



## SECTION III - CONTRACT RULES: ICE FUTURES WHITE SUGAR FUTURES CONTRACT

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<sup>1</sup> Amended 06 January 2020

<sup>2</sup> Amended 28 December 2020

<sup>3</sup> Amended 06 January 2020

<sup>4</sup> Amended 28 December 2020

<sup>5</sup> Amended 06 January 2020



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### III.1

#### INTERPRETATION<sup>6</sup>

(a) Save as otherwise specified herein, words and phrases defined in the Regulations shall have the same meaning in these Contract Rules and in the Administrative Procedures.

(b) In these Contract Rules and in the Administrative Procedures:

“Administrative Procedures” means the administrative procedures at Rule JJJJ implemented by the Exchange for the purposes of these Contract Rules.

“adopted rules” means the RSA Rules.

“Alternative Delivery Procedure”  
~~or “ADP”~~  
~~or “ADP”~~ means an agreement between the Seller and the Buyer in accordance with Rule III.13, which has been duly notified by the Seller and the Buyer to the Clearing House.

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

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

“Contract” means a contract made expressly or impliedly in the terms of these Contract Rules for the sale and purchase of one or more lots for a delivery month and “registered Contract” means a Contract registered by the Clearing House.

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

“default in performance” has the meaning attributed to it in Rule III.14(b).

“delivery period” means the period commencing on and including the first day of the delivery month, up to and including the last day of the succeeding month, subject to Rule III.15(b).

“delivery month” means each month specified as such by the Exchange pursuant to the Regulations.

“Delivery Port” means any port located in any of the countries included in the List of Deliverable Countries of Production and which meets the requirements set out at Rule III.2(c) and at Rule JJJ.3(b)(i) of the Administrative Procedures.

“Document Notice Day” shall have the meaning attributed to it in Rule III.12(a).

<sup>6</sup> Amended 06 January 2020



“ECS”	means ICE Clear Europe Limited’s Extensible Clearing System.
“EDSP”	means Exchange Delivery Settlement Price and has the meaning attributed to it in Rule III.5.
<del>“European port”</del> <u>“Delivery Port”</u>	means <del>a port described as such by any Delivery Port located in any of the Exchange and European Union countries included in the list published by the Exchange from time to time pursuant to Rule III.2(b).</del> <u>List of Deliverable Countries of Production.</u>
“Guardian”	means the electronic system relating to the tender and delivery management services, or any successor thereto, which amongst other things, records details of sugar for delivery against the ICE Futures White Sugar Futures Contract.
“ICUMSA”	means the International Commission for Uniform Methods of Sugar Analysis referred to in the RSA Rules.
“Insufficient Seller”	means a Seller who has <del>made submitted</del> <u>a Notice of Tender Seller’s Delivery Notification</u> in respect of a <del>Non-Qualifying any Delivery Port where the total combined lots to be delivered by all Sellers is less than 80 lots.</del>
“invoicing amount”	has the meaning attributed to it in Rule III.8.
“Last Trading Day”	in respect of any delivery month means the business day immediately preceding the Tender Day.
<u>“List of Deliverable Countries of Production”</u>	<u>means the list of Deliverable Countries of Production published by the Exchange from time to time by notice posted on the Market pursuant to Rule III.2(b).</u>
“lot”	shall have the meaning attributed to it in Rule III.3(a).
<del>“Non-Qualifying Port”</del>	<del>means one of the ports included on the list of ports from time to time published by notice posted on the Market, in respect of which all Sellers’ Notices of Tender which have been made for that delivery month amount in aggregate to less than 80 lots.</del>
<del>“Qualifying Port”</del>	<del>means one of the ports included on the list of ports from time to time published by notice posted on the Market in respect of which all Sellers’ Notices of Tender which have been made for that delivery month amount in aggregate to 80 lots or more.</del>
<u>“minimum Delivery Port lot requirement”</u>	<u>shall have the meaning set out in Rule III.9(c).</u>
“RSA Rules”	means those parts of the Rules of the Refined Sugar Association relating to white sugar contracts for delivery free on board and stowed, from time to time in force.
“Seller”	in respect of a Contract means the person who is obliged under such Contract to deliver in respect of each lot, the delivery amount of sugar (including, except where the



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context otherwise requires, the Clearing House, as seller under a registered Contract).

- “Seller’s Delivery Notification” means the form instigating delivery ~~given~~submitted by the Seller to the Exchange on the Tender Day and specifying the number of lots to be tendered at each Delivery Port.
- “Settlement Day” in respect of each lot comprised in a Contract means the first business day after the Document Notice Day on which banks are open for business in New York.
- “Sugar Charter Party” means the un-amended, unedited form of the Sugar Charter Party which is commonly used in the sugar trade for the carriage by sea of white or refined sugar in bags (as may be revised from time to time) in effect as at the first day of the delivery month.
- “tender” means the delivery submission by a Seller of a Seller’s Delivery Notification for sugar pursuant to a Contract.
- “Tender Day” in respect of any lot comprised in a Contract has the meaning attributed to it by Rule III.9(a).
- “tonne” means metric tonne of 1000 kilogrammes.
- (c) [Not used]
- (d) [Not used]

### III.2 SUGARS TENDERABLE<sup>7</sup>

- (a) Each Contract shall be for white beet or cane crystal sugar or refined sugar of the crop or production current on the first day of the delivery period, free running of regular grain size and fair average of the quality of deliveries made from the declared origin country of production from such crop or production, with minimum polarisation 99.8 degrees, moisture maximum 0.06 per cent, and colour of a maximum of 45 units ICUMSA attenuation index at time of delivery to vessel at the ~~port~~Delivery Port named in the Seller’s ~~Notice of Tender;~~Delivery Notification (subject to Rule III.2(c)), as evidenced by a certificate issued in accordance with these Contract Rules.
- (b) ~~Delivery Sugar delivered shall be~~have been produced in one of the ~~ports~~countries included ~~on~~in the ~~list~~List of ~~ports from time to time published by notice posted on the Market~~Deliverable Countries of Production, which shall apply to such delivery months specified in the notice as the Exchange may determine. The Exchange may from time to time list or de-list a ~~port~~deliverable country of production, which shall have such effect with regard to existing or new Contracts or both as the Exchange may determine in its absolute discretion. Any such determination will be notified to Members by means of a notice posted on the Market or otherwise as the Exchange may direct.
- ~~(c) Subject to Rule III.2(a)(i), sugar~~Sugar shall be delivered ~~at a port~~
- (i) at any single Delivery Port located in the country of origin production of the sugar. ~~However,~~ as included in the List of Deliverable Countries of Production; or

<sup>7</sup> Amended 28 December 2020



~~(ii)~~ in the case of ~~landlocked countries and sugar originating from a country within the sugar produced in a~~ European Union, ~~delivery shall be made~~ country of production included in the List of Deliverable Countries of Production, at any ~~customary port of export from~~ single European Delivery Port, which need not be located in the ~~country of production of the sugar~~.

provided always that no delivery shall take place at any Delivery Port where the combined number of lots which have been nominated by all Sellers for that Delivery Port for the delivery month in question is less than 80 lots, except in accordance with Rule III.9 below.

~~(d)~~ The Exchange and Clearing House give no warranty and ~~do not~~ make anyno representation or promise that any port located in any country which is included in ~~any list published by the Exchange pursuant to this Rule III.2(b)~~ List of Deliverable Countries of Production has any particular characteristics or facilities or is safe or suitable in any way whatsoever for the delivery of sugar under these Contract Rules, and the Exchange and Clearing House shall not be liable for any loss, damage, or delay resulting from conditions at any such port.

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

- (i) product description (e.g. refined sugar);
- (ii) net weight;
- (iii) origin;
- (iv) crop or production year;
- (v) an expiry being at least two years later than production or a validity period of at least two years; and
- (vi) name of the producer.

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

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

### **III.3 CONTRACT SPECIFICATION**

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

### **III.4 PRICE**

- (a) The Contract price shall be in US dollars and cents (with fluctuations of 10 cents) per tonne net free on board and stowed in vessel's hold at a port included in the list published by the Clearing House Delivery Port pursuant to Rule III.2(bc).



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

### III.5 EXCHANGE DELIVERY SETTLEMENT PRICE

- (a) Subject to Rule III.5(b), the EDSP for Contracts for a particular delivery month shall be calculated by Exchange officials on the Last Trading Day as follows:
- (i) if (as far as reasonably ascertainable) one or more Contracts for that delivery month have been made on the Last Trading Day during the period specified for this purpose in the Administrative Procedures, then:
    - (A) if only one Contract has been made, the EDSP shall be the price (as far as reasonably ascertainable) at which that Contract was made; or
    - (B) if more than one Contract has been made, the EDSP shall be the average rounded down to the nearest 10 cents of the prices (as far as reasonably ascertainable) at which such Contracts were made, weighted by reference to the number of lots (as far as reasonably ascertainable) comprised in each such Contract;
  - (ii) if (as far as reasonably ascertainable) on the Last Trading Day, during the period specified for this purpose in the Administrative Procedures, no Contract for that delivery month has been made but both an offer (or offers) and a bid (or bids) have been made in respect of a Contract (or Contracts) for that delivery month, then the EDSP shall be the average of the lowest price (as far as reasonably ascertainable) at which such an offer was made and the highest price (as far as reasonably ascertainable) at which such a bid was made and such average shall be rounded down to the nearest 10 cents;
  - (iii) if (as far as reasonably ascertainable) on the Last Trading Day, during the period specified for this purpose in the Administrative Procedures, no Contract for that delivery month has been made and either no offer or no bid has been made in respect of a Contract (or Contracts) for that delivery month, then Exchange officials shall determine the EDSP by reference inter alia to the price at which any offer or bid, as the case may be, in respect of a Contract for that delivery month was made during such period on such day; or
  - (iv) if (as far as reasonably ascertainable) on the Last Trading Day, during the period specified for this purpose in the Administrative Procedures, no Contract for that delivery month has been made and neither an offer nor a bid have been made in respect of a Contract (or Contracts) for that delivery month, then Exchange officials may in their absolute discretion fix the EDSP at a price determined by them as being consistent with the prices at which any Contracts or any offers or bids in respect of a Contract were made on the Last Trading Day for the delivery month and period referred to in Rule III.5(b)(i) and (ii) below and, if necessary, rounded down to the nearest 10 cents.
- (b) If in the opinion of Exchange officials, the EDSP which would result from a calculation made in accordance Rule III.5(a)(i),- (ii) or (iii) would not be consistent with the prices at which any Contracts or any offers or bids in respect of a Contract were made on the Last Trading Day for:
- (i) the relevant delivery month prior to the applicable period referred to in Rule III.5(a)(i), (ii) or (iii), as the case may be; or
  - (ii) any other delivery month during the applicable period referred to in Rule III.5(a)(i), (ii) or (iii), as the case may be,
- then Exchange officials may in their absolute discretion fix the EDSP at a price determined by them as being consistent with the prices, offers or bids for the delivery month and period referred to in this Rule III.5(b), and, if necessary, rounded down to the nearest 10 cents.



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

### **III.6 SETTLEMENT PAYMENTS**

- (a) In respect of each lot referred to in a Seller's Delivery Notification, in addition to any other payment required by these Contract Rules, the following payments shall be made by the time specified for that purpose in the Administrative Procedures:

- (i) where the EDSP exceeds the Contract price, payment by the Seller to the Clearing House or payment by the Clearing House to the Buyer, or both (as the case may require); and
- (ii) where the Contract price exceeds the EDSP, payment by the Buyer to the Clearing House or payment by the Clearing House to the Seller, or both (as the case may require);

of an amount calculated as the difference, in US dollars multiplied by 50 in respect of each lot, between the EDSP and the Contract price.

### **III.7 PAYMENT<sup>8</sup>**

- (a) The Seller shall present the following documents to the Clearing House evidencing the proper fulfilment of the terms of the Contract and conforming with the information given by the Seller in the Seller's Delivery Notification:-

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

- (b) Without prejudice to the Buyer's ability to request that the Seller provides additional documents pursuant to Rule 17 of the RSA Rules, the Buyer shall not be entitled to require the presentation of any documents in return for payment other than those specified in Rule III.7(a).

- (c) The Clearing House shall by the time specified in the Administrative Procedures advise the Buyer that the documents are available to be taken up and the Buyer shall thereupon collect the documents from the Clearing House.

- (d) The documents shall be deemed to have been accepted by the Buyer unless the Buyer has prior to 14.00 hours on the Settlement Day notified the Clearing House via Guardian that the documents are rejected by the Buyer on the grounds that they do not evidence the proper fulfilment of the terms of the Contract, and the documents have been returned to the Clearing House by 15.00 hours on that day. Immediately following the notification via Guardian of the rejection of the documents, the Buyer shall provide to the Clearing House a written explanation for the rejection of the documents which should state, with reasonable precision, the respects in which the documents do not evidence the proper fulfilment of the terms of the Contract. The Buyer shall be precluded from relying on any grounds for the rejection of the documents which are not stated in the Buyer's explanation to the Clearing House. For the avoidance of doubt, where a Seller presents more than one set of documents to the Clearing House, the Buyer shall not be entitled to reject any documents which are tendered in respect of a lot or lots where this is solely on the ground that the Buyer has rejected a document or documents which relate to a different lot or lots.

<sup>8</sup> Amended 06 January 2020



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- (e) Title to goods shall not pass from the Seller until the Buyer has accepted the documents and the Seller has received payment for the sugar.
- (f) Where documents have been rejected by the Buyer:
  - (i) the Clearing House shall advise the Seller, after 14.00 hours on the Settlement Day, of such rejection and the reasons for it given by the Buyer, and shall make the documents available for collection by the Seller from 15.00 hours on that day; and
  - (ii) the Seller may re-present documents at any time within five business days of having received a notice of rejection provided always that any such re-presentation must be within twenty calendar days of the bill of lading date, date of issue of the bill of lading (whether the date of issue of the bill of lading is the same or later than the date of completion of loading of the vessel).
- (g) Where documents have been re-presented by the Seller and accepted by the Buyer, then these terms shall apply to such re-presentation as if it were a first presentation, save that the Buyer shall not be entitled to reject documents on such re-presentation on any grounds other than those specified at the time of the first rejection unless such rejection is based on a discrepancy in documents which did not exist at the time of the previous presentation of the documents.
- (h) Where documents have been accepted and paid for by the Buyer, this shall be without prejudice to the reference to RSA arbitration by the Seller or the Buyer of any question in dispute, including but not limited to any claim relating to or arising out of any discrepancy in documents presented by the Seller to the Buyer Clearing House, whether or not identified by the Buyer prior to payment having been made.
- (i) Where the Buyer has collected documents from the Clearing House and subsequently rejects the documents, the Buyer shall indemnify the Exchange and the Clearing House against any liability, loss, cost or expense which arises out of or is related to any failure (whether on the part of the Buyer, the Exchange, the Clearing House or any person whatsoever) to return all of the documents in their original condition without delay.
- (j) Should documents which have been accepted by the Buyer not be taken up and paid for by the time specified in Rule III.12(c) and the Administrative Procedures, the Clearing House may, unless payment has previously been made and without prejudice to any other rights or remedies available to it;
  - (i) sell the sugar at any time and any difference in price resulting from such sale, together with interest and all charges incurred by reason of the delay, shall be paid by the Buyer to the Clearing House forthwith; or
  - (ii) claim damages from the Buyer for failing to take up the documents, which damages shall be deemed to include (but shall not be limited to) the invoicing amount.
- (k) If the invoice against which the Clearing House effect payment is not ready when documents are required to be passed on to the Buyer in accordance with Rule III.12(c), then provided that the other documents are accepted by the Buyer, payment of the invoicing amount shall in any event be made by the Clearing House to the Seller and received on account from the Buyer.

### III.8 INVOICING AMOUNT

- (a) The invoicing amount in respect of each lot referred to in a Seller's Notice of Tender/Delivery Notification shall be the sum calculated in accordance with the formula:

Contract Weight x EDSP



where:

EDSP = The EDSP for the relevant delivery month

- (b) (i) Subject to Rule III.8(b)(ii), where the sum calculated in accordance with Rule III.8(a) is not a number of US dollars and whole cents, such sum shall be rounded to the nearest sum which is a number of dollars and whole cents and the invoicing amount shall be such nearest sum.
- (ii) Where the sum calculated in accordance with Rule III.8(a) is a number of US dollars and whole cents and one half of one cent, such sum shall be rounded up to the nearest sum which is a number of dollars and whole cents, and the invoicing amount shall be such nearest sum.

**III.9 TENDER DAY AND MINIMUM LOTS TO BE DELIVERED AT EACH DELIVERY PORT**

- (a) The Tender Day in respect of a delivery month shall be the fifteenth day preceding the first day of the delivery period for that delivery month, but if the fifteenth day is not a business day the next following business day shall be the Tender Day.
- (b) A tender shall be made on the Tender Day to the Clearing House in the form of the Seller's Delivery Notification prescribed by the Clearing House or in such other form acceptable to the Clearing House. The tender must be submitted by the Seller to the Clearing House on the Tender Day by the time specified in the Administrative Procedures.
- (c) The Clearing House shall initially review all Sellers' Delivery Notifications which have been submitted ~~by all Sellers with a view to ensuring that all deliveries will take place at a Qualifying Port, (except as provided for in Rules III.9(g) and (h) below) in accordance with the Contract Rules and Administrative Procedures and the statement set out in Rule III.21. For the avoidance of doubt, any Sellers' Delivery Notification in respect of a Qualifying Port may not be withdrawn and re-tendered to check that a combined minimum of 80 lots is to be delivered by all Sellers at each of the Delivery Ports nominated for the relevant delivery month, in order to satisfy the minimum Delivery Port lot requirement.~~
- (d) If, following the initial review of Sellers' Delivery Notifications, the Clearing House determines that ~~Sellers' Delivery Notifications have been made in respect of any Non-Qualifying any Delivery Port has been nominated by one or more Insufficient Sellers~~, then the Clearing House shall by the time specified in the Administrative Procedures:
  - (i) advise ~~the Insufficient Sellers by whom each~~ such ~~Sellers' Delivery Notifications were made of Insufficient Seller of~~ such determination;
  - (ii) reject any ~~Sellers' Insufficient Seller's~~ Delivery ~~Notifications~~ Notification in respect of a ~~Non-Qualifying any Delivery Port; where the combined quantity to be delivered is less than 80 lots;~~
  - (iii) advise each Insufficient Seller of ~~the Qualifying Ports, if any; and any Delivery Port which has been nominated for delivery of at least 80 lots.~~
  - (iv) provide to each Insufficient Seller a summary of all other Sellers' Delivery Notifications ~~made in respect of Non-Qualifying Ports.~~



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- (e) ~~Each~~ such Insufficient ~~Sellers~~Seller shall then, by the time specified in the Administrative Procedures, either:
- (i) ~~makes submit~~ a revised Seller's Delivery Notification ~~in respect of specifying as a Qualifying substitute Delivery Port; one of the Delivery Ports advised by the Clearing House pursuant to Rule III.9(d)(iii); or~~
  - (ii) enter into arrangements with any other Insufficient Seller(s) whereby all Insufficient Sellers ~~to enable such Sellers to make submit a revised Sellers' Delivery Notifications Seller's Delivery Notification, specifying either the originally nominated Delivery Port or a substitute Delivery Port, such that a Delivery Port which previously Non-Qualifying Port becomes a Qualifying Port, failed to meet the minimum Delivery Port lot requirement now does so.~~
- (f) If, for any reason, after the process set out in Rule III.9(e) has been completed, any Insufficient Seller submits a revised Seller's Delivery Notification is still made in respect nominating a Delivery Port at which a combined total of a Non-Qualifying Port, less than 80 lots is to be delivered, then such revised Seller's Delivery Notification shall be rejected by the Clearing House and the Insufficient Seller(s) shall make be required by the time specified in the Administrative Procedures to submit a further revised Seller's Delivery Notification in respect of specifying a Qualifying different substitute Delivery Port by the time specified in the Administrative Procedures. If there is no Qualifying Delivery Port in respect of which to make such a revised Seller's Delivery Notification which will ensure that the minimum Delivery Port lot requirement is met, the Insufficient Seller(s) shall instead act in accordance with Rule III.9(g) ~~and (h), as the case may be.~~
- (g) If, for any reason, after the process set out in Rule III.9(f) has been completed there is still no Qualifying Delivery Port at which at least 80 lots are to be delivered, then:
- (i) the Clearing House shall determine that all ~~tenders deliveries~~ shall take place at the port Delivery Port which has been nominated by the Insufficient Seller(s) in respect of its/their Rule III.9(f) revised Delivery Notifications for delivery of the largest number of lots in the Seller's Delivery Notification. The Clearing House shall notify all Sellers accordingly that they must tender sugar at the port determined by the Clearing House.; or
  - (ii) ~~If for any reason after the process set out in Rule III.9(f) has been completed there is still no Qualifying Port, and if there are two or more ports Delivery Ports which have been equally nominated in respect of by the largest number of lots in the Sellers' Delivery Notifications under Insufficient Sellers in their Rule III.9(f), revised Delivery Notifications for delivery of equal numbers of lots, then the Clearing House shall determine at which port such tenders are to be made. In doing so, the Clearing House shall take into account circumstances in the physical sugar market generally and the previous practice of the Exchange. The Clearing House shall notify all Sellers accordingly that they must tender sugar at the port determined by the Clearing House. Delivery Port such deliveries are to be made.~~

The Clearing House shall notify all Insufficient Sellers that they must tender sugar for delivery at the Delivery Port so determined by the Clearing House.

### III.10

#### ACCEPTANCE, EXCHANGE, WITHDRAWAL AND REVISION OF TENDERS

- (a) ~~A tender shall not be withdrawn nor substitution allowed except with the consent of the Buyer or, in case of dispute, unless so ordered by the Exchange.~~
- (b)(a) ~~A~~Any tender which has been made to the Clearing House in time (or revised and notified to the Clearing House in time in accordance with III.9 and the Administrative Procedures) shall, subject to Rule III.10(ac), be accepted by the Buyer as a valid tender ~~for that date~~.



~~(e)~~(b) With the consent of the Clearing House, Buyers may, in accordance with, and by the time specified, in the Administrative Procedures, exchange with one another, via Guardian, the tenders that they have been ~~assigned~~allocated.

(c) \_\_\_\_\_

With the consent of the Clearing House, the Seller and Buyer may agree that a tender should be withdrawn, or the number of lots and/or Delivery Port revised.;

### **III.11 DELIVERY**

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

### **III.12 PRESENTATION OF DOCUMENTS<sup>9</sup>**

- (a) Advice of the presentation of documents, which must include the name of the ocean vessel, must be made by the Seller via Guardian to the Clearing House by no later than the time specified in the Administrative Procedures on any business day within twenty calendar days of the date of issue of the bill of lading (whether the date of issue of the bill of lading is the same or later than the date of completion of loading of the vessel). The day on which such advice is given to the Clearing House shall be known as the Document Notice Day.
- (b) Documents as prescribed in Rule III.7(a) shall be presented by the Seller to the Clearing House ~~on the day following such advice~~ by the time specified in the Administrative Procedures on the day following the Document Notice Day, being a day on which banks are open for business in both London and New York.
- (c) The Clearing House shall pass on documents to the Buyer without delay but, provided the Clearing House has been notified and documents have been presented to it by the times specified in the Administrative Procedures, the Buyer shall (unless the documents have been rejected in accordance with the provisions of Rule III.7(d)) be bound to take up and pay for such documents on the same day by the time specified in the Administrative Procedures without prejudice to the reference of any claim or dispute of whatsoever nature to arbitration.

### **III.13 ALTERNATIVE DELIVERY PROCEDURE (“ADP”)<sup>10</sup>**

- (a) Notwithstanding any other provision of these Contract Rules, the Seller and the Buyer may mutually agree to make and take delivery of sugar on terms other than those specified in these Contract Rules and the Administrative Procedures, provided such agreement is reached and notice is given as set out in this Rule III.13 and the Administrative Procedures.
- (b) The Buyer and the Seller are free to reach such ADP agreement at any time from and including the Tender Day to the time immediately before title to the goods would otherwise pass in accordance with Rule III.7(e).
- (c) Once such ADP agreement has been reached, the Buyer and Seller shall each give notice of it to the Clearing House via Guardian by 16.00 hours on a business day. The Buyer's and the Seller's notices shall be in such form and contain such details as the Clearing House may from time to time prescribe and shall be given to the Clearing House by the deadline specified in this Rule III.13 and the Administrative Procedures.

<sup>9</sup> Amended 28 January 2020

<sup>10</sup> Amended 06 January 2020



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- (d) Upon receipt of such notices, the Clearing House will take the sugar off the market and will settle with the parties at the EDSP by reference to the number of lots tendered.
- (e) Where a Seller presents more than one set of documents to the Clearing House, as referred to in Rule III.7(d), the parties may agree an ADP in relation to one or more such sets of documents, subject always to satisfying the requirements set out in this Rule III.13 and the Administrative Procedures.
- (f) For the avoidance of doubt, all other obligations of the Seller and Buyer under these Contract Rules which may have arisen before an ADP is agreed and notified to the Clearing House, including but not limited to the Seller's obligation to make and the Buyer's obligation to take delivery of the sugar within the delivery period, remain unchanged.

### III.14 DEFAULT IN PERFORMANCE

- (a) The provisions of this Rule III.14 shall be subject to the default rules from time to time in force of the Clearing House and also subject to the provisions of Rule III.18(c).
- (b) For the purposes of this Rule III.14, a reference to a "default in performance" shall, subject to Rule III.14(d), be construed as including an actual failure or an anticipated failure by a Seller or a Buyer under Rule III.14(b) in performing its obligations under a Contract at any time before the time of tender on the Tender Day. An anticipated failure is one which the Clearing House, in its reasonable opinion, considers will occur at any time before the time of tender on the Tender Day and in respect of which the Clearing House considers that it should take action under the provisions of this Rule III.14.
- (c) A Buyer or a Seller shall be in default in performance where:
  - (i) he fails to fulfil his obligations under a Contract by the time and in the manner prescribed in accordance with these Contract Rules, the Regulations and Administrative Procedures and Clearing House Rules;
  - (ii) he fails to pay any sum due to the Clearing House in respect of a registered Contract by the time specified for that purpose in the Administrative Procedures; or
  - (iii) in the reasonable opinion of the Clearing House, he is in default in performance.
- (d) Errors in a notice, which are determined in the Exchange's absolute discretion to be clerical errors which can be readily rectified and are rectified, shall not be treated as constituting a default in performance.
- (e) Subject to Rules III.14(f)(ii) and III.14(j), if it appears to the Clearing House that a Seller or a Buyer is in default in performance under a registered Contract, the Clearing House shall notify the Exchange of the default in performance and may, in its absolute discretion:
  - (i) take such steps as it deems appropriate to facilitate a mutually acceptable resolution of the default in performance. A resolution of a default in performance may be on such terms and take such form as is acceptable to the Clearing House, to the Seller and to the Buyer. Such terms may limit some or all of the rights of the Seller, the Buyer or the Clearing House to refer any matter concerning or arising out of a default in performance (or the resolution thereof) to arbitration;
  - (ii) without prejudice to any of its other rights under this Rule III.14, refer to the Exchange any dispute or issue arising between any of the parties. If upon such reference, the Exchange is of the opinion that the default in performance is of minor significance it shall determine any such dispute or issue between such parties upon such evidence as it may deem relevant and convey its findings to such parties who shall forthwith accept such



determination and shall implement its terms without question, provided that such acceptance and implementation shall be without prejudice to the right of any party to refer the dispute or any related dispute to arbitration; or

- (iii) take any steps whatsoever which may appear desirable to the Clearing House for the protection of the Clearing House or of the Seller or Buyer not in default in performance including, without prejudice to the generality of the foregoing, any steps in order to perform its obligations to a party under a registered Contract.
- (f) If, within five business days of the default in performance having come to the attention of the Clearing House:
  - (i) the steps taken by the Clearing House have not led or are not likely to lead to a resolution of the default in performance; or
  - (ii) the Clearing House has not taken any steps and the default in performance remains unresolved,

the Clearing House will refer the matter to the Exchange. If upon reference of the dispute or issue to the Exchange, the Exchange is of the opinion that the default in performance may not be determined by the Exchange in accordance with Rule III.14(e)(ii), then (if the dispute or issue is one which has arisen before the time of tender) each lot the subject of the dispute or issue shall be the subject of cash settlement at a price fixed by the Exchange in consultation with the Clearing House. The price may at the Exchange's absolute discretion take account of any compensation that the Exchange may consider, on the evidence before it, should be paid by either party to the other.

- (g) Any cash settlement price fixed under Rule III.14(f) shall be binding on the parties.
- (h) Any costs, claims, losses, taxes or expenses of whatsoever nature suffered or incurred by the Clearing House in connection with any steps taken by the Clearing House in relation to a Contract to which the default in performance relates shall be paid by the Buyer or Seller who is in default in performance. Any steps taken by the Clearing House in relation to a default in performance shall be without prejudice to any rights (including rights to refer matters to arbitration), obligations or claims of the Buyer, the Seller or the Clearing House in relation to a Contract to which the default in performance relates.
- (i) A Buyer or Seller who is in default in performance under this Rule III.14, shall forthwith pay to the Clearing House any sums payable by him under Rule III.8 and any sums payable pursuant to this Rule III.14.
- (j) Notwithstanding that a Buyer or Seller may be in default in performance under this Rule III.14, the Clearing House may in its absolute discretion determine not to exercise or to delay in exercising any of its rights under this Rule III.14, and no failure by the Clearing House to exercise nor any delay on its part in exercising any of such rights shall operate as a waiver of the Clearing House's rights upon that or any subsequent occasion, nor shall any single or partial exercise of any such rights prevent any further exercise thereof or of any other right.
- (k) A Buyer, a Seller or the Clearing House may refer a dispute or issue arising out of a default in performance under this Rule III.14 (subject always to the application of provisions of Rules III.14(e), (f) and (g)) to arbitration.
- (l) The provisions of this Rule III.14 relating to steps that may be taken by the Clearing House, where there appears to the Clearing House to be a default in performance by a party to a registered Contract, may be varied, or different steps may be substituted therefore by the Exchange from time to time. Any such variation or substitution shall have such effect with regard to such existing and/or new Contracts and registered Contracts as the Exchange may determine.



## CONTRACT RULES: ICE FUTURES WHITE SUGAR FUTURES CONTRACT

### III.15

### FORCE MAJEURE

- (a) At any time before the time of tender on the Tender Date and in respect of events before such time:
- (i) for the purposes of this Rule III.15(a), “Force Majeure Event” shall mean an event which occurs before the Tender Date which is beyond the reasonable control of either party to a Contract and which delays, hinders or prevents the performance in whole or in part by a party of his obligations under the Contract (other than an obligation to make a payment), including, without limitation, act of God, storm, flood, earthquake, fire, explosion, malicious damage, accident howsoever caused, strike, lock-out, labour dispute, riot, civil commotion, war whether declared or undeclared, armed conflict, use of force by authority of United Nations, act of terrorism, act of government or other national or local authority or any agency thereof, breakdown of machinery, and unavailability, restriction, failure or delay in or computer or data processing systems or communication or energy supplies or bank transfer systems;
  - (ii) the failure for whatever reason of a computer or other electronic facility to accept a notification made by a Seller or a Buyer (other than the Clearing House) as required by these Contract Rules and the Administrative Procedures shall not be a Force Majeure Event;
  - (iii) a party to a Contract shall not be entitled to rely upon this Rule III.15(a) unless such party has notified the Clearing House in writing immediately after such party has become aware (or after it ought reasonably to have become aware) of such Force Majeure Event, and has continued to seek to perform its obligations in accordance with the Contract (in which event it shall be entitled to such relief with effect from the commencement of such Force Majeure Event). The notice shall state the date on which the Force Majeure Event commenced and the effects of the Force Majeure Event on such party’s ability to perform its obligations in accordance with the Contract, including an estimate of the period of the Force Majeure Event;
  - (iv) upon the request of the Clearing House, a party seeking relief under this Rule III.15(a) shall promptly provide such other information as required by the Clearing House as soon as reasonably practicable to assist the Exchange in determining whether a Force Majeure Event has occurred. If a Force Majeure Event has occurred, neither party will be deemed in default in performance of its obligations under a Contract if such party was unable to perform its obligations as a direct result of the occurrence of such Force Majeure Event nor will any penalty or damages be payable if and to the extent that performance of any obligation is hindered or prevented by a Force Majeure Event;
  - (v) subject to any steps taken at any time by the Exchange under emergency powers in the Regulations and subject to the default rules from time to time in force of the Clearing House, if the Exchange determines under Rule III.15(a)(iv) that a Force Majeure Event delays, hinders or prevents a party from performing any obligation under a Contract for a period of at least five business days beyond the time limit fixed in or under the Contract any lot or part thereof not delivered to the Buyer shall be the subject of cash settlement at a price to be fixed by the Exchange in consultation with the Clearing House in their absolute discretion. Such price shall be binding on the parties.
- (b) At any time from the time of tender on the Tender Date and in respect of circumstances or events which occur after such time:
- (i) should ice in a ~~port~~Delivery Port, war, strikes, rebellion, insurrection, political or labour disturbances, civil commotion, fire, stress of weather, Act of God or any cause of force majeure (whether or not of like kind to those before mentioned) beyond the Seller’s control



prevent directly or indirectly within the delivery period specified in the Contract, the supply to or delivery at a ~~port listed pursuant to Rule III.2(a)-Delivery Port~~ in whole or in part of the sugar allocated by the Seller against the Contract, the Seller shall immediately notify the Clearing House of such fact and the quantity so affected. If the Seller is prevented from advising the Clearing House immediately through circumstances beyond his control he shall notify the Clearing House as soon as possible;

- (ii) upon giving such notice, the delivery period shall be extended as follows:
  - (A) where the Force Majeure Event(s) prevents performance for up to three days, the delivery period shall be extended by seven days;
  - (B) where such event(s) prevents performance for more than three days, the delivery period shall be extended by forty-five days.
- (iii) the Seller shall notify the Clearing House immediately that the Force Majeure Event(s) terminates. If delivery is still prevented at the end of the forty-five day extended delivery period, the Exchange shall immediately fix a price for invoicing back and the quantity of sugar affected shall be invoiced back to the Buyer at that price. The price fixed may at the Exchange's absolute discretion take account of any compensation that the Exchange may consider, on the evidence before it, should be paid by either party to the other;
- (iv) should the Buyer be prevented from accepting delivery of the whole or part of the sugar within the delivery period by reason or loss or delay of the vessels declared due to ice in a ~~port~~Delivery Port, war, strikes, rebellion, insurrection, political or labour disturbances, civil commotion, fire, stress of weather, Act of God or any cause of force majeure (whether or not of like kind to those before mentioned) beyond the Buyer's control, the Buyer shall immediately notify the Clearing House of such fact;
- (v) if the Buyer is prevented from advising the Clearing House immediately through circumstances beyond his control he shall notify the Clearing House as soon as possible. Upon giving such notice, the delivery period for the affected quantity shall be extended, without extra charge to the Buyer as follows:
  - (A) where the Force Majeure Event(s) prevents the Buyer from accepting delivery for up to three days, the delivery period shall be extended by seven days;
  - (B) where such event(s) prevents the Buyer from accepting delivery for more than three days, the delivery period shall be extended by forty-five days;
- (vi) the Buyer shall notify the Seller immediately that the Force Majeure Event(s) terminates. If the Buyer is still prevented from accepting delivery at the end of the forty-five day extended contract delivery period the Exchange shall immediately fix a price for invoicing back and the quantity of sugar affected shall be invoiced back to the Buyer at that price. The price fixed may at the Exchange's absolute discretion take account of any compensation that the Exchange may consider, on the evidence before it, should be paid by either party to the other. No other dispute as to the invoicing back price may be referred to arbitration;
- (vii) if performance of the contract is prevented by a Force Majeure Event more than once during the delivery period (as extended in accordance with these Contract Rules) the provision of these Contract Rules shall apply to each such event. However, in no circumstances shall that delivery period be extended for more than forty-five days;
- (viii) these provisions shall apply notwithstanding the occurrence of events which would otherwise frustrate the Contract;



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- (ix) the party claiming force majeure shall within fourteen days from the initial notification of the facts relied upon deliver to the Clearing House evidence of the existence of those facts. If evidence is not delivered in accordance with this provision, the right to invoke force majeure shall be forfeited unless an arbitration tribunal in its absolute discretion decides otherwise.

### III.16 ARBITRATION

Any dispute arising out of a Contract and before the time of tender on the Tender Day shall (subject to Rules III.14, III.15(b)(iii) and (vi) and III.18(c) to the extent that they apply) be subject to Rule I.7 and the Arbitration Rules at Section H. A dispute arising on or after the time of tender on the Tender Day shall be referred to arbitration in accordance with Rule III.18(c).

### III.17 [NOT USED]

### III.18 ADOPTED RULES

- (a) From the time of tender on the Tender Day a Contract shall be subject to the RSA Rules, except where otherwise stated in these Contract Rules or the Administrative Procedures.
- (b) Subject to Rule III.18(d), to the extent that the adopted rules are inconsistent with these Contract Rules and the Administrative Procedures, the adopted rules shall prevail.
- (c) All disputes arising at or after the time of tender on the Tender Day shall be referred to the ~~council~~**Council** of the Refined Sugar Association for settlement in accordance with its ~~rules relating~~**Rules Relating** to ~~arbitration~~**Arbitration**, subject always (where the Clearing House is a party) to the Clearing House being entitled to call upon a ~~Clearing Member~~**clearing member** of the Clearing House who is a Buyer, and a clearing member of the Clearing House who is a Seller, to conduct the arbitration between them in accordance with the Clearing House Rules.
- (d) Rules III.2(c), (d) and 15 and Rules JJJ.3(b) to (h) inclusive shall prevail over the provisions of the adopted rules.

### III.19 [NOT USED]

### III.20 [NOT USED]

### ~~III.21~~ **STATEMENT IN RELATION TO THE TENDER PROCESS**

- ~~(a) The Exchange draws the following statement to the attention of potential users of the ICE Futures White Sugar Futures Contract. Members should ensure that their clients are made aware of the statement.~~

~~“Statement in relation to the Tender Process~~

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

~~In order to seek to achieve that objective, the Clearing House will reject, in accordance with the Contract Rules, a Seller’s Delivery Notification which relates to a port for which tenders of less than 80 lots in aggregate have been received. In such case, such Seller will be provided with an opportunity to re-tender at a port included on the list of ports from time to time published by the Exchange by notice posted on the Market, where, in aggregate, a minimum of 80 lots will be tendered. If the~~



~~Seller's revised tender is not in respect of such a port, such Seller will be required to deliver the sugar in a port or ports prescribed by the Clearing House. Accordingly, Sellers should note that they may be required to make delivery from a port other than their preferred port.~~

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



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III.21 [NOT USED]