

Dear Valued Customer

AMENDMENTS TO TPT'S CONDITIONS OF TRADE AND STANDARD OPERATING PROCEDURES FOR CONTAINER TERMINALS EFFECTIVE 1 APRIL 2019

It has been a pleasure working with you in the past financial year. On 1 April 2019, Transnet Port Terminals (TPT) will be entering a new financial year and accordingly, the business has brought about some changes. The purpose of this communiqué is to inform TPT's customers of the changes effected to TPT's Conditions of Trade (COT) for Container Terminals and Standard Operating Procedures for Container Terminals (SOPCT) effective 1 April 2019.

In an effort to improve our services and, in order to maintain a sound relationship with yourselves TPT has reviewed its standard commercial contracts, the business shall be bringing about changes as of 1 April 2019 for the 2019/2020 financial year.

This review is undertaken every year and TPT urges customers to ensure that they are apprised of the changes brought by the review and are familiar with the terms and conditions of the standard contracts which constitutes binding obligations between TPT and the customers.

Below is a list of the changes that have been made, however, kindly note that for practical purposes not all amendments may be specified in this notification, but particular attention should be paid to the following:

CONDITIONS OF TRADE (COT) FOR CONTAINER TERMINALS

Ad Clause 1: Definitions

1. Page 2 previous clauses 1.1.4 and 1.1.5 by deleting the definitions of consignor and consignee in its entirety:

~~"1.1.4. "Consignor" means a person excluding a consignor of dangerous goods who is named or otherwise identified as the consignor of goods in the goods declaration relating to the transportation of more than 500 000 (five hundred thousand) kilograms of goods in a month by~~

A division of
Transnet SOC Ltd
Registration Number
1990/000900/30

Kingsmead Office Park PO Box 10124
Stalwart Simelane Marine Parade, Durban
Street South Africa 4056
Durban 4001

Directors: Dr PS Molefe (Chairperson) TC Morwe* (Acting Group Chief Executive) UN Fikelepi RJ Ganda Prof EC Kieswetter ME Letlape DC Malshoga Adv OM Molaung Dr FS Mufamadi AP Ramabulana

GT Ramphaka LL von Zeuner
MS Mahomedy* (Acting Chief Financial Officer)

*Executive

Group Company Secretary: NE Khumalo

www.transnet.net

~~road or engages an operator of a vehicle, either directly or indirectly or through an agent or other intermediary, to transport the goods by road or has possession of, or control over, the goods immediately before the goods are transported by road or loads a vehicle with the goods, for transport by road, at a place where goods are stored in bulk or temporarily held;~~

~~1.1.5. — "Consignee" in relation to goods transported or to be transported by a vehicle means the person excluding a consignee of dangerous goods, who is named or otherwise identified as the intended consignee of more than 500 000 (five hundred thousand) kilograms of goods in a month in the goods declaration for the consignment and who actually receives such goods after they are transported by road."~~

Ad clause 4: Terms and Application of Conditions of Trade

2. Page 4 clause 4.5 by adding a new clause as follows:

"4.5 All shipping lines are bound by these COT and all shipping lines', agents, intermediaries and or other contracting/affiliated parties shall be taken to be bound by these COT and the shipping line is obliged to make all agents, intermediaries and or other contracting parties/ affiliates of these COT."

Ad clause 5: Standard Terms and Conditions for All Visitors to the Terminal Operator's Container Terminals

3. Page 5 clause 5.6 by adding a new clause as follows:

"5.6 TPT has the right to refuse any truck or trucking company or driver access to any of our terminals in the event that TPT is aware of any risk to its operation, or has not complied with any security measures that have been put in place by TPT."

4. Page 5 clause 5.9 by adding a new clause as follows:

"5.9 All and any entrants to TPT terminals shall be bound by TPT policies and procedures, These, will include but not be limited to, conditions of entry, privacy policies, safety and security policies."

5. Page 5 clause 5.10.1 by adding new clauses 5.10.1.1, 5.10.1.1.1 and 5.10.1.1.2 as follows:

"5.10.1.1 in the case of in-bound containers, this shall be as follows:

5.10.1.1.1 if the container is off-loaded using the vessel's equipment, from the time that the container is safely discharged on the quay or on terminal handling equipment; and

5.10.1.1.2 if the container is offloaded using the Terminal Operator's equipment, from the time that the container is lifted off the vessel's deck"

6. Page 6 clause 5.10.1 by adding a new clause as follows:

"5.10.1.2 in the case of out-bound containers, this shall from the time that the container is lifted off the relevant Container Road Haulage Vehicle.

7. Page 6 clause 5.13 by adding a new clause as follows:

"5.13 The Customer shall at all times remain responsible for any person instructed, requested and/or authorised by the Customer to uplift from or deliver to the Container Terminal any container. In line herewith TPT shall in no way be liable for the upliftment of containers where the Customer's appointed Carrier has violated any of TPT's security measures and/or policies and procedures regarding conditions of entry to any of TPT's terminals."

Ad clause 7: IMDG Goods

8. Page 8 clause 7.5 by adding a new clause as follows:

"7.5 The Customer undertakes to indemnify the Terminal Operator in respect of any damages suffered as a result of the non-timeous (as referred to in clause 2.7.1.5 of the SOPCT) and incorrect disclosure or the non-disclosure of IMDG goods or out of gauge containers."

Ad clause 8.2.2: Limitation of Liability

9. Page 10 clause 8.2.3 by amending this clause to include the following underlined insertions:

"8.2.3 The following underlined insertions were made "The Customer cannot make any claim against the Terminal Operator for an amount less than ZAR 12,200.00 (twelve thousand two hundred South African Rands) except for damage to a container, in respect of which the Customer cannot make any claim against the Terminal Operator for an amount less than ZAR 6,100.00 (six thousand one hundred South African Rands). Where a claim exceeds the applicable rand amounts set out above (referred to as "the threshold"), the Terminal Operator shall not be liable for any amount which falls below the applicable threshold. Claims for the loss of or damage to reefer container (refrigerated container) power cables are specifically excluded from the application of the provisions of this Clause 0."

Ad clause 8.3: Indemnity - The Customer

10. Page 11 clause 8.3.2 by amending this clause to include the following underlined insertions:

"8.3.2 The Terminal Operator may not make any claim against the Customer for an amount less than ZAR 12,200.00 (twelve thousand two hundred South African Rands) except for damage to a container, in respect of which the Terminal Operator cannot make any claim against the Customer for an amount less than ZAR 6,100.00 (six thousand one hundred South African Rands) which amount includes all costs arising from such damage."

Ad clause 9: Damages to Containers and the Reporting and Recording of Incidents

11. Page 13 -14 clause 9.1 by adding new clauses 9.1.3, 9.1.4 and 9.2.3 as follows:

"9.1.3 any damage to any vessel will forthwith be reported to the Terminal Operator Operations Supervisor in accordance with the relevant reporting form, the shift vessel Master shall be responsible to report such damage prior to the vessel leaving the port, failing which the terminal Operator shall not be held liable under any circumstances for such damage once the vessel leaves without reporting.

"9.1.4 It is the vessel master's responsibility to ensure that all containers are correctly and safely lashed within at least 2 hours of operation completion and in the event that the lashing has not been safely completed must be reported prior to the vessel departing to the Terminal Operator's Operations Supervisor/ senior representative on the relevant shift and not thereafter."

"9.2.3 In the event that a customer is allowed to discharge containers at a port for which it was not destined and the Terminal Operator accedes to same, the customer shall be liable for the full storage charges or all other costs associated with the handling of such containers."

Ad clause 11: Force Majeure Events

12. Page 16 clause 11.3 by deleting clause 11.3 in its entirety "~~11.3 An event or circumstance which results in non-performance by a Party, caused by the usual and natural consequences of external forces will not be regarded as a Force Majeure Event if such event or circumstance is reasonably foreseeable notwithstanding that its occurrence may be beyond the direct or indirect control of the non-performing Party.~~"
13. Page 17 clause 11.4 by amending this clause to delete the words appearing in strikethrough as follows:

"11.4 "If either Party is prevented from, or delayed in performing any of its obligations under these Conditions of Trade as a consequence of a Force Majeure Event, such Party shall, to the extent so prevented or delayed by the Force Majeure Event, be relieved of the liability for the delay or failure to perform its obligations under these Conditions of Trade and the consequences of such delay or failure, provided that, if a Party is delayed in performing its obligations by a Force Majeure Event, it must immediately perform the relevant obligation as soon as it is able to do so ~~and the other Party has accepted that such a Force Majeure Event has prevented them from performing their obligations.~~"
14. Page 17 clause 11.6 by amending this clause to add the words underlined and delete the words appearing in strikethrough as follows:

"11.6 In the event that the period of the Force Majeure Event prevails longer than 1 (one) month from the date of commencement of the Force Majeure Event, then, provided that the Parties have consulted with one another to evaluate any practical means of overcoming the effect of the Force Majeure Event and what effect this may have on any tariff payable hereunder, and have failed to reach written agreement on such matters prior to the expiry of the 1 (one) month period mentioned above, the relevant commercial agreement/s concluded between the Parties, shall terminate with immediate effect upon written notice from any one Party to the other, these Conditions of Trade shall cease to apply as between the Parties with immediate effect upon written notice from any one Party to the other to this effect."

Ad clause 16: Confidentiality

15. Page 22 clause 16 by adding new clauses 16.4, 16.5, 16.6 and 16.7 as follows:

"16.4 All information relating to the disclosing party and which the disclosing party has indicated to the receiving party in writing to be confidential information, shall be deemed to be confidential information."

"16.5 No provision of this Conditions of Trade shall be construed in such a way that the Terminal Operator is deemed to have granted its consent to the Customer or parties contemplated in clause 16.1.1 to disclose the whole or any part of the confidential information in the event that the Customer or the parties contemplated in clause 16.1.1 receives a request for the whole or any part of the confidential information in terms of the provisions of the Promotion of Access to Information Act, No.2 of 2000, as may be amended from time to time ("the Act")."

"16.6 Subject to the provisions of sub-clause 16.7 below, the disclosure of confidential information by the Customer or the parties contemplated in clause 16.1.1 otherwise than in accordance with the provisions of this Conditions of Trade will entitle the Terminal Operator to institute action for breach of confidence against the Customer or parties contemplated in clause 16.1.1, as envisaged by Section 65 of Act No.2 of 2000."

"16.7 The Customer or the parties contemplated in clause 16.1.1 acknowledges that the provisions of sub-clause 16.5 above shall not be construed in such a manner as to exclude

the applicability of any other grounds of refusal contained in Act No.2 of 2000 which may be applicable in the event that the Customer or parties contemplated in clause 16.1.1 receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000."

Ad COT Appendix "A" - Notices

16. Pages 25-26 by amending Appendix "A" to include the following new provision:

"By signing this Appendix "A", I, the undersigned, being the duly authorised representative of the Customer, acknowledge for and behalf of the Customer that in addition to any commercial agreement/s concluded with the Terminal Operator, I confirm that we have received, read and understood the contents of the following documents:

- *Conditions of Trade;*
- *Standard Terms and Conditions for All Visitors to Transnet Port Terminals' Container Terminals;*
- *Terminal Operator's Tariff Book; and*
- *Standard Operating Procedures for Container Terminals.*

I, acknowledge further that the Customer is bound by any new, supplemented or amended documents in accordance with clause 4.2 of the Conditions of Trade and clause 1.7 of the Transnet Port Terminals Standard Operating Procedures for Container Terminals."

Ad COT Appendix "B"

STANDARD TERMS AND CONDITIONS FOR ALL VISITORS (AS DEFINED) TO TRANSNET PORT TERMINALS' CONTAINER TERMINALS. TRANSNET PORT TERMINALS, AN OPERATING DIVISION OF TRANSNET SOC LTD (REGISTRATION NUMBER: 1990/000900/30

Ad clause 3: Access to and from the Terminal

17. Page 30 clause 3.4 by amending this clause to add the words underlined as follows:

"3.4 Minors or any medically or physically unfit person shall not be allowed into the Terminal, unless the Security Manager at the Terminal or the Terminal Manager in the absence of a Security Manager has issued prior written consent. In the event such consent is granted such persons shall indemnify the Terminal Operator against any liability for any incident occurring in the terminal howsoever arising."

18. Page 30 clause 3.5 by adding a new clause as follows:

"3.5 All visitors entering any terminal shall be required to sign an indemnity in a format determined by the Terminal Operator."

Ad clause 6: Security

19. Page 32 by adding new clauses 6.5, 6.6, 6.7 and 6.8 as follows:

"6.5 All RFID (Radio Frequency Identification) cards not used within 30 days shall be deemed to be invalid and will be deactivated by the Terminal Operator. The Terminal Operator will advise the customer at least 30 days prior to the deactivation of the issued RFID cards."

"6.6 The customer shall be responsible for the security and safe handling of the RFID cards issued to them by the Terminal Operator. The Customer shall at all times be responsible for the fraudulent use of such cards."

"6.7 If the issued RFID cards to the customer have been lost or misplaced or stolen, the customer shall notify the Terminal Operator in writing, within 12 hours of becoming aware thereof to the relevant central email address provided to the customer by the relevant Terminal Operator representative."

"6.8 Should the CRHV to which an RFID card is issued, experience a mechanical breakdown which will result in the vehicle not being used for more than 5 (five) days, the customer will inform the Terminal Operator of such and the Terminal Operator will de-activate the card until advised by the Customer that the CRHV has been repaired."

Ad clause 9: CRHV

20. Page 33 clause 9.3 by amending this clause to add the underlined words as follows:

"9.3 all headboards, sideboards, tailboards and/or stanchions fitted to each CRHV will be removed by it from each CRHV prior to any CRHV entering the premises of the Terminal failing which the Terminal Operator shall not be held liable for any damage to containers as a result of colliding with any of the CRHV's headboards, sideboards, tailboards and/or stanchions on loading and off-loading by the Terminal Operator."

STANDARD OPERATING PROCEDURES FOR CONTAINER TERMINALS (SOPCT)**Ad clause 1: Definitions and Interpretations**

21. Page 5 clause 1.1.27 by adding a new definition of 'High Cube Containers' as follows:

"1.1.27 "High Cube containers" means containers with the below dimensions:

Size		L (mm) X W (mm) X H (mm)
45'	13.7m	13 716 X 2 438 X 2 896
40'	12m	12 192 X 2 438 X 2 896
20'	6m	6 058 X 2 438 X 2 896

Ad clause 2.3 Twenty-One (21) Days Prior to Arrival of Each Vessel

22. Page 11 clause 2.3 by adding new clauses 2.3.9 and 2.3.10 as follows:

"2.3.9 The list of co-loaders in conjunction with the list of voyage numbers (if different from the master operator's voyage number); and

"2.3.10 Confirmation if vessel will require daylight berthing due to IMCO class containers."

Ad clause 2.16: Seventy-Two (72) hours After Completion of Discharge

23. Page 23 clause 2.16.6 by amending this clause to add the words underlined as follows:

"2.16.6 The Customer must ensure that a seal is affixed to each and every container that enters the Terminal. The Terminal Operator is not responsible for the verification, checking or capturing of the seal numbers and/or checking that the container is sealed and the Customer is solely responsible for ensuring that the container is sealed. If, for any reason, the Terminal Operator notes the number or condition of a container seal, the Customer is not entitled to rely on the number or information concerning the condition of the seal as noted by the Terminal Operator for any purpose whatsoever, including, but not limited to, the making of any claim against the Terminal Operator. Any container found in the terminal without seals must be removed from the terminal in order to be sealed. Relevant costs will apply."

Ad clause 3: Berth and Stack Planning

24. Page 25 clause 3.12 by adding a new clause as follows:

"3.12 Once the Terminal Operator has supplied the load plan to the Vessel Operator, the Vessel Operator must respond within 2 hours of receipt thereof, either approving or adjusting the load plan. If a vessel is a straight loader (that is being a minimal discharge of 0 – 100 containers) then the Terminal Operator will not berth the vessel until the load plan has been approved."

Ad clause 10: Operations

25. Page 33 clause 10.8 by amending this clause to add the underlined words and delete the words appearing in strikethrough as follows:

"10.8 If the Vessel Operator ~~Customer~~ decides to cut-and run with a vessel, change vessel visits, short ship, or various other decisions which are made at the request of the Vessel Operator, then the Vessel Operator ~~Customer~~ must be liable for the relevant costs associated with the short shipment of containers such as short shipment storage fees. All

affected costs related to these requests by the Vessel Operator will be billed to the Vessel Operator unless expressly agreed in writing by its co-loaders to accept these costs"

26. Page 33 clause 10.9 by adding a new clause as follows:

"10.9 All amendments requested by the Vessel Operator for changes to the Call Advise shall be billed for as an amendment cost."

A copy of the SOPCT and COT are attached for your convenience. Alternatively, these are available on the TPT website (<http://www.transnet-tpt.net/Customer/Pages/Library.aspx#Terms>).

Kind regards



PP **Mr Siyabulela Mhlaluka**
General Manager: Sales and New Business Development
Transnet Port Terminals
Date: 14/03/2019

