

**BULLETIN DE PARIS No. 2011– 005**

DATE: 10 février 2011  
DATE EFFECTIVE: 10 février 2011

**CONTRAT Á TERME FERME SUR LA POUDRE DE LAIT ÉCRÉMÉ: CLARIFICATION DE LA PROCÉDURE EDSP ET DES POINTS DE LIVRAISON.****Introduction:**

Ce Bulletin informe les membres de la période de calcul des cours de liquidation EDSP, il définit également les lieux et zones d'entreposage et de livraison du contrat, conformément au point 2.02 du contrat de poudre de lait écrémé. Les fiches techniques et procédures administratives mises à jour figurent en pièce-jointe.

**1. Préliminaire**

Ce Bulletin apporte une clarification concernant le contrat á terme ferme sur la Poudre de Lait Ecrémé (Le Contrat) sur les points suivants:

- (a) Période de calcul de l'EDSP;
- (b) Zones de livraison;
- (c) Lieux de production de poudre de lait approuvé par l'UE; et
- (d) Lieux de stockage de poudre de lait écrémé reconnus.

**2. Période de calcul EDSP**

- 2.1 Le Cours de Liquidation à l'échéance est établi par Euronext Paris SA le dernier jour de négociation suivant la méthodologie indiquée ci-dessous :

« Les cours négociés et les cours acheteurs et vendeurs utilisés pour établir le Cours de Liquidation seront ceux des deux minutes précédant la clôture de la négociation. En l'absence de cours négociés et de cours acheteurs et vendeurs pendant ces deux dernières minutes, c'est la période des 30 dernières minutes précédant la clôture de la négociation qui sera utilisée et en l'absence de cours négociés et de cours acheteurs et vendeurs pendant ces 30 dernières minutes, ce sont les cours traités et les cours acheteurs et vendeurs de la période précédente qui sont utilisés »

- 2.2 Les fiches techniques et procédures administratives du contrat mises à jour figurent en appendice 1.

Web site: [www.euronext.com/derivatives](http://www.euronext.com/derivatives)

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**Euronext N.V. | PO Box 19163 | 1000 GD Amsterdam | The Netherlands**

### **3. Zone de livraison**

- 3.1 Le terme 2.02(a) du contrat stipule que la livraison doit avoir lieu dans un point de livraison compris dans la liste des zones de livraison publiée par NYSE Euronext. Ce Bulletin informe les membres que la zone de livraison doit se trouver “dans un rayon de 150 km de Rotterdam, Anvers ou Hambourg”.

### **4. Entreposage et Lieux de Production**

- 4.1 Le terme 2.02(b) du contrat stipule que la livraison doit avoir lieu dans “un lieu d’entreposage de poudre de lait écrémé reconnu par NYSE Euronext ou un lieu de production de poudre de lait approuvé par l’UE”. Les définitions sont:

(a) « Un lieu d’entreposage de poudre de lait écrémé reconnu par NYSE Euronext” peut être tout lieu d’entreposage conforme à la législation de l’UE en matière d’entreposage alimentaire au moment de la livraison, et

(b) « Un lieu de production de poudre de lait approuvé par l’UE” est tel que définit par l’UE au moment de la livraison. Pour toute information complémentaire :

[http://ec.europa.eu/food/food/biosafety/establishments/list\\_en.htm](http://ec.europa.eu/food/food/biosafety/establishments/list_en.htm)

Pour toute question concernant ce Bulletin, merci de bien vouloir contacter:

Peter Blogg  
Ritu Ruffe  
Nicholas Kennedy

+44 20 7379 2407  
+44 20 7379 2038  
+33 1 49 27 19 27

[pblogg@nyx.com](mailto:pblogg@nyx.com)  
[rruffe@nyx.com](mailto:rruffe@nyx.com)  
[nkennedy@nyx.com](mailto:nkennedy@nyx.com)

# PARIS NOTICE No. 2011– 005

DATE: 10 February 2011  
EFFECTIVE DATE: 10 February 2011

## **SKIMMED MILK POWDER FUTURES CONTRACT: CLARIFICATION OF EDSP PROCEDURE AND DELIVERY RELATED MATTERS**

### **Executive Summary:**

This Notice informs Members of the EDSP calculation period and also clarifies the delivery areas and definitions of storage and production facilities in accordance with term 2.02 of the Skimmed Milk Powder Futures Contract. The updated Contract Terms and Administrative Procedures are attached to this Notice.

### **1. Background**

This Notice provides clarification to the Skimmed Milk Powder Futures Contract (the “Contract”) in the following areas:

- (a) EDSP calculation period;
- (b) Delivery areas;
- (c) EU approved skimmed milk powder production facility; and
- (d) Recognised skimmed milk powder storage facility.

### **2. EDSP Calculation Period**

- 2.1 For the avoidance of doubt, the calculation period used by the Exchange on the Last Trading Day has been added to Administrative Procedure 2 of the Contract. The Procedure is as follows:

“The prices, offers or bids used for the calculation of the EDSP shall be those during the two minute period immediately preceding the cessation of trading. Where there are no prices, bids or offers in the previous two minutes, then the 30 minute period immediately preceding cessation of trading shall be used, and failing that the last trades, offers or bids prior to the 30 minute period.”

- 2.2 An updated version of the Skimmed Milk Powder Futures Contract Terms and Administrative Procedures forms Attachment 1 to this Notice.

### **3. Delivery Areas**

- 3.1 Contract Term 2.02(a) states that delivery shall take place at a delivery point within the list of delivery areas published by the Exchange. This Notice informs Members that the delivery areas shall be classed as “a location within a 150km radius of Rotterdam, Antwerp and Hamburg”

#### **4. Storage and Production Facilities**

4.1 Contract Term 2.02(b) states that delivery shall take place from an “Exchange recognised skimmed milk powder storage facility or from a European Union approved skimmed milk powder production facility” as defined by the Exchange. The current definitions are:

- (a) An “Exchange recognised skimmed milk powder storage facility” shall be any storage facility that complies with EU food storage regulations current at the time of delivery, and
- (b) A “European Union approved skimmed milk powder production facility” shall be as defined by the EU at the time of delivery. For further information on EU approved facilities, please see the below link:

[http://ec.europa.eu/food/food/biosafety/establishments/list\\_en.htm](http://ec.europa.eu/food/food/biosafety/establishments/list_en.htm)

For further information in relation to this Notice, Members should contact:

Peter Blogg  
Ritu Ruffe  
Nicholas Kennedy

+44 20 7379 2407  
+44 20 7379 2038  
+33 1 49 27 19 27

[pblogg@nyx.com](mailto:pblogg@nyx.com)  
[rruffe@nyx.com](mailto:rruffe@nyx.com)  
[nkennedy@nyx.com](mailto:nkennedy@nyx.com)

SKIMMED MILK POWDER FUTURES CONTRACT

(A) CONTRACT TERMS - Issue Date: 23 September 2010

(B) ADMINISTRATIVE PROCEDURES - Issue Date: 10 February 2011

Delivery Months: March 2011 Onwards

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## Skimmed Milk Powder Futures Contract

### 1. Interpretation

1.01 Save as otherwise specified herein, words and phrases defined in the Rules shall have the same meanings in these terms and in the Administrative Procedures.

1.02 In these terms and in the Administrative Procedures:

“Administrative Procedures” means the procedures from time to time implemented by Euronext Paris pursuant to the Rules for the purposes of this Exchange Contract.

“adopted rules” means the MPC Conditions for use within the European Union as published by the De Vereniging van Groothandelaren in Melkprodukten (VGM) (Dairy Products Wholesalers Association) established in the Hague (the Netherlands) that are in force at the time of delivery

“business day” means a day on which the market, the Clearing House and banks in Paris 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 Skimmed Milk Powder 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).

“Clearing House Procedures” means LCH.Clearnet SA’s Clearing Rules as set forth in the LCH.Clearnet SA Clearing Rule Book, Instructions and Notices thereto, as may be amended from time to time.

“CMR note” ( where CMR stands for “Contrat de Transport International De Marchandises Par Route”) means a consignment note that confirms that the carrier (i.e. the road haulage company) has received the goods and that a contract of carriage exists between the customer and the carrier.

“Competent Court” means, in relation to disputes arising before the time of tender on the Tender day, where appropriate either the French courts having jurisdiction on the matter or the arbitration tribunal in the event where the parties involved have agreed to go to arbitration

“Contract” means a contract made expressly or impliedly in the terms of this Exchange Contract 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 term 14.02.

“delivery area” means a geographic area referred to in term 2, as determined by Euronext Paris from time to time.

“delivery notice” shall have a meaning as defined in the Clearing House Procedures and is the form committing the selling Clearing Member to deliver the specified quantity of Skimmed Milk Powder and the buying Clearing Member to take delivery at the agreed delivery point.

“delivery period” means the period commencing on and including the first business day of the delivery month, up to and including the last business day of the delivery month, subject to term 15.02.

“delivery month” means each month specified as such by Euronext Paris pursuant to the Rules.

“delivery point” means the location within a delivery area, as nominated by the Seller, where delivery will take place and which is either an Exchange recognised skimmed milk powder storage facility or is a European Union approved skimmed milk powder production facility.

“EDSP” means Exchange Delivery Settlement Price and has the meaning attributed to it in term 5.

“EU approved skimmed milk powder production facility” shall have a meaning as published by Notice from time to time by Euronext Paris.

“€” and “Euro” denotes the single currency of the European Union

“invoicing amount” has the meaning attributed to it in term 8.

“Last Trading Day” (also known as “Expiry”) in respect of any delivery month means the seventh business day preceding the first business day of the delivery period for the delivery month.

“lot” shall have the meaning attributed to it in term 3.01.

“notice of performance” shall have a meaning as defined in the Clearing House Procedures and which is the document submitted to the Clearing House by the Buyer and the Seller attesting to proper performance of the Contract and terminating the Clearing House’s role as central counterparty.

“Notification Notice” shall mean the form instigating delivery submitted by the Seller to the Clearing House

“recognised skimmed milk powder storage facility” shall have a meaning as published by Notice from time to time by Euronext Paris.

“Regulations” means the General Regulations, Default Rules and Clearing House Procedures 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 Skimmed Milk Powder (including, except where the context otherwise requires, the Clearing House as seller under a registered Contract).

“Skimmed Milk Powder” means Skimmed Milk Powder of the quality and condition specified in term 2.

“tender” means the notification to deliver made by the Seller in the form of the Notification Notice in accordance with these terms

“tonne” means metric tonne of 1000 kilogrammes.

“VGM” means De Vereniging van Groothandelaren in Melkprodukten (VGM) (Dairy Products Wholesalers Association) established in the Hague (the Netherlands).

1.03 References to a “term” refer to terms hereof, and references to a “Rule” refer to a rule of the Exchange’s Rules. Save where the context otherwise requires references herein to the singular include the plural, and vice versa.

## 2. Skimmed Milk Powders Tenderable

2.01 Each Contract shall be for Skimmed Milk Powder that, as a minimum, meets the quality requirements as specified in terms 2.01 (a) and 2.01 (b) at time of delivery free onto Buyer’s transport in accordance with Incoterm FCA and within the delivery area named in the Notification Notice, as evidenced by a certificate of quality issued in accordance with these terms.

### (a) Physical and Chemical Analyses

Fat	1.25% maximum
Protein	34.0% (non-fat dry matter) minimum
Ash	8.2% maximum
Moisture	4.0% maximum
Scorched Particles	Disc B maximum
Titratable Acidity	0.15% maximum
Solubility Index	1.0 ml maximum
WPN index	1.51-5.99 mg/g – medium heat

### (b) Microbiological Analyses

Standard Plate Count	10,000/g maximum
E. Coli	Negative in 1 g
Salmonella	Negative in 25g
Yeast and mould	100/g maximum
Inhibitors	Negative

(c) Quality to be assessed in accordance with COKZ (The Netherlands Controlling Authority for Milk and Milk Products) methodology as current at the time of delivery.

- 2.02
- (a) Delivery shall take place at a delivery point within the delivery areas included on the list of delivery areas from time to time published by Euronext Paris by Notice, which shall apply to such delivery months specified in the Notice as Euronext Paris may determine. Euronext Paris may from time to time list or de-list a delivery area, which shall have such effect with regard to existing or new Contracts or both as Euronext Paris may determine in its absolute discretion. Any such determination will be notified to Members by means of a Notice or otherwise as Euronext Paris may direct.
  - (b) Delivery of each lot shall take place from a single delivery point within a delivery area that is an Exchange recognised skimmed milk powder storage facility or is a European Union approved skimmed milk powder production facility.
  - (c) The Exchange gives no warranty and does not make any representation or promise that any delivery point has any particular characteristics or facilities or is safe or suitable in any way whatsoever, and the Exchange shall not be liable for any loss, damage, or delay resulting from conditions at any such delivery point.

2.03 The Skimmed Milk Powder shall be packed in new, sound, heat sealed, minimum 2-ply kraft paper bags, each with a single new polythene liner, of a weight of 25 kg net each of Skimmed Milk Powder and each bag and liner having a combined minimum tare of 240g. The bags of each lot shall be uniform and suitable for transport. All bags shall be of a colour as customarily used by the relevant producer, and for each lot each bag shall bear the same minimum marks written in the English language stating the following:

- (a) product description (e.g. Skimmed Milk Powder);
- (b) net weight;
- (c) country of origin;
- (d) date of production;
- (e) name of the producer;
- (f) batch code;
- (g) a recognised EU oval marking incorporating the “EU plant number”

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

The date of production detailed in term 2.03 (d) must be within six months of the final date of the delivery period and each lot tendered must be of Skimmed Milk Powder from the same EU approved skimmed milk powder production facility and shall consist of Skimmed Milk Powder made up of no more than three different production batches.

2.04 Skimmed Milk Powder delivered shall be free of all liens and claims of any kind and shall be freely available for delivery within the European Union.

3. Contract Specification

3.01 Each Contract shall be for one or more lots for the delivery month specified. A lot shall be for an amount of Skimmed Milk Powder having a nominal net weight of 24 tonnes.

4. Price

4.01 The Contract price shall be in Euros (€) and Euro cents per tonne free onto Buyer's transport in accordance with Incoterm FCA at a delivery point within a delivery area included in the list published by the Exchange pursuant to term 2.02.

4.02 The Contract price shall be exclusive of any value added tax which may be or may become payable thereon.

5. Exchange Delivery Settlement Price

5.01 Subject to term 5.02, the EDSP for Contracts for a particular delivery month shall be calculated by exchange officials on the Last Trading Day as follows:

- (a) if (as far as reasonably ascertainable) one or more Contracts for that delivery month have been made in the pit on the Last Trading Day during the period specified for this purpose in the Administrative Procedures, then:
  - (i) 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
  - (ii) if more than one Contract has been made, the EDSP shall be the average rounded down to the nearest Euro 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;
- (b) 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 in the pit but both an offer (or offers) and a bid (or bids) have been made in the pit 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 Euro;
- (c) 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 in the pit and either no offer or no bid has been made in the pit 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 in the pit during such period on such day; or

- (d) 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 in the pit and neither an offer nor a bid have been made in the pit 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 in the pit on the Last Trading Day for the delivery month and period referred to in paragraphs (a) and (b) of term 5.02 below and, if necessary, rounded down to the nearest 50 cents.

5.02 If in the opinion of exchange officials, the EDSP which would result from a calculation made in accordance with paragraphs (a), (b) or (c) of term 5.01 would not be consistent with the prices at which any Contracts or any offers or bids in respect of a Contract were made in the pit on the Last Trading Day for:

- (a) the relevant delivery month prior to the applicable period referred to in paragraphs (a), (b) or (c) of term 5.01, as the case may be; or
- (b) any other delivery month during the applicable period referred to in paragraphs (a), (b) or (c) of term 5.01, 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 paragraphs (a) or (b) of term 5.02 above, and, if necessary, rounded down to the nearest 10 cents.

5.03 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.

## 6. Settlement Payments

6.01 In respect of each lot referred to in a Notification Notice, in addition to any other payment required by these terms, the following payments shall be made by the time specified for that purpose in the Clearing House Procedures:

- (a) 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
- (b) 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 Euros multiplied by 24 in respect of each lot, between the EDSP and the Contract price.

7. Payment

- 7.01 For each lot delivered under the terms of this Contract, the Seller shall present within five business days of the issue of the CMR note the following documents to the Buyer evidencing the proper fulfilment of the terms of the Contract and conforming with the information given by the Seller in the Notification Notice:-
- (a) commercial invoice;
  - (b) copy of CMR note;
  - (c) packing list showing composition of each lot including batch numbers, number of bags per batch, pallets per batch and marks per batch; and
  - (d) certificate(s) of analysis issued by an independent analyst and which guarantees a minimum shelf life for the Skimmed Milk Powder of eighteen months from the date of production.
- 7.02 Without prejudice to the Buyer's ability to request that the Seller provides additional documents, the Buyer shall not be entitled to require the presentation of any documents in return for payment other than those specified in term 7.01.
- 7.03 The documents shall be deemed to have been accepted by the Buyer unless the Buyer has prior to 14.00 hours on the day of presentation of documents notified the Clearing House and the Seller in writing 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 Seller. The Buyer shall in any such notice state with reasonable precision the respects in which the documents do not evidence such fulfilment. The Buyer shall be precluded from relying on any grounds for the rejection of the documents which are not stated in any such notice. For the avoidance of doubt, where a Seller presents more than one set of documents to the Buyer, 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.
- 7.04 Where documents have been rejected by the Buyer, the Seller may re-present documents provided always that any such re-presentation must be within five business days of the issue of the CMR note.
- 7.05 Title to goods shall not pass from the Seller and final payment shall not pass from the Buyer to the Seller until the Buyer has accepted the documents. Such final payment shall be effected within three business days of presentation and acceptance of documents.
- 7.06 Upon the day of final payment a notice of performance, duly fulfilled and signed by the selling Clearing Member and the buying Clearing Member, shall be sent to the Clearing House.

7.07 The Seller and Buyer may mutually agree to take the Skimmed Milk Powder off the market on any business day from and including the first business day following the Last Trading Day to the last day of the delivery period. In such event, the Seller and Buyer must conform to the “alternative delivery procedure” as detailed in the Clearing House Procedures.

8. Invoicing Amount

8.01 The invoicing amount in respect of each lot referred to in a Notification Notice shall be the sum calculated in accordance with the formula:

$$\text{Contract Weight} \times \text{EDSP}$$

where:

$$\text{EDSP} = \text{The EDSP for the relevant delivery month}$$

8.02 (a) Subject to term 8.02 (b), where the sum calculated in accordance with term 8.01 is not a number of whole Euros, such sum shall be rounded to the nearest sum which is a number of whole Euros cents and the invoicing amount shall be such nearest sum.

(b) Where the sum calculated in accordance with term 8.01 is a number of Euros and one half of one Euro, such sum shall be rounded up to the nearest sum which is a number of whole Euros, and the invoicing amount shall be such nearest sum.

9. Notification to Deliver

9.01 A tender (notification to deliver) shall be made by the Seller on the first business day following the Last Trading Day to the Clearing House in the form of the Notification Notice prescribed by the Clearing House Procedures. The tender must be submitted by the time specified in the Administrative Procedures.

10. Withdrawal, Substitution or Exchange of Notification Notices

10.01 A Notification Notice shall not be withdrawn nor substitution allowed except with the consent of the Buyer or, in case of dispute, unless so ordered by Euronext Paris.

10.02 A Notification Notice which has been submitted to the Clearing House in time shall, subject to term 10.01, be accepted by the Buyer as a valid tender for that date.

10.03 With the consent of the Clearing House, Buyers may exchange, in accordance with the Clearing House Procedures, Notification Notices with one another by the time specified in the Administrative Procedures.

11. Delivery

- 11.01 Delivery shall be in accordance with the Clearing House Procedures, the adopted rules and the Administrative Procedures.
- 11.02 The Buyer shall give notice of five business days to the Seller and the Clearing House of the date and time of presentation of the Buyer's transport in readiness for loading at the delivery point nominated by the Seller.
- 11.03 To the extent that the adopted rules are inconsistent with these terms and Administrative Procedures and the Clearing House Procedures, these terms and Administrative Procedures and the Clearing House Procedures shall prevail.

12. Presentation of Documents

- 12.01 For each lot delivered under the terms of this Contract, documents as prescribed in term 7.01 shall be presented by the Seller to the Buyer within five business days of the issue of the CMR Note.
- 12.03 The Buyer shall (unless the documents have been rejected in accordance with the provisions of term 7.04) 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 the Competent Court.

13. New Legislation

- 13.01 If after consultation with the Clearing House, Euronext Paris shall in its absolute discretion determine that a change of legislative or administrative provisions of a state or territory of the European Union, or of an institution or market organisation in any country or group of countries, has affected, is affecting or is likely to affect the normal course of business, Euronext Paris shall have power to vary the terms of Contracts in any way it deems necessary or desirable for restoring or preserving the orderly course of business.
- 13.02 Such variation may be made notwithstanding that it may affect the performance or value of existing Contracts (or of such existing Contracts as may be specified by Euronext Paris). Without limitation of its powers hereunder Euronext Paris will use its best endeavours to keep any variation to the minimum considered reasonably necessary to achieve the purpose of this term.
- 13.03 Any determination made by Euronext Paris pursuant to this term 13 shall be published by Notice. A variation of contract terms made hereunder shall take effect at such time and for such period as Euronext Paris shall declare but (without prejudice to term 13.02 above) shall not take effect earlier than the day on which such Notice is issued.
- 13.04 A Contract affected by a variation under this term 13 shall remain in full force and effect subject to such variation and shall not be treated as frustrated or repudiated except so far as may be allowed by Euronext Paris.

13.05 A variation made by Euronext Paris under this term may be modified or revoked by a subsequent variation made hereunder.

14. Default in Performance

14.01 The provisions of this term 14 shall be subject to the relevant Clearing House Procedures and also subject to the provisions of term 18.03.

14.02 For the purposes of this term 14, a reference to a “default in performance” shall, subject to term 14.04, be construed as including an actual failure or an anticipated failure by a Seller or a Buyer under term 14.02 in performing its obligations under a Contract at any time before the time of tender on the first business day following the Last Trading 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 first business day following the Last Trading Day and in respect of which the Clearing House considers that it should take action under the provisions of this term 14.

14.03 A Buyer or a Seller shall be in default in performance where:

- (a) he fails to fulfil his obligations under a Contract by the time and in the manner prescribed in accordance with these terms, the Rules and the Administrative Procedures and the Regulations;
- (b) 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
- (c) in the reasonable opinion of the Clearing House, he is in default in performance.

14.04 Errors in a notice, which are determined in the Clearing House’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.

14.05 Subject to terms 14.06(b) and 14.10, 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:

- (a) 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 the Competent Court under term 16;



- (b) without prejudice to any of its other rights under this term 14, refer to Euronext Paris any dispute or issue arising between any of the parties. If upon such reference, Euronext Paris 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 the Competent Court under term 16; or
- (c) 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.

14.06 If, within five business days of the default in performance having come to the attention of the Clearing House:

- (a) 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
- (b) the Clearing House has not taken any steps and the default in performance remains unresolved,

the Clearing House will refer the matter to Euronext Paris. If upon reference of the dispute or issue to Euronext Paris, Euronext Paris is of the opinion that the default in performance may not be determined by Euronext Paris in accordance with term 14.05(b), 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 Euronext Paris in consultation with the Clearing House. The price may at Euronext Paris's absolute discretion take account of any compensation that Euronext Paris may consider, on the evidence before it, should be paid by either party to the other.

14.07 Any cash settlement price fixed under term 14.06 shall be binding on the parties. The completion of cash settlement shall be without prejudice to the right of either party to refer the dispute or issue between them to the Competent Court under term 16.

14.08 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 the Competent Court under term 16), obligations or claims of the Buyer, the Seller or the Clearing House in relation to a Contract to which the default in performance relates.

- 14.09 A Buyer or Seller who is in default in performance under this term 14, shall forthwith pay to the Clearing House any sums payable by him under term 8 and any sums payable pursuant to this term 14.
- 14.10 Notwithstanding that a Buyer or Seller may be in default in performance under this term 14, the Clearing House may in its absolute discretion determine not to exercise or to delay in exercising any of its rights under this term 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.
- 14.11 A Buyer, a Seller or the Clearing House may refer a dispute or issue arising out of a default in performance under this term 14 (subject always to the application of provisions of terms 14.05, 14.06 and 14.07) to the Competent Court under term 16.
- 14.12 The provisions of this term 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 Euronext Paris 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 Euronext Paris may determine.
15. Force Majeure
- 15.01 At any time before the time of tender on the first business day following the Last Trading Day and in respect of events before such time:
- (a) for the purposes of this term 15.01, "Force Majeure Event" shall mean an event which occurs before the first business day following the Last Trading Day 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;
  - (b) 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 terms and the Administrative Procedures shall not be a Force Majeure Event;

- (c) a party to a Contract shall not be entitled to rely upon this term 15.01 unless such party has notified the Clearing House and the Exchange 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;
- (d) upon the request of the Clearing House or the Exchange, a party seeking relief under this term 15.01 shall promptly provide such other information as required by the Clearing House or the Exchange as soon as reasonably practicable to assist Euronext Paris 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;
- (e) subject to any steps taken at any time by Euronext Paris under emergency powers in the Rules and subject to the default rules from time to time in force of the Clearing House, if Euronext Paris determines under term 15.01(d) 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 Euronext Paris in consultation with the Clearing House in their absolute discretion. Such price shall be binding on the parties. The completion of cash settlement shall be without prejudice to the right of either party to refer any dispute arising out of the Contract to the Competent Court.

15.02 At any time from the time of tender on the first business day following the Last Trading Day and in respect of circumstances or events which occur after such time:

- (a) should 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 delivery point in whole or in part of the Skimmed Milk Powder 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;

- (b) upon giving such notice, the delivery period shall be extended as follows:
  - (i) where the force majeure event(s) prevents performance for up to three days, the delivery period shall be extended by seven days;
  - (ii) where such event(s) prevents performance for more than three days, the delivery period shall be extended by fifteen days.
- (c) 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 fifteen day extended delivery period, Euronext Paris shall immediately fix a price for invoicing back and the quantity of Skimmed Milk Powder affected shall be invoiced back to the Buyer at that price. The price fixed may at Euronext Paris's absolute discretion take account of any compensation that Euronext Paris may consider, on the evidence before it, should be paid by either party to the other;
- (d) should the Buyer be prevented from accepting delivery of the whole or part of the Skimmed Milk Powder within the delivery period by reason of loss or delay of transport due to 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;
- (e) 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:
  - (i) 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;
  - (ii) where such event(s) prevents the Buyer from accepting delivery for more than three days, the delivery period shall be extended by fifteen days;
- (f) 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 fifteen day extended contract delivery period Euronext Paris shall immediately fix a price for invoicing back and the quantity of Skimmed Milk Powder affected shall be invoiced back to the Buyer at that price. The price fixed may at Euronext Paris's absolute discretion take account of any compensation that Euronext

Paris may consider, on the evidence before it, should be paid by either party to the other;

- (g) 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 terms) the provision of these terms shall apply to each such event. However, in no circumstances shall that delivery period be extended for more than fifteen days;
- (h) these provisions shall apply notwithstanding the occurrence of events which would otherwise frustrate the Contract;
- (i) 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 a Competent Court in its absolute discretion decides otherwise.

## 16. Dispute Resolution

- 16.01 Any dispute arising out of a Contract shall (subject to terms 14, 15.02(f) and 18.03 to the extent that they apply) be referred to the Competent Court in accordance with Term 19.
- 16.02 The determination and payment of an invoicing back price shall not limit the jurisdiction of the Competent Court to make such ruling as they deem proper on the issue before them.
- 16.03 Terms 16.01 and 16.02 apply only to a dispute arising before the time of tender on the first business day following the Last Trading Day. A dispute arising on or after the time of tender on the first business day following the Last Trading Day shall be referred to arbitration in accordance with term 18.03.

## 17. Administrative Procedures and Rules

- 17.01 Every Contract shall be subject to the Rules and the Regulations insofar as applicable notwithstanding that either or both of the parties to it are not members of the Exchange or of the Clearing House.
- 17.02 In case of any conflict between the Administrative Procedures and these terms or the Rules, the provisions of these terms and the Rules shall prevail and in the event of any conflict between these terms and the Rules, the Rules shall prevail.
- 17.03 Euronext Paris may at its discretion at any time revoke, alter or add to the Administrative Procedures. Any such amendment shall have such effect on existing as well as new Contracts as Euronext Paris may direct and will be notified to Members by means of a Notice or otherwise as Euronext Paris may direct.

18. Adopted Rules

18.01 From the time of tender on the first business day following the Last Trading Day a Contract shall be subject to the adopted rules, except where otherwise stated in these terms, the Administrative Procedures or the Clearing House Procedures.

18.02 To the extent that the adopted rules are inconsistent with these terms and Administrative Procedures and the Clearing House Procedures, these terms and Administrative Procedures and the Clearing House Procedures shall prevail.

18.03 All disputes arising at or after the time of tender on the first business day following the Last Trading Day shall be referred to the VGM in the Netherlands for settlement in accordance with its MPC Arbitration Regulations subject always (where the Clearing House is a party) to the Clearing House Procedures.

19. Law and Jurisdiction

19.01 Every Contract shall be governed by and construed in accordance with French law. Subject to term 18.03, any question arising there from shall be subject to the jurisdiction of the French courts.

19.02 The provisions of neither the Convention relating to a Uniform Law on the International Sale of Goods, of 1964, nor the United Nations Convention on Contracts for the International Sale of Goods, 1980, shall apply to Contracts.

20. Non-Registered Contracts

20.01 In respect of a Contract which is not a registered Contract (“non-registered Contract”) these terms shall be modified so as to require and allow that a Contract to be registered with the Clearing House under the Rules and the Regulations is capable of being so registered, and to facilitate the performance of such registered Contract (and of any intermediate Contract) in accordance with these terms and the Administrative Procedures. Modifications may also be made to the terms of a non-registered Contract if, without such modifications, it may not be possible to perform such Contract by the applicable times specified in these terms and the Administrative Procedures. Without prejudice to the generality of the foregoing, all references in these terms to payment or dealing between the Buyer or the Seller and the Clearing House shall be modified so as to require a similar payment or dealing directly between the Buyer and the Seller party to such non-registered Contract.

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Issue Date: 23 September 2010

## Skimmed Milk Powder Futures Contract

### Administrative Procedures

#### 1. Index

In these Administrative Procedures:

1. Index
2. Timetable
3. Delivery

#### 2. Timetable (all times are Paris times)

##### **Last Trading Day (Expiry)**

At 18.30 hours Trading in the Contract delivery month shall cease.

After 18.30 hours The Exchange will publish the EDSP. The EDSP will be determined in accordance with term 5. The prices, offers or bids used for the calculation of the EDSP shall be those during the two minute period immediately preceding the cessation of trading. Where there are no prices, bids or offers in the previous two minutes, then the 30 minute period immediately preceding cessation of trading shall be used, and failing that the last trades, offers or bids prior to the 30 minute period.

##### **Last Trading Day (Expiry) + 1 business day**

By 10.30hours Remaining open positions automatically become delivery contracts.

Sellers deliver the Notification Notice, naming the delivery area(s) and delivery point(s) where loading shall take place, to the Clearing House in accordance with the Clearing House Procedures.

After 14.00 hours Skimmed Milk Powder allocated to Buyers by the Clearing House in accordance with the Clearing House Procedures.

The Clearing House delivers to the Seller a temporary Seller/Buyer matching notice, identifying the Buyer.

By 17.00 hours The Clearing House delivers to the Buyer a temporary Buyer/Seller matching notice, identifying the Seller.

##### **Last Trading Day (Expiry) + 2 business days**

- By 9.00 hours All payments required by term 6.01 to be made by the Buyer and the Seller shall have been completed.
- By 12.00 hours Buyers may exchange assigned deliveries, with the consent of the Clearing House.
- By 17.30 hours The Clearing House delivers to the Seller and the Buyer the final Seller/Buyer matching notice.
- A Buyer may give notice of delivery from this point onwards.

**Last Trading Day (Expiry) + 3 business days**

- By 12.00 hours The Seller shall send, in accordance with Clearing House Procedures, a completed and signed delivery notice to each Buyer that has been assigned to him.

**Delivery Day(s) – 5 business days**

- By 16.00 hours Buyer informs Seller and the Clearing House of the date and time at which the Buyer's transport shall be presented in readiness for loading to commence in accordance with the Clearing House Procedures with such date and time being within normal business hours on a working day in the country of loading, such notification to be made in accordance with the Clearing House Procedures. In the event of multiple deliveries, the Buyer must present transport such as to effect a continuous process of loading.

- Delivery Day** Delivery shall take place between the Seller and the Buyer in accordance with these terms and Administrative Procedures.

**Delivery Day(s) + maximum 5 business days from issue of CMR note(s)**

- By 10.00 hours Seller lodges delivery documents with the Buyer in accordance with these terms and the Clearing House Procedures.
- By 14.00 hours The Buyer may inform the Clearing House and the Seller in writing that he wishes to reject the documents specified in term 7.01, and in that event the Buyer shall comply with the process detailed in term 7.
- After 14.00 hours The documents shall be deemed to have been accepted by the Buyer unless a rejection has been made in accordance with term 7.

**Delivery Day(s) + maximum 3 business days from presentation of delivery documents**

- By 14.00 hours The Buyer shall make final payment to the Seller in accordance with term 7.



By 16.00 hours

A notice of performance, duly fulfilled and signed by the selling Clearing Member and the buying Clearing Member, shall be sent to the Clearing House in accordance with term 7 and the Clearing House Procedures.

3. Delivery

3.01 Subject to Administrative Procedure 3.03:

- (a) the Seller shall be responsible for all expenses pertaining to delivery and loading of Skimmed Milk Powder onto the Buyer's transport including freight taxes and other taxes of any nature of the country of origin or loading;
- (b) the Buyer shall be responsible for all expenses pertaining to entry to and exit from the delivery point; and
- (c) in the event of multiple deliveries, Seller and Buyer shall be responsible for negotiating a rate of loading that must at the very least fulfil the minimum loading requirements as set out in these Administrative Procedures and Contract terms.

3.02 (a) Subject to Contract term 2.02, the Seller shall ensure that the delivery point at which the Skimmed Milk Powder is to be delivered shall:

- (ii) have storage close to and/or transport facilities to the delivery point, to allow for uninterrupted loading at the prescribed minimum loading rate;
  - (iii) have sampling facilities to allow independent supervision companies to operate unimpeded in accordance with these terms; and
  - (iv) have access for independent supervision companies to ensure compliance with these terms.
- (b) The Skimmed Milk Powder shall be loaded with the following provisions:
- (i) Skimmed Milk Powder to be loaded onto Buyer's transport stacked on wooden pallets suitable for food contact use with no less than thirty and no more than fifty 25kg bags per pallet;
  - (ii) Seller to load each lot of Skimmed Milk Powder onto Buyer's transport at a rate of no less than 12 tonnes per hour during the normal business hours of each working day in the country of loading with such loading to commence and finish within a four hour delivery window commencing on the date and time detailed in the notice made by the Buyer five days prior to delivery;
  - (iii) Seller to load from each delivery point at a minimum rate of six lots of Skimmed Milk Powder per day with such loading to take place during the normal business hours of each working day in the country of loading (to fulfil this requirement each delivery point must be able to

handle loading of a minimum of three lots during the same time period);

- (iv) Seller is liable to pay any additional waiting charges incurred by the Buyer in the event that a lot of Skimmed Milk Powder is loaded at a rate of less than 12 tonnes per hour within the allotted four hour delivery window during the normal business hours of each working day in the country of loading. Such additional waiting charges shall be equal to those detailed in the Contract between the Buyer and the carrier of the Buyer's goods with the rate of additional charges being declared by the Buyer to the Seller no later than 24 hours prior to the commencement of loading;
- (v) In the event that the Buyer's transport is not present and/or ready to load in accordance with the notice made by the Buyer five days prior to delivery then, for each hour of delay incurred during the normal business hours of each working day in the country of loading, the Seller may charge the Buyer a penalty that is equivalent to the rate of additional waiting charges as detailed in the Contract between the Buyer and the carrier of the Buyer's goods;
- (vi) Seller to ensure that loading, including palletisation, complies with local safety regulations; and
- (vii) All other terms pertaining to loading shall be in accordance with the Contract between the Buyer and the carrier of the Buyer's goods.

3.04 The Buyer may, at his own expense, either appoint an internationally recognised independent or with the written consent of the Buyer, appoint a state supervision firm, to supervise and inspect the loading of the Skimmed Milk Powder to be delivered to the Buyer. Such appointment shall be made not less than 48 hours prior to the Seller commencing loading of the Skimmed Milk Powder. The Buyer shall upon the appointment of a Supervisor notify the Seller of such appointment.

3.05 If either party has a claim, or wishes to bring a claim, as to the quality, weight or packing of the Skimmed Milk Powder it may refer such claim to arbitration in accordance with the Contract terms and these Administrative Procedures and in accordance with the Clearing House Procedures.

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Issue Date: 10 February 2011