

THE COCOA MERCHANTS' ASSOCIATION OF AMERICA, INC.
BY-LAWS OF THE ASSOCIATION
AS OF MAY 8, 2008

ARTICLE I

The name of this corporation shall be "THE COCOA MERCHANTS' ASSOCIATION OF AMERICA, INC.", hereafter referred to as "THE ASSOCIATION".

ARTICLE II

Purpose

The principal objects of the Association are to foster trade and welfare of the cocoa beans and cocoa products industry in the United States; to obtain for its membership the benefits to be secured by friendly intercourse among those engaged in importing and trading in cocoa beans and cocoa products and, by mutual cooperation and joint action, to promote and advance the interests of thereto; to secure freedom from unjust or unlawful exactions; to procure uniformity and certainty in the customs and usage of the trade and commerce in cocoa beans and cocoa products; to settle differences between its members; and to do such other and further acts and things far as the same are permitted by the laws of the State of New York to corporations under the Not-for-Profit Corporation Law and by the Antitrust Statute of the United States of America.

ARTICLE III

Membership

SECTION 1 - REGULAR MEMBERS

Any person, partnership or corporation engaged or involved in the commercialization of physical cocoa beans and/or cocoa products, having a principal place of business within the United States of America, shall be eligible to regular membership in the Association.

SECTION 2 - ASSOCIATE TRADE MEMBERS

Any person, partnership or corporation engaged or involved in the commercialization of cocoa beans and/or cocoa products, having a principal place of business outside the United States of America, shall be eligible to associate trade membership in the Association.

SECTION 3 - ASSOCIATE MEMBERS

Any person, partnership or corporation engaged or involved in the commercialization of cocoa beans and/or cocoa products but have never at any time have beneficial ownership of the underlying commodity shall be considered Associate members of the Association.

SECTION 4 - ANNUAL DUES

The annual dues of members shall be as determined by the Board of Directors at its November regular meeting. All dues are payable pursuant to Art. III, Section 5, hereafter, and annually thereafter within thirty calendar days of the start of the Association's fiscal year and are not refundable upon resignation or expulsion of the member from the Association. If a member fails to pay his annual dues or other indebtedness within said thirty calendar days period of the date it is due, such failure to pay shall be reported to the Board of Directors, and the Board may, in its discretion, drop such member from the rolls of the Association without further notice to him.

SECTION 5- ADMISSION OF MEMBERS

A person, partnership or corporation meeting the qualification as stated in the foregoing sections may make an application for membership as here above stated, such application to be accompanied by the payment of the dues for the current calendar year.

The applicant for membership shall execute a statement reading as follows: "I/We have read the By-Laws of The Cocoa Merchants' Association of America, Inc. and, if elected to membership, hereby agree to abide by all said By-Laws as they may be duly amended from time to time".

Applicants shall be proposed by written sponsorship by two current members of the Association and shall be referred to thereafter as "Sponsors". Sponsors should include at least one Regular member of the Association, and all Sponsors must be members in good standing with the Association. In case either Sponsor is a member of the Membership Committee and/or Board of Directors, such Sponsor shall abstain from casting a vote on the prospective applicant.

Within five working days of receipt of application, the Association's office shall issue notice to the membership requesting comment on the qualifications of an applicant. All comments shall be held in the strictest confidence and will be available to the Membership Committee and Board of Directors and must be received by the Association's office within seven business days of the date of said notice. Both the application and comments shall be sent to the Membership Committee, which, after careful consideration and examination, shall refer to the Board of Directors the names of candidates with the committee's recommendations. The proceedings of the Membership Committee shall be confidential and privileged.

The applicants submitted by the Membership Committee shall be voted upon separately by the Board of Directors, requiring a two-thirds majority vote for approval. Every application for election so voted on by the Board may be accepted or rejected at the Board's sole discretion, and every decision of the Board on the question of eligibility of any applicant for membership shall be final and conclusive, and the Board shall not be required to give any reasons for such decision.

These dues will be refunded promptly if the applicant fails to be elected within a reasonable time or if application is withdrawn before approval.

SECTION 6 - REPRESENTATION OF MEMBERS

In any proceedings before, or dealing with, or concerning the Association:

- a) Each individual member shall be his own representative, or he may be represented by an accredited employee;
- b) Each corporation member shall be represented by one of its officers or by an accredited employee;
- c) Each partnership member shall be represented by one of its partners or by an accredited employee;

- d) When the term "member" is used in these By-Laws it shall cover either an individual member, a partner of a partnership member, an officer of a corporate member or an accredited employee, and unless the context shall require a different meaning the terms "he", "his", "him" shall include "she", "her", and "hers", and the singular shall include the plural, as the case may be.

The names and addresses, telephone, fax and email address of each individual member, each partner of a partnership member, each officer of a corporate member, or their accredited employee, shall be registered in writing with the Association. No member who has not been so registered shall be entitled to any of the rights, privileges or benefits of the Association.

SECTION 7 - VOTING

Only regular members in good standing shall have the right to vote at the meetings of the Association. Only regular individual members, a partner of a regular partnership member, or an officer of a regular corporation member, or their respective accredited employees, provided such individual partnership or corporation member, as the case may be, is in good standing, shall be eligible to be elected to the Board of Directors or to hold office in the Association except as provided in Art. IV, Section 1 of the By-Laws. Each regular member shall be entitled to only one vote on any subject. Associate Trade Members and Associate Members shall not have the right to vote at the regular and special meetings of the membership.

ARTICLE IV

Board of Directors

SECTION 1 - NUMBER, ELIGIBILITY AND DUTIES

- a) The Board of Directors of the Association, as set forth in Article III, Section 1, of these By-Laws, shall consist of three principal officers to be chosen from among the Regular Members, five Regular Members, and two members chosen from the Associate Trade Members or the Associate Members. The term of office of the Directors shall be for two years. The Directors shall be eligible for reelection but shall not serve for more than three consecutive terms. The Directors shall serve without remuneration.
- b) The Board of Directors shall set the policies and have general charge and control of the affairs, funds and property of the Association. Subject to Article IV, Section 3, the Board of Directors shall have the sole and exclusive power to authorize the proper officers and/or staff of the Association to enter into contracts for and on behalf of the Association.

SECTION 2 - MEETING OF THE BOARD OF DIRECTORS

A meeting of the Board of Directors shall be held immediately following the annual meeting of the Association. Other meetings shall be held either at the request of the Chairman of the Board of Directors or at the written request, stating the purpose of such meeting, addressed to the Chairman by any two members of the Board. Except in the case of an emergency, not less than five business days written notice of such other meetings shall be given to each member of the Board. Six members of the Board of Directors shall constitute a quorum at any meeting, and a majority vote of the Directors present at any meeting shall be required to pass any resolution or take any action on behalf of the Association. Board members shall make every effort to meet in person. However, at the discretion of the Chairman of the Board of Directors, meetings may be

held by telephone or video conferencing from time-to-time. Minutes from telephone or video conferencing meetings shall be approved at the next meeting of the Board of Directors, which must be an in person meeting.

SECTION 3 - LIMITATION OF POWER

The Board of Directors shall have no power to incur any obligations in the name or on behalf of the Association or to make the Association liable for any financial obligations in any amount exceeding the sum in cash on hand in the Treasury plus the projected income from membership dues of the current membership for the fiscal year in question, and not otherwise appropriated, without first obtaining a resolution passed by a majority of members present and entitled to vote, at a meeting of the Association held for the purpose of considering such resolution.

SECTION 4 - VACANCIES

If any vacancies shall occur in the Board of Directors, or among the officers of the Association, the Board of Directors shall have the power to choose a person who would ordinarily qualify to stand for election to such directorship or office, and the person so chosen shall act temporarily as a member of the Board of Directors or as an officer of the Association, as the case may be, and a special meeting of the Association shall be called within sixty calendar days of such appointment under these By-Laws, to elect a person to fill said vacancy. Any person elected to fill such vacancy at such a special meeting shall hold office corresponding to the office or class of directorship in which the vacancy occurred, except that in the case such a vacancy is filled less than twelve months before the annual meeting of the Association such time shall not be taken into consideration when determining the re-eligibility of such person to office or directorship.

ARTICLE V

Officers

SECTION 1 - NUMBER AND COMPENSATION

The three principal officers of the Association shall consist of a Chairman of the Board of Directors, a Vice-Chairman of the Board of Directors, and a Secretary-Treasurer. There may also be a President, Vice-Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors may elect from time to time. Except as provided in Article V, Section 4, all such officers shall serve without remuneration, except that they may receive compensation for services rendered, if said compensation is approved by the vote of a majority of the members of the Association present and entitled to vote at a meeting of the members of the Association.

SECTION 2 - THE CHAIRMAN OF THE BOARD OF DIRECTORS

The Chairman of the Board of Directors shall be the head of the Association and shall preside at all meetings of the Association and the Board of Directors.

SECTION 3 - THE VICE-CHAIRMAN

In the case of the death, disability, or absence of the Chairman, or his inability for any reason to act, the Vice-Chairman shall exercise the office of the Chairman and shall have the same authority and be charged with the same duties as the Chairman.

SECTION 4 - THE SECRETARY-TREASURER

- a) The Secretary-Treasurer shall have the duty to supervise the receipt into the Association's custody of all moneys of the Association, which shall be deposited in such financial institutions as may be designated by the Board of Directors.
- b) He shall cause to be kept a true account of all money received and disbursed, and payments shall be made only upon vouchers signed by himself and countersigned by the Chairman or, in the absence or disability of the Chairman, by the Vice-Chairman of the Association or such proper officers and/or staff as the Board of Directors have authorized.
- c) The Secretary-Treasurer shall render a written statement of the accounts of the Association at each annual meeting of the Association, and to the Board of Directors, at least quarterly. An annual audit shall be made of the funds and accounts of the Association by a certified public accountant firm chosen by the Board of Directors, and this audit shall be made available to the members.
- d) In case of the absence or disability of the Secretary-Treasurer, the Board of Directors may appoint a Secretary-Treasurer pro-tem. In the absence or disability of the Chairman and Vice-Chairman, the Secretary-Treasurer shall fill the office of Chairman and shall have the same authority and be charged with the same duties as the Chairman.

SECTION 5 – THE EXECUTIVE DIRECTOR

- (a) The Executive Director shall be the Chief Executive Officer of the Association, reporting to the Board of Directors. He/she shall be elected by the Board of Directors at the meeting immediately following the annual meeting of the Association, and need not be a member or an accredited employee of a member.
- (b) He/she shall be responsible for the execution of the policies set by the Board of Directors and the management and administration of the Association's affairs. He/she shall keep an accurate record of all proceedings of the Association and of all other matters of which a record shall be deemed advisable by the Association.
- (c) The Executive Director shall be present at all meetings of the Board of Directors and of the members, and, in keeping with the antitrust provision as set forth in Article II of these By-Laws, the Executive Director shall be present at all meetings of the committees, but shall not have the right to vote.
- (d) Subject to the provisions of Article IV, Section 3, the Board of Directors may from time to time fix the remuneration to be paid to the Executive Director and establish the conditions for services rendered by the Executive Director.

ARTICLE VI

Committees

SECTION 1 - ARBITRATION COMMITTEE

- a) The Arbitration Committee shall consist of twenty-five representatives of Regular Members in good standing, and five representatives of Associate Trade Members and/or Associate Members in good standing, who shall serve for a period of one year and thereafter until their successors are elected by the membership, provided, however, that the members of an Arbitration or Appeal panel whose functions have not been fully performed shall continue to act as members of such Panels until the completion of their duties. The Committee so elected shall choose its own Chairman and Secretary. The Secretary shall exercise the powers and duties of the Chairman in the event of the latter's absence, disability or disqualification. The Arbitration Committee shall have the power to appoint substitute members of the Committee or a Temporary Chairman as hereinafter provided.

All members and substitute members of the Committee shall serve without remuneration. Notwithstanding the above, the Board of Directors may, in its sole discretion, authorize the payment of a fee to the members of an Arbitration or Appeal Panel if it is deemed that their services require an extraordinary amount of their time. In such event, the Board of Directors shall determine the fee to be paid, which shall be fair and reasonable. Members of an Arbitration or Appeal panel shall be reimbursed for bona fide expenses incurred in the execution of their duties.

- b) If any member or substitute member of the Arbitration Committee is an interested party, or has a conflict of interest in any arbitration or appeal, he shall be disqualified from hearing such arbitration or appeal. Any member or substitute member of the Arbitration Committee who has been a member of an Arbitration panel from which an appeal has been taken shall be disqualified from serving as a member on such Appeal panel.
- c) In an emergency, the Committee may, by a majority vote of its disinterested members present at a meeting, although less than a quorum, elect one or more representatives of any disinterested Regular, Associate Trade or Associate Member to the Committee as a substitute member of the Committee to serve during the emergency. In the event of the absence, disability or disqualification of the Committee's Chairman and Secretary, the Committee may elect a Temporary Chairman to serve during the emergency with the same powers as the Chairman would otherwise have had.
- d) A quorum of the Arbitration Committee shall consist of a minimum of fifteen members of the Committee, and the vote of a majority of the quorum shall be necessary for action of the Committee, except as is otherwise specifically provided for herein.

SECTION 2 - NOMINATING COMMITTEE

- a) At a meeting in each October the Board of Directors shall appoint a Nominating Committee consisting of three persons, none of whom is either a current officer or director, and at least one of whom has previously served as a member of the Board of Directors. The names of the persons so appointed shall be made known to the membership promptly so that other members may make suggestions to this Committee.
- b) The Nominating Committee shall nominate a single slate of candidates for the three principal officers, a sufficient number of qualifying members of the Board to fill any vacancy arising out of a resignation or mandatory retirement of incumbent Board members in their respective category and class, and the members of the Arbitration Committee. The Committee shall send this slate to the Chairman at least forty-five calendar days before the annual meeting of the Association. The Chairman shall see that the slate is submitted to the membership at least thirty days before the annual meeting of the Association.
- c) Other nominations for officers, directors and members of the Arbitration Committee may also be made and endorsed by at least ten regular members of the Association and submitted to the Chairman so that it reaches him fifteen business days before the annual meeting of the Association, and the Chairman shall see that the slate is submitted to the membership within ten business days before the annual meeting of the Association. The Committee may meet by telephone conference at a time agreed upon by the Committee and Executive Director.

SECTION 3 - OTHER COMMITTEES

The Board of Directors may, from time to time, appoint additional committees. Persons serving on these committees may be members or their accredited employees as well as any other persons who in the opinion of the Board of Directors are qualified to perform the services required. At the discretion of the Chairman meetings may be held by telephone or video conferencing from time-to-time. Committee members shall make every effort to meet in person.

ARTICLE VII

Elections

The Chairman and Vice-Chairman of the Board of Directors, the Secretary-Treasurer and members of the Board of Directors of the Association and members of the Arbitration Committee, except as otherwise specifically provided in these By-Laws, shall be elected at the annual meeting of the Association by a majority vote of the members of the Association entitled to vote and voting.

ARTICLE VIII

Removal of Officers and Directors

Any officer or director may be removed from office for cause, on the written complaint of any member of the Association, by a two-thirds vote of a quorum of the members of the Association, at which a full opportunity to be heard shall be granted. The Chairman of the Association shall mail to the last known address of such officer or director, a written statement containing the

substance of the charge against him and for which his removal is sought. Such officer or director shall have an opportunity to answer said charge in writing, and such answer must be filed with the Chairman of the Association within seven business days prior to the meeting called to consider the said charge. Both the charge and the answer shall thereafter be available for inspection by any member of the Association at the office of the Association at any time during business hours prior to the said meeting.

ARTICLE IX

Meetings

SECTION 1 - ANNUAL MEETING

The annual meeting of the Association shall be held in February in each year at such hour and place as shall be fixed by the Board of Directors. Telephone or video conferencing meetings will not be permitted.

SECTION 2 - NOTICE OF MEETINGS

Except as herein otherwise specifically provided, no meeting of the Association shall be held unless notice of such meeting shall first have been sent by the an Regular Member of the Association to all members of the Association at least seven business days prior to such meeting, except that, in the discretion of the Chairman special meetings may be called on shorter notice to consider matters of special interest and importance to the members. Telephone or video conferencing meetings will not be permitted.

SECTION 3 - PROXIES

Except as otherwise provided herein, any member of the Association entitled to vote may appoint the Secretary-Treasurer, or any representative of a regular member of the Association in the place and stead of such member. All proxies must be in writing, must specify the particular meeting for which such proxy is given and must be filed at the Offices of the Association at or before such meeting.

SECTION 4 - QUORUM

At all meetings of the Association twenty-five per cent of the regular membership of the Association in good standing present in person or by proxy, shall constitute a quorum.

SECTION 5 - ORDER OF BUSINESS - ANNUAL MEETING

The order of business at all annual meetings of the Association shall be as follows:

- 1) Roll Call;
- 2) Call for the meeting;
- 3) Reading of the minutes;
- 4) Report of the Chairman;
- 5) Report of the Secretary-Treasurer;
- 6) Report of the Arbitration Committee;
- 7) Reports of all other committees except the Nominating Committee;
- 8) Report of the Nominating Committee;
- 9) Election of Officers, Directors and Arbitration Committee;
- 10) Unfinished Business;
- 11) New Business.

SECTION 6 - ORDER OF BUSINESS - OTHER MEETINGS

The order of business at all meetings of the Board of Directors, of the Association and of the committees shall be decided by the Chairman of the meeting without debate.

SECTION 7 - RULES OF ORDER

The parliamentary rules of the newly revised "Robert's Rules of Order" shall govern all meetings of the Association when not in conflict with these By-Laws.

ARTICLE X

Resignations

Any member may resign from the Association by filing his written resignation with the Offices of the Association by January 31. Upon receipt of said resignation, the Offices of the Association under the supervision of the Chairman shall forthwith notify all members of the contemplated resignation. The said resignation shall be held by the Chairman for a period of thirty calendar days after which period it shall be accepted by the Board of Directors of the Association.

ARTICLE XI

Expulsion or Suspension

Any member who shall be charged in writing by any other member with conduct injurious to the welfare, interest or character of the Association, or with violation of its By-Laws, shall be given an opportunity to be heard before a meeting of the Association. The charge against any member shall be filed with the Board of Directors of the Association at least fifteen business days prior to the date of said meeting and the Offices of the Association, under the supervision of the Board of Directors shall transmit a copy of said charge to the member so charged. Such member's answer in writing must be filed with the Board of Directors at least seven business days prior to said meeting. A copy of such answer shall be forwarded forthwith by the Offices of the Association under the supervision of the Board of Directors to the member making the charge. Both the charge and the answer shall thereafter be available for inspection by any member of the Association at any time during business hours prior to the said meeting, at the office of the Association. A quorum of the members of the Association, present and entitled to vote at said meeting, may be a two-thirds vote to expel or suspend the member so charged or request said member to resign.

ARTICLE XII

Arbitration

SECTION 1 - APPLICABILITY

Unless the contract by its terms specifically negates its inclusion, all contracts covering cocoa beans or cocoa products between members shall include or be deemed to include the following clause:

"Any question, controversy, claim or dispute whatever arising out of or under this contract, not adjusted by mutual agreement, shall be settled by arbitration in the City of New York, State of New York, under and in accordance with the rules of The Cocoa Merchants' Association of America, Inc., and judgment upon the award rendered may be entered in any competent court in the State of New York in accordance with the provisions of the laws of the State of New York."

"The parties to this contract do hereby waive personal service of any papers, notices or process necessary or proper in connection with the foregoing. Such papers, notices or process may be served in accordance with the rules of The Cocoa Merchants' Association of America, Inc."

"This contract is deemed made in New York and shall be construed pursuant to the laws of the State of New York."

SECTION 2 - ARBITRATION RULES

The Association's rules governing Arbitration are as follows:

RULE 1 - ADMINISTRATOR

The Chairman of an Arbitration or Appeal panel may, in his sole discretion, request a member of the staff of the Association or any other individual to act as the administrator during the course of their proceeding. The administrator shall not participate in the deliberations of a panel but may be called upon by the Chairman to render administrative, clerical, secretarial or other support services.

RULE 2 - JURISDICTION

a) Disputes Between One or More Members And One or More Non-Members:

In all cases of disputes involving one or more members, the Association shall accept jurisdiction of any arbitration provided that:

- (i) Arbitration under the rules of the Association is provided for, or deemed provided for under these By-Laws, in the contract or agreement between the parties to such dispute; or
- ii) A submission to arbitration under the rules of the Association has been duly executed by the parties to said dispute in accordance with the laws of the State of New York.

b) Disputes Between Non-Members shall not be arbitrated by the Association.

RULE 2A - STRING ARBITRATIONS

- a) There shall be no "string arbitrations" except on quality disputes involving an uninterrupted string of sellers to buyers of cocoa covered by contracts calling for identical quantity, quality and delivery conditions, and identical standard contract types.
- b) In the event of such a quality dispute, and arbitration samples having been drawn pursuant to Section 2, Rule 4, on behalf of the last buyer and last seller, an arbitration for quality may be held between the first seller and the last buyer in the string as though they were the only contracting parties.
- c) If several contracts claimed to be in the string cover different shipment periods, the provisions of this rule can be claimed, provided that all contracts call for shipment, and such shipment was effected within a period common to all contracts in the string, or, in the case of all contracts in the string calling for delivery, if such delivery was made within a period common to all contracts in the string.
- d) Every party against whom arbitration is claimed, and who claims to be in the string, shall supply his contract and all other relevant information to the Offices of the Association for submission to the Arbitration or the Appeal panel immediately upon request by the interested parties. The Arbitration or Appeal panel, after having been duly sworn as provided by law, shall decide in its absolute discretion whether such contracts constitute a string for the purpose of this Rule.
- e) Any award made under the provisions of this rule shall, subject to the filing of appeal, be binding on all the parties in the string against his immediate contracting party as though a separate award has been made under each contract.
- f) The fees for arbitration and appeals under the provisions of the Rule shall be those set forth in Rule 6.

RULE 3 - ARBITRATION PROCEDURE

- a) The following procedure shall govern and be followed in all arbitrations:
 - (i) A proceeding under Rule 2 (a) (I) shall be instituted by the filing of a statement of claim indicating the nature of the substance of the disputes or controversies, the approximate amount and nature of relief sought, and a demand for an arbitration thereof, signed by the claimant, delivered to the Offices of the Association with four additional copies. The staff of the Offices of the Association shall thereafter deliver such notice to the Chairman of the Arbitration Committee, The Chairman of the Arbitration Committee shall instruct that a service be made to the other parties (respondents) to the dispute or controversy, and shall hold three copies for the use of the Arbitration panel to be selected. Within five business days after such service, each respondent may file with the Offices of the Association their responses and four copies to the statement of claim, but shall not be prejudiced by

a failure to do so. The Offices of the Association shall thereupon deliver any such response to the Chairman of the Arbitration panel, if one shall have been designated, shall serve a copy upon the claimant and shall hold three copies for the use of the panel.

- (ii) A proceeding under Rule 2 (a) (ii) shall be instituted by the filing of the submission and three copies thereof with the Offices of the Association which shall deliver the original to the Chairman of the Arbitration Committee, and shall hold the three copies for the use of the panel.
- b) Upon receipt of the statement of claim and demand for arbitration, or of the submission, the Chairman of the Arbitration Committee shall select a panel of three arbitrators, which may, but need not include himself, from amongst the membership of the Arbitration Committee, and he shall designate one member of the panel as its Chairman. Notice of such appointments shall be given to the parties. Each party shall have no more than three peremptory challenges which, if exercised, must be communicated to the Offices of the Association within five business days from the notification to the parties of the panel selected. If any member of the panel should disqualify himself, or if a peremptory challenge to any member of the panel is made by a party, the Chairman of the Arbitration Committee shall replace such member of the panel by the selection of some other member of the Arbitration Committee. If a party presents a challenge for cause, the Chairman of the Arbitration Committee, in his sole discretion, shall determine whether such cause exists. If the Chairman determines such cause exists, he shall replace the challenged member of the panel with another disinterested member of the Arbitration Committee.
- c) At the request of the Chairman of the Arbitration panel, or Appeal panel, as the case may be, the Chairman of the Arbitration Committee shall appoint an alternate member to the panel, who shall be subject to the same provisions regarding peremptory challenges or challenges for cause. This alternate member shall be present during all hearings of the panel and be given all evidence as if he were a regular member of the panel, but shall not participate in any of the deliberations, unless a regular member of the panel is unable to continue to serve on the panel for reasons of death, illness or other cause, in which case he shall replace the incapacitated member as a fully qualified member of the panel.
- d) The Arbitration panel shall promptly set a time and place for the hearing to be held by the panel and shall cause notice of the time and place of the hearing to be given to each of the parties in the manner hereinafter set forth at least fourteen calendar days in advance thereof. If the parties wish to submit additional documentary evidence, they must submit five identical sets of said documents to the Offices of the Association, so that they are received at his office not later than seven business days before the date of the hearing. Exceptions to this procedure to be in the sole discretion of the Arbitration Panel.
- e) Before hearing any testimony, the members of the panel, including the alternate, shall be duly sworn, as provided by law, unless such oath shall be waived, as provided by law. All members of the panel must be present at and throughout every hearing.

- f) If any party to the arbitration shall refuse or neglect to attend a hearing, the panel may proceed to hear the allegations and proofs of the other party or parties to the arbitration and after duly hearing them, may proceed with its award, or may take any other action which the panel may deem just and equitable.
- g) In any arbitration proceeding, each party shall be entitled to be represented by an attorney or other counsel of his choice, including but not limited to a representative of another member of the Association. If a party is represented by an attorney, papers to be served upon such party shall be served upon his attorney; otherwise all papers shall be served upon the party in the manner hereinafter provided.
- h) Except as may be otherwise provided in an agreement of submission, service of any notice or other paper upon any party shall be deemed personal and due service thereof if the same or a copy thereof shall be delivered personally to him if an individual or, in the case of a partnership or corporation, to any partner or officer or director thereof, or if mailed by registered or certified mail, return receipt requested, to the last post office address known to the Association of such party. If the party is a member of the Association such service may also be made by delivery at the office of such party in the City of New York of which he shall have filed a designation with the Association or, in case no such office shall be so designated, or if the designated office be closed, by delivery to the office of the Association. In the case of a party, not a member of the Association, and not having a known residence or place of business in the United States, such service may also be made by service in any manner herein above set forth upon any broker or agent in the City of New York, by or through whom the contract under which the controversy arises was entered into on behalf of such party. Any service shall be deemed complete and effective at the time of such delivery or mailing as herein provided.
- I) No verbatim record shall be made of the proceedings, unless requested by a party who shall bear the cost of such record. If such a request is made, a stenographic transcript shall be taken, but not transcribed unless requested by a party who shall bear the cost of such a transcript. Copies of the transcript shall be made available promptly to the Arbitration or Appeal panel, as the case may be, and all parties to the disputes.

RULE 4 - METHOD OF SAMPLING FOR QUALITY

- a) For Cocoa Beans:

Four samples each of ten pounds of each disputed lot of cocoa beans are to be drawn and sealed in the presence of a representative of each party. The sampling shall be done by master samplers taken from a list as published from time to time by the Board of Directors as being qualified for the sampling of cocoa beans. Each sampler is to draw two ten pound samples and is to mix the samples jointly with the other sampler prior to sealing. If either party refuses or neglects to appoint a sampler to represent him within one business day after notice is served upon him in writing by the other party to appoint his sampler, the Chairman, or in his absence, the Vice-Chairman, or in his absence, the Secretary-Treasurer of the Association shall appoint a sampler from said list to act for him. Such sealed samples shall be delivered immediately thereafter to the office of the Association which shall forthwith notify each arbitrator that such samples are available.

- b) For Cocoa Products:
- (i) A sample shall be drawn in the presence of a representative of each party from the number of parcels equaling the square root of the number of parcels in the lot except that there must be at least ten samples in all cases. The sampling shall be done by a master sampler taken from a list as published from time to time by the Board of Directors as being qualified for the sampling of cocoa products. If either party refuses or neglects to appoint a representative within one business day after notice is served upon him in writing by the other party to do so, the Chairman, or in his absence, the Vice-Chairman, or in his absence, the Secretary-Treasurer of the Association shall appoint a sampler from said list to act for him. The sampler shall divide the sample into four parts and shall seal each sample and deliver them to the Offices of the Association.
 - (ii) If the complaint being arbitrated requires samples to be examined for microbiological aspects, each of the four parts of the sample shall be no less than 2,000 grams; if the complaint is about extraneous matter, fat, moisture content, viscosity or other technical aspects, each of the four parts of the sample shall be no less than 1,000 grams, except that in the case of a specific complaint requiring a different method of sampling and a different sample size, as may become appropriate from time to time, the Arbitration or Appeal panel, as the case may be, shall be empowered to order that samples be drawn and analyzed as required for the Arbitration or Appeal panel to render a fair award.
 - (iii) If the Arbitration panel determines that the award must be based on laboratory findings, the sealed samples shall be forwarded to a laboratory taken from a list which shall, from time to time, be published by the Board of Directors as being qualified to render valid opinions for the purposes of arbitration by the Association. This laboratory shall render a finding in writing within a reasonable period of time, stating that the samples have been received in sealed condition, and that the examination has been performed according to the current state of the art and that the method of analysis is the one currently approved for such work by the pertinent government agency. The report shall then state the findings and shall be signed by an officer of the laboratory.
- c) The Association shall deliver two sealed samples of each lot to the Arbitration panel, and shall hold the other two sealed samples of each lot in his possession pending a possible appeal as herein provided. The seals of the Arbitration samples shall not be broken except in the presence of or with the consent of the Arbitration panel or Appeal panel, as the case may be.
- d) Expenses incurred in the drawing and analysis of samples, as herein provided, shall be borne by the losing party to the Arbitration, unless otherwise provided for in the award.
- e) If samples are delivered to the Association prior to or in absence of a demand for arbitration or if payment of the fees as provided in Rule 6 (e) hereafter is not received in

accordance with such Rule 6 (e), the samples so delivered shall be deemed invalid for arbitration purposes.

RULE 5 - ARBITRATION AWARDS

The award of an arbitration panel shall be in writing and shall be signed and affirmed in accordance with the laws of the State of New York and thereafter filed with the Office of the Association, in sufficient number to permit one to be given to each party and one to be retained by the Association. The Chairman of the Arbitration Panel shall cause the Office of the Association forthwith serve an executed counterpart of same upon each party. The award of an Arbitration panel shall become final after the expiration of the time period for appeal as provided in Rule 8.

RULE 6 - SCHEDULE OF FEES

a) (i) Members:

At the time of filing a statement of claim and demand for arbitration, a claimant (whether such claim is a counter-claim or a third party claim) shall pay to the Association an amount with funds drawn on a United States banking institution in the amount of one percent (1%) of the claim or five hundred dollars (\$500), whichever is greater. This amount shall include a minimum non-refundable filing fee of five hundred dollars (\$500). This filing fee is to accrue immediately to the benefit of the Treasury of the Association.

(ii) Non-Members:

In the event the claimant is a non-member, this amount to be paid to the Association shall be one percent (1%) of the claim plus twenty-five hundred dollars (\$2,500). This amount drawn on a United States banking institution shall include a minimum non-refundable filing fee of twenty-five hundred dollars (\$2,500). This filing fee is to accrue immediately to the benefit of the Treasury of the Association.

b) (i) If a party in whose favor an award has been rendered, files an appeal, they shall deposit with the Association funds drawn on a United States banking institution in the amount of one percent (1%) of the award. A non-refundable fee of five hundred dollars (\$500) for members or twenty-five hundred dollars (\$2,500).

(ii) If a party, against whom an award has been rendered, files an appeal, he shall pay an amount to the Association as in (b) (i) above. In addition, that party shall deposit the full amount of the arbitration award with the Association to be held in escrow. Such deposit shall be disbursed in accordance with the final award of the appeal panel. If any dispute arises concerning the final award of the appeal panel, or if the Association is uncertain as to its obligations with respect to the escrow deposit, it shall have the right but not the obligation to refrain from taking any action other than to continue to hold same in escrow until otherwise directed by a final judgment of a court of competent jurisdiction or by a written agreement duly executed by appellant and respondent. The Association shall not be obligated to,

but may, institute legal proceedings of any kind, including, but without limitation, a proceeding or action seeking a judicial determination of its obligations as escrow agent or seeking permission to deposit the escrow funds in court and be relieved of all further obligations with respect to same.

- c) The Board of Directors may, in its sole discretion, require an additional amount to be paid immediately by the claimant or appellant to defray expenses for such arbitration or appeal. Any additional amounts required by the Board of Directors shall bear a reasonable relationship to the anticipated costs and expenses of the Association for the arbitration or appeal.
- d) When a claimant, prior to filing a formal demand for arbitration wishes to deposit arbitration samples with the Association as provided for in Rule 4 he may do so by depositing with the Association a non-refundable payment of one hundred twenty-five dollars (\$125), or any other amount as determined from time to time by the Board of Directors, on account of future arbitration fees prior to or at the latest with the delivery of the samples to the Offices of the Association. If no demand for arbitration is forthcoming, the payment so made shall accrue to the Association's treasury, otherwise the payment shall be credited to the payment of fees due as provided for in paragraphs (a) through (e) of this rule.
- e) Any amounts not used or required by the Association to defray the costs and expenses of the arbitration or appeal, which are over and above the non refundable amounts shall be refunded to the claimant or appellant at the conclusion of the arbitration or appeal.

RULE 7 - COSTS AND EXPENSES

- a) All reasonable expenses including but not limited to all administrative, legal, professional and other costs incurred by the Association in connection with an arbitration or an appeal shall be paid out of the filing fees as provided in Rule 6. The Arbitration or Appeal panel may award these costs and expenses as incurred by the parties to whichever party it deems appropriate and shall retain jurisdiction in the event further proceedings in connection with the enforcement or validity of the award initiated, in which event either party may make further application to such panel for a supplementary award of additional costs and expenses.
- b) In its sole discretion, an arbitration or appeals panel may award the cost of legal or other professional services incurred by the parties to either party or may distribute these costs among the parties as it deems fair, just and reasonable.
- c) In the event any party requests that the Association publish noncompliance with an arbitration or appeal award pursuant to Rule 10 (e) of these Rules, such requesting party shall be responsible for and shall reimburse to the Association, its Directors, Officers, Members and their respective agents, all costs and expenses, including legal fees, incurred by the Association, its Directors, Officers, Members and their respective agents arising out of such publication of such notice of noncompliance.

RULE 8 - APPEALS

- a) Unless the right to appeal shall have been waived, an award of an Arbitration panel shall be of no force or effect for a period of seven business days (or such longer period as may be specified in the award) following the day upon which it shall have been served upon the respective parties. Following the expiration of the above time period, the award of the Arbitration panel shall be final and binding.
- b) At any time within seven business days or such longer period as may be specified in the award, after the service upon him of an award of an Arbitration panel, a party may appeal to an Appeal panel by written notice of appeal addressed and deposited with the Association together with the appeal fee as provided in Rule 6, and a written and documented statement for the reason of the appeal. Thereafter the award of the Arbitration panel shall be stayed, and its force and effect shall be suspended, pending the award of the Appeal panel.
- c) Upon receipt of a notice of appeal, the Offices of the Association shall immediately notify the other parties of the fact that a notice of appeal has been filed, and provide them with a copy of such notice of appeal.
- d) The Offices of the Association shall promptly deliver the notice of appeal to the Chairman of the Arbitration Committee, who shall thereupon select an Appeal panel consisting, in his sole discretion, of not less than three nor more than five disinterested members of the Arbitration Committee who may, but need not, include himself. The Chairman of the Arbitration Committee shall designate one member of the Appeal panel as its Chairman. Notice of such appointments shall be given to the parties. Each party shall have no more than three preemptory challenges which, if exercised, must be communicated to the Offices of the Association within five business days from the notification to the parties of the Appeal panel selected. If any member of the Appeal panel should disqualify himself, or if a preemptory challenge to any member of the Appeal panel is made by a party, the Chairman of the Arbitration Committee shall replace such member of the Appeal panel by the selection of some other member of the Arbitration Committee. If a party presents a challenge for cause, the Chairman of the Arbitration Committee, in his sole discretion, shall determine whether such cause exists. If the Chairman determines such cause exists, he shall replace the challenged member of the Appeal panel with another member of the Arbitration Committee.
- e) The Appeal panel may, in its sole discretion, decide the appeal on the basis of the record of the arbitration proceeding and the submission of written memoranda of the parties or may require the parties to make an oral presentation.
- f) In the event the Appeal panel shall require an oral presentation, a time and place shall promptly be set by such panel and seven business days prior written notice shall be provided to the parties.
- g) The Appeal panel may proceed, but shall not be required to do so, to hear and determine the appeal based upon an oral presentation from the parties, and shall have the same powers and authority with respect to the hearing and determination as is provided for an

Arbitration panel, except as may be herein otherwise specifically provided. The Appeal panel may either affirm, reverse, modify or amend the award of the Arbitration panel or may make a new award and shall determine the amount of fees, costs and expenses to be paid and by whom they shall be paid. Such award of the Appeal panel shall be final. An award of the Appeal panel shall be signed and affirmed in accordance with the laws of the State of New York, in the necessary number of counterparts. Counterparts of the award of the Appeal panel shall be delivered to the Offices of the Association, which shall retain one counterpart and serve one upon each of the parties in the manner provided in the case of an award of an Arbitration panel.

RULE 9 - ACTS OF GOVERNMENTAL AUTHORITIES RESTRICTING DELIVERY

Arbitration sanctioning delivery, at or without an allowance, shall not be made whenever the United States Food & Drug Administration or another Governmental Agency prohibits the sale of the cocoa beans or cocoa products in question. In such case all arbitration fees shall be paid by the seller, unless specifically provided otherwise in the award.

RULE 10 - PAYMENT OF AWARDS

- a) Unless the Arbitration panel shall otherwise direct, all amounts due under any arbitration award, if no appeal shall be taken, shall be paid within seven business days after service of the award in the case of a party residing in the United States or Canada, and within fifteen business days after service of the award in the case of a party residing elsewhere.
- b) In the event of an appeal, payment of an award shall be made in accordance with Rule 6. Payment of an award of the Appeal panel shall be made within three business days after service of the award of the Appeal panel upon the parties, except as may be otherwise provided in the award.
- c) When any member or employee or associate thereof fails to comply with an arbitration award within thirty calendar days from the date of service of the award, or such period as stipulated in the arbitration award, unless an appeal pursuant to Rule 8 herein above shall have been taken, or an application to vacate, modify or correct the award is pending in a court of competent jurisdiction, that member may, on seven business days written notice, be summarily suspended by the Association's Board of Directors, until such award has been satisfied. The Board shall cause the membership to be notified forthwith of such suspension and reinstatement upon satisfaction of the award.
- d) When any member or employee or associate thereof fails to comply with an award of an Appeal panel within fifteen calendar days from the date of service of the decision and award, or such period as stipulated in the decision and award, unless an application to vacate, modify or correct the decision and award is pending in a court of competent jurisdiction, that member may, on seven business days written notice, be summarily suspended by the Association's Board of Directors until such award has been satisfied. The Board of Directors shall cause the membership to be notified forthwith of such suspension and reinstatement upon satisfaction of the award.
- e) (i) When any non-member of the Association or employee or associate thereof fails to comply with the arbitration or appeal award within thirty calendar days from

the date of service of the award, or such period as stipulated in the arbitration or appeal award, or unless in the case of an arbitration award an appeal pursuant to Rule 8 herein above shall have been taken, or unless an application to vacate, modify or correct the award is pending in a court of competent jurisdiction, the party in whose favor the award has been rendered may request the Board of Directors of the Association to inform the membership in writing of such non-payment of the award.

- (ii) If such a request is made, the party requesting publication shall submit the request to the Association in writing, setting forth the name of the court in which the award has been entered as a judgment, the date of such entry, the amount unsatisfied, together with its undertaking that there is no pending proceeding to have such award set aside, modified or stayed, and that the time during which such a proceeding could have been commenced has expired.
- (iii) Upon receipt of a properly documented request the Board of Directors shall transmit such request to the party claimed to be in default, along with the text of the proposed notification directing that such party advise the Board of Directors, in writing, within thirty calendar days from the date of this communication of any error in the text of the proposed notice along with pertinent evidence substantiating such error.
- (iv) Upon receipt of the response as provided in sub-paragraph (iii) herein above the Board of Directors shall submit the request for notification and the response, if any, of the party claimed to be in default to the Board of Directors, who shall direct the President whether to accede to the claimant party's request.
- (v) Any publication pursuant to this Rule shall contain the name of the party requesting the publication, the name of the party against whom the request is made, and the date of the award. The amount unsatisfied may or may not be included by the claimant's discretion.
- (vi) If the award is satisfied subsequent to the publishing of the non-payment notification, the party in whose favor the award has been rendered shall notify the Board of Directors in writing within five business days after such satisfaction, and the Board of Directors shall notify the membership within three business days that the award has been satisfied.

RULE 11 - MISCELLANEOUS

- a) In case of the absence, disability or disqualification of the Chairman of the Arbitration Committee, his duties shall be performed by the Secretary of the Committee. In case of the absence, disability or disqualification of both the Chairman and the Secretary of the Committee their duties shall be performed by a Temporary Chairman elected pursuant to Article VI, Section 1 (c) of the By-Laws of the Association.

- b) An Arbitration or Appeal panel may, in its sole discretion, grant such extensions of time, reliefs from defaults or other variances from the strict observance of these Rules, as it may deem just and equitable.
- c) An arbitration or an appeal shall be conducted by all the members of such panels, but a majority may determine any question and render an award. Less than a majority may adjourn a hearing or appeal.
- d) Unless the context shall require a different meaning the terms "he", "his", "him", shall include "she", "her", and "hers", and partnerships and corporations and the singular shall include the plural.
- e) The term "business day" shall not include Saturdays, Sundays or legal holidays in the State of New York.

ARTICLE XIII

Bonding

At the direction of the Board of Directors, any officer or employee of the Association shall furnish at the expense of the Association a fidelity bond in such a sum as the Board shall from time to time determine.

ARTICLE XIV

Indemnification

- a) The Association shall provide for the indemnification by the Association of any and all of its directors, officers, committee members, former directors, former officers, former employees or former committee members against expenses actually and necessarily incurred by them in connection with the defense of any action, suit or proceedings in which they or any of them are made parties, or a party, by reason of being or having been directors, officers, employees or committee members of the Association.
- b) This provision shall, however, not apply to those matters in which a director, officer, employee, former director, former officer or former employee shall be adjudged in such action, suit or proceedings to be liable for willful misconduct or bad faith in the performance of duty and to such matters for negligence, willful misconduct or bad faith.

ARTICLE XV

Use of Funds

- a) The Association shall use its funds only to accomplish its objectives and purposes as specified in these By-Laws. No part of such funds shall accrue or be distributed to the members of the Association.
- b) On dissolution of the Association, any funds remaining shall be distributed to one or more regularly organized and qualified charitable, scientific or philanthropic organizations to be selected by the Board of Directors.

ARTICLE XVI

Amendments

- a) Any proposed amendments to these By-Laws shall be submitted in writing by at least three members to the Board of Directors. Within sixty calendar days the Board of Directors shall submit said amendment with its recommendation for approval or rejection, as the case may be, to a vote at a special meeting of the membership. A majority of the members, entitled to vote, shall be necessary for the adoption of said amendment.

- b) The Standard Contracts shall not be altered or amended unless the proposed alterations or amendments have been approved by the Board of Directors and ratified by a two-thirds vote of all the regular members, either in person or by proxy.