

1 April 2019

Dear Valued Customer

2019/20 AMENDMENTS TO TPT'S STANDARD TRADING TERMS AND CONDITIONS OF THE RORO, BREAK-BULK, AGRICULTURAL TERMINALS, BULK, RO-RO AUTOMOTIVE AND INLAND TERMINALS OF TRANSNET PORT 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 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 some changes as of 1 April 2019 for the 2019/2020 financial year. The purpose of this communiqué is to inform TPT's customers of the changes effected to the following standard commercial contracts effective 1 April 2019: -

- Standard Trading Terms and Conditions of the Ro-Ro, Break-bulk, Agricultural, Bulk, Ro-Ro Automotive and Inland Terminals; and
- Standard Terms and Conditions for all Visitors to the Terminal Operator's Ro-Ro, Break-bulk, Agricultural, Bulk, Ro-Ro Automotive and Inland Terminals.

This review is undertaken every year and TPT urges customers to ensure that they are appraised 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:

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STANDARD TRADING TERMS AND CONDITIONS OF THE RO-RO, BREAK-BULK, AGRICULTURAL, BULK, RO-RO AUTOMOTIVE AND INLAND TERMINALS

Ad Clause 1: Definitions

1. Page 1 clause 1.1.3 by adding the following underlined insertions:

"1.1.3 "Cargo" means the Customer's cargo in respect of which the Services are to be rendered in terms of these Standard Trading Terms and Conditions and/or as more fully described in any separate commercial agreement concluded between TPT and the Customer."

2. Page 1 clause 1.1.6 by adding a new definition of "Inland Terminals" as follows:

"1.1.6. "Inland Terminals" means an area especially set aside primarily for the handling of bulk cargo by specialised equipment at the following Inland Terminals: -

- *Newcon located in Newcastle, Kwazulu-Natal;*
- *Pendoring located in Brits, North West Province; and*
- *Lohattha located in the Northern Cape."*

3. Page 1 clause 1.1.13 by adding the following underlined insertions:

"1.1.13. "Services" means those services rendered by TPT to the Customer in terms of these Standard Trading Terms and Conditions and/or as more fully set out in any separate commercial agreement concluded between TPT and the Customer."

4. Page 2 clause 1.1.17 by adding the following underlined insertions:

"1.1.17 "Terminals" means the Roro, Break-Bulk, Agricultural, Bulk, Ro-Ro Automotive and Inland Terminals collectively and "Terminal" refers to any one of them as the context indicates".

Ad clause 3: Introduction

5. Page 3 clause 3.1 by adding a new clause as follows:

"3.1. TPT is responsible for the operation and management of the Terminals."

Ad clause 4: Terms and Application of Standard Terms and Conditions

6. Page 3/4 clause 4.4 by adding a new clause as follows:

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

Ad clause 8: Limitation of Liability

7. Page 5 clause 8.1 by deleting the word appearing in strike through and replacing same with the new insertion as follows:

"8.1 Notwithstanding anything to the contrary contained in these Standard Trading Terms and Conditions and without prejudice to any other limitation permitted by law and subject to Clauses 8.2, 8.3 and 8.4 below, the liability of TPT arising out of or in connection with the terms and/or the subject matter of these Standard Trading Terms and Conditions and/or in respect of any claim for loss or damages arising out of the handling and storage of the Cargo is limited to ~~three~~ one million United States Dollars (US\$1,000,000.00) in respect of any one incident or series of incidents arising from the same cause regardless of how such claim arises and damage is caused and irrespective of whether by the negligence, gross negligence, reckless or wilful acts or omissions on the part of TPT or its representatives, This limitation also specifically includes all claims for damage to vessels, cranes and any other property which does not belong to the TPT."

8. Page 6 clause 8.2 by adding the following underlined insertions:

"8.2 Subject to Clause 8.1 above, notwithstanding anything to the contrary stated elsewhere in these Standard Trading Terms and Conditions, TPT will not in any event be or become liable, whether by way of indemnity to the Customer or otherwise, for any loss of or damage

to the Cargo handled and/or stored for the Customer and/or any property whatsoever of the Customer or third party in the care and custody of TPT, or under TPT's control, exceeding the equivalent of 666.67 SDR per package or unit or two (2) SDR per kilogram or gross weight of the Cargo lost or damaged whichever is higher. In the event that this amount exceeds the limit of liability stated in clause 8.1 the lesser of the two shall be applicable. The terms "SDR", "package" and "unit" shall have the meaning ascribed under the Carriage of Goods by Sea Act (No. 1 of 1986) incorporating The Hague-Visby Rules.

9. Page 6 clause 8.3 by deleting the words appearing in strike through and replacing same with the new insertions as follows:

"8.3 In respect of all claims for Cargo carried in containers, the Customer cannot make any claim against TPT for an amount less than ~~ZAR 10,000 (Ten Thousand South African Rands)~~ ZAR 12,200.00 (twelve thousand two hundred South African Rand), except for damage to the container itself, in which case the Customer cannot make any claim against TPT for an amount less than ~~ZAR 5,000 (five thousand South African Rands)~~ ZAR 6,100.00 (six thousand one hundred South African Rand). Where a claim exceeds the applicable Rand amounts set out above (referred to as "the threshold"), TPT shall not be liable for any amount which falls below the applicable threshold. Claims for the loss of or damage to reefer container/s (refrigerated) power cables are specifically excluded from the application of the provisions of this clause 8.3."

10. Page 6 clause 8.4 by adding a new clause as follows:

"8.4 In respect of all claims for any vehicle handled in the Ro-Ro and Ro-Ro Automotive Terminals, Automotive Terminals, the Customer cannot make any claim against TPT for an amount less than ZAR R2,000.00 (two thousand Rand), except for damage to the vehicle itself, in which case the Customer cannot make any claim against TPT for an amount in excess of ZAR 1000 000.00 (one million Rand) (referred to as the maximum claimable amount). Where a claim exceeds the applicable Rand amounts set out in this clause 8.4 (referred to as "the minimum vehicle claim threshold"), TPT shall not be liable for any amount which falls below the minimum vehicle claim threshold or any amount above the maximum claimable amount."

Ad clause 9: Damage to Cargo (including Containers) and the Reporting and Recording of Incidents

11. Pages 7 clause 9.1 by adding the following new clauses 9.1.3 and 9.1.4

"9.1.3. any damage to any vessel will forthwith be reported to TPT 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 TPT shall not be held liable under any circumstances for such damage once the vessel leaves the Port 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 TPT's Operations Supervisor/ senior representative on the relevant shift and not thereafter."

12. Page 8 clause 9.1.9 by adding the underlined insertions as follows:

"9.1.9 TPT reserves the right to capture the details and biometric data of all trucks drivers entering TPT Terminals and shall have the right to refuse entry of any Customer appointed truck driver at the discretion of TPT officials to any TPT Terminal for any justifiable reason."

13. Page 8 clause 9.2 by adding a new clause 9.2.3 as follows:

"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 and all other costs associated with the handling of such containers."

Ad clause 11: Force Majeure Events

14. Page 10 clause 11.5 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.*"

15. Page 11 clause 11.7 by amending this clause to add the words underlined and delete the words appearing in strikethrough as follows:

"11.7 *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 14: Confidentiality

16. Page 13 clause 14 by adding new clauses 14.4, 14.5 and 14.6 as follows:

"14.4 *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 14.1.1 to disclose the whole or any part of the confidential information in the event that the Customer or the parties contemplated in clause 14.1.1 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")."*

"14.5 Subject to the provisions of sub-clause 14.6 below, the disclosure of confidential information by the Customer or the parties contemplated in clause 14.1.1 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 14.1.1, as envisaged by Section 65 of Act No.2 of 2000."

"14.6 The Customer or the parties contemplated in clause 14.1.1 acknowledges that the provisions of sub-clause 14.5 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 14.1.1 receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000."

Ad clause 15: Compliance with the Laws and Policies

17. Page 13 clause 15.1.2 by adding a new clause as follows:

"15.1.2 remain responsible for any person instructed, requested and/or authorised by the Customer to uplift from or deliver to the Terminals 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."

STANDARD TERMS AND CONDITIONS FOR ALL VISITORS TO THE TERMINAL OPERATOR'S RO-RO, BREAK-BULK, AGRICULTURAL, BULK, RO-RO AUTOMOTIVE AND INLAND TERMINALS

18. Reference to "Terminal Operator" has been deleted and replaced with "TPT" throughout the document and reference to "Inland Terminals" has been included.

Ad clause 3: Access to and from the Terminal

19. Page 3 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."

20. Page 3 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."

A copy of the Standard Trading Terms and Conditions of the Ro-Ro, Break-bulk, Agricultural, Bulk, Ro-Ro Automotive and Inland Terminals and Standard Terms and Conditions for all Visitors to the Terminal Operator's Ro-Ro, Break-bulk, Agricultural, Bulk, Ro-Ro Automotive and Inland Terminals 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



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General Manager: Sales and New Business Development
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Date:

3/04/19.