the Grading Panel does not agree that the samples are homogenous then the samples shall be graded as individual lots and shall follow GWP E 3.2.2.
- E 3.2.3.4 If agreed that each sample is visually homogenous with the others, a member of the Grading Panel shall mix the grading samples together and quarter the resulting mixed grading samples such that the resulting quartered material is approximately 1.5 kg.
- E 3.2.3.5 A laboratory sample shall then be prepared by use of a flat-bottomed scoop to remove a quantity of beans weighing not less than 300g from the 1.5 kg grading sample described in 3.2.3.4 above which shall be placed in a clean and odourless container. The net weight of the laboratory sample shall then be recorded on Guardian.

## **E 3.2.4 Olfactory test**

- E 3.2.4.1 A member of the Grading Panel shall bring his nose close to the whole of a laboratory sample and sniff sharply. If any abnormal odour is detected then this is to be corroborated by the other members of the Grading Panel.
- E 3.2.4.2 In doubtful cases, if there is a suspicion of an abnormal odour, a clean, odourless container shall be half-filled with coffee from the laboratory sample, closed hermetically, and kept for a minimum of one hour at room temperature. The container shall be opened and the evaluation of the odour repeated.
- E 3.2.4.3 The result shall be recorded if the sample is graded not being free of foreign odour and the single lot or grouped lots shall be non-tenderable.

## **E 3.2.5 Visual examination**

- E 3.2.5.1 A laboratory sample shall be spread over a plain black surface under diffuse daylight or artificial light reproducing daylight as closely as possible and the sample inspected to confirm that the botanical origin of the beans in the sample conform with the contract specification, failing which the single lot or grouped lots shall be non-tenderable.

## **E 3.2.6 Screen Test**

- E 3.2.6.1 A laboratory sample shall be weighed, the weight recorded, and the sample material poured into the nest of sieves sized 15, 14, 13 and 12, the lid placed on top and the receiver placed under the sieve with the smallest aperture.
- E 3.2.6.2 The sieves shall be agitated with a slight corner-to-corner tilting action and with slight vertical shaking until no further beans move from one screen to the next, or a process which gives equivalent results. At the end of this operation, a sharp knock should be given to the nest of sieves in order that beans only loosely held in apertures will fall through. The oversize collected on each of the sieves used shall be weighed to the nearest 1g, and, if applicable, the undersize collected in the receiver. Beans remaining in apertures shall be considered to be retained on the sieve in question. The weights for each screen shall be recorded.

## **E 3.2.7 Determination of Foreign Matter and Defects**

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E 3.2.7.1 A laboratory sample shall be weighed and the weight recorded. The laboratory sample shall be examined for foreign matter and Defects pursuant to Rules GGGG.4(d) and (e). Any such material so identified shall be separated and the aggregate in both categories shall each be weighed to the nearest 1g and the results compared to the weight of the laboratory sample.

### **E 3.3 Standards**

E 3.3.1 Lots which are graded shall be deemed as tenderable subject to meeting the requirements as set out in Rule GGGG.4(c)(ii).

E 3.3.2 Grading results from samples that have been derived from grouped lots shall apply to each individual lot making up the grouped lots.

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## SECTION F: WARRANT MANAGEMENT SERVICE

### F 1. Introduction

- F 1.1 The Warrant Management Service is offered by the Exchange through the Guardian system. The Warrant Management Service caters for Cocoa and Robusta Coffee Warrants. It allows for transfer of ownership from seller to buyer via the Clearing House in a tender cycle or between seller and buyer in the event of a physical sale/purchase provided that Warrants have been issued and lodged with a Depository and recorded on Guardian by a Depository as having been immobilised.
- F 1.2 Only Warehousekeepers may issue Warrants. A Warehousekeeper must issue and print a Warrant prior to the initial grading of the Goods to which that Warrant relates.
- F.1.3 Where there are differences in respect of the details as to weight, and/or Rent, and/or the ICE Futures Warehouse reference between the Warrant and the details recorded on Guardian, the details on Guardian will be correct.
- F 1.4 Warrants in respect of Goods which are to be delivered under the ICE Futures London Cocoa Futures Contract, ICE Futures Euro Cocoa Futures Contracts or the ICE Futures Robusta Coffee Futures Contract must be immobilised.
- F 1.5 A Warehousekeeper shall maintain on Guardian an accurate copy of the Terms and Conditions to which Warrants issued by him are subject.
- F 1.6 A Nominated Member shall maintain details of the Owner on Guardian.
- F 1.7 The Warrant Management Service is only available to:
- (a) Clearing Members;
  - (b) Warehousekeepers;
  - (d) the Exchange; and
  - (e) Depositories.

### F 2. Legal Rules<sup>33</sup>

- F 2.1 These rules as described in this GWP F 2 (the “rules”) set out the rights and obligations of Owners, Nominated Members and Warehousekeepers in respect of Warrants which have been immobilised in accordance with GWP F 3.4.
- F 2.2 These rules create rights and obligations legally enforceable by any Participant against any other Participant.

### F 2.3 Definitions

- F 2.3.1 In these rules:

“Participant” means a Nominated Member and a Warehousekeeper.

“Specified Third Party” means, in relation to a Nominated Member, an associate, and any person who is or was a Client of the Nominated Member.

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<sup>33</sup> Amended 26 May 2015

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“Client” of a Nominated Member means, in the context of these rules, an Owner or former Owner for whose Warrants the Nominated Member has at any time accepted nomination.

## **F 2.4 Status of Owners**

F 2.4.1 In respect of a Warrant that has been immobilised, a person whose name is recorded on Guardian as the “Owner” in relation to the Goods is the person entitled, as against each Participant, to possession of a Warrant in respect of those Goods.

F 2.4.2 If a Nominated Member becomes subject to an event of default under Section D of the Regulations or Part 9 of the Clearing House Rules, the Clearing House may direct the Exchange to instruct another Clearing Member to act as Nominated Member in respect of some or all of the Warrants which have been immobilised for which the relevant Nominated Member has been nominated on Guardian.

## **F 2.5 Immobilisation of Warrants**

F 2.5.1 Effect of immobilisation of Warrants

F 2.5.1.1 The Depository holds a Warrant that has been immobilised as bailee to the order of the Nominated Member against whose name the Warrant is recorded on Guardian. The Depository is obliged to deliver up the Warrant to the Nominated Member or to its order. The Nominated Member holds its rights in respect of a Warrant that has been immobilised as bailee for the relevant Owner, and shall act promptly on any instructions of the Owner (including in particular instructions to obtain delivery of the Warrant from the Depository).

F 2.5.1.2 No Participant may assert any right or interest, or take any action, against any other person (including in particular any Owner) which is inconsistent with GWP F 2.5.1.1 above except insofar as that Participant has a better entitlement to possession to the relevant Goods, and that right is consistent with the content and intention of these rules.

F 2.5.1.3 Each Nominated Member shall procure that no third party is granted any right or interest over the Warrants or Goods, or is permitted by the relevant Owner to take any action, against any other person which is inconsistent with the Regulations in respect of the Warrants or Goods and this prohibition shall, without limitation, include issuing another valid Warrant representing the same Goods (the proper course of which is to cancel the related Warrants prior to doing so) or any other actions which may risk the Goods being ineligible or unavailable for delivery pursuant to the Regulations and Nominated Members shall include a provision to this effect in its terms of business with clients who are or may become Clients. The foregoing shall not preclude: liens over Warrants or Goods in favour of Warehousekeepers; financing arrangements which involve an intended update of ownership records in Guardian to record the financier’s interest in the Goods; and/or cancellation of Warrants in accordance with these Regulations.

F 2.5.1.4 Whenever a Warrant is immobilised, the Nominated Member (as agent for the relevant Owner) at the time of immobilisation guarantees to each Participant that it has not created or permitted to subsist in relation to the Warrant any charge, encumbrance or other third party right or claim which would impair the full enjoyment of that Warrant, and that none of the Nominated Member, the relevant Owner, or any person claiming through or under them will disturb the quiet possession of the Warrant by any subsequent Owner.

F 2.5.1.5 The Exchange may require the Depository to effect such endorsements to Warrants in the Depository’s possession as are appropriate in order to enable the effective transfer of ownership to the Owner recorded for the time being on Guardian. Each Nominated Member shall include a provision in its terms of business with clients who are or may become Clients authorising the Exchange and the Depository to take such action as is mentioned in this rule on their behalf.

## **F 2.6 Transfers**

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- F 2.6.1 A change of Owner on Guardian amounts to a transfer of entitlement to possession of the relevant Goods. Where the Owner is changed in respect of a Warrant that has been immobilised, the registration of the name of the new Owner on Guardian constitutes and shall have the same effect as:
- (a) in respect of the relevant Goods, an assignment to the new Owner of all rights (including in particular a claim to delivery up of the relevant Commodity Unit) against the Warehousekeeper, and an attornment in favour of the new Owner by the Warehousekeeper; and
  - (b) in respect of a Warrant that has been immobilised, an attornment in respect of the Warrant itself in favour of the new Owner by the Nominated Member.
- F 2.6.2 Where the Nominated Member is changed in respect of a Warrant that has been immobilised, the acceptance of nomination by the new Nominated Member constitutes an instruction by the previous Nominated Member and the new Nominated Member to the Depository to hold the Warrant to the order of the new Nominated Member. The Depository agrees that the registration of a Warrant that has been immobilised under the name of the new Nominated Member constitutes and shall have the same effect as an attornment by the Depository in favour of that Nominated Member.
- F 2.6.3 In respect of each Warrant that has been immobilised, the Nominated Member (acting for itself and as agent for the Owner) authorises the Exchange to transfer the right to have the Warrant delivered by means of changes to records on Guardian.
- F 2.6.4 In the event of a default during the settlement of an Exchange Contract, the Exchange may take any step to ensure that the Guardian record reflects that the Owner in respect of a Warrant is the Clearing House, where delivery ought to have been made to the Clearing House and no onward delivery ought to be made to another person.
- F 2.7 General legal rights**
- F 2.7.1 Each Participant agrees to indemnify and hold harmless each other Participant in respect of any costs, claims, or loss occasioned by breach of these rules by the first Participant. The liability of a Participant under this rule shall be limited to the value, at the time of the breach, of the relevant Goods.
- F 2.7.2 Nothing in these rules affects the covenants for title incorporated expressly or by operation of law into a contract for the sale of goods.
- F 2.7.3 Pursuant to the Contracts (Rights of Third Parties) Act 1999, these rules confer rights enforceable by a Specified Owner against its relevant Nominated Member, and rights enforceable by a Participant against another Participant pursuant to GWP F 2.7.1. These rules may, however, be amended in any way without the consent of any Owner. Subject to the above provisions of this GWK, no person who is not a Participant, the Exchange or the Clearing House has rights under the Contracts (Rights of Third Parties) Act 1999 under these rules.
- F 2.7.4 These rules shall prevail in the event of inconsistency between these rules and any terms and conditions:  
(a) applicable between a Nominated Member and its Client; or (b) applicable between a Warehousekeeper and any Owner, Nominated Member or customer of the Warehousekeeper by virtue of custom and usage, operation of law, or inclusion in or on a Warrant.
- F 2.7.5 Neither the Exchange nor any Participant gives any undertaking, covenant or warranty to any person as to the effect of these rules as regards title to any Warrant or Goods. The use of the word “Owner” does not constitute a guarantee by the Exchange that any Warrant or Goods exists or that the person recorded as such on Guardian has any property interest in any Warrant or Goods.
- F 2.7.6 Without prejudice to any limitation of liability applicable by virtue of the Exchange’s Regulations, procedures or any other agreement between the Exchange and any Participant or the Clearing House Rules, none of the Exchange, the Clearing House, their directors or agents shall be liable to any Participant or other person for any loss, damages, costs, expenses or other liability of whatever nature



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(each a “Loss”) relating to the operation of these rules or the performance or non-performance of any person under these rules, including where such Loss arises from negligence. The Exchange has no obligation to any person to ensure the accuracy or availability of any information recorded on Guardian; or to safeguard rights of any person entitled to a Warrant which has been immobilised or claiming as Owner; or as to the legal consequences of these rules in any jurisdiction. However, nothing in these rules excludes liability for fraud, wilful default or for personal injury or death caused by negligence.

## **F 3. Issuing a Warrant and Initial Nomination of a Clearing Member**

### **F 3.1 Issuing a Warrant**

F 3.1.1 A Warrant may only be issued by a Warehousekeeper on the instructions of the Owner. The Warrant shall be printed on secure paper supplied by the Exchange in the form set out in Schedule 2. The following information shall be stated on the Warrant;

- (a) Warehousekeeper’s name, address and logo;
- (b) Statement “Warehouse Warrant for Goods in Bond”;
- (c) Warrant number;
- (d) Statement “Bearer is entitled to receive.”;
- (e) Commodity;
- (f) Origin of Goods;
- (g) Name of vessel;
- (h) Name of Warehouse in which the Goods are stored;
- (i) Exchange Warehouse reference;
- (j) port or Delivery Area;
- (k) Marks, if any;
- (m) Number of full bags, the contents of which are sound, and their gross weight. Bulk Delivery Units to show weight only;
- (n) Number of slack bags, the contents of which are sound, and their gross weight;
- (o) Tare of bags, and/or total tare;
- (p) Total net weight;
- (q) Final date of landing, date of storage and date of last weighing;
- (r) Statement “This Warrant is subject to the Terms and Conditions specified overleaf”;
- (s) Date and place of issue;
- (t) Warehousekeeper’s signature;
- (u) Warehousekeeper’s Terms and Conditions printed on the reverse of the Warrant;
- (v) Bar code;

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(w) Depository number; and

(x) Rent expiry date.

F 3.1.2 In relation to the printing of Warrants there are minimum print quality standards as detailed below:

(a) produced using a minimum of 300 DPI printing technology;

(b) the barcode symbol area must:

(i) be free from spots (black blobs in the white areas) and voids (white spaces in the black bars); and

(ii) exhibit a high symbol contrast (black bars to be clearly distinguishable from the white spaces); and

(iii) contain bars that are not fuzzy, wavy, smudged or blurred at the edges; and

(iv) be free from over laminates or gloss finishes.

### F 3.2 Initial Nomination of a Clearing Member

F 3.2.1 A Warehousekeeper may create Commodity Units, take samples and give sampling notification through the Guardian system without the need to nominate a Clearing Member. A Clearing Member must be nominated by the Warehousekeeper on behalf of the Owner before a Warrant may be immobilised, or an application for grading made within Guardian.

F.3.2.2 Where there is no Nominated Member, an Owner may at any time instruct the Warehousekeeper to request the appointment of a Clearing Member as a Nominated Member. If an Owner does so, it shall provide the Warehousekeeper with the name and the ICE mnemonic of the Clearing Member. The Warehousekeeper shall post a request, which includes the Owner's name, on Guardian for the Nominated Member to confirm that it accepts the nomination.

F 3.2.3 A Warrant may only be tendered under a Contract if it has been immobilised.

### F 3.3 Re-Print of a Missing Warrant

F 3.3.1 In the event of a Warehousekeeper being advised that a Warrant has been defaced, lost or destroyed, then all the requirements contained in the Terms and Conditions of the Warrant recorded on Guardian shall be fulfilled before a new Warrant may be issued by the Warehousekeeper. The Warehousekeeper shall ensure that it is recorded on Guardian that the original Warrant has been cancelled and is invalid and that the new Warrant has been issued in respect of the relevant Goods.

### F 3.4 Immobilising a Warrant<sup>34</sup>

F 3.4.1 When Goods are graded as tenderable, the Owner should make arrangements for the relevant Warrants to be lodged with the Depository at the earliest opportunity. A Warrant may only be immobilised on the instructions of a Nominated Member on behalf of the Owner. The Nominated Member shall request immobilisation by a Depository of the Warrant in Guardian. The Warrant must then be lodged with a Depository by the Nominated Member. Upon acceptance of the Warrant, the Depository shall record the Warrant as immobilised on Guardian. It is only at the point of registration of the Warrant being immobilised by the Depository that the Warrant will be in a form which is capable of being tendered.

F 3.4.2 Procedures for the immobilisation of Warrants

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<sup>34</sup> Amended 26 May 2015

## GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF THE ICE FUTURES LONDON COCOA FUTURES CONTRACTS, ICE FUTURES EURO COCOA FUTURES CONTRACTS AND ICE FUTURES ROBUSTA COFFEE FUTURES CONTRACTS

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- F 3.4.2.1 The lodgement or withdrawal of a Warrant at the Depository shall be by appointment only. The Nominated Member must give a minimum of one business day's notice by contacting the Depository using the contact details provided by the Exchange by notice posted on the Market from time to time.
- F 3.4.2.2 The Exchange will publish the address of the Depository, the opening hours of the Depository and the relevant contact details on the ICE website ([www.theice.com](http://www.theice.com)).
- F 3.4.2.3 Appointments will be granted at the discretion of the Depository. Only in exceptional circumstances will appointments be accepted with less than one business day's notice and these will be dealt with on a best efforts basis.
- F 3.4.2.4 When making an appointment, the Nominated Member must provide the Depository with the following information:
- (a) the time and date on which the Nominated Member wishes to make the lodgement or withdrawal;
  - (b) the name of the person or company details of the courier company who will attend the Depository;
  - (c) in the case of a lodgement, subject to GWPs F 3.4.2.12 and F 3.4.2.13, the number of Warrants to be lodged and the number of Lodgement Requests covering these Warrants; and
  - (d) in the case of a withdrawal, subject to GWPs F 3.4.2.20, the number of Warrants to be withdrawn and the number of withdrawal requests covering these Warrants.
- F 3.4.2.5 The Nominated Member should not initiate the lodgement or withdrawal process on Guardian until an appointment has been confirmed by the Depository.
- F 3.4.2.6 Persons attending the Depository should be in possession of identification sufficient enough to satisfy the security requirements of the Depository. Details of these requirements will be issued by the Depository from time to time and will be published on the ICE website ([www.theice.com](http://www.theice.com)).
- F 3.4.2.7 In the event that the Nominated Member cannot attend the Depository at the appointed time, the Depository should be informed immediately and a revised appointment made.
- F 3.4.2.8 Subject to GWP F 3.4.2.22, in the event that the Nominated Member wishes to cancel an appointment the Depository should be informed immediately. The Nominated Member must cancel the relevant Lodgement or withdrawal request on Guardian.
- Lodgement of Warrants at the Depository*
- F 3.4.2.9 In order for a Warrant to be lodged with the Depository it must be:
- (a) issued by a Warehousekeeper for Goods;
  - (b) issued as a Warrant by the Warehousekeeper and recorded on Guardian; and
  - (c) printed on secure paper with a clearly printed bar code and depository number.
- F 3.4.2.10 A Warrant will not be accepted for lodgement at the Depository unless it is accompanied by the relevant Lodgement Request Form.
- F 3.4.2.11 The Lodgement Request Form must be clearly printed and contain a readable bar code.
- F 3.4.2.12 A single Lodgement Request Form may include up to a maximum of 200 Warrants. A single Lodgement Request Form in respect of multiple Warrants may only be provided for Warrants issued in respect of the same commodity stored by the same Warehousekeeper in the same port or Delivery Area.

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- F 3.4.2.13 At the discretion of the Depository, a depository appointment may be for the presentation of more than one Lodgement Request Form.
- F 3.4.2.14 Warrants presented at the Depository for lodgement should be presented with the relevant Lodgement Request Form and should be in numerical order by depository number and ordered so that the bar code of each Warrant is positioned directly above the one below. Subject to GWP F 3.4.2.13 where there is more than one Lodgement Request Form the Warrants for each request should be separated.
- F 3.4.2.15 Where there is any discrepancy between the Lodgement Request Form and the Warrants accompanying it or the Warrants are not presented in accordance with these GWPs, the Depository may refuse to accept all of the Warrants covered by that request.
- F 3.4.2.16 On completion of the lodgement process, the Depository will issue a Lodgement Statement to the person attending the Depository.
- Withdrawal of Warrants from the Depository*
- F 3.4.2.17 A Warrant may not be withdrawn from the Depository unless the Depository is presented with a Withdrawal Request Form produced by Guardian.
- F 3.4.2.18 The Withdrawal Request Form must be clearly printed and contain a readable bar code.
- F 3.4.2.19 A single Withdrawal Request Form may include up to a maximum of 200 Warrants. The Warrants included in the Withdrawal Request Form may be issued in respect of different commodities stored with different Warehousekeepers in different ports or Delivery Areas.
- F 3.4.2.20 At the discretion of the Depository a depository appointment may be for the presentation of more than one Withdrawal Request Form.
- F 3.4.2.21 On completion of the withdrawal process the Depository will issue a Withdrawal Statement to the person attending the Depository.
- F 3.4.2.22 A Withdrawal Request Form cannot be cancelled by the Nominated Member if the Depository has initiated the withdrawal process. This will be evident where the status “Packing” for the Withdrawal Request Form is recorded on Guardian.

### **F 4. Change of Ownership**

- F 4.1 Warrants which are registered as immobilised on Guardian are required to identify the Owner.
- F 4.2 The Nominated Member is required to amend the name of the Owner when title to the Warrant changes, either through the tender process or by a physical sale/purchase. The registered Owner of the Warrant must be accurately recorded on Guardian as soon as possible but in any event no later than 20:00 hours London time each business day.
- F 4.3 Other than as the result of a delivery through an Exchange contract, a change of Owner recorded on Guardian may only occur by written instructions from the Owner to the Nominated Member. Such written instructions must be retained by the Nominated Member acting on behalf of the Owner for inspection by the Exchange.

### **F 5. Change of Nominated Member**

- F 5.1 At the request of the Owner, the Nominated Member may be changed on Guardian. The Owner shall supply the current Nominated Member with the name of the proposed Nominated Member. The current Nominated Member shall post a request on Guardian for the proposed Nominated Member to confirm

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that they accept the nomination. Once accepted, the Warrant shall be recorded under the name of the proposed Nominated Member.

### **F 6. Change of Warrant Form<sup>35</sup>**

F 6.1 At the request of the Owner, the Nominated Member may:

F 6.1.1 Immobilise a Warrant

F 6.1.1.1 The provisions of GWP F 3.4 shall apply.

F 6.1.2 Withdraw a Warrant from the Depository

F 6.1.2.1 The provisions of GWP F 3.4 shall apply.

F 6.1.2.2 At the request of an Owner, the Nominated Member may withdraw a Warrant from the Depository. The Depository shall register the Warrant as having been withdrawn from the Depository on Guardian when the Warrant has been delivered to the Nominated Member by the Depository.

F 6.1.2.3 A Warrant which has been withdrawn from the Depository shall not be tenderable under a Contract.

F 6.1.2.4 Where any details which are contained in the Warrant are different to that recorded on Guardian, the Warehousekeeper shall either update or replace the Warrant.

### **F 7. Movement Out**

F 7.1 An Owner wishing to Move Out Goods which are the subject of a Warrant which has been recorded as immobilised on Guardian must ask the Nominated Member to request the withdrawal of the Warrant from the Depository and to hold it to the order of the Owner. Movement Out of the Goods must be carried out in accordance with GWP D 1.27.

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<sup>35</sup> Amended 26 May 2015

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## **SCHEDULE 1: COCOA STORED AS LARGE DELIVERY UNITS PRIOR TO 1 AUGUST 2006**

In respect of GWP D 2.1.1(c), Cocoa comprising a Large Delivery Unit which was in store prior to 1 August 2006 may be stored in non adjoining piles in the same Warehouse. GWP D 2.1.1(e) of these GWPs shall apply to all non adjoining piles.

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