

Dear Valued Customer

AMENDMENTS TO TPT'S STANDARD TRADING TERMS AND CONDITIONS AND STANDARD TERMS AND CONDITIONS FOR VISITORS EFFECTIVE 1 APRIL 2021

As is standard practice Transnet Port Terminals ('TPT') reviews its founding contract for the provision of Terminal Handling Services in its various bulk, break-bulk, automotive and multi-purpose terminals.

On 1 April 2021, Transnet Port Terminals (TPT) entered into a new financial year and based on an annual review of its balanced enterprise risk portfolio, the business, based on a risk adjusted approach effected certain necessary amendments to the founding contracting documents.

In an effort to improve our services and maintain a sound relationship with our customers, the purpose of this communiqué is to inform our customers of the required amendments effected to TPT's Standard Trading Terms and Conditions and associated documents in respect of the Bulk, Break-Bulk, Automotive and Inland Terminals (hereinafter referred to as "the STCs") and the Standard Terms and Conditions for All Visitors to TPTs Bulk, Break-Bulk, Automotive Terminals and Inland Terminals (STCs for Visitors) effective as of 1 April 2021 and which shall remain valid until 31 March 2022.

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 constitute binding obligations between TPT and the customers.

Below is a list of the amendments that have been made and sanctioned by the TPT Executive Committee. Kindly note that for practical purposes not all minor amendments may be specified in this notification, but particular attention should be paid to the following:

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TRANSNET HAS A 'ZERO GIFTS' POLICY. NO EMPLOYEE IS ALLOWED TO ACCEPT GIFTS, FAVOURS OR BENEFITS

STANDARD TRADING TERMS AND CONDITIONS OF THE RORO/ AUTOMOTIVE, BREAK-BULK, BULK AND INLAND TERMINALS OF TRANSNET PORT TERMINALS

Ad Clause 1: Definitions

- 1. Page 1 by adding new terms to be defined and their respective definitions at clauses at 1.1.3 and 1.1.5 as follows:

"1.1.3. "Care and Custody" means the legal authority of the Terminal Operator upon delivery of a Customer's Cargo or container, either from land or sea, and to supervise or otherwise be responsible therefor until such time that same is loaded onto an appointed vessel, road or rail transportation out of a the Terminal Operator Terminal;

...

1.1.5. "Consequential/Indirect Damages" means those damages that although caused by the breach of contract, are ordinarily regarded in law as being too remote to be recoverable unless, in the special circumstances attending the conclusion of the contract, the Parties actually or presumptively contemplated that they would probably result from the breach;"

- 2. Page 2 by amending the definition of "Services" through the addition of the following underlined insertion at clause 1.1.15 (previously clause 1.1.13):¹

"1.1.15. "Services" means those cargo handling services rendered by ~~TPF~~ the Terminal Operator 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 ~~TPF~~ the Terminal Operator and the Customer."

¹ All references to previous clause(s) are to be read as referring to such clauses as contained in the Standard Trading Terms and Conditions of the Roro, Break-Bulk, Agricultural, Bulk, Roro Automotive and Inland Terminals of Transnet Port Terminals effective 01 April 2020 until 31 March 2021.

3. Page 3 by amending the definition of "Tariff Book" through the addition of the following underlined insertions and the deletion of the strikethrough provisions at clause 1.1.18 (previously clause 1.1.16):

*"1.1.18. **"Tariff Book"** means the tariff book issued ~~by TPT~~ annually by the Terminal Operator which applies ~~from time to time~~ all TPT customers making use of TPT services, the current tariff book being applicable from ~~1st 1 April 2020~~ 2021 until 31 March ~~2021~~ 2022;"*

4. Page 3 by deleting "TPT" as the term defined at clause 1.1.20 (previously clause 1.1.18) and replacing same with "the Terminal Operator", which change has been effected throughout the STC's, where applicable.
5. Page 3 by adding a new term to be defined and its associated definition at clause 1.1.21:

*"1.1.21. **"Time Bar"** means the period in which a claim, once reported to the Terminal Operator, must be finally decided upon in terms of the Terminal Operator's internal claims procedures, which time bar period is a period of 420 (four hundred and twenty) days from the time that the Customer places the Terminal Operator on notice in respect of a damages claim."*

Ad clause 3: Introduction

6. Page 4 by adding the following underlined insertions and deleting the strikethrough provisions at clause 3.3 as follows:

"3.3. These Standard Trading Terms and Conditions apply to ~~all contracts~~ any Services undertaken by TPT for a Customer, including any agreements entered into between ~~TPT~~ the Terminal Operator and the Customer in respect of the Services provided by ~~TPT's~~ the Terminal Operator's Terminals whether oral or reduced to writing unless a separate written agreement has been concluded and signed by the Parties which specifically excludes the application of all or some of the provisions of these Standard Trading Terms and Conditions."

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

7. Page 4 by adding the following underlined insertions at clauses 4.2 and 4.3:

"4.2. Notwithstanding the provisions of Clause 2.4 above, the Terminal Operator reserves the right to amend these Standard Trading Terms and Conditions during the period in Clause 4.1 above, based on a risk adjusted approach, as and when required in its sole and absolute discretion, by giving written notice of such amendment to the Customer which amended terms and conditions shall be binding from the date of such notice.

4.3. These Standard Trading Terms and Conditions apply to all Services rendered by the Terminal Operator to the Customer at the Terminals."

Ad clause 5: Standard Terms for all Visitors to the Terminal Operators Terminals

8. Page 4 and 5 by adding new clauses 5.1 to 5.10 as follows:

"5.1. Access to and within the Terminals for any Customer, its' Representatives, intermediaries, carriers and/or Visitors (as defined in Annexure A) is regulated by the terms and conditions for visitors as contained in Annexure "A" hereto.

5.2. The Customer, its' Representatives, third party affiliates, and/or its intermediaries (including transporters), undertake to observe the contents of Annexure "A" as well as to procure that they will be observed by its Visitors.

5.3. The Customer, its' Representatives and Visitors are jointly and severally liable to the Terminal Operator for all claims and/or damages sustained by the Terminal Operator as a consequence of the wrongful acts and/or omissions of the Customer and/or its Representatives, intermediaries or Visitors.

5.4. Whilst the Terminal Operator will use reasonable endeavours to enforce strict controls to prevent unauthorised access to the Container Terminals, as well as to all vessels berthed at the Container Terminals, the Terminal Operator will not bear any responsibility nor incur any liability for: -

- 5.4.1. any damages suffered by the Customer, its' Representatives, intermediaries, and/or third party affiliates as a consequence of unauthorised access and/or fraudulent access to the Terminal, or any acts committed during such access;
or
- 5.4.2. any physical damage caused to the Customer's vessels from the quay other than that unlawfully caused by the Terminal Operator, its servants, independent contractors and agents, but subject always to Clause 8.1 to 8.4 below.
- 5.5. The Terminal Operator will refuse entry to a truck or any other transporter that has caused damage to property and a driver who fails to adhere to the Terminal Operator's conditions of entry until such time as the invoice for the damage to property has been paid.
- 5.6. The Terminal Operator has the right to refuse any truck or trucking company or driver access to any of the Terminal Operator's Terminals in the event that the Terminal Operator is aware of any risk to its operation, or where such trucking company, its representatives, agents, officials or any driver has not complied with any security measures that have been put in place by the Terminal Operator.
- 5.7. All truck drivers and or trucking companies are required to be in possession of all relevant documentation (including a date and time of escort) before access will be granted.
- 5.8. The Terminal Operator reserves the right to request and capture the details and biometric data of all truck drivers and Visitors entering the Terminal Operator's Terminals subject to compliance with the Protection of Personal Information Act No 4 of 2013 and Occupational Health and Safety Act 85 of 1993.
- 5.9. All and any entrants to the Terminal Operator's Terminals shall be bound by the Terminal Operators policies and procedures, which will include but not be limited to, conditions of entry, privacy policies, and safety and security policies.
- 5.10. For the avoidance of any doubt all and any entrants, Visitors, Customers or any other third party entering the Terminal Operator's Terminals shall do so at their own risk

and hereby indemnifies the Terminal Operator against loss or damage or injury sustained whilst in or at any Terminal Operator Terminal."

Ad clause 6: Operations

9. Page 5 and 6 by adding new clauses 6.1 to 6.6 as follows:

"6.1. The Terminal Operator shall be responsible for Customer Cargo –

6.1.1. From the time it has taken it in charge:

6.1.1.1. in the case of the Ro-Ro Terminal from the time that the vehicle passes through the light tunnel, this shall be as follows:

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

6.1.1.1.2. if the Cargo is offloaded using the Terminal Operator's equipment, from the time that the Cargo is lifted off the vessel's deck; and

6.1.2. Until such time that the Terminal has loaded the Cargo or handed over the Cargo to the person whom the Customer has authorised the Cargo to be handed to. This shall be regarded as the point in time at which the Cargo is loaded onto the relevant Container Road Haulage Vehicle.

6.2. Any employee or agent nominated by the Customer (for the purposes of this clause referred to as a "Customer Representative"), or any person instructed, requested and/or authorised by the Customer to uplift from or deliver the Cargo to the Terminal, and every employee, agent or functionary of such carrier is deemed to be a duly appointed agent of the Customer and all information provided by such Customer Representative, carrier or any employee, agent or functionary of such carrier, is deemed to be information provided by the Customer.

- 6.3. The Customer shall at all times remain responsible for any person instructed, requested and/or authorised by the Customer to uplift from or deliver Cargo to the Terminal. In line herewith the Terminal Operator shall in no way be liable for the upliftment of Cargo where the Customer's appointed carrier has violated any of the Terminal Operator's terms and conditions, security measures and/or policies and procedures regarding conditions of entry to any of the Terminal Operator's Terminals.
- 6.4. The Terminal Operator is not liable for any claim in connection with or arising from any incorrect information submitted by the Customers Representative, or carrier and its employees, agents or functionaries on behalf of the Customer in terms of Clause 5.7.
- 6.5. Except as otherwise indicated herein, the Terminal Operator will only release Cargo discharged from the Customers' vessels on the formal written instructions of the Customer or it's agent whether it be the Customer Representative, carrier or otherwise. Any Cargo released in terms of this clause is deemed to have been released to the Customer.
- 6.6. Where bulk Cargo is loaded into containers by the Customer, the Terminal Operator reserves the right to refuse entry to and/or handle any containers that are in excess of the declared weight of the container by the Customer and the Customer indemnifies the Terminal Operator in respect of any damage to its equipment or any claims which may arise as a result of any damage to the under-declared container/s, including vessel damage or any claims which may arise as a result of such refusal."

Ad clause 7: Remuneration and Payment (previously clause 5)

10. Page 6 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 7.1 and 7.2 (previously clauses 5.1 and 5.2) as follows:

"7.1. ~~TPT must~~ Unless otherwise specifically agreed to through the conclusion of a separate written tariff agreement with the Customer, the Terminal Operator will be remunerated by the Customer at the rates as quoted by TPT to the Customer and within the timeframes set out herein unless otherwise specifically agreed to in writing

by TPT the Terminal Operator based on volume or failing which the base rate as per the applicable Tariff Book will be applicable.

7.2. All tax invoices of TPT for the Customer's account for any particular month submitted by the Terminal Operator in respect of Services rendered are due and payable by the Customer and must be paid by the Customer, without deduction or set-off, on or before the 20th (twentieth (20th) day of the following calendar month."

Ad clause 8: IMDG Goods (previously clause 6)

11. Page 6 and 7 by adding the following underlined insertions and deleting the strikethrough provisions at clause 8.3 and 8.3.1 (previously clauses 6.3 and 6.3.1) as follows:

"8.3. If The Customer shall fully indemnify the Terminal Operator against any and all loss or damage suffered by the Terminal Operator or any other third party due to the negligence of the Customer in not identifying the Cargo as IMDG/dangerous Cargo is handed over to TPT without being marked, labelled, packaged or documented in accordance with the relevant law and if, when TPT cargo. If, and in the event that the Terminal Operator takes possession of such Cargo, TPT does not know of its IMDG or dangerous character or nature, TPT the Terminal Operator is entitled but not obliged to:

8.3.1. take all precautions the circumstances may require, including but not limited to, when the Cargo poses an imminent danger to any person or property, destroying the Cargo, rendering it innocuous, or disposing of it by any other lawful means, without liability for payment of compensation for damage to or destruction of the Cargo resulting from TPT the Terminal Operator taking such precautions; and..."

12. Page 7 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 8.4, 8.5, and 8.6 (previously clauses 6.4, 6.5 and 6.6) as follows:

- "8.4. ~~TPF~~ The Terminal Operator has the right to refuse to handle any Cargo when the safe handling or storage of that particular Cargo could expose people and/or property and/or the environment to a risk of injury and/or damage.
- 8.5. The Customer will be liable to ~~TPF~~ the Terminal Operator for all and any damage to property and/or the environment and/or for injury to any person in the event that the IMDG/dangerous Cargo is handled and not correctly marked and/or packaged and all costs associated therewith, including clean up costs and legal costs on an attorney and own client scale.
- 8.6. ~~It is to be noted that TPF~~ The Terminal Operator does not support the storage of hazardous Cargo in its Terminal/s. It is ~~therefore-encumbent~~ incumbent upon the Customer to ensure that hazardous Cargo be evacuated from the Terminal as soon as possible by the Customer nominated transporter, and in accordance with the dwell time directives issued by ~~TPF~~ the Terminal Operator or the National Ports Authority. In the event that no transportation instruction is received from the Customer, the IMDG ~~dangerous~~ Cargo will not be off-loaded from the vessel and ~~TPF~~ the Terminal Operator will under no circumstances be held liable for ~~the~~ any costs ~~of~~ associated with the IMDG ~~dangerous~~ Cargo having not being been so off-loaded."

Ad clause 9: Overloading of Container Road Haulage Vehicle ("CRHV") / Road Haulage Vehicle ("RHV") (previously clause 7)

13. Page 7 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 9.1, 9.2 and 9.4 (previously clauses 7.1, 7.2 and 7.4) as follows:

- "9.1. ~~For purposes of this Clause 7, TPF~~ Where bulk Cargo is loaded into containers, the Terminal Operator shall be deemed to be the consignee for the purpose of export Cargo handling Services and as the consignor for the purpose of import Cargo handling Services.
- 9.2. The Customer and/or its agent or the Customer's Representative shall inform TPF the Terminal Operator of the accurate weight of the Container(s) to be loaded onto the CRHV/RHV and this information should must be forwarded to the Terminal ~~not more~~

than at least one (1) hour before the Estimated Time of Arrival of the CRHV/RHV at the Terminal. Such submission shall be sent as a written submission with a clear declaration as to the payload of such CRHV/RHV and/or the distribution of such Container(s) on a CRHV/RHV.

...

9.4. *The Customer is bound by the determinations made under this Clause 7 9 and the records of those determinations, ~~such~~ which determination shall remain in the absolute sole discretion of ~~TPF~~ the Terminal Operator in the absence of manifest error."*

Ad clause 10: Limitation of Liabilities (previously clause 8)

14. Page 8 by deleting the words and numbers "ZAR 5,000,000.00 (five million South African rand)" at clause 10.1 (previously clause 8.1) and replacing same with "USD 1,000,000 (one million united states dollars)".

15. Page 8 and 9 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 10.4 and 10.5 (previously clauses 8.4 and 8.5) as follows:

"10.4. *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 ~~TPF~~ the Terminal Operator for an amount less than ZAR R22,000.00 (two thousand South African Rand), ~~except for damage to the vehicle itself, in which case the Customer cannot make any claim against~~ TPF the Terminal Operator for an amount in excess of ZAR 1 000 000.00 (one million South African Rand) (referred to as the maximum claimable amount). Where a claim exceeds the applicable Rand amounts set out in ~~this clause 8~~ Clause 10.4 (referred to as "the minimum vehicle claim threshold"), ~~TPF the Terminal Operator~~ shall not be liable for any amount which falls below the minimum vehicle claim threshold or any amount above the maximum claimable amount. The Terminal Operator shall not be liable for excessive repair quotes by Customers in respect of minor vehicle damages including but not limited to minor*

scratches, dents and paint chips, just to bypass the threshold amounts. The Claims Committee shall have a discretion in this regard.

10.5. *The Customer hereby indemnifies ~~TPF~~ the Terminal Operator against any claim brought by any third party in respect of loss of or damage to the Cargo or any third party commodity or property which is handled, transported or otherwise dealt with or intended to be dealt with by the Customer and/or ~~TPF~~ the Terminal Operator in terms of these Standard Trading Terms and Conditions where, and to the extent that, such claim exceeds the amounts set out in Clauses ~~8~~ 10.1 to ~~8~~ 10.4 above."*

Ad clause 10.7: The Customer Indemnities (previously clause 8.7)

16. Page 9 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 10.7.1 and 10.7.2 (previously clauses 8.7.1 and 8.7.2) as follows:

"10.7.1. *The Customer hereby indemnifies and ~~keep~~ TPF keeps the Terminal Operator indemnified in respect of any loss or damage incurred by ~~TPF~~ the Terminal Operator as a consequence of any breach of these Standard Trading Terms and Conditions by the Customer or any act or omission of the Customer, and/or its servants, agents or contractors ~~Representatives~~ constituting negligence, gross negligence or wilful misconduct or any defect in the performance by the Customer of its obligations in terms of these Standard Trading Terms and Conditions or inaccuracy of any information provided by the Customer to the Terminal Operator.*

10.7.2. *The Customer must incorporate in its bills of lading or other contracts of carriage to be issued in respect of Cargo carried on any of the Customer's vessels a clause providing that ~~TPF~~ the Terminal Operator, its stevedores, ~~servants, agents and contractors~~ Representatives have the benefit of the provisions of the bill of lading or other contract of carriage, and of any limitation of liability provided for therein. ~~TPF~~ The Terminal Operator on its own behalf and on behalf of its stevedores, ~~servants, agents and contractors~~ Representatives hereby accepts such benefit. The incorporation in such bills of lading of a clause as intended in this Clause ~~8.3.3~~ 10.7.2 must not be construed as in any way derogating from the provisions of and limitations*

contained in Clause ~~8.2.2~~ 10.1 to 10.4 above nor will it in any way prejudice ~~TPF~~ the Terminal Operator in asserting the limitations provided for in Clauses ~~8~~ 10.1, 8 10.2, 8 10.3 and 8 10.4 above.”

Ad clause 10.8: Prescription for Legal Actions (previously clause 8.8)

17. Page 9 by adding the following underlined insertions and deleting the strikethrough provisions at clause 10.8.2 (previously clause 8.8.2) as follows:

"10.8.2. Without prejudice to any of the other rights and remedies which ~~TPF~~ the Terminal Operator may have or may acquire under these Standard Trading Terms and Conditions and/or any other applicable laws or contractual provisions, ~~TPF~~ the Terminal Operator is discharged from all liability in respect of any claim, howsoever arising including but not limited to: vessel damage, loss of or damage to the Cargo handled or intended to be handled by ~~TPF~~ the Terminal Operator, unless suit (the institution of formal legal proceedings) against ~~TPF~~ the Terminal Operator is brought and legal process in respect thereof is lawfully served on ~~TPF~~ the Terminal Operator within four hundred and twenty (420) days from the date upon which the event occurred which gave rise to such claim. ("the Time Bar period"). For the purposes of this clause, a day means a day as depicted on the calendar, and includes every day of each week, whether such day be a Saturday, Sunday or Public Holiday in South Africa."

Ad clause 11: Damage to Cargo (including Containers) and the Reporting and the Recording of Incidents (previously clause 9)

Ad clauses 11.1 and 11.2: Damage to Cargo (including Containers) (previously clauses 9.1 and 9.2)

18. Page 10 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 11.1.1 to 11.1.3 (previously clauses 9.1.1 to 9.1.3) and 11.1.5 to 11.1.7 (previously clauses 9.1.5 to 9.1.7) as follows:

- "11.1.1. *all Cargo delivered to ~~TPT~~ the Terminal Operator, or received by ~~TPT~~ the Terminal Operator must be in such a condition that is free of damage and/or defects) so as not to render the Cargo unsafe for handling and/or transportation;*
- 11.1.2. *any damage~~—~~and/or defect to any Cargo will forthwith be reported to ~~TPT's~~ the Terminal Operator's Operations Supervisor that is on shift at the time, and recorded either on the Navis system or in writing on the designated form which is to be signed by both Parties, that the Cargo is to be handled by ~~TPT~~ the Terminal Operator at the Terminal, before such Cargo enters or is taken charge of by ~~TPT~~ the Terminal Operator, or delivered to the Customer (or its ~~agent~~—Transporter Representative, transporter or carrier) or leaves the premises of the Terminal, and if the damage and/or defect is not reported as intended in this Clause 9 11.1.2, no liability for such damage and/or defect can or will be attributed to ~~TPT~~ the Terminal Operator. Removal of allegedly damaged and/or defective Cargo from the Terminal premises, either via truck or vessel, will be deemed to constitute delivery of the Cargo as described in the Bill of Lading;*
- 11.1.3. *any damage to any vessel will forthwith be reported to ~~TPT~~ the Terminal Operator Operations Supervisor that is on shift at the time the damage occurs or is discovered in accordance with the relevant reporting form, and the shift vessel Master shall be responsible to report such damage prior to the vessel leaving the port, failing which ~~TPT~~ the Terminal Operator shall not be held liable under any circumstances for such damage once the vessel leaves the port without reporting the alleged / said damage.*
- ...
- 11.1.5. *where Cargo which has been imported is found to be damaged and/or defective upon delivery, such Cargo will not be removed from the premises of the Terminal, unless the landing and shipping order has been signed and endorsed or the Electronic Data Interchange ("EDI") electronic release has been confirmed by ~~a~~TPT's the Terminal Operator's Claims Examiner, certifying that the Cargo was delivered to the Customer or its duly authorised representative in a damaged and/or defective condition. ~~TPT~~ The Terminal Operator shall remain indemnified at all times in respect hereof by the Customer;*

11.1.6. *unless the Customer alleges, notifies ~~TPF~~ the Terminal Operator thereof and can prove patent damage to Cargo ~~on~~ upon receipt thereof, ~~it~~ such Cargo is deemed to have been received into ~~its~~ the Customers custody, ~~it is deemed to have been received in good order and condition and the onus is on the Customer to prove the contrary;~~*

11.1.7. *unless ~~TPF~~ the Terminal Operator is advised and/or notified of patent damage to Cargo on delivery thereof from ~~TPF~~ the Terminal Operator to the Customer or its ~~agent~~ Representative or transporter and prior to it leaving the Terminal, it is deemed to have been received by the Customer in good order and condition."*

19. Page 11 by adding the following underlined insertions and deleting the strikethrough provisions at clause 11.2 (previously clause 9.2), as well as at 11.2.1 and 11.2.2 (previously clauses 9.2.1 and 9.2.2), as follows:

"11.2. *Where a container which is to be exported is damaged and/or defective, and upon inspection, is found to be leaking, ~~TPF~~ the Terminal Operator will contact the Customer in order to request instruction as to whether the damaged and/or defective container can still be loaded for shipping or should be left in the damaged container stacking area. Should the Customer fail to provide ~~TPF~~ the Terminal Operator with their instruction within a reasonable time, or in any case ~~no later than 8~~ (within eight (8) hours prior to the vessel sailing, ~~TPF~~ the Terminal Operator may exercise its sole discretion in making a decision as to what ~~to do~~ should be done with the damaged and/or defective container.*

11.2.1. *In the event of a damaged and/or defective container being loaded on the vessel, either upon the express instruction of the Customer, or ~~upon~~ at the discretion of the ~~TPF~~ Terminal Operator where the Customer has failed to provide an instruction within a reasonable time, the Customer agrees to indemnify the ~~TPF~~ Terminal Operator against any and all claims arising as a result of such action.*

11.2.2. *Unless containers have been damaged and/or rendered defective by TPT the Terminal Operator, any costs associated with the clean-up and/or remediation of the Terminal and/or marine environment due to pollution caused by a leaking container, will be borne by the Customer."*

Ad clause 11.3: Reporting and Recording of Incidents (previously clause 9.3)

20. Page 11 by adding the following underlined insertions and deleting the strikethrough provisions at clause 11.3.1 (previously clause 9.3.1) as follows:

"11.3.1. immediately, and before the Customer and/or its Representatives, ~~agents and contractors~~ leave or, exit the Terminal, report to ~~TPT's~~ the Terminal Operator's Operations Supervisor on shift and not any time thereafter, any incident at the Terminal giving rise to death of or injury to any person, and/or loss of and/or damage to property of any nature;"

Ad clause 11.4: Claims (previously clause 9.4)

21. Page 12 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 11.4.2, 11.4.3 and 11.4.6 (previously clauses 9.4.2, 9.4.3 and 9.4.6) as follows:

"11.4.2. The Customer must submit all claims in respect of losses allegedly suffered by the Customer arising from an incident, together with full supporting documentation to the relevant Terminal, either by way of pre-paid registered post or electronic mail, within ~~sixty (60)~~ ninety (90) days from date of the incident, failing which no liability will attach to ~~TPT~~ the Terminal Operator, unless the Customer can demonstrate that it was not possible to make the claim within this period but that the claim was made as soon as reasonably practicable subject to ~~Clause 8.7.2 above~~ 10.7.2 above. In order for the Terminal Operator to consider the late filing of the supporting documentation the Customer is to seek condonation for the late filing of the supporting documentation which shall be accompanied by reasons for such late filing.

11.4.3. In the case of damage to a vessel or alleged wrong stowage, the Customer or vessel Master must submit notice thereof immediately of such damage or bad stowage, prior

to the vessel leaving the port, to ~~TPF's~~ the Terminal Operator's Operations Supervisor on shift and ~~TPF's~~ the Terminal Operator's Operations Supervisor must be afforded an opportunity to inspect such damage or bad stowage, as well as given an opportunity to correct same, failing which, no liability will attach to ~~TPF~~. the Terminal Operator. Only Customer damage reports that are stamped and signed by ~~TPF's~~ the Terminal Operator's Supervisor on the shift on which the incident took place will be regarded as valid by ~~TPF~~ the Terminal Operator and investigated as an incident.

...

11.4.6. All claims in respect of incidents that are not covered by any of ~~TPF's~~ the Terminal Operator's insurance portfolios will ~~have to~~ be investigated by, and ~~be~~ deliberated and decided upon by the Terminal Claims Committee, which meets monthly. In the event of the Customer not accepting any decision of the Terminal Claims Committee, the Customer has the option to elevate the claim to the Appeals Claims Committee within fourteen (14) calendar days from the date of the outcome communicated by the Terminal Claims Committee, failing which an application for condonation will need to be made to the Terminal Operator Appeal Committee Chairperson, in the prescribed format that can be obtained from the Legal Department."

Ad clause 12: Indirect or Consequential Damages (previously clause 10)

22. Page 13 by deleting the strikethrough provisions as follows:

"Neither Party shall be liable for any consequential damages suffered by the other for any reason whatsoever. For purposes of these Standard Trading Terms and Conditions, consequential damages shall mean indirect damages or losses or special damages (~~whether within the contemplation of the Parties at the time of entering into the contract or not~~), resulting from the act or omission, which terms shall include, without limitation, any loss of profit, demurrage or any damages or loss incurred relating to such delay, loss of business or trade, loss of production, loss of use, loss of contract, loss of opportunity or wasted overheads (which will include but not necessarily be limited to ~~packing and repacking~~, cargo dues, storage charges, documentation costs, sea freight charges, insurance costs) or loss of business reputation or business opportunities suffered by the other Party as a consequence of the damage suffered by that Party."

Ad clause 13: Force Majeure Events (previously clause 11)

23. Page 13 by adding a new clause 13.3 as follows:

"13.3. In the event of a Force Majeure Event arising which results in non-performance by a Party of its obligations in terms hereof, such party shall be required to declare such Force Majeure Event within twelve (12) hours of the Force Majeure Event arising to the other Party and provide the supporting documentation and/or information reasonably necessary to assess whether in fact the event claimed is to be regarded as a Force Majeure Event. The Party claiming the occurrence of a Force Majeure Event must further indicate to the other what reasonable steps it has taken or aims to take in order to remedy the Force Majeure Event and to minimise the effect of such circumstances upon the performance of its obligations under these Standard Trading Terms and Conditions."

STANDARD TERMS AND CONDITIONS FOR ALL VISITORS (AS DEFINED) TO TRANSNET PORT TERMINALS' RO-RO, BREAK-BULK AND AGRICULTURAL, BULK, RO-RO AUTOMOTIVE TERMINALS AND INLAND TERMINALS (ANNEXURE "A")

24. In accordance with the new clause 5 of the Standard Trading Terms and Conditions: Standard Terms for all Visitors to the Terminal Operators Terminals (note paragraph 8 above), by adding the terms and conditions for all Visitors as Annexure "A" to the Standard Trading Terms and Conditions (such terms and conditions having previously been contained in a separate document)².

The below is a list of changes that have been made to the provisions or content of Annexure "A". Please note that for practical purposes not all amendments may be specified hereunder, but particular attention should be paid to the following:

Ad clause 2: Definitions

25. Page 22 by deleting "TPT" as the term defined at clause 2.4 and replacing same with "the Terminal Operator", which change has been effected throughout Annexure "A", where applicable.

Ad clause 3: Access to and from the Terminal

26. Page 23 by adding a new clause 3.8.2.5 as follows:

"3.8. No Visitor, AMV or RHV may enter the Terminal, or be on the premises of the Terminal, unless:

3.8.1. the Visitor is in possession of an Entry Permit authorising access to or exit from the Terminal; and

² Standard Trading Terms and Conditions for All Visitors (As Defined) to Transnet Port Terminals RoRo, Break-Bulk and Agricultural, Bulk, RoRo Automotive and Inland Terminals effective 01 April 2020 until 31 March 2021.

3.8.2. *prior to the desired or intended entry, the Customer has established and verified, to the satisfaction of the authorised representative of the Terminal, that the Visitor is in possession of:*

...

3.8.2.5. Truck Card (RFID card) required for entry via the Terminal auto gate system."

Ad clause 4: Overloading of CRHV/RHV

27. Page 24 and 25 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 4.2 and 4.4 as follows:

"4.2. *The Customer and/or its agent or the Customer's Representative shall inform ~~TPF~~ the Terminal Operator of the accurate weight of the Container(s) to be loaded onto the CRHV/RHV and this information ~~should~~ must be forwarded to the Terminal ~~not more than~~ at least one (1) hour before the Estimated Time of Arrival of the CRHV/RHV at the Terminal. Such submission shall be sent as a written submission with a clear declaration as to the payload of such RHV and/or the distribution of such Container(s) on a CRHV/RHV.*

...

4.4. *The Customer is bound by the determinations made under this Clause 4 and the records of those determinations, which determinations shall remain in the absolute sole discretion of ~~TPF~~ the Terminal Operator in the absence of manifest error."*

Ad clause 5: Compliance with ISPS Code

28. Page 25 by adding the following underlined insertions and deleting the strikethrough provisions as follows:

"The Customer and its Visitors must comply in every respect with the ISPS Code. Without limiting the generality of the foregoing sentence, the Customer and its Visitors must ensure that..."

Ad clause 6: Security

29. Page 26 by adding new clauses 6.11 to 6.16 as follows:

6.11. Where a Customer uses sub-contractor trucks instead of their trucks, details of every single truck must be disclosed to the Terminal Operator with the following details - sub-contractor company name, company registration number, truck registration number and vin number, license number, license expiry date, make and model of truck, road worthy certificate. For the sub-contractor driver clause 5.4 above must be applied.

6.12. All RFID (Radio Frequency Identification) cards not used within 30 (thirty) days shall be deemed to be invalid and will be deactivated by the Terminal Operator. The Terminal Operator shall not be obligated to inform or advise the Customer or Visitor of such deactivation so as to ensure safety and security of the terminal.

6.13. A RFID card issued to a Customer's specific truck cannot be used for any other truck.

6.14. The Customer or its appointed agent 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 and no liability shall accrue to the Terminal Operator for any loss, theft, or damage sustained by the Customer, its agents, affiliates or cargo owners in the event that the Customer failed to fulfil its obligation in this regard.

6.15. If the issued RFID cards to the Customer have been lost or misplaced or stolen, the Customer, its agent or its appointed transporter shall notify the Terminal Operator in writing, within 12 (twelve) hours of becoming aware thereof to the relevant central email address provided to the Customer by the relevant Terminal Operator representative, and the Terminal Operator will de-activate the card, failing which same shall be regarded as a material breach of these Standard Terms and Conditions.

6.16. 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, its agent or transporter must 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: RHV

30. Page 27 by adding new clauses 9.3 and 9.4 as follows:

The Customer shall be responsible for ensuring that and undertakes that:

"9.3. all headboards, sideboards, tailboards and/or stanchions fitted to each RHV will be removed by it from each RHV prior to any RHV 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 RHV's headboards, sideboards, tailboards and/or stanchions on loading and off-loading by the Terminal Operator;

9.4. all plant, machinery, equipment and/or breakbulk cargo will be removed by it from each RHV prior to any RHV entering the premises of the Terminal;"

Ad clause 16: Damage to Containers

31. Page 30 by adding the following underlined insertions and deleting the strikethrough provisions at clauses 16.2 to 16.4 as follows:

"16.2. a Visitor will immediately report any damage to any container or cargo to a ~~TPF~~ the Terminal Operator's Operations Supervisor that is on shift at the time, at the exit/entry gate of the Terminal and ensure that this is recorded either on the Navis system or in writing on the designated form which is to be signed by both Parties, before such containers or cargo enters or leaves the premises of the Terminal, before such container enters or leaves the premises of the Terminal and if damage is not reported as intended in this clause 16.2 the removal of an allegedly damaged

container from the Terminal premises will be deemed to have constituted delivery of the container and its cargo, in good order and sound condition, as described in the Bill of Lading;

16.3. *where a container or cargo which has been imported is found to be damaged or defective upon delivery, such container or cargo will not be removed by it from the premises of the Terminal, unless the CTO, EDI release message or LSO has been signed and endorsed by a Terminal Claims Examiner, certifying that the containers or cargo was delivered to the Customer (or it's Visitor) in a damaged or defective condition and where the procedure prescribed in this clause 16.3 has not been followed in respect of any allegedly damaged or defective container or cargo, such container and its cargo will be deemed to have been in good order and in sound condition;*

16.4. *where a container which is being exported is found to be damaged or defective upon delivery, such container will not be accepted into the premises of the Terminal, unless written notification from the Customer or its agent has been received in writing. In the absence of such notification, once the vessels sails and no damages or defects had been reported to ~~TPF~~ the Terminal Operator before sailing, ~~TPF~~ the Terminal Operator will not be liable for any damages or defects subsequently reported to the container or cargo, and the container and its cargo will be deemed to have been in good order and in sound condition;"*

32. Page 30 by adding a new clause 16.5 as follows:

"16.5. where a container which is to be exported is damaged and/or defective, and upon inspection, is found to be leaking, the Terminal Operator will contact the Customer in order to request instruction as to whether the damaged and/or defective container can still be loaded for shipping or should be left in the damaged container stacking area. Should the Customer fail to provide the Terminal Operator with their instruction within a reasonable time, or in any case within eight (8) hours prior to the vessel sailing, the Terminal Operator may exercise its sole discretion in making a decision as to what should be done with the damaged and/or defective container and the Terminal Operator will not accept any risk or liability in respect thereof."

Ad clause 22: Reporting and Recording of Incidents:

33. Page 33 by adding the following underlined insertions and deleting the strikethrough provisions at clause 22.1.2 as follows:

"22.1.2. *within ~~thirty~~ (30 twenty one (21) days of the happening of the event that could give rise to the claim, the Customer gives written notice thereof to the Terminal, which notice must contain all material facts on which the claim is based, and thereafter, irrespective of whether or not the claim is repudiated by the Terminal;"*

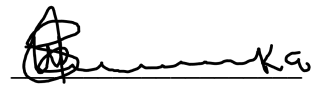
34. Page 33 by adding the following underlined insertions and deleting the strikethrough provisions at clause 22.2.4 as follows:

"22.2.4. *submit all claims in respect of losses allegedly suffered by the Customer, together with full supporting documentation to the relevant Terminal by pre-paid registered post. In the case of damage to a vessel, the Customer must forthwith submit notice of such damage to ~~TPF~~ the Terminal Operator's Operations Supervisor that is on shift at the time that the damage occurs or is discovered, prior to the sailing of the vessel and ~~TPF the Terminal Operator~~ must be afforded an opportunity to inspect such damage and an investigation report completed and signed by ~~TPF the Terminal Operator's Operations Supervisor~~ and the vessel master prior to the vessel leaving the Terminal, failing which the Terminal Operator shall not be held liable under any circumstances for such damage once the vessel leaves the port without reporting the alleged / said damage."*

Concluding Remarks

A copy of the STCs, inclusive of Annexure "A" thereto, 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



Mr Siyabulela Mhlaluka
General Manager: Sales and
New Business Development
Transnet Port Terminals
Date: