



**GRAYMONT**

**GRAYMONT CUSTOMER PORTAL  
TERMS & CONDITIONS**

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This Customer Portal (“**Portal**”) is owned by, and operated for, Graymont Limited. Where we say “we”, “us” or “our”, we mean Graymont Limited and/or one or more of its subsidiaries, as may be applicable. Where we say “you” and “your” or “customer”, we mean a user of the Portal.

Unless stated otherwise herein, the following Terms & Conditions (“**Terms**”) apply to your use of the Portal, including any order for limestone product (“**Product**”) that you submit through the Portal (each an “**Order**”). By placing an 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 an 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.** Graymont will supply and customer will purchase the Product specified in an Order.
2. **Pricing.**
  - 2.1. All Product prices are quoted short ton for U.S. customers, and metric tonne for Canadian customers, based on full truckload quantities. Special freight weights will apply to less than full truckload Orders.
  - 2.2. All transportation costs from Graymont’s production facility to the specified delivery point are included in the Product price, including two (2) hours of normal Product unloading time. Product unloading time in excess of two (2) hours will be subject to detention charges which will be passed on to the customer and appear on all invoices as a separate line item.
  - 2.3. Bag Product pricing includes the cost of pallet and stretch wrap.
  - 2.4. The Product price does not include:
    - 2.4.1. Any fuel surcharge implemented by our freight carriers , which will be passed on to the customer and appear on all invoices as a separate line item; or
    - 2.4.2. Applicable taxes, which will be paid by customer and appear on all invoices as a separate line item.
3. **Delivery.**
  - 3.1. Graymont shall deliver the Product to the delivery point specified in an Order on the specified delivery date or dates.
  - 3.2. Graymont may charge a customer for any costs incurred by Graymont arising from any addition, cancellation or re-scheduling of an Order that is received by Graymont’s order desk after 3:00 pm, local time, on the day before the scheduled delivery date of an Order.

- 3.3. Graymont may charge Sunday and/or holiday premium on any delivery of Product scheduled between the hours of midnight Saturday to midnight Sunday and/or midnight the eve of a holiday to midnight of the holiday.
- 3.4. Graymont may charge a premium on any Product delivered where the scheduled delivery means that it will be impossible for the delivery vehicle to be back at the terminal base before midnight Saturday and/or midnight the eve of a holiday.
4. **Payment terms.**
  - 4.1. Payment terms are net thirty (30) days from date of invoice. If customer wishes to dispute an invoice, customer will notify Graymont in writing of the details of the dispute within two (2) weeks after the issuance of the relevant invoice.
  - 4.2. Graymont may suspend or terminate any Order immediately for non-payment by customer and Graymont reserves the right to review its assessment of customer's creditworthiness and to adjust, in Graymont's sole discretion, the terms of payment from time to time.
5. **Weights.** The weights at Graymont's production facility scales will be regularly maintained and legally certified and open to verification by customer. These weights will be used as the basis for the invoices for the Product delivered to customer.
6. **Title and risk of loss.** Title to, and risk of loss of, the Product supplied pursuant to any Order will pass from Graymont to customer when the Product is placed or unloaded, as applicable, at the delivery point specified in that Order, or when Payment for the Product is received by Graymont, whichever is earlier.
7. **Warranty and liability.**
  - 7.1. With respect to the Product, Graymont makes no warranty as to its merchantability, fitness for a particular purpose or otherwise, whether expressed or implied, other than that the Product will be as per the specifications applicable to the relevant Order. Customer agrees to inspect the Product supplied under any Order promptly after delivery and to give notice in writing to Graymont of any claim within one (1) week after the date of delivery.
  - 7.2. Graymont's liability for any Product will be limited to the amount paid by Customer for the relevant Order.
8. **Indemnities.**
  - 8.1. Customer will indemnify and save harmless Graymont from and against all claims, actions, losses, expenses, costs or damages of every nature and kind (including reasonable legal fees) which customer may suffer as a result of a breach of these Terms by Customer or the negligence of Customer in connection with any Order.
  - 8.2. Graymont will indemnify and save harmless customer from and against all claims, actions, losses, expenses, costs or damages of every nature and kind (including reasonable legal fees) which customer may suffer as a result of a breach of these Terms by Graymont or the negligence of Graymont in connection with any Order.
  - 8.3. Notwithstanding anything in these Terms 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 these Terms or any Order.
9. **Confidentiality.** Customer and Graymont will keep confidential and not disclose to any third party

these Terms, the details of any Order, or any other confidential information about the other party, unless required to do so by applicable law.

#### **10. Force Majeure.**

- 10.1. For the purpose of these Terms, an event of "Force Majeure" means any circumstance not within the reasonable control of the party affected, but only 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 with respect to an Order (other than the obligation to pay a sum of money), and such party has taken all reasonable precautions, due care and reasonable alternative measures to avoid the effect of such event on the party's ability to perform its obligations with respect to an Order and to mitigate the consequences thereof (provided that, neither party shall be obliged to settle any strike, lock out, work stoppage, labor dispute or such other industrial action by its employees).
- 10.2. Declaration of Force Majeure by either party will suspend the parties' obligations with respect to an Order (other than the obligation to pay a sum of money) until the termination of the Force Majeure event.
- 10.3. In the event of Force Majeure affecting Graymont, Graymont will, at customer's request, use reasonable commercial efforts to supply Product to customer from another of Graymont's facilities, provided that customer will pay Graymont for any additional freight or other costs thereby incurred by Graymont.
- 10.4. Upon termination of a Force Majeure event affecting Graymont, Graymont will have the absolute discretion to pro-rate available supplies of Product among all of its customers.

#### **11. Governing law and dispute resolution.**

- 11.1. This Agreement will be governed by and interpreted in accordance with the laws of the Province of British Columbia, without regard to its conflict of laws principles.
- 11.2. All disputes arising out of or in connection with this Agreement, or in respect of any legal relationship associated therewith or derived therefrom, will be referred to and finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Centre in accordance with its rules (the "**Rules**") and the following provisions: i) the place of arbitration will be Vancouver, British Columbia, Canada; ii) the arbitration will be conducted before a single arbitrator; iii) the arbitration proceedings will be conducted and recorded in English; iv) any award for the arbitration tribunal will be final and binding on the parties v) the arbitration will be kept confidential; and vi) the losing party will be liable for costs of the arbitration (including legal expenses) determined in accordance with the rules, unless otherwise decided in the arbitral award.

#### **12. Amendments, Waivers and Consents in Writing.**

- 12.1. An amendment to these Terms will be effective only if made in writing and signed by both parties
- 12.2. A waiver of a breach of a provision of these Terms will be effective only if made in writing and signed by the party purporting to give the waiver and will be effective only for the breach specifically waived and not any other breach.
- 12.3. A consent granted under these Terms will be effective only if given in writing and signed by the consenting party and will be effective only for the purpose for which it is given.

13. **Notices.**

13.1. Any notice required by these Terms will be given in writing and may be personally delivered or sent by courier to the attention of the other party's representative as follows: i) if to Graymont at: 200-10991 Shellbridge Way, Richmond, BC, V6X3C6, Canada or; ii) if to customer, at the customer's address specified in the relevant Order.

13.2. Any Notice given in accordance with this section will be deemed to have been duly given in the case of courier or personal delivery, when delivered; provided that in each case where delivery occurs after 4 p.m., service shall be deemed to occur at 9 a.m. on the next following business day.

14. **Assignment.** A party may not assign or transfer its rights under these Terms without the prior written consent of the other party, which consent may not be unreasonably withheld.

15. **Entire Agreement.** These Terms contains the entire agreement between the parties concerning the Portal and any Order and replaces all previous agreements between the parties concerning that subject matter.