



# GRAYMONT

## GRAYMONT CUSTOMER PORTAL

### Terms and Conditions

This Customer Portal ("**Portal**") is owned by, and operated for, Graymont Limited. Use of the terms "Graymont" or "Seller" means Graymont Limited and/or one or more of its subsidiaries, as may be applicable. Use of the terms "Purchaser", "you" or "your" means a user of the Portal. The Graymont's [Legal Notice](#) as found on [www.graymont.com](http://www.graymont.com) website and updated from time to time is incorporated into and forms a part of these Terms.

Unless stated otherwise herein, the following terms and conditions ("**Terms**") apply to your use of the Portal and govern the purchase and sale of any order for lime or limestone product ("**Product**") that you submit through the Portal (each the "**Order**"). By placing the Order for Product through the Portal, you agree to these Terms. Any terms and conditions contained in any purchase order issued by you for Product will not apply to the Order. If you have separately entered an agreement with Graymont for the supply of Product ("**Supply Agreement**") then, in the event of a conflict between these Terms and the terms of the Supply Agreement, the terms of the Supply Agreement will take precedence.

In consideration of the mutual undertakings contained herein, the parties agree as follows:

1. **Product.** Seller will supply and Purchaser will purchase the Product specified in the Order.
2. **Price:** The Product price charged to Purchaser ("**Price**") is in short tons for United States customers and in metric tonnes for Canadian customers.
3. **Price Adjustments:** Seller reserves the option to review the current Price and implement adjustments to the Price as and when required, by providing at least 30 days' notice in advance of such changes taking effect.
4. **Taxes and other costs:** The Price is for the Product only and does not include: (i) unless otherwise communicated by Graymont, any costs associated with transporting Product from Seller's site; (ii) any applicable taxes; (iii) any fuel or energy surcharges; or (iv) any applicable demurrage, detention charges, and Sunday and holiday charges. Any such costs or charges referenced in this paragraph shall be charged by Seller to Purchaser and paid for by Purchaser.
5. **Production Costs Surcharge:** In addition to any other provision in these Terms relating to adjustments to the Price or surcharges, upon 15 days prior written notice to Purchaser, Seller may charge Purchaser a surcharge additional to the Price to account for increases in the cost of fuel and other energy sources used to produce the Product. Seller intends to base its determination of the surcharge on Producer Price Index for Bituminous Coal Underground Mining (PCU212112212112). This surcharge may be reviewed at the next occurrence of Price adjustments under these Terms. Notwithstanding the foregoing, Seller will not pass on to Purchaser any costs that result from the breach by Seller of any applicable laws, rules or regulations.
6. **Government Caused Costs:** In addition to any Price adjustments permitted by these Terms, the Price may be adjusted for any change in the cost to Seller of producing or supplying Product which change is attributable to any federal, provincial or local statute, regulation, order, standard or directive whether or not currently in force. Such change in cost will be assessed by Seller and reported to Purchaser on or after the effective date attributable to the government action or imposed by the applicable government agency and the Price will be changed as at the effective date of such change. Although it is not

the intent of this paragraph to pass on changes in such things as income tax rates, it is intended to pass on such items as sales taxes, value added taxes, business transfer taxes, goods and services taxes, costs to comply with new environmental standards not existing at the time of entry into these Terms, royalties, severance taxes, or any other items resulting from acts of government (all levels) that impose a direct pre-income tax burden on Seller. Notwithstanding the foregoing, Seller will not pass on to Purchaser any costs which result from the breach by Seller of any applicable laws, rules or regulations.

7. **Payment Terms:** Purchaser must pay invoices net 30 days from the date of invoice. Seller reserves the right to review its assessment of Purchaser's creditworthiness and to adjust, in Seller's sole discretion, the terms of payment from time to time, including requesting payment security.
8. **Orders:** Purchaser must place Orders at least 7 days in advance of the requested delivery date. Seller, in its sole discretion, may decline to fill, or may terminate, any Order placed by Purchaser.
9. **Delivery:** Unless otherwise agreed with Purchaser, Seller will deliver the Product to the delivery point specified in the Order on the specified delivery date(s). Seller may charge Purchaser for any costs incurred by Seller arising from any addition, cancellation or re-scheduling of the Order that is received by Graymont's order desk after 3:00 pm, local time, on the day before the scheduled delivery date of the Order.
10. **No Resale:** The Product sold under these Terms is for Purchaser's use only and Purchaser must not sell the Product to a third party.
11. **Weights:** Weights used for invoicing are those weights provided by Seller's facility scales, which will be regularly maintained and legally certified and open to verification by the Purchaser.
12. **Title and Risk of Loss:** Title to, and risk of loss of, the Product supplied pursuant to any Order will pass from Seller to Purchaser when the Product is placed or unloaded, as applicable, at the delivery point specified in the Order, or when payment for the Product is received by Seller, whichever is earlier.
13. **Force Majeure:** Purchases or acceptance of the Product may be delayed or suspended by Seller or Purchaser in the event of any circumstance not within the reasonable control of the party affected if and to the extent that (i) such circumstance, despite the exercise of reasonable diligence, cannot be, or be caused to be, prevented, avoided or removed by such party, and (ii) such circumstance materially and adversely affects the ability of the party to perform its obligations hereunder (other than the obligation to pay a sum of money), and such party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the party's ability to perform its obligations to the other and to mitigate the consequences thereof ("**Force Majeure**"). Examples of events that may give rise to Force Majeure include: Acts of God, epidemic, pandemic, war, riot, fire, explosion, accident, flood, sabotage, inability to obtain fuel, power, raw material, labor, containers or transportation; governmental laws, regulations, orders or actions, including but not limited to sanctions; breakage or failure of machinery or apparatus, suspension of operations by Purchaser or Seller due to economic reasons; national defense requirements. Despite the foregoing, neither party will be obliged to settle any strike, lock out, work stoppage, labor dispute or such other industrial action by its employees. The party affected by Force Majeure must promptly notify the other of Force Majeure and its anticipated duration and must use reasonable efforts to end Force Majeure as soon as possible.

14. **Warranty and Liability:** The Seller makes no warranty of the merchantability, use, quality, fitness or otherwise, whether expressed or implied, arising in contract, in tort, in equity, under statute or as a result of any other form of action or source of liability, other than that the Product's typical analysis is as described in any Technical Data Sheet provided by Seller. The above contains the only warranty of Seller to the extent permitted by applicable law. Seller's liability for any Order is limited to the amount paid by Purchaser for such Order. Purchaser agrees to inspect the Product supplied hereunder promptly after delivery and to give notice in writing to Seller of any claim within two (2) weeks after the date of delivery. Notwithstanding any other term to the contrary no party will be liable to the other party for any loss of use or loss of opportunity or for any consequential, incidental, punitive or special damages arising out of or in connection with the supply of Product by Seller to Purchaser.
15. **Indemnities:** Purchaser will indemnify and save harmless Seller from and against all claims, actions, losses, expenses, costs or damages of every nature and kind (including reasonable legal fees) which Seller may suffer as a result of a breach of these Terms by Purchaser or the negligence of Purchaser in connection with any Order. Seller will indemnify and save harmless Purchaser from and against all claims, actions, losses, expenses, costs or damages of every nature and kind (including reasonable legal fees) which Purchaser may suffer as a result of a breach of these Terms by Seller or the negligence of Seller in connection with any Order.
16. **Confidentiality:** Purchaser agrees to keep confidential and not to disclose to any third party the terms of these Terms or any other terms of the supply arrangement between Seller and Purchaser, including the Price.
17. **Governing Law and Dispute Resolution:** The parties agree that the validity, interpretation and performance of these Terms will be governed by the laws of the Province (Canada) or State (United States) from which Seller supplies the Product. All disputes arising out of or in connection with these Terms, or in respect of any legal relationship associated therewith or derived therefrom, will be referred to and finally resolved by confidential, binding arbitration.
18. **Assignment:** Purchaser may not assign or transfer its rights under these Terms without the prior written consent of Seller.
19. **Binding Effect:** These Terms will be binding on the successors and assigns of Purchaser and Seller.
20. **Language:** The parties have expressly requested that these Terms and any notices relating hereto be drafted in the English language. *Les parties aux présentes ont expressément exigé que la présente entente ainsi que les avis s'y rapportant soient rédigés en anglais.*