



Ordering, Collections, Deliveries and Cancellations Procedure



Introduction

Ingrain manufactures and sells the Products to its customers.

The Customer has a requirement for the Products.

From time to time, the Customer may place orders for the Products on Ingrain. The sale of the Products by Ingrain to the Customer pursuant to such orders shall in all instances be governed by Ingrain's Terms and Conditions of Sale (**Terms and Conditions**), of which this Procedure forms a part, and which terms are deemed, by reference, to be incorporated herein.

Any capitalised terms used in this Procedure but not defined shall bear the meaning ascribed to same in the Terms and Conditions.

1. Definitions and interpretation

1.1. In this Procedure, unless the context requires otherwise the following additional terms shall bear the meaning ascribed to same below:

1.1.1. **ATL** means an authority to load as contemplated in clause 3.4.1.3.1.1;

1.1.2. **Bulk Products** means Products which are not individually packaged and which are delivered by means of a bulk truck and/or tanker;

1.1.3. **Defective Products** means Products which do not comply with the requirements of the Terms and Conditions and/or this Procedure (including, but not limited to, any requirements in relation to Product specification) or which are otherwise incorrectly supplied and/or delivered by or on behalf of Ingrain;

1.1.4. **Delivery Location** means the location to which Ingrain is to deliver the Products to the Customer, as notified by the Customer to Ingrain in writing;

1.1.5. **Delivery Note** means the Ingrain standard delivery note (whether manual or electronic) which constitutes documentary proof of delivery of the Products by Ingrain to the Delivery Location and/or collection of the Products by the Customer from Ingrain;

1.1.6. **Packaged Products** means Products which, depending on their nature, are delivered in drums, auto-flow, paper sacks and/or polypropylene bags and/or which are otherwise individually packaged prior to delivery thereof to the Customer;

1.1.7. **Packaging Material** means, without limitation, any packaging, equipment or device used in connection with the supply, packaging and transportation of the Products;

1.1.8. **Procedure** means this ordering, collections, deliveries and cancellations procedure;

1.1.9. **Product Prices** means the amounts payable by the Customer to Ingrain in respect of the Products (excluding any transport and/or other costs), as agreed between the Parties in writing from time to time;

1.1.10. **Products** means the Packaged Products and/or Bulk Products manufactured by Ingrain and sold to the Customer pursuant to an order; and

1.1.11. **Requested Delivery Date(s)** means the Customer's preferred delivery date(s) in respect of any Packaged/Bulk Products ordered by it from Ingrain, as notified by the Customer to Ingrain in writing.

2. Orders for Products

2.1. As and when required by the Customer, the Customer shall be permitted to order Products from Ingrain. Each such order shall be governed by the Terms and Conditions, this Procedure and any other written instrument signed by both Parties in relation to such order (if any) only.

2.2. *Packaged Products:*

2.2.1. Where the Customer requires Packaged Products, the Customer shall notify Ingrain of such fact (either in writing, via email, via SMS, via telephone call, via the Ingrain.care portal or through any other means), which notification must include, at a minimum:

- 2.2.1.1. a description of the type and specification of the Packaged Products required (including any applicable product codes if known);
- 2.2.1.2. the quantity of Packaged Products required;
- 2.2.1.3. a confirmed Customer Purchase Order (PO) for the relevant Packaged Products;
- 2.2.1.4. the details of the Delivery Location and of the nominated contact person at the Delivery Location or, alternatively, whether the Customer will be collecting the Packaged Products;
- 2.2.1.5. the Customer's Requested Delivery Date(s); and
- 2.2.1.6. any other information relevant to the Customer's order.

2.2.2. Should Ingrain accept the Customer's order, by no later than two Business Days after receipt of same Ingrain shall generate an official Ingrain order and number utilising the details received from the Customer and shall advise the Customer, in writing, of the official Ingrain order number. Should Ingrain fail to provide the Customer with the aforementioned official Ingrain order number before the expiry of the time period referred to above, Ingrain shall be deemed to have not accepted the Customer's request for Packaged Products.

2.2.3. Should Ingrain not accept or be deemed to have not accepted the Customer's request as contemplated in clause 2.2.2, neither Party shall have any further obligation to the other with regards to same. Nothing contained in the Terms and Conditions and/or this Procedure shall be deemed to oblige Ingrain to accept any request for Packaged Products received from a Customer and any such decision shall be taken by Ingrain in its sole and absolute discretion.

2.2.4. Once an order for Packaged Products has been accepted by Ingrain such order may only be amended and/or cancelled by the Customer in accordance with the provisions of **clause 3** below.

2.2.5. Ingrain undertakes to use its reasonable endeavours to ensure that any Packaged Products ordered by the Customer are delivered to it and/or made available for collection by it on the Customer's Requested Delivery Date(s) (or any other date that may be agreed with the Customer at the time of it placing the relevant order), subject to the provisions of **clause 6** below.

2.3. *Bulk Products:*

2.3.1. Where the Customer requires Bulk Products, the Customer shall notify Ingrain of such fact (either in writing, via email, via SMS, via telephone call, via the Ingrain.care portal or through any other means), which notification must include, at a minimum:

- 2.3.1.1. a description of the type and specification of the Bulk Products required (including any applicable product codes if known);
- 2.3.1.2. the estimated quantity of Bulk Products required as well as the period over which such Products are required to be supplied;
- 2.3.1.3. a confirmed Customer Purchase Order (PO) for the relevant Bulk Products;
- 2.3.1.4. the details of the Delivery Location and of the nominated contact person at the Delivery Location;
- 2.3.1.5. the Customer's Requested Delivery Date(s); and
- 2.3.1.6. any other information relevant to the Customer's order and/or anticipated upcoming requirements for Bulk Products.

2.3.2. Should Ingrain accept the Customer's order, by no later than two Business Days after receipt of same Ingrain shall generate an official Ingrain order and number utilising the details of the Customer's notification and shall provide the Customer with the official Ingrain order number. Should Ingrain fail to provide the Customer with the aforementioned official Ingrain order number before the expiry of the time period referred to above, Ingrain shall be deemed to have not accepted the Customer's request for Bulk Products.

2.3.3. Should Ingrain not accept or be deemed to have not accepted the Customer's request as contemplated in **clause 2.3.2**, neither Party shall have any further obligation to the other with regards to same. Nothing contained in the Terms and Conditions and/or this Procedure shall be deemed to oblige Ingrain to accept any request for Bulk Products received from a Customer and any such decision shall be taken by Ingrain in its sole and absolute discretion.

2.3.4. In relation to Bulk Products it is expressly acknowledged and agreed that:

- 2.3.4.1. while the Customer will provide Ingrain with an estimation of the Customer's anticipated requirements for such Bulk Products in the period referred to in the Customer's notification, the actual quantity of Bulk Products delivered to the Customer may vary from the estimate based on:
 - 2.3.4.1.1. Ingrain's ability and/or capacity to manufacture a sufficient quantity of such Bulk Products to satisfy the Customer's actual requirements (taking into consideration delays and/or interruptions in the manufacturing process, mechanical breakdowns, unavailability of raw materials and other like and/or similar causes);
 - 2.3.4.1.2. any rolling forecasts supplied to Ingrain by the Customer; and/or
 - 2.3.4.1.3. the rate at which the Customer actually consumes the required Bulk Products, delays in the
 - 2.3.4.1.4. Customer's rate of production, interruptions in the Customer's business and other like and/or similar causes.

Accordingly, nothing contained in the Terms and Conditions and/or this Procedure shall be deemed to oblige Ingrain to deliver the full quantity of Bulk Products referred to in the Customer's notification to the Customer, nor shall anything in the Terms and Conditions and/or this Procedure be deemed to oblige the Customer to accept delivery of the full quantity of Bulk Products referred to in the Customer's notification irrespective of whether or not an official Ingrain order number has been generated by Ingrain. Nothing contained in this **clause 2.3.4.1** shall however be deemed to limit Ingrain's rights and/or the Customer's obligations in terms of **clause 5.10.3.1.5** below;

- 2.3.4.2. pursuant to what is stated in **clause 2.3.4.1**, notwithstanding the estimated quantity of Bulk Products referred to in the Customer's notification to Ingrain (and which is used by Ingrain to generate the official Ingrain order number), Ingrain shall only be obliged to deliver Bulk Products to the Customer,

and the Customer shall only be obliged to take delivery of and effect payment for Bulk Products received from Ingrain, based on the actual quantity of such Bulk Products delivered to and received by the Customer during the relevant month (as determined, on a load by load basis, in accordance with the provisions of **clause 5.12** below). Nothing contained in this **clause 2.3.4.2** shall however be deemed to limit Ingrain's rights and/or the Customer's obligations in terms of **clause 5.10.3.1.5** below;

2.3.4.3. in order to determine the Customer's actual requirements for Bulk Products at any given time, as well as Ingrain's actual capacity to deliver such Bulk Products at any given time, on a regular basis Ingrain will:

2.3.4.3.1. confirm with its relevant mills through the process of the integrated business planning process (demand planning) the quantity of Bulk Products (if any) which Ingrain will actually be able to supply in relation to the available manufacturing capacity; and

2.3.4.3.2. confirm with the Customer through the order fulfilment team, their current stock holding levels and whether they have an actual need for Bulk Products in conjunction with demand and supply planning for the following supply plan week.

Assuming that Ingrain is able to supply a quantity of Bulk Products at a particular time, and the Customer has a requirement for such quantity of Bulk Products at that particular time (as contemplated above), only then will Ingrain arrange that one or more loads (as applicable and/or available) of such Bulk Products are loaded and dispatched to the Customer at its nominated Delivery Location and/or made available for collection by the Customer from Ingrain (as the case may be);

2.3.4.4. a Customer may request a change to an order for Bulk Products (including a cancellation thereof) at any time. Notwithstanding the above, such order may not be amended and/or cancelled by the Customer save in accordance with the provisions of **clause 3** below.

2.3.4.5. while Ingrain will use its reasonable endeavours to ensure that it will deliver a sufficient quantity of Bulk Products to the Customer as and when such Bulk Products are required (as confirmed by the Customer in accordance with **clause 2.3.4.3.2**), in accordance with the provisions of **clause 6** below Ingrain accepts no liability whatsoever for any failure by it to deliver Bulk Products to the Customer at the time and in the quantity when such Bulk Products are required. Where Ingrain is unable to satisfy the Customer's requirements for Bulk Products at a particular point in time however, Ingrain will liaise with the Customer in good faith in order to determine whether there are any reasonable alternative means of ameliorating the effects of this inability to supply on the Customer's operations; and

2.3.4.6. all loads of Bulk Products actually dispatched by Ingrain to the Customer will be issued under and allocated against the official Ingrain order number referred to in **clause 2.3.2**. Where the Customer:

2.3.4.6.1. does not actually receive a quantity of Bulk Products equal to its anticipated requirements for same during a particular period as notified by the Customer to Ingrain (for any reason whatsoever), at the end of the relevant period the aforementioned Ingrain order number will be updated by Ingrain to reflect the actual quantity of Bulk Products delivered during that period. Thereafter, the Customer will be required to issue Ingrain with a further notification as contemplated in **clause 2.3.1** for its anticipated Bulk Products requirements in the next period whereafter Ingrain will generate a new official Ingrain order number in relation to that further notification in accordance with **clause 2.3.2**. For the avoidance of doubt it is expressly acknowledged and agreed that no Ingrain order number issued in respect of the Customer's requirements in relation to a particular period of time shall be carried over beyond that time period, even where the full quantity of Bulk Products referred to in that Ingrain order number have not been delivered to the Customer prior to the end of the relevant period; or

- 2.3.4.6.2. actually receives or is able to receive a quantity of Bulk Products in excess of its anticipated requirements for same during a particular period, Ingrain shall not deliver any Bulk Products in excess of the original estimated amount under the aforementioned official Ingrain purchase order number. Rather, in such circumstances the Customer will be required to provide Ingrain with an updated notification in terms of clause 2.3.1 for the balance of its anticipated requirements during the remainder of the period whereafter Ingrain will issue the Customer with a new official Ingrain order number in respect of such remaining anticipated requirements. The provisions of **clause 2.3.4.6.1** shall apply *mutatis mutandis* in relation to any new official Ingrain order number issued in accordance with this clause which is not fully consumed by the end of the relevant period.

3. Changes to orders

- 3.1. The Customer may request changes to any accepted order for Products at any time prior to delivery, but no proposed changes shall come into effect until the process in this **clause 3** is complete.
- 3.2. If the Customer wishes to make a change to any accepted order for Products (including but not limited to a cancellation thereof), the Customer shall notify Ingrain of such fact in writing. Any such written notification shall, at a minimum, include a comprehensive description of the change which the Customer wishes to make to the relevant order.
- 3.3. Upon receipt of the Customer's written notification as aforesaid, Ingrain undertakes to consider same in good faith. Notwithstanding the above, the Customer expressly acknowledges and agrees that Ingrain shall not be under any obligation whatsoever to agree to any requested change, either in part or in full.
- 3.4. In the event that Ingrain:
- 3.4.1. accepts the Customer's request to change an order:
- 3.4.1.1. Ingrain shall notify the Customer of such fact in writing and shall provide the Customer with an updated order confirmation under the existing official Ingrain order number as contemplated in **clause 2.2.2** and/or **clause 2.3.2** (as the case may be) as soon as possible;
- 3.4.1.2. the updated order confirmation shall record all terms applicable to the changed order and shall be binding on the Parties; and
- 3.4.1.3. the Customer shall be liable for all expenses reasonably incurred by Ingrain as a result of such change, which expenses shall be determined by Ingrain in its sole and reasonable discretion and which expenses shall be invoiced by Ingrain separately and payable upon demand. In this regard it is agreed as follows:
- 3.4.1.3.1. where Ingrain will be delivering the Products to the Customer:
- 3.4.1.3.1.1. provided that the Customer's request to change the relevant order is received prior to the issue by Ingrain of an Authority to Load (**ATL**) in accordance with the provisions of **clause 5.2**, no additional charges shall apply to the Customer's change; but
- 3.4.1.3.1.2. if the Customer's request for a change is received:
- 3.4.1.3.1.2.1. after the issue by Ingrain of an **ATL** in accordance with the provisions of **clause 5.2**; and/or
- 3.4.1.3.1.2.2. within 48 hours of the intended dispatch date (including in circumstances where the Customer cancels a load at the time of delivery),

Ingrain shall be permitted to recover from the Customer any and all transport and associated costs incurred by Ingrain in respect of such futile trip and/or cancelled load (including, but not limited to, any standing time charges at the Delivery Location); and

3.4.1.3.2. where the Customer will be collecting the Products from Ingrain,:

3.4.1.3.2.1. provided that the Customer's request to change the relevant order is received prior to the issue by Ingrain of an **ATL** in accordance with the provisions of **clause 5.2**, no additional charges shall apply to the Customer's change; but

3.4.1.3.2.2. if the Customer's request for a change is received after the issue by Ingrain of an **ATL** in accordance with the provisions of **clause 5.2**, Ingrain shall be permitted, but not obliged, to charge the Customer a reasonable amount in respect of wasted administration and staging costs (if any); or

3.4.2. rejects the Customer's request to change an order:

3.4.2.1. Ingrain shall notify the Customer of such fact in writing as soon as possible; and

3.4.2.2. no such change shall be given effect to and the Customer shall remain fully bound by the terms of the original order.

4. Transportation

4.1. Depending on whether the Products are delivered by Ingrain or collected from Ingrain, Ingrain shall be responsible for:

4.1.1. the packaging and transportation of the Products to the Delivery Location, or for procuring and arranging for the packaging and transportation of the Products to the Delivery Location; and

4.1.2. the packaging of the Products and making of same available for collection by the Customer from Ingrain.

4.2. Should Ingrain, at the Customer's request, agree to engage a carrier nominated by the Customer to transport Products to the Customer, such carrier shall be the Customer's agent and Ingrain shall engage the carrier on such terms and conditions as it deems fit. The Customer indemnifies Ingrain against all demands and claims which may be made against it by the carrier so engaged and against all liability which Ingrain may incur to the carrier arising out of the transportation of the Products.

4.3. Save where otherwise agreed between the Parties in writing, where Ingrain is required to deliver the Products to the Customer's nominated Delivery Location all costs incurred in and pursuant to the packaging and transportation of the Products to the Delivery Location shall be:

4.3.1. deemed not to form part of the Product Prices;

4.3.2. borne and paid for by the Customer; and

4.3.3. invoiced by Ingrain separately.

4.4. Ingrain shall take reasonable care to ensure that the Products are packed in such manner and with such materials, including the Packaging Materials, so as to prevent any damage, loss or deterioration of such Products whilst in transit. Notwithstanding the above the Customer expressly acknowledges and agrees that where it collects Products from Ingrain, all risk in and to such Products shall irrevocably and unconditionally transfer to the Customer with effect from the time and date at which the relevant Products are loaded onto the Customer's collection vehicle.

- 4.5. Ingrain shall take reasonable steps to ensure that all applicable laws relating to the handling, packaging, storage, transportation and delivery of the Products are complied with by Ingrain or, where applicable, its appointed haulier.
- 4.6. Where Ingrain is responsible for delivering the Products to the Customer's nominated Delivery Location, Ingrain and/or its appointed haulier shall comply with all of the requirements for accessing such Delivery Location including, but not limited to, any requirements related to the wearing of any personal protective equipment, provided that all such requirements are supplied to Ingrain in writing and in advance of any Requested Delivery Date(s).
- 4.7. *Minimum loads*

- 4.7.1. Ingrain shall determine the minimum payload of Products from time to time and shall notify the Customer in writing of such minimum payloads and/or any adjustments thereto.
- 4.7.2. Should less than the minimum payload be ordered and/or conveyed on any particular delivery, then the transport costs charged by Ingrain for that delivery shall nevertheless be calculated as if the minimum payload of the Product had been conveyed, save where such underloading is as a result of the actions or omissions of Ingrain.

5. Delivery/Collection of Products and Defective Products

- 5.1. Unless the Customer is collecting the Products from Ingrain, Ingrain shall deliver the Products to the Delivery Location specified in the Customer's notification as contemplated in **clauses 2.2.1** and/or **2.3.1** and confirmed in the official Ingrain order generated in accordance with the provisions of **clauses 2.2.2** and/or **2.3.2**.
- 5.2. No less than two days prior to the actual collection and/or delivery date, Ingrain shall provide the Customer with an **ATL**. If the Customer is collecting the Products from Ingrain, the **ATL** shall specify the collection location as well as the estimated time for collection. If Ingrain is delivering the Products to the Customer, the **ATL** shall specify the Delivery Location as well as the estimated time for delivery. No Customer shall attempt to collect Products from Ingrain until such time as it has received an official **ATL** from Ingrain in relation to same and any such persons will be denied access to the relevant Ingrain premises.
- 5.3. Ingrain shall use its reasonable endeavours to deliver:
- 5.3.1. or make available for collection Packaged Products on the Customer's Requested Delivery Date(s) (or such other date as may have been agreed between the Parties at the time of the Customer placing the relevant order); and
- 5.3.2. Bulk Products on the Customer's Requested Delivery Date(s) and/or at the time at which such Bulk Products are actually required by the Customer (as contemplated in **clause 2.3.4.3.2**), as the case may be.
- 5.4. Notwithstanding the above:
- 5.4.1. it is acknowledged that Ingrain's obligation to deliver or make available for collection any Products on the Customer's Requested Delivery Date(s) or any other agreed dates shall be on a reasonable endeavours basis only as per the provisions of **clause 6** below. Ingrain shall however take reasonable steps to limit any delays in the delivery or collection of the Products and, where Ingrain becomes aware that it will be unable to deliver or make available for collection any Products on the Customer's Requested Delivery Date(s) or any other agreed dates, Ingrain will notify the Customer of such fact in writing which notification will include an indication as to when Ingrain believes it will be able to deliver or make available for collection the Products ordered. In such circumstances Ingrain will also adhere to the early warning process which is outlined in Appendix 1 hereto; and
- 5.4.2. Ingrain, its employees, agents or representatives shall not be liable in respect of any Losses or damages of whatever nature (including consequential or special damages or loss of profits) suffered or sustained by the

Customer, its customers, employees, agents or representatives in respect of any delay of whatever nature in the delivery or making available for collection of the Products.

5.5. Where Ingrain issues the Customer with an official Ingrain order number and thereafter fails to deliver or make available for collection any Products on the Customer's Requested Delivery Date(s) (or such other dates as may have been agreed between the Parties at the time of the Customer placing the relevant order), the Customer shall be entitled (but not obliged) on three Business Days' written notice (**Cancellation Period**) to:

5.5.1.refuse to accept subsequent delivery of such Products; and

5.5.2.cancel the relevant order in respect of such Products.

5.6. Any cancellation by the Customer of an order in accordance with the provisions of **clause 5.5.2** above shall not relieve either of the Parties of their obligations in respect of any other orders placed by the Customer and accepted by Ingrain.

5.7. Upon delivery or collection of the Products and prior to the loading or offloading of same (as the case may be), the Customer shall be obliged to inspect (and where the Customer deems it necessary, test) the Products in order to confirm that they are of an acceptable quality, fit for the Customer's purposes and in accordance with the Customer's order. The Customer shall furthermore be obliged to confirm that the Delivery Note reflects the correct Products as ordered as well as to inspect the certificate of analysis which accompanies the Products and to confirm that the readings contained therein are within the applicable and agreed specifications. Should the Customer establish, pursuant to the aforementioned inspection that any of the Products are missing, damaged and/or defective, such fact shall be endorsed by the Customer on the Delivery Note as per the provisions of **clause 5.10.2**.

5.8. Should the Customer:

5.8.1.fail and/or neglect to properly inspect the Products and/or the certificate of analysis as stated in **clause 5.7**; and

5.8.2.elect not to test the Products,

and thereafter sign the Delivery Note without endorsement, the Products delivered to the Customer shall be deemed to have been delivered in the correct quantity and quality and in accordance with the Customer's order for same. In addition to the above, and in respect of Packaged Products only, the Customer shall be afforded a further period of three Business Days to inspect such Packaged Products and notify Ingrain of any defects in relation to same and/or damaged and/or missing Products. In the event that no such notification is received, the Packaged Products delivered to the Customer shall be deemed to have been delivered in the correct quantity and quality and in accordance with the Customer's order for same. Where Products are deemed to have been delivered to the Customer in the correct quantity and quality as aforesaid, Ingrain shall not be liable in any manner whatsoever for any claims subsequently brought by the Customer in respect of such Products (including, but not limited to, any claim that such Products are Defective Products), which claims the Customer waives irrevocably, in perpetuity and in full.

5.9. If any Products are identified as being Defective Products pursuant to the inspection referred to in **clause 5.8** (or subsequent inspection in relation to Packaged Products only as contemplated in that clause) then:

5.9.1.the Customer shall endorse such fact on the Delivery Note and notify Ingrain of such fact in writing;

5.9.2.the Customer shall:

5.9.2.1. not proceed further with the loading of the Products (if the Customer is collecting same from Ingrain) or offloading of the Products (if Ingrain is delivering same to the Customer) until otherwise agreed with Ingrain; and

- 5.9.2.2. if the Products are Packaged Products and have already been offloaded at the Delivery Location (in instances where Ingrain is delivering such Products to the Customer), store such Packaged Products in a separate area pending their collection by Ingrain from the Customer (if agreed with Ingrain) and/or return to Ingrain by the Customer; and

5.9.3. upon return of the Defective Products to Ingrain, Ingrain shall, at its election:

- 5.9.3.1. replace the Defective Products with non-defective Products; or
- 5.9.3.2. credit the Customer for the Product Prices (as well as any transport and associated costs levied by Ingrain in instances where Ingrain was delivering the Products to the Customer) in respect of such Defective Products (**Refund**). Where the Customer incurs transport charges in relation to returns of Defective Products to Ingrain, the Refund shall be deemed to include such transport charges provided that same are reasonable and market related.

It is expressly acknowledged and agreed that Ingrain shall not be liable to the Customer in respect of any Defective Products unless written notice of same is given to Ingrain in accordance with the provisions of this clause. Should Ingrain dispute that the Products are defective, Ingrain shall notify the Customer of such fact in writing whereafter the Customer shall be obliged to commence the dispute resolution proceedings referred to in the Terms and Conditions within 90 days from the date on which Ingrain notifies the Customer of its dispute, failing which the Customer shall be deemed to have waived its rights with respect to such Defective Products and such Products shall be deemed for all purposes under the Terms and Conditions and this Procedure, not to be defective.

5.10. Following the completion of the aforementioned inspection:

- 5.10.1. the Products may be loaded or offloaded, as the case may be (assuming they were found not to be Defective Products). In this regard it is agreed that the Customer shall be responsible for supervising the loading or offloading of the Products and that Ingrain and/or its agents and/or representatives shall not commence with such loading and/or offloading until such time as a representative of the Customer is present. Any delays in loading or offloading as a result of a Customer representative not being present at the commencement of such loading or offloading shall count towards determination of standing time charges in accordance with the provisions of **clause 5.14** below;

5.10.2. once the Products have been loaded or offloaded (as the case may be) in accordance with the provisions of **clause 5.10.1**, the Parties shall sign the Delivery Note which Delivery Note must **indicate *inter alia***:

- 5.10.2.1. the actual delivery date of the Products;
- 5.10.2.2. the quantity of the Products delivered (in relation to Packaged Products only);
- 5.10.2.3. any missing and/or damaged Products (if any);
- 5.10.2.4. any Products which were regarded as Defective Products (if any); and
- 5.10.2.5. any Delays in the offloading of the Products as per the provisions of **clause 5.14** below (if applicable); and

5.10.3. where Ingrain is delivering the Products to the Customer and the Customer therefore has to supervise the offloading of the Products, in particular, but without limitation, the Customer shall:

5.10.3.1. in respect of Bulk Products:

- 5.10.3.1.1. prior to off-loading, check the seals on the inlet and/or outlet points of the delivery vehicle to ensure that the seals are unbroken and have not been tampered with;

- 5.10.3.1.2. confirm that the seal numbers on the inlet and outlet points of the delivery vehicle tally with the seal numbers recorded on the Delivery Note, and verify the correctness of the details by signing the Delivery Note;
- 5.10.3.1.3. break the seals on the inlet and outlet points in the presence of the driver of the delivery vehicle, save in the event that the delivery vehicle is a pressure tanker in which instance it is acknowledged that only the seal on the outlet point will be broken;
- 5.10.3.1.4. prior to offloading ensure that clear and precise off-loading instructions are given to the personnel operating the delivery vehicle;
- 5.10.3.1.5. prior to offloading satisfy itself as to the manner in which the hauliers pipes are coupled to the Customer's pumps and/or lines, and that such pipes are coupled to the correct pumps and/or lines and inform the haulier of any issues as soon as possible. In this regard it is acknowledged that Ingrain and/or its agents and/or representatives shall not be obliged to commence offloading until such time as the Customer's representative has confirmed that it is satisfied with the manner in which the hauliers pipes have been coupled to the Customer's pumps and/or lines. Any delays in offloading as a result of the Customer's representative failing to provide the aforementioned confirmation shall count towards determination of standing time charges in accordance with the provisions of **clause 5.14** below;
- 5.10.3.1.6. ensure that the Products are off-loaded at the correct off-loading point into the correct storage tank or other receptacle;
- 5.10.3.1.7. ensure that there is sufficient capacity in any such receptacle to accommodate the full volume of the delivered Product as determined with reference to the Customer's purchase order, on the understanding that Ingrain shall not be responsible for any spillage and/or any failure by the relevant receptacle to accommodate such full volume of the Products (save where such spillage is as a direct result of the negligence of Ingrain's haulier). Where the Customer's receptacle is unable to accommodate the full volume of the Products delivered, Ingrain shall nevertheless be permitted to charge the Customer for such full volume tendered for delivery. Ingrain shall also be permitted to charge a return trip charge in relation to any returned Products (including any applicable standing time charges at the Delivery Location);
- 5.10.3.1.8. immediately notify Ingrain, prior to off-loading, if:
 - 5.10.3.1.8.1. the seals on the inlet and/or outlet points are missing or have been broken or tampered with; and/or
 - 5.10.3.1.8.2. the seal numbers do not tally in accordance with **clause 5.10.3.1.2**; and
- 5.10.3.1.9. if notification is necessary in terms of **clause 5.10.3.1.6**, ensure that the Products are not off-loaded until Ingrain has confirmed that the Products are of the correct quantity, quality and in good order; and
- 5.10.3.2. in respect of Packaged Products:
 - 5.10.3.2.1. ensure that clear and precise off-loading instructions are given to the personnel operating the delivery vehicle;
 - 5.10.3.2.2. ensure that the Products are off-loaded at the correct off-loading point;
 - 5.10.3.2.3. immediately notify Ingrain, prior to off-loading if any of the Product appears to be missing and/or damaged;

- 5.10.3.2.4. if notification is necessary in terms of clause 5.10.3.2.3, ensure that the Products are not off-loaded until Ingrain has confirmed that the Products are of the correct quantity and in good order; and
- 5.10.3.2.5. once the Products have been off-loaded, confirm that the Products are of the correct quantity in accordance with the Delivery Note.
- 5.11. In the event that the Customer fails to comply with any of its obligations in terms of **clause 5.10** above, the Customer does so entirely at its own risk and hereby indemnifies Ingrain in full against any and all Losses of any nature whatsoever and howsoever arising which the Customer may suffer as a result.
- 5.12. For the purposes of determining the quantity of Bulk Products actually delivered to the Customer in any given load, same shall be determined with reference to the weighbridge certificate prepared by Ingrain at the relevant premises from which the Bulk Products were dispatched.
- 5.13. It is acknowledged that the Customer shall be solely responsible for maintaining, servicing and cleaning the pumps located at the Delivery Location at its own expense as well as for cleaning the discharge hoses and couplings located at the Delivery Location. The Customer indemnifies Ingrain and holds Ingrain harmless against all Losses incurred by or made against Ingrain arising from or in connection with the discharge of the Products through such pumps, hoses and couplings.
- 5.14. Unless otherwise agreed between the Parties in writing, the duration for the off-loading of the Products at the Delivery Location (including the time taken to perform any inspections in accordance with the provisions of **clause 5.7**), shall be:
 - 5.14.1. for a semi-trailer up to 21 tons, a maximum of 2 hours; and
 - 5.14.2. for a semi-trailer over 21 tons and for a combination unit up to 37 tons, a maximum of 3 hours.

Should the duration of the off-loading be in excess of the time stipulated in **clauses 5.14.1** and **5.14.2 (Delay)**, the Customer shall pay a standing time charge as determined by Ingrain from time to time, unless Ingrain and/or its haulier are directly responsible for the Delay. Where applicable, the Customer shall endorse the Delivery Note by writing the duration of the Delay and the cause of the Delay on the Delivery Note.
- 5.15. Should a Customer who is collecting Products from Ingrain and who has received an **ATL** in accordance with the provisions of **clause 5.2** fail to attend at the relevant collection location within:
 - 5.15.1. three days of the stipulated collection time (if they are collecting Packaged Products), Ingrain shall be permitted to:
 - 5.15.1.1. charge the Customer separately a reasonable amount for any wasted time, effort and/or costs (if any) incurred by Ingrain in staging the Products for collection before having to re-warehouse them (in relation to Packaged Products only); and
 - 5.15.1.2. cancel the Customer's order for such Products in which instance the Customer shall be required to submit a new order in accordance with the applicable provisions of **clause 2** above; or,
 - 5.15.2. one day of the stipulated collection time (if they are collecting Bulk Products), Ingrain shall be permitted to cancel the Customer's order for such Products in which instance the Customer shall be required to submit a new order in accordance with the applicable provisions of **clause 2** above.

6. Requested Delivery Date(s)

It is expressly acknowledged and agreed that:

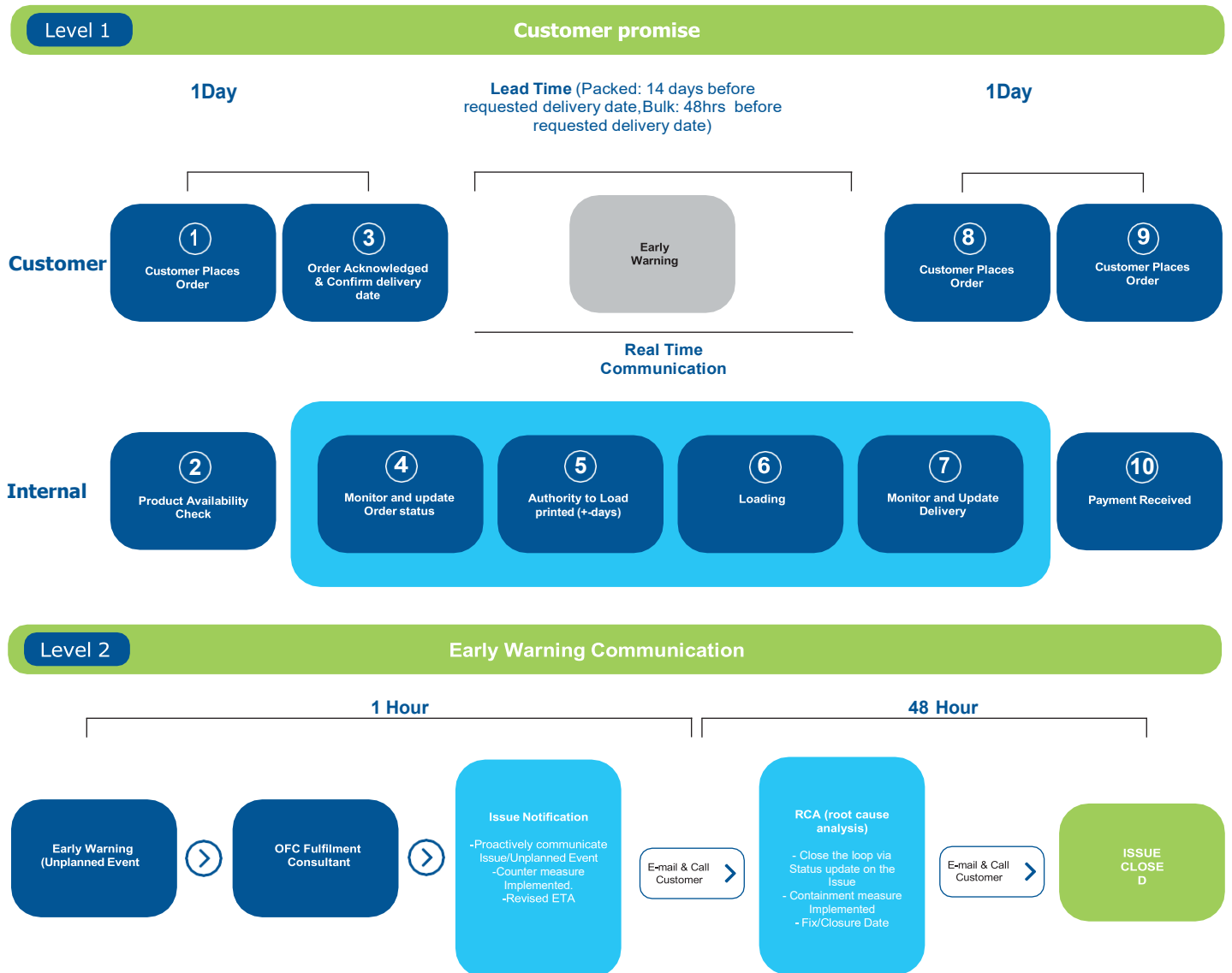
- 6.1. while Ingrain will use its reasonable endeavours to comply with any Requested Delivery Date(s) stipulated by the Customer or any other date agreed with the Customer at the time the Customer placed the relevant order, Ingrain's supply of the Products shall be on a reasonable endeavours basis only. For purposes of this clause 6.1 the term reasonable endeavours shall mean the performance of all such acts and the doing of all such things as a reasonable and prudent business person in the same position as Ingrain would do in order to ensure fulfilment of orders to an acceptable industry standard; and
- 6.2. Ingrain shall not be liable to the Customer in any manner whatsoever and/or for any amounts and/or Losses whatsoever (including consequential or special damages or loss of profits) suffered or sustained by the Customer as a result of Ingrain failing to deliver the Products and/or any part thereof on the Customer's Requested Delivery Date(s) or any other date agreed with the Customer at the time the Customer placed the relevant order.

In the event that Ingrain becomes aware that it will be unable to comply with any accepted order for Products then, in addition to any obligations placed on Ingrain in such circumstances in the Conditions of Sale, Ingrain shall also adhere to the Ingrain early warning process which is outlined in Appendix 1 hereto. To the extent that the Customer has any complaints about the Products and/or the performance by Ingrain of any of its obligations in terms hereof and/or in terms of the Conditions of Sale, the Customer shall be obliged to raise such complaint with Ingrain by submitting a complaint on www.ingrain.care.

7. Ownership and risk

- 7.1. All risks (including *inter alia* those in relation to loss, damage and/or destruction) in and to the Products shall pass to the Customer upon signature of the Delivery Note in accordance with clause 5.10.2 above. Should the Customer elect to engage a carrier to transport Products in accordance with the provisions of clause 4.1, the risks shall pass to the Customer immediately upon loading of the Product on to such carrier's vehicle(s).
- 7.2. Notwithstanding the above, ownership in and to the Products shall not pass to the Customer unless and until the Product Prices in respect of such Products have been paid by the Customer in full

APPENDIX 1 – EARLY WARNING PROCESS





Scan the QR code to
visit the Ingrain website



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