

STANDARD TRADING TERMS & CONDITIONS

1. DEFINITIONS

In these conditions:

- 1.1 **Authority** is any duly constituted legal or administrative person, acting within its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport.
- 1.2 **Company** is Grindrod Intermodal - A division of Grindrod (South Africa) (Pty) Limited.
- 1.3 **Container** for the purposes of Part III of these Conditions means an International Standards Organisation Container and for all other Parts of these Conditions includes, unless otherwise indicated, any vehicle, container, flat, pallet, trailer, transportable tank and similar items used for the consolidation of goods as well as mobile plant and timber Packages.
- 1.4 **Customer** means any person, whether themselves an agent or a principal, at whose request or on whose behalf the Company provides or procures the provision of a service.
- 1.5 **Dangerous Goods** includes goods that are or may become of a dangerous, inflammable, radioactive or damaging nature, goods liable to taint or affect other goods and goods likely to harbour or encourage vermin or other pests.
- 1.6 **Goods** includes the cargo and any container not supplied by or on behalf of the Company, in respect of which the Company provides or procures the provision of a service.
- 1.7 **Goods of High Value** includes bullion, precious stones, bank notes or coins, bonds, negotiable instruments or securities of any kind, cigarettes, spiritous liquor, precious metal objects, precious jewellery, valuable works of art, antiques, human remains, livestock, bloodstock, pets and plants.
- 1.8 **Instructions** means a statement of the Customer's specific requirements.
- 1.9 **In writing/written** means by letter, facsimile or email.
- 1.10 **Owner** includes the owner, shipper and consignee of the Goods and any other Person who has or may have a legal or equitable relationship to the Goods at a relevant point of time and anyone acting on their behalf.
- 1.11 **Person** includes persons or any body or bodies corporate.
- 1.12 **"SDR"** means a Special Drawing Right and shall be as defined by the International Monetary Fund and its value shall be calculated as at the date when settlement is agreed or on the date of judgment, whichever is applicable.
- 1.13 **Vehicle** is any vehicle (including but not limited to any lorry, van, trailer or car).

PART I: GENERAL CONDITIONS

2. APPLICATION

- 2.1 All activities of the Company in the course of business, whether gratuitous or not, are subject to:
 - 2.1.1 the provisions of Part I of these Conditions and, to the extent applicable, Parts II and III of these Conditions; and
 - 2.1.2 the provisions of the Company's or another applicable Tariff, if any.
- 2.2 The following provisions shall be paramount in so far as such provisions are inconsistent with Part I of these Conditions:
 - 2.2.1 the provisions of Part II of these Conditions, to the extent that the Company arranges the Carriage of Goods and Containers by rail and any services connected therewith or undertakes certain documentary services described therein;

2.2.2 the provisions of Part III of these Conditions, to the extent that the Company provides the services of cleaning and repair of Containers and any services connected therewith.

2.3 In so far as these Conditions are inconsistent with the provisions of any applicable Tariffs, Contracts and the terms and conditions of the Company insurance policies these Conditions shall be paramount.

2.4 Copies of the provisions of any applicable Tariffs, Contracts and terms of insurance policies are obtainable from the Company upon written request.

3. OBLIGATIONS OF CUSTOMER

- 3.1 The Customer contracts and agrees with the Company on behalf of himself and as agent for all Persons who have or may acquire any proprietary possessory or other rights in respect of Goods, Containers or Vehicles to be bound by the terms of these Conditions and by the terms of any applicable Tariff and warrants that he has the authority of all such Persons to contract and to agree as aforesaid.
- 3.2 The Customer shall give sufficient and executable Instructions and information to carry them out.
- 3.3 The Customer warrants that the description and particulars of the Goods and Containers (including, but not limited to, weight, content, measure, quantity, condition, marks, numbers and value) are complete and accurate and that the Goods and Containers are labelled in compliance with all laws, regulations and requirements that may be applicable.
- 3.4 The Customer warrants that the Goods and empty and full Containers are:
 - 3.4.1 properly prepared, packed, stowed, labelled and/or marked;
 - 3.4.2 packed and secured in a manner adequate to withstand normal handling, storage and transportation; and
 - 3.4.3 in compliance with all laws, regulations and requirements that may be applicable.

In addition to sub-clauses 3.4.1 to 3.4.3 above, the Customer warrants that he has reasonable knowledge of matters affecting the conduct of his business, including but not limited to the terms of sale and purchase of the Goods and all other matters relating thereto.

3.5 The Customer undertakes to supply the Company with any information concerning the nature of the Goods and their packaging as the Company may reasonably request.

4. SPECIAL INSTRUCTIONS, GOODS AND SERVICES

- 4.1 Unless agreed in writing, the Customer undertakes that no Dangerous Goods shall be delivered to the Company and that the Company shall not be caused to deal with or handle such Dangerous Goods without prior agreement thereto.
- 4.2 If Dangerous Goods in the opinion of the Company or any Authority constitute a risk to other goods, property, life or health such Goods may without notice be destroyed or otherwise dealt with at the sole discretion of the Company and at the risk and expense of the Customer in order to alleviate the risk from materialising.
- 4.3 The Customer undertakes not to tender for transportation and storage of any Goods/containers that require temperature control without previously giving written notice of their nature and particular temperature range to be maintained

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4.4 In the case of a temperature controlled Container stuffed by or on behalf of the Customer by a third party, the Customer further undertakes that:

- 4.4.1 the Container has been properly pre-cooled or preheated as appropriate; and
- 4.4.2 the Goods have been properly stuffed in the container; and
- 4.4.3 its thermostatic controls have been properly set by the Customer or the third party.

If the above requirements are not complied with the Company shall not be liable for any loss of or damage to the Goods caused by such non-compliance.

If the Customer is in breach of 4.1, 4.3 or 4.4 above, the Goods may without notice be refused receipt by the Company, be destroyed or otherwise dealt with at the sole discretion of the Company and at the risk and expense of the Customer.

- 4.5 No insurance will be effected except upon express instruction given in writing by the Customer. All insurance effected by the Company is at the request of the Customer subject to the usual exceptions and conditions of the policies of the insurance Company or underwriters taking the risk.
- 4.6 The Company is an agent of the Customer in respect of effecting insurance and all costs referred to in 4.5 above will be for the customers account.
- 4.7 Unless otherwise agreed in writing, the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy.
- 4.8 Should the insurers dispute their liability for any reason the Insured customer shall have recourse against the insurers only. The Company shall not have any responsibility or liability whatsoever in relation to the insurance notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its customers.
- 4.9 Unless agreed in writing, the Customer undertakes that no goods of High Value shall be delivered to the Company and that the Company shall not be caused to deal with or handle such goods. If such goods are delivered without such agreement, the goods may be refused receipt by the Company or stored elsewhere at the Customer's own risk and expense at the sole discretion of the Company.

5. GENERAL INDEMNITIES

- 5.1 The Customer shall defend, indemnify and hold harmless the Company against all loss, damage, liability, costs and expense whatsoever arising from:
 - 5.1.1 any breach of warranty or obligation by the Customer or arising from the negligence of the Customer or Owner;
 - 5.1.2 any act or omission of the Customer or the Owner or any person acting on their behalf;
 - 5.1.3 the Company complying with the Instructions given by or on behalf of the Customer or Owner;
 - 5.1.4 the Company complying with the requirements of an Authority with regard to the Goods;
 - 5.1.5 the handling, loading, stowage or unloading and transportation of the Goods by the Customer or Owner or any person acting on their behalf;
 - 5.1.6 the nature of the Goods unless caused by the Company's negligence;
 - 5.1.7 the defective condition of or overweight Containers or Vehicles; or
 - 5.1.8 any duty, Value Added Tax, Penalty, amount raised in forfeiture, or any other levies or charges raised by the South African Revenue Services in respect of Goods stored in the Company's Customs bonded/rebate warehouses or Customs licensed depots, unless solely arising from a negligent act or omission on the part of the Company.
- 5.2 Except to the extent caused by the Company's negligence, the Customer and Owner shall be liable for and shall defend, indemnify and hold harmless the Company in respect of all

duties, taxes, imposts, levies, deposits and outlays of whatsoever nature in respect of the Goods, Dangerous Goods and/or Containers levied and for all liabilities, payments, fines, costs, expenses, loss and damage whatsoever incurred or sustained by the Company in connection therewith.

- 5.3 The Customer may, after having discharged its liability and/or obligations under Clauses 5.1.8 or 5.2, bring a claim against the Company under Clause 9.2 in respect of any duties, taxes, imposts, levies, deposits and outgoings arising out of the Company's negligence.
- 5.4 The Customer's bill of lading or other contracts of carriage, handling or storage shall include a provision prohibiting the making of any claim against the Company, its servants or agents, and a provision that the Company, its servants and agents shall have the benefit of any provisions, rights, defences and liberties in such contract of carriage, handling or storage excluding or limiting the liability of the Customer in respect of the Goods, Containers or Vehicles as if such provisions were expressly for their benefit.
- 5.5 The Customer undertakes that no claim shall be made against any servant or agent of the Company which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Goods, Containers or Vehicles and if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.
- 5.6 Without prejudice to the foregoing, every such servant or agent of the Company shall have the benefit of all provisions herein, as if such provisions were expressly for their benefit. In entering into this contract the Company, to the extent of those provisions, does so not only on its behalf but as agent and trustee for such servants and agents.
- 5.7 The Customer shall defend, indemnify and hold harmless the Company from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under the terms of these Conditions and without prejudice to the generality of this clause this indemnity shall cover all claims, costs and demands arising from or in connection with the negligence of the Company, its servants and agents.
- 5.8 In this clause, "agent" includes direct and indirect sub-contractors and their respective servants and agents.
- 5.9 Advice and information in whatever form it may be given is provided by the Company for the Customer and/or Owner only and the Customer and/or Owner shall defend, indemnify and hold harmless the Company for all liability, loss, damage, costs and expenses arising out of any other person relying on such advice or information. The Customer shall not pass such advice or information to any third party without the Company's written consent and the Customer and/or Owner shall indemnify the Company against any loss suffered because of a breach of this condition.

6. RECEIPT

- 6.1 In the event that the service to be rendered is a warehousing, transport or depot service:
 - 6.1.1 Goods, Containers or Vehicles are not received by the Company until the person delivering them has reported to the Company's reception office or area and in addition the Company has expressly agreed to receive the Goods, Container or Vehicle. Such agreement may only be made by an agent of the Company who has actual authority to do so.
 - 6.1.2 The Company may refuse to receive or unload any Goods, Container or Vehicle, at its discretion where it has reasonable cause to do so, including but not limited to, where the Company is not satisfied that arrangements have or will be made for the removal of such Goods, Container or Vehicle.

7. DELIVERY AND DISPOSAL

- 7.1 If any Goods, Container or Vehicle is not removed from the Company's premises or any other place at which they are to be delivered in accordance with the Instructions

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of the Customer within 28 days of the Company having given notice in writing to the Customer, the Company shall be entitled to remove or dispose of such Goods, Container or Vehicle at the sole discretion of the Company and at the risk and expense of the Customer.

- 7.2 If at any time any Goods in the opinion of the Company or any Authority, constitute a risk to other goods property, life, health or Environment, such Goods may without notice be destroyed or otherwise dealt with at the sole discretion of the Company and at the risk and expense of the Customer.
- 7.3 Instructions contained in the Customer's bill of lading, waybill, delivery order, or other documents shall entitle the Company to deliver to the bearer thereof notwithstanding that such bill of lading, waybill, delivery order, or other document provides for delivery to a named party or to his order. The Company is entitled to assume that the person presenting such bill of lading, waybill, delivery order or other document is the person lawfully entitled to take delivery. The Company is not required to verify signatures appearing on such bill of lading, waybill, delivery order, or other document.

8. INSPECTION

- 8.1 The Company will not be liable to the Customer if the quantity, quality, weight etc of the Goods differs from the Customer's description unless the differences are and the Company has the necessary means and knowledge to identify the discrepancies.

9. LIABILITY

- 9.1 The Company shall not be liable for any loss, damage, delay, duty, tax or fine, indirect or consequential loss, non-performance of any obligations, misdelivery, misdirection, costs, expense, death or injury of whatsoever nature and howsoever caused except as specified in clause 9.2 below.
- 9.2 Subject to the exclusions of liability in clause 9.6 and elsewhere in these Conditions, to the extent that it is proved that the claim arises from the negligence of the Company, its servants, agents or sub-contractors, the Company shall be liable for the type of loss or damage set out below subject to the financial limits stated.
- 9.3 In no event shall the Company's liability exceed SDR50,000 for loss of or damage to or in connection with Goods, Containers or Vehicles.
- 9.4 In no event shall the Company's liability exceed SDR75,000 per event or events arising from a common cause.
- 9.5 For the purposes of clause 9.2:
- 9.5.1 the value of Goods is the invoice value plus freight and plus any Customs duty or tax incurred on the Goods in respect of their carriage and not recoverable from any Authority ;
- 9.5.2 the value of the Customer's Container or Vehicle is its lease value if leased by the Customer and if owned by the Customer it is the market value at the date and place where the loss or damage occurred;
- 9.5.3 the value of property other than Goods or the Customer's Container or Vehicle is the market value at the date and place where the loss or damage occurred.
- 9.6 The Company shall not have any liability whatsoever for claims arising from:
- 9.6.1 an act or omission of the Customer or Owner or any person acting on their behalf;
- 9.6.2 the Company complying with the instructions given by^{OR} on behalf of the Customer or Owner;
- 9.6.3 an act or order of any Authority;
- 9.6.4 the insufficiency of the packing, labelling and securing of the Goods or Containers except where such service has been provided by the Company;
- 9.6.5 the handling, loading, stowage or unloading of the Goods by the Customer or Owner or any person acting on their behalf;
- 9.6.6 the nature of the Goods;
- 9.6.7 the defective condition of or overweight Containers or Vehicles;
- 9.6.8 riots, civil commotions, strikes, lockouts, stoppage or restraint of labour,
- 9.6.9 explosion, fire, flood or storm;

- 9.6.10 the breakdown of or failure or any handling equipment of the Company, provided that the Company has complied with such testing and maintenance standards for the equipment as are customary in the Company's business and country;
- 9.6.11 the breakdown of, accident to, failure or interruption of or reduction in the mains electrical supply to the Company, it being agreed that the Company is under no obligation to have available any auxiliary power supply; or
- 9.6.12 any cause which the Company could not avoid and the consequences whereof it could not prevent by the exercise of reasonable diligence.

- 9.7 The Company will not be liable for deterioration of goods due to outdoor storage and weather elements.
- 9.8 Stock losses of up to 3% may occur due to the nature and handling/storage of mining minerals. The Company shall not be liable for any stock losses of up to 3% arising out of or as a result of handling and storage of mining mineral commodities on the Company premises.

10. CHARGES, ETC.

- 10.1 Any quotation given by the Company is valid for a period of 30 days only.
- 10.2 Unless otherwise specified, reference to tonnage in a quotation refers to the greater of the cubic dimensions in cubic meters or weight in metric tonnes (1,000 kilograms).
- 10.3 In the event of the cost to the Company of performing any service increasing for any reason whatsoever subsequent to the Company quoting for it, the charge agreed with the Customer for such service shall be automatically increased accordingly.
- 10.4 The Company shall be at liberty to carry out the Instructions of the Customer in any manner whatsoever, whether it carries out the Instructions or any part thereof of the Customer itself or procures that a third party does so.
- 10.5 Any additional service that the Company is obliged or entitled to provide that has not been quoted for shall be charged at its usual charge or, if it has no usual charge, at a reasonable charge.
- 10.6 The Customer shall pay to the Company upon demand in advance such amounts as the Company may from time to time request in respect of anticipated disbursements.
- 10.7 The Customer shall pay to the Company in cash or as agreed all sums within thirty days of the date of the Company's invoice without reduction or deferment on account of any claim, counterclaim or set-off.
- 10.8 When the Company is instructed to collect freight, duties, charges or other expenses from any person other than the Customer, the Customer shall be responsible for the same on receipt of evidence of demand and non payment by such other person when due.
- 10.9 On all amounts overdue to the Company, the Company shall be entitled to interest at the maximum rate permitted in law during the period that such amounts are overdue.

11. LIEN

- 11.1 The Company shall have a particular and general lien on all Goods, Containers and/or Vehicles and/or documents relating thereto in its possession for all sums of whatsoever kind and nature due at any time from the Customer or Owner and on giving 28 days notice in writing to the Customer, shall be entitled to sell or dispose of such Goods, Containers and/or Vehicles and/or documents at the expense of the Customer and without any liability to the Customer and Owner and apply the proceeds in or towards the payment of such sums. Upon accounting to the Customer for any balance remaining after payment of any sum due to the Company and the costs of sale or disposal the company shall be discharged of any liability whatsoever in respect of the Goods, Containers and/or Vehicles and/or documents. If on the sale of the Goods, Containers and/or Vehicles and/or documents the proceeds fail to realise the amount due, the Company shall be entitled to recover the difference from any of the parties included in the terms Customer or Owner.
- 11.2 In any event any lien shall:
- 11.2.1 survive the delivery of the goods; and
- 11.2.2 extend to cover the cost of recovering any sums due;

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and for that purpose the Company shall have the right to sell the Goods, Containers and/or Vehicles and/or documents by public auction or private treaty, without notice to the Customer and/or Owner and at the Customer and/or Owner's expense and without any liability towards the Customer and/or Owner.

12. NOTICE OF LOSS, TIME BAR

12.1 The Company shall be discharged of all liability unless:

- 12.1.1 notice of any claim is received in writing by the Company or its agent within 14 days after the date specified in 12.1.3 to 12.1.5 below, except where the Customer can show that it was impossible to comply with this time limit and that the claim has been made as soon as it was reasonably possible so to do; and
- 12.1.2 suit is brought in the proper forum and written notice thereof received by the Company within 9 months after the date specified in sub-clause 12.1.3 to 12.1.5 below;
- 12.1.3 in the case of loss or damage to Goods, the date of delivery of the Goods;
- 12.1.4 in the case of delay or non-delivery of the Goods, the date that the Goods should have been delivered;
- 12.1.5 in any other case, the event giving rise to the claim;

otherwise any claim shall be deemed to be waived and absolutely barred.

13. MISCELLANEOUS

- 13.1 The Company is entitled to supplement and amend these Conditions and such shall take effect thirty days thereafter.
- 13.2 Heading of clauses or groups of clauses in these conditions are for indicative purposes only.
- 13.3 Any notice served by post shall be deemed to have been received on the third day following the day on which it was posted to the address of the recipient of such notice last known to the Company.
- 13.4 The defences and limits of liability provided for by these Conditions shall apply in any action against the Company no matter what the cause of action.
- 13.5 If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions be repugnant to such legislation to any extent such part shall as regards such business be overridden to that extent and no further.
- 13.6 No servant or agent of the Company shall have power to waive, vary or amend any of the terms here of unless such waiver variation or amendment is in writing and is authorised or in writing by a director of the Company who has the actual authority of the Company so to waive vary or amend.

14. JURISDICTION AND LAW

These Conditions and any claim or dispute arising out of or in connection with the services of the Company shall be subject to South African law and any such claim against the Company shall be subject to the exclusive jurisdiction of the Durban & Coast Local Division of the High Court of South Africa. Any claim or dispute brought by the Company against the Customer arising out of or in connection with an agreement with it or a service of the Company shall be subject to the non-exclusive jurisdiction of the division of the High Court of South Africa nominated by the Company in respect of the claim concerned, to which the Customer submits.

PART II: RAIL AND CERTAIN DOCUMENTARY SERVICES ARRANGED BY THE COMPANY

15. The indemnities etc in Part I above apply also to Parts II and III below.

- 16. If the Company arranges the carriage of Goods or Containers by rail and any handling or storage connected therewith, it does so solely as an agent for the Customer and shall not be liable for the acts or omissions of Transnet Limited trading as Transnet Freight Rail and despite utilising the Company's rail account for procuring such services.
- 17. All such transport shall be contracted in accordance with Transnet Freight Rail's standard conditions, tariffs and insurances applicable at the time of performing the transport, whether or not less favourable than the terms in Part I of these Conditions.
- 18. In addition, the Company acts as an agent when providing services in respect of or relating to customs requirements, taxes, licenses, consular documents, of origin, inspection and other similar services and despite the Company being the holder of such permits or licenses.
- 19. Nonetheless, the remuneration for such service shall be payable by the Customer to the Company.
- 20. With regard to any such service procured by the Company on behalf of the Customer, except to the extent caused by the Company's negligence, the Customer shall defend, indemnify and hold harmless the Company in respect of all liability, loss, damage, costs or expenses arising out of any contracts made.
- 21. In the event of a claim in respect of such service, the Company shall provide the Customer with particulars of the identity, services and charges of Persons instructed to perform them to the extent that such particulars are relevant to the Customer's claim.

PART III:

COMPANY PROVIDING SERVICES FOR CLEANING AND REPAIR OF CONTAINERS AND ANY SERVICES CONNECTED THEREWITH

- 22. Subject to clause 13.4 above, if the Company provides services for cleaning or repair of Containers and any services connected therewith, the Company shall not be liable for any improper performance or non-performance of such services, or any consequences whatsoever arising therefrom, except to the extent provided in this Part III.
- 23. The Company's liability shall not exceed the reasonable cost of rectifying the services improperly or not performed by the Company, subject to a limit per Container of that Container's market value.
- 24. At the Company's sole discretion, the Company may rectify at its own expense the services improperly or not performed. If the Company exercises this option, or is not given an opportunity by the Customer to exercise this option, the Company shall not be liable for any costs incurred by the Customer or any other person in rectifying such services.
- 25. The Customer undertakes to inspect the Container on redelivery to the Customer or such other person as is required. The Company shall not be liable and the Customer shall defend, indemnify and hold harmless the Company against any loss, damage, liability, cost and expense in respect of or arising from improper or non performance of the Company's services which would have been apparent upon reasonable inspection of the Container at the time of redelivery and was not brought to the Company's attention in writing at the time of redelivery. This indemnity is in addition to the indemnities in Part I of these Conditions.
- 26. The Company shall be discharged of all liability unless:

26.1 notice of any claim is received in writing by the Company or its agent within 14 days after the date specified in 26.2.1 to 26.2.3 below, except where the Customer can show that it was impossible to comply with this time limit and that the claim has been made as soon as it was reasonably possible so to do; and

26.2 suit is brought in the proper forum and written notice thereof received by the Company within 9 months after the date specified in 26.2.1 to 26.2.3 below.

26.2.1 in the case of loss or damage to Containers the date of delivery of the Containers;

26.2.2 in the case of delay or non-delivery of Containers the date that the Containers should have been delivered;

26.2.3 in any other case, the event giving rise to the claim.

otherwise any claim shall be deemed to be waived and absolutely barred.

Signed _____ Company Stamp _____ Witness _____

Name: _____ Capacity: _____ Witness _____

Email Address: _____ Date _____