



**FEDERATION OF
COCOA COMMERCE**

**FCC Sampling Rules
(Applicable to contracts concluded
on or after 01 March 2008)**

**New contact details with effect from 17 November
2014**

**FEDERATION OF COCOA COMMERCE LTD
2ND FLOOR, 30 WATLING STREET
LONDON, EC4M 9BR**

Tel: +44 (0) 20 3773 6200

Fax: +44(0) 20 7489 4845

E-mail: fcc@cocoafederation.com

Web: www.cocoafederation.com

**Previous Address:
FEDERATION OF COCOA COMMERCE LTD
FEDERATION DU COMMERCE DES CACAOS
Cannon Bridge House
1 Cousin Lane
London EC4R 3XX**

CONTENTS

PART 1: GENERAL	1
1. APPLICATION OF SAMPLING RULES	1
2. DEFINITIONS	1
2.1 Arbitration Sample	1
2.2 Composite Sample	1
2.3 Contractual Sample	1
2.4 Incremental Sample	1
2.5 Primary Sample	1
2.6 Quartering	1
2.7 Sampler	1
2.8 Sampling	2
2.9 Seller's notification	2
2.10 Sole Analyst	2
2.11 Sound	2
2.12 Superintendent	2
2.13 Time of discharge for cocoa beans in bulk	2
2.14 Time of loading	2
2.15 Warehouse	2
3. SAMPLING	3
3.1 Minimum and maximum Size to be represented by a sample	3
3.1.1 Minimum	3
3.1.2 Maximum	3
3.2 Cocoa beans in Bags	3
3.3 Cocoa Beans in Bulk	4
3.3.1 Moving Stream	4
3.3.2 Stationary	4
3.3.3 Discharge from Containers	5
3.4 Arbitration Sample	5
3.5 Failure to Supervise for contracts with quality on arrival or in store/on truck/on railcar/on barge	6
3.5.1 Parties Notified	6
3.5.2 Superintendent Not Appointed or Parties Not Notified	6
PART 2: SAMPLING FOR COCOA BEANS IN BAGS	7
4. QUALITY ON DEPARTURE	7
4.1 sampling obligations	7
4.2 Charges	8
4.3 Notices	8
4.3.1 Buyer's Notice	8
4.3.2 Notices Applicable to Samples Drawn and Agreed Prior to Loading	8
4.3.2.1 Seller's Response to Buyer's Notice	8
4.3.2.2 Timing of Sampling and Advice of Analysis	8
4.4 Protection of Goods	9
4.5 Tendering of Substitute Parcels	9
4.6 Refusal of Declaration of Goods	9
4.7 Failure to Supervise	9
4.7.1 Sampling During Loading	9
4.7.2 Sampling Prior to Loading	9

5.	QUALITY ‘ON ARRIVAL’	10
5.1	Sampling obligations and time periods	10
5.2	Charges	10
5.3	failure to supervise	10
6.	COCOA BEANS IN BAGS SOLD ‘IN STORE/ON TRUCK/ON RAILCAR/ON BARGE’	11
6.1	Sampling obligations and time periods	11
6.2	Charges	11
6.3	failure to supervise	11
7.	IN STORE COCOA BEANS IN BAGS SOLD BY SAMPLE	12
7.1	Sampling obligations and time periods	12
7.2	Charges	12
PART 3: SAMPLING FOR COCOA BEANS IN BULK		13
8.	QUALITY ON DEPARTURE	13
8.1	Sampling obligations	13
8.2	Charges	13
8.3	Notices	13
8.3.1	Buyer’s Notice	13
8.3.2	Seller’s Response to Buyer’s Notice	13
8.3.3	Timing of Sampling and Advice of Analysis	13
8.4	Protection of Goods	14
8.5	Tendering of Substitute Parcels	14
8.6	Refusal of declaration of goods	14
8.7	failure to supervise	14
9.	QUALITY ON ARRIVAL	15
9.1	Sampling Obligations and Time Periods	15
9.2	Charges	15
9.3	Refusal of Declaration of Goods	15
9.4	failure to supervise	15
10.	COCOA BEANS IN BULK SOLD ‘IN STORE/ON TRUCK/ON RAILCAR/ON BARGE’	16
10.1	Sampling obligations and time periods	16
10.2	Charges	16
10.3	Failure to Supervise	16
PART 4: OPTIONAL CLAUSES		17
11.	OPTIONAL QUALITY CLAUSES	17

RECORD OF AMENDMENTS

Rule No.	Title	Date of Amendment	Brief Description of Amendment
3.3	Cocoa beans in bulk	03 October 2014	Corrected reference to loading or discharge on 4 th paragraph.

SAMPLING RULES

APPLICABLE TO CONTRACTS CONCLUDED ON OR AFTER 01 MARCH 2008

PART 1: GENERAL

1. APPLICATION OF SAMPLING RULES

The following Sampling Rules apply to all contracts incorporating the FCC Contract Rules for Cocoa Beans.

2. DEFINITIONS

In addition to the definitions in the FCC Contract Rules for Cocoa Beans, the following definitions are applicable to the FCC Sampling Rules.

2.1 ARBITRATION SAMPLE

Means a representative sample of minimum 2kg net prepared in accordance with Rule 3.

2.2 COMPOSITE SAMPLE

Means a sample formed by combining all the Primary Samples or Incremental Samples, as appropriate, drawn from the parcel.

2.3 CONTRACTUAL SAMPLE

Means a sample prepared for the purpose of sale of cocoa beans by sample.

2.4 INCREMENTAL SAMPLE

Means a small quantity of beans not exceeding 1 kg taken from a parcel of bulk cocoa beans in accordance with Rule 3.3.

2.5 PRIMARY SAMPLE

Means a small quantity of cocoa beans taken at a single position from a randomly selected Sound bag in accordance with Rule 3.2.

2.6 QUARTERING

Means 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.

2.7 SAMPLER

Means a person who is competent to draw samples in accordance with these Rules and is either a Superintendent or employed by a Superintendent for that purpose.

2.8 SAMPLING

Means the process of drawing Primary and/or Incremental Samples, and thereafter preparing a Composite Sample from which an Arbitration Sample is established for the purposes of compliance with the FCC Contract Rules Cocoa Beans.

2.9 SELLER'S NOTIFICATION

Means a Notice sent by the Seller to the Buyer and his appointed Superintendent specifying the shipping marks, number and location of the goods and/or such other information that will enable the Buyer and his Superintendent immediately to identify the goods.

2.10 SOLE ANALYST

Means a person or company that the Parties agree to appoint to assess the quality of cocoa beans whose findings shall be binding on both Parties.

2.11 SOUND

Means that the parcel has not been damaged in transit or in storage.

2.12 SUPERINTENDENT

Means a person or company registered under the FCC Member Superintendent Scheme or otherwise authorised under the terms thereof to perform Superintendent services for the purposes of the FCC Contract Rules for Cocoa Beans.

2.13 TIME OF DISCHARGE FOR COCOA BEANS IN BULK

Means:

- (a) for cocoa beans loose in ship's hold – the period of time from when the hatches are opened and the Ship's Notice of Readiness has been given to when the hold is emptied.
- (b) for cocoa beans loose in container - the period of time from when the doors of the first container are opened until the last container is emptied.

2.14 TIME OF LOADING

Means:

- (a) for cocoa beans in bags or bulk in ship's hold the period of time from when the hatches are opened to when the hold is filled with the Bill of Lading quantity.
- (b) for cocoa beans in bags or bulk in container the period of time from when the doors of the first container are opened until the last container is filled to complete the Bill of Lading quantity.

2.15 WAREHOUSE

Means a place which is suitable in all respects for the storage of cocoa beans.

3. SAMPLING

The objective of sampling is to obtain a properly representative sample of the contractual quantity of cocoa beans. Sampling shall be carried out by a Sampler.

A sufficient number of Primary Samples/Incremental Samples must be taken to provide a representative Composite Sample.

A Party who has appointed a Superintendent has the option to have the sampling supervised by that Superintendent.

Samples shall be promptly sealed by the Buyers and/or Sellers Superintendents.

Where a parcel contains unsound material it shall be sampled separately from the Sound material. All loose material and sweepings which have been recovered, may also be sampled separately.

Arbitration sample(s) shall only be drawn from the Sound material.

3.1 MINIMUM AND MAXIMUM SIZE TO BE REPRESENTED BY A SAMPLE**3.1.1 Minimum**

When the Bill of Lading or Warehouse Warrant refers to more than one main shipping mark, each of the quantities represented by those marks shall be the subject of separate sampling, provided that each mark individually represents 25 tonnes or more.

When the Bill of Lading or Warehouse Warrant refers to several main shipping marks, one or more of which represents less than twenty five tonnes, the Buyer may choose to have a sample to represent all those marks.

Samples shall be sealed and labelled in accordance with Rule 3.4.

3.1.2 Maximum

Samples shall not represent a parcel of more than 250 tonnes. Parcels larger than 250 tonnes shall be represented by separate samples each representing no more than 250 tonnes.

3.2 COCOA BEANS IN BAGS

A minimum of 30% of the Sound Bags must be sampled and the amount drawn shall be a minimum of 300 beans per tonne. One Primary Sample must be drawn from each Sound bag selected for sampling. The position of the sampling point within each Sound bag must be selected at random from the top, centre or bottom of the bag.

Upon completion of the loading or discharge of the Bill of Lading quantity, all Primary Samples shall be emptied on to a thoroughly clean flat surface and in an area free from any possible contamination.

The Composite Sample is to be thoroughly and carefully mixed with dry, clean equipment immediately after the Primary Samples have been drawn.

3.3 COCOA BEANS IN BULK

Incremental Samples each not exceeding 1kg shall be taken uniformly, systematically, appropriately and concurrently with loading or discharge. The sample amount shall be a minimum of 300 beans per tonne drawn at the nearest practicable point to the hold or container, preferably from a moving stream when loading or discharging overside, or to/from silo, or to/from vessel or truck or barge or other means of transport, from the whole of the Bill of Lading quantity.

Incremental samples shall be taken by ordinary hand scoop or by other mutually agreed equipment (including automatic sampling) throughout loading or discharge and placed in mutually agreed suitable container(s), to be kept closed and secure.

The sampling point is to be carefully selected, and agreed with the Sampler and the Superintendents, at a place where the Incremental Samples drawn are representative of the cocoa beans loaded or discharged.

In the event that the method of loading or discharge precludes access to a mutually agreed acceptable sampling point, the Superintendents may interrupt the loading or discharge in order to draw Incremental Samples.

If samples are to be drawn from bagged cocoa prior to loading as bulk then samples shall be randomly drawn from a minimum of 30 per cent of the Sound bags as per Rule 3.2 presented to the Buyer or his Superintendent for sampling.

Upon completion of the loading or discharge of the Bill of Lading quantity, all Incremental Samples shall be emptied on to a thoroughly clean flat surface and in an area free from any possible contamination.

The Composite Sample is to be thoroughly and carefully mixed with dry, clean equipment immediately after the Incremental Samples have been drawn.

3.3.1 Moving Stream

When sampling takes place while the product is in motion, incremental samples shall be taken across the whole section of the flow, perpendicular to the direction of the flow, and at time intervals depending on the rate of flow. If automatic instruments are used for sampling the beans when it is in motion, they shall have a slot opening which is at least 7.5 centimetres.

3.3.2 Stationary

When moving stream samples are unable to be drawn and samples are required to be taken from wagons or vehicles, incremental samples shall be drawn from:

- i) not less than 5 sampling points from each wagon or vehicle containing up to 15 tonnes,
- ii) not less than 9 sampling points from each wagon or vehicle containing 15 to 30 tonnes,
- iii) not less than 15 sampling points from each wagon or vehicle containing 30 to 50 tonnes.

Incremental samples drawn at each sampling point shall be from three levels within the vehicle or wagon and shall be approximately one kilo per sampling point. Sampling points shall be from the middle and approximately 50 cms from the sides of the wagons or vehicles.

3.3.3 Discharge from Containers

When moving stream samples are unable to be drawn and samples are required to be taken from shipping containers then incremental samples may be drawn in accordance with the following procedure.

The contents of the container should be emptied onto the clean dry floor of a suitable warehouse or other storage location and kept separate from other all other goods. The pile of cocoa so formed by the emptying of the container should not exceed 20 tonnes and should be accessible on all sides for the purpose of sampling.

Incremental samples should be drawn using suitable long handled sampling equipment to draw representative samples from not less than 9 sampling points from the pile. The sampling points are to be selected as appropriate to the shape and size of the pile including a proportionate number from as close to the centre of the pile as reasonably possible. The sampling rate of a minimum of 300 beans per tonne shall apply to this Rule.

3.4 ARBITRATION SAMPLE

At least two Arbitration Samples shall be prepared and sealed by the Buyer's Sampler and by the Seller's Superintendent, if appointed. The samples shall be retained in safe custody by the Superintendent or Warehousekeeper or other mutually agreed independent party.

The Arbitration Sample shall:

- i) be formed immediately after the preparation of the Composite Sample by successively quartering the Composite Sample such that a minimum of 2 kg remains and ensuring that the material forming the Arbitration Sample represents as closely as possible that of the Composite Sample. Excess sample material shall be bagged, labelled and stored with the original parcel, unless otherwise instructed by the Buyer.
- ii) weigh a minimum of 2kg net and be packed and sealed in woven bags conforming to Rule 8.5 of the FCC Contract Rules for Cocoa Beans.

- iii) be marked or labelled to show that it is drawn in accordance with Rules 3.2 and 3.3, as applicable, and shall state as much information as possible from the following list:

Name of vessel

Country of Origin

Port of shipment

Port of discharge and, if different, Place of Final Delivery

Shipping mark(s)

Number of bags

Date of Sampling

Final day of Landing at port of discharge or, if different, last day of discharge at the Place of Final Delivery

Bill of Lading Number and date

Warehouse name

Warehousekeeper

3.5 FAILURE TO SUPERVISE FOR CONTRACTS WITH QUALITY ON ARRIVAL OR IN STORE/ON TRUCK/ON RAILCAR/ON BARGE

3.5.1 Parties Notified

If the Seller has notified the Buyer of the appointment of a Superintendent, then the Buyer or his Sampler must notify the Seller or his Superintendent of the place, date and time of the sampling. If the Buyer fails to comply with these conditions, with the result that sampling takes place without the Seller's Superintendent being present, then the Buyer shall lose the right to claim for quality.

3.5.2 Superintendent Not Appointed or Parties Not Notified

Should the Seller not appoint a Superintendent or should the appointed Superintendent fail to be present after having received due notice of the place, date and time of the sampling then the Arbitration sample(s) sealed by the Buyer's Sampler shall be accepted.

PART 2: SAMPLING FOR COCOA BEANS IN BAGS

4. QUALITY ON DEPARTURE

4.1 SAMPLING OBLIGATIONS

Sampling of goods presented to the Buyer for shipment is at the Buyer's option. If the Buyer wishes to exercise this option then the Buyer and Seller must agree at the time of entering into the contract upon one of the following sampling options:

- (a) Samples drawn during stuffing of container or loading of the parcel
Sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 without unreasonable interruption at the Port of Loading in the presence of the Seller's Superintendent, if appointed. The Seller must ensure that the Buyer has access to the goods for the purpose of sampling.

If the samples drawn by the Buyer's Sampler during loading indicate that the cocoa beans are not in accordance with the contract specification, the Buyer or his Sampler must immediately notify the Seller or his Superintendent of the non-compliance.

In the absence of agreement between the Parties as to how the matter should be promptly resolved, the Buyer taking into account contract terms, the FCC Quality Rules and the Sale of Goods Act, must either:

- i) when the breach of contract may be remedied by an allowance, continue with the loading such that arbitration samples are established in accordance with Rule 3.
- ii) when the breach of contract is so severe that it cannot be remedied by an allowance, and the Seller is unable to replace the cocoa beans immediately, then the Buyer may reject the parcel or any part thereof and loading shall immediately cease. Arbitration samples of the rejected cocoa beans shall then be prepared in accordance with Rule 3.

The Parties shall then refer the dispute to FCC Arbitration.

If the goods are not sampled in accordance with the above then no quality claim is admissible except where the Buyer is not responsible for non-compliance.

- (b) Samples drawn and agreed prior to stuffing of container or loading of the parcel
The Parties must agree upon the appointment of a Sole Analyst and his terms of reference at the time of entering into the contract.

Sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 without unreasonable interruption at the agreed place of sampling in the presence of the Seller's Superintendent, if appointed. The Seller must ensure that the Buyer has access to the goods for the purpose of sampling.

The Sole Analyst shall examine the sealed sample(s) prepared in accordance with Rule 3.4 and shall notify the Parties with the results which shall be final.

Under this option the Buyer has no recourse to quality arbitration.

4.2 CHARGES

All charges incurred in Sampling and analysis shall be paid by the Buyer.

4.3 NOTICES

4.3.1 Buyer's Notice

If the Buyer wishes to sample the cocoa beans in accordance with Rule 4.1 the Buyer shall notify the Seller of the name of his Sampler:

- i) for contracts in which the Buyer books the freight - when giving first notice of the Estimated Date of Arrival of the Vessel to the Seller as provided in Rule 8.4.1.2 of the FCC Contract Rules for Cocoa Beans;
- or
- ii) for contracts in which the Seller books the freight - no later than the day following receipt of the Seller's first notice of the Estimated Date of Arrival of the Vessel or at the time of entering into the contract.

The Buyer shall not be entitled to sample the goods if he fails to comply with this Rule and further he shall not be entitled to reject the declaration of the goods on the grounds that sampling has not taken place.

4.3.2 Notices Applicable to Samples Drawn and Agreed Prior to Loading

4.3.2.1 Seller's Response to Buyer's Notice

Within 5 days of receipt of the Buyer's Notice of the appointment of his Sampler, the Seller shall send the Buyer a Seller's Notification. Failure to issue such a notification in time will render the Seller liable for any additional costs and expenses incurred by the Buyer as a result thereof.

4.3.2.2 Timing of Sampling and Advice of Analysis

Within 4 days of receipt of the Seller's Notification, sampling shall be completed and the sealed sample(s) forwarded by the Buyer to the Sole Analyst. It is the responsibility of the Buyer to ensure that the Sole Analyst advises both Parties of the result of the analysis within 2 business days from the submission of the sample to the Sole Analyst.

4.4 PROTECTION OF GOODS

Goods which are deemed to be in compliance with the contract quality terms shall be kept securely protected by the Seller until loaded on the vessel nominated by the Buyer.

4.5 TENDERING OF SUBSTITUTE PARCELS

If all or any part of the goods are not in compliance with the contract quality, the Seller shall have the option (exercisable immediately on receiving notification of the Buyer's rejection) of tendering substitute goods for sampling by serving a second Seller's Notification in accordance with Rule 4.3 whereupon Rules 4.3.2.2 and 4.4 shall take effect, provided always that there is sufficient time for these Rules to be complied with and for the substituted goods to be loaded within the shipment period.

4.6 REFUSAL OF DECLARATION OF GOODS

If the Seller does not comply with the above Rules, the Buyer shall have the right to refuse the declaration of the goods.

4.7 FAILURE TO SUPERVISE**4.7.1 Sampling During Loading**

Should the Seller not appoint a Superintendent or should the appointed Superintendent fail to be present after having received due notice of the place, date, time of loading and sampling, then the loading and sampling shall take place in the presence of the Buyer's Sampler and the Arbitration Sample(s) sealed by the Buyer's Sampler shall be accepted as binding upon both Parties.

4.7.2 Sampling Prior to Loading

Should the Seller not appoint a Superintendent or should the appointed Superintendent fail to be present after having received due notice of the place, date and time of sampling the arbitration sample(s) submitted to the Sole Analyst shall be accepted as binding upon both Parties.

5. QUALITY ‘ON ARRIVAL’**5.1 SAMPLING OBLIGATIONS AND TIME PERIODS**

Sampling of cocoa beans shipped under each Bill of Lading is at the Buyer's option. If the Buyer wishes to exercise this option sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 and without unreasonable interruption at the Place of Final Delivery within 21 days of the Final Day of Landing of the vessel in the presence of the Seller's Superintendent, if appointed.

The Buyer shall ensure that the Seller or his Superintendent shall have access to the goods at the time of unloading for the purpose of supervising sampling at the Place of Final Delivery or at a suitable location agreed between the Parties near the Place of Final Delivery.

If the goods are not sampled in accordance with the above then no quality claim is admissible, except when the Buyer is not responsible for the delay and further provided that the parcel is sampled as soon as the Buyer has access to the goods.

5.2 CHARGES

All charges incurred in sampling at the Place of Final Delivery or nearby location as may be agreed pursuant to Rule 5.1 shall be paid by the Buyer.

5.3 FAILURE TO SUPERVISE

Rule 3.5 applies.

6. COCOA BEANS IN BAGS SOLD ‘IN STORE/ON TRUCK/ON RAILCAR/ON BARGE’

6.1 SAMPLING OBLIGATIONS AND TIME PERIODS

Sampling of cocoa beans tendered under each warrant is at the Buyer's option. If the Buyer wishes to exercise this option sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 and without unreasonable interruption at the Warehouse within 21 days of the Prompt Day in the presence of the Seller's Superintendent, if appointed. The Seller shall ensure that access to the goods for sampling is available at the Warehouse.

If the parcel is not to be reweighed, samples are to be drawn from the Sound bags as they lie in the Warehouse.

If the parcel is to be reweighed within 21 days of the Prompt Day, sampling is to be carried out at the time of weighing.

If the parcel is to be collected or delivered within 21 days of the Prompt Day, sampling is to be carried out at the time of collection or delivery.

If the cocoa beans are not sampled in accordance with the above then no quality claim is admissible, except when the Buyer is not responsible for the delay and further provided that the parcel is sampled as soon as the Buyer has access to the cocoa beans.

6.2 CHARGES

All charges incurred in sampling at the Warehouse shall be paid by the Buyer.

6.3 FAILURE TO SUPERVISE

Rule 3.5 applies.

7. IN STORE COCOA BEANS IN BAGS SOLD BY SAMPLE**7.1 SAMPLING OBLIGATIONS AND TIME PERIODS**

At the time of entering into the contract the Buyer and Seller must choose upon one of the following sampling options:

- (a) The Seller shall give the Buyer a sampling order which shall allow the Buyer to draw one sample of not more than 3 kilos. If the Buyer agrees to buy the goods on the basis of the sample(s) drawn, then the quality and condition shall be final and binding on both Parties with no claim for inferiority of quality or for infestation. The Seller shall ensure that access to the goods for sampling is available at the Warehouse.

or

- (b) The Seller shall supply the Buyer with a representative sample of not less than 1 kilo and the Parties shall then agree the number of defective and/or slaty beans and/or other characteristics which will then constitute the agreed contractual quality. Any claims for inferiority of quality or for infestation shall be based upon the difference between this agreed contractual quality and an Arbitration Sample drawn in accordance with Rule 3.

7.2 CHARGES

With the exception of the Seller's provision of representative samples in accordance with 7.1.b. above all charges incurred in sampling at the Warehouse shall be paid by the Buyer.

PART 3: SAMPLING FOR COCOA BEANS IN BULK

8. QUALITY ON DEPARTURE

8.1 SAMPLING OBLIGATIONS

Sampling of goods presented to the Buyer for shipment is at the Buyer's option. If the Buyer wishes to exercise this option then the Buyer and Seller must agree at the time of entering into the contract on the appointment of a Sole Analyst.

Sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 without unreasonable interruption at the agreed place of sampling in the presence of the Seller's Superintendent, if appointed.

The Seller shall ensure that sampling facilities for bulk cocoa beans in containers or in the ship's hold are available at the Place of Loading.

The Sole Analyst shall examine the sealed samples(s) prepared in accordance with Rule 3.4 and shall notify the Parties with the results which shall be final.

If the goods are not sampled in accordance with the above then the Buyer has no recourse to quality arbitration.

8.2 CHARGES

All charges incurred in Sampling and analysis shall be paid by the Buyer.

8.3 NOTICES

8.3.1 Buyer's Notice

The Buyer when giving notice of the Estimated Date of Arrival of the vessel to the Seller, as provided in Rule 8.4.1.2 of the FCC Contract Rules for Cocoa Beans, shall provide the name of his Sampler. The Buyer shall not be entitled to sample the goods if he fails to comply with this Rule and further he shall not be entitled to reject the declaration of the goods on the grounds that sampling has not taken place.

8.3.2 Seller's Response to Buyer's Notice

Within 5 days of receipt of the Buyer's Notice of the appointment of his Sampler, the Seller shall send the Buyer a Seller's Notification. Failure to issue such a notification in time will render the Seller liable for any additional costs and expenses incurred by the Buyer as a result thereof.

8.3.3 Timing of Sampling and Advice of Analysis

Sampling shall be completed promptly but no later than 4 business days after receipt of the Seller's Notification and the Arbitration Sample(s) forwarded by the Buyer to the Sole Analyst. It is the responsibility of the Buyer to ensure that the Sole Analyst advises both Parties of the result of the analysis within 2 business days from the submission of the sample to the Sole Analyst.

8.4 PROTECTION OF GOODS

Goods which are deemed to be in compliance with the contract quality terms shall be kept securely protected by the Seller until loaded on the vessel nominated by the Buyer.

8.5 TENDERING OF SUBSTITUTE PARCELS

If all or any part of the goods are not in compliance with the contract quality the Seller shall have the option (exercisable immediately on receiving notification of the Buyer's rejection) of tendering substitute goods for sampling by serving a second Seller's Notification in accordance with Rule 8.3 whereupon Rules 8.3.3 and 8.4 shall take effect, provided always that there is sufficient time for these Rules to be complied with and for the substituted goods to be loaded within the shipment period.

8.6 REFUSAL OF DECLARATION OF GOODS

If the Seller does not comply with the above Rules, the Buyer shall have the right to refuse the declaration of the goods.

8.7 FAILURE TO SUPERVISE

Should a Party not appoint a Superintendent or should the Superintendent fail to be present after having received due notice of the place, date and time of the sampling then the Arbitration Sample(s) submitted to the Sole Analyst shall be accepted.

9. QUALITY ON ARRIVAL**9.1 SAMPLING OBLIGATIONS AND TIME PERIODS**

Sampling of cocoa beans shipped under each Bill of Lading is at the Buyer's option.

If the Buyer wishes to exercise this option, sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 and without unreasonable interruption at the Place of Final Delivery in the presence of the Seller or his Superintendent, if appointed.

- (a) For bulk in ship's hold or in barges - at the Time of Discharge
- (b) For bulk in containers - within 21 days of the Final Day of Landing of the vessel

The Buyer shall ensure that sampling facilities for cocoa beans in containers or in the ship's hold are available at the Place of Final Delivery, or if no such facilities are available then at a suitable location, agreed between the Parties, near the Place of Final Delivery.

If the goods are not sampled in accordance with the above then no quality claim is admissible, except when the Buyer is not responsible for the delay and further provided that the parcel is sampled as soon as the Buyer has access to the goods.

9.2 CHARGES

All charges incurred in sampling and analysis shall be paid by the Buyer.

9.3 REFUSAL OF DECLARATION OF GOODS

If the Seller does not comply with the above Rules, the Buyer shall have the right to refuse the declaration of the goods.

9.4 FAILURE TO SUPERVISE

Rule 3.5 applies.

10. COCOA BEANS IN BULK SOLD 'IN STORE/ON TRUCK/ON RAILCAR/ON BARGE'**10.1 SAMPLING OBLIGATIONS AND TIME PERIODS**

Sampling of cocoa beans tendered under each warrant is at the Buyer's option.

If the Buyer wishes to exercise this option sampling shall be carried out by the Buyer's Sampler in accordance with Rule 3 and without unreasonable interruption at the Warehouse, within 21 days of the Prompt Day in the presence of the Seller's Superintendent, if appointed. The Seller shall ensure that access to the goods for sampling is available at the Warehouse.

If an in store parcel is to be reweighed, sampling is to be carried out at the time of weighing.

If an in store parcel is not to be reweighed, sampling shall be carried out from a moving stream unless otherwise agreed between the Parties.

If the parcel is to be collected or delivered, sampling is to be carried out at the time of collection or delivery.

If the cocoa beans are not sampled in accordance with the above then no quality claim is admissible, except when the Buyer is not responsible for the delay and further provided that the parcel is sampled as soon as the Buyer has access to the cocoa beans.

10.2 CHARGES

All charges incurred in sampling at the Warehouse shall be paid by the Buyer.

10.3 FAILURE TO SUPERVISE

Rule 3.5 applies.

PART 4: OPTIONAL CLAUSES

11. OPTIONAL QUALITY CLAUSES

Where applicable, the Buyer needs to instruct his Superintendent to send a sample to a mutually agreed Independent Analyst.