

**GRAINCORP OPERATIONS LIMITED (ABN: 52 003 875 401)**

**BULK WHEAT and BULK GRAIN (NON-WHEAT) PORT TERMINAL SERVICES PROTOCOLS FOR EXEMPT PORT TERMINALS**

Hereinafter referred to as '**Port Terminal Services Protocols**'

Document Date:     Effective from 1 October 2017

Season:             2017/18

These Port Terminal Services Protocols set out the terms and condition that apply to the provision of access to Exempt Port Terminals and the handling of regulated grain (bulk wheat) and other non-regulated grains at Exempt Port Terminals.

These Port Terminal Services Protocols are structured as follows:

**Part A – Terms and Acronyms**

Part A sets out defined terms and acronyms used in these Port Terminal Services Protocols.

**Part B – Terminal Operating Protocols**

Part B applies to the handling of regulated grain (bulk wheat) and other non-regulated grains at Exempt Port Terminals.

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## PART A – TERMS AND ACRONYMS

Any terms not defined in these Port Terminal Services Protocols have the same meaning as the corresponding terms defined in the following agreements: *Bulk Wheat Port Terminal Services Agreement*, *Bulk Grain (Non-Wheat) Port Terminal Services Agreement*, *ExportDirect Services Agreement* and the *Country Storage and Handling Agreement*, each for the relevant season.

**Acknowledgement of Acceptance (AOA).** The acknowledgment issued by GrainCorp to a Customer following receipt and approval of a can which constitutes an ‘offer’ by GrainCorp to confirm the booking of Elevation Capacity at the applicable Exempt Port Terminal during the Confirmed Elevation Period. By accepting an AOA, the Customer is liable to pay the relevant Booking Fee and is assuming responsibility for advising GrainCorp of the manner by which Elevation Capacity is to be supplied.

**Assigned Load Date (ALD).** This is the date allocated by GrainCorp which determines the order in which vessels will be loaded within a Confirmed Elevation Period.

**Booked Elevation Capacity (BEC).** The Elevation Capacity (in Tonnes) for the Confirmed Elevation Period at the Exempt Port Terminal as specified in the AOA accepted by a Customer. BEC can consist of one or more ‘lifts’ of ‘cargos’ onto vessels.

**Booking Fee.** Subject to Part B, clause 5.8, the non-refundable per Tonne fee a Customer is liable to pay GrainCorp on acceptance of an AOA.

**Cargo Nomination Application (CNA).** The application submitted by a Customer via the Workflow Online Platform in accordance with Part B, clause 3.

**Commodity Standards.** This is the commodity standards published on the GrainCorp website.

**Confirmed Elevation Period (CEP).** The Elevation Period in which Elevation Capacity is confirmed under an accepted AOA.

**Customer.** A customer that has or intends to enter into a *Bulk Wheat Port Terminal Services Agreement*, *Bulk Grain (Non-Wheat) Port Terminal Services Agreement* or other similar Port Terminal agreement(s) for the relevant season and, for the avoidance of doubt, includes an *ExportDirect* Customer.

**Elevation Capacity.** The Tonnage of grain elevated by GrainCorp during an Elevation Period at an Exempt Port Terminal. Elevation Capacity will be published on GrainCorp’s website and will be shown as either:

- (a) *Available*: Elevation Capacity is available for Customers to book; or
- (b) *Not Available*: Elevation Capacity is not available for Customers to book; or
- (c) *On Application*: Elevation Capacity is not available for Customers to book but may be made available on request and subject to such terms as GrainCorp determines in its absolute discretion.

**Elevation Period.** A period of half a calendar month, which (a) commences on the first day of the month and concludes on the 15<sup>th</sup> day of that month; or (b) commences on the 16<sup>th</sup> day of the month and concludes on the last day of that month.

**Estimated Time of Arrival (ETA).** This is the estimated time provided by the Customer for the cargo's arrival at the Load Port.

**ETA Nomination.** This has the meaning given in Part B, clause 12.1.

**Exempt Port Terminal.** Port Terminal(s) that have been determined by the Australian Competition and Consumer Commission to be an exempt port terminal service provider under Part 1, clause 5(2) of the *Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014*.

**ExportDirect Customer.** A customer who has or intends to enter into an *ExportDirect* Services Agreement for the relevant season.

**Load Port.** The port (which may be a Port Terminal) at which the cargo is to be loaded.

**Mtpa.** Million Tonnes per Shipping Year.

**Maximum Vessel Tonnage.** This has the meaning given in Part B, clause 3.4.

**Nominated Elevation Capacity.** The Elevation Capacity for an Elevation Period at a Exempt Port Terminal made available for booking by Customers which is to be specified by the Customer under the relevant CNA as either:

- (a) *Nominated Elevation Capacity – ExportDirect:* where a Customer’s Booked Elevation Capacity will require the main use of *ExportDirect* Services for the Nominated Vessel; or
- (b) *Nominated Elevation Capacity – Other:* where a Customer’s Booked Elevation Capacity will not require the main use of *ExportDirect* Services for the Nominated Vessel.

**Nominated Vessel.** This has the meaning given in Part B, clause 14.

**Port Blockage.** This is a situation where a Port Terminal is unable to either receive additional grain and/or load grain onto a waiting vessel due to a delay in the loading of the previous vessel caused by circumstances such as the previous vessel(s) failing regulatory survey, the grain to be loaded failing AQIS requirements or a disruption in the upcountry supply chain.

**Port Terminal.** Each of GrainCorp’s:

- (a) Carrington (Newcastle) Terminal;
- (b) Fisherman Islands Terminal;
- (c) Geelong Terminal;
- (d) Gladstone Terminal;
- (e) Mackay Terminal;
- (f) Port Kembla Grain Terminal; and
- (g) Portland Terminal.

**Requested Elevation Period (REP).** The Elevation Period in which a Customer has requested Elevation Capacity.

**Shipping Stem.** This has the meaning given in Part B, clause 2.

**Shipping Year.** Means the period commencing 1 October of a given year and ending and 30 September of the following year.

**Site Assembly Plan (SAP).** This has the meaning given in Part B, clause 21.

**Tonnes or Tonnage.** A metric tonne.

**Vessel Nomination.** This has the meaning given in Part B, clause 14.

**Workflow Online Platform or Workflow.** This means the platform for booking Elevation Capacity on GrainCorp’s website.

**PART B – TERMINAL OPERATING PROTOCOLS**

Part B of these Port Terminal Services Protocols apply to the handling of regulated grain (bulk wheat) and to other non-regulated grains handled through an Exempt Port Terminal.

**Contents**

Clause	Page
1. Application and Notices.....	5
2. Shipping Stem .....	5
3. Cargo Nomination Application Procedure.....	5
4. Notification of a CNA Acceptance or Rejection .....	6
5. Acknowledgement of Acceptance of a CNA .....	6
6. Execution of Booked Elevation Capacity .....	7
7. Reallocation of Confirmed Elevation Capacity .....	7
8. Request for a change to Load Port and/or Confirmed Elevation Period .....	8
9. Managing Elevation Capacity .....	8
10. Reducing Booked Elevation Capacity .....	9
11. Increasing Booked Elevation Capacity .....	9
12. Estimated Time of Arrival (ETA) Nomination – 21 to 42 Day Notice .....	9
13. Assigned Load Date .....	10
14. Vessel Nomination – Minimum 10 Day Notice.....	11
15. Variations to ETA Nomination or Vessel Nomination Notice Periods .....	11
16. Substituting Nominated Vessels.....	11
17. Changing a Load Port .....	12
18. Vessel Loading Order .....	12
19. Late Vessels Arriving Outside the Confirmed Elevation Period.....	13
20. Two Port Loading.....	13
21. Cargo Assembly Planning – Site Assembly Plan.....	14
22. Cargo Assembly by Road from non GrainCorp Storage.....	14
23. Insufficient Grain Accumulated to Load Vessel .....	14
24. Port Terminal Stock Swaps .....	15
25. Grain Origination – Ex GrainCorp Storage .....	15
26. Grain Origination – Ex Non–GrainCorp Storage .....	15
27. Treated or Fumigated Grain .....	16
28. Fumigation Clearance Certificate .....	16
29. Additional Terminal Storage Charge for Residual Grain at the Port Terminal .....	16
30. Provision of Transport for the Accumulation of Cargo Tonnage.....	17
31. Vessel Readiness to Load – In Transit Marine Survey .....	17
32. Vessel Authority to Load.....	17
33. Vessels Failing Regulatory Survey.....	18
34. Late or Cancelled Vessels.....	18
35. Supply Chain Disruption .....	19

**1. Application and Notices**

- 1.1 This Port Terminal Services Protocols applies to Exempt Port Terminals. When a Port Terminal becomes an Exempt Port Terminal, these Port Terminal Services Protocols for will replace the applicable Bulk Wheat and Bulk Grain (Non-Wheat) Port Terminal Services Protocols.
- 1.2 If the Customer requests GrainCorp to load grain on a vessel at an Exempt Port Terminal, the Customer must seek to book Elevation Capacity and indicate their Requested Elevation Period by submitting a CNA. The following procedures apply to requesting Elevation Capacity and an Elevation Period, accepting or declining a CNA, modifying a CNA and for managing the allocation of Elevation Capacity at an Exempt Port Terminal.
- 1.3 All CNAs, requests, applications, notices and any other modification must be completed using the Workflow Online Platform. Customers will receive a Workflow online login. The Workflow Online Platform is operated through a web browser. GrainCorp will make available on its website PDF document versions of all forms relevant to these Protocols. These forms should only be used if the Workflow Online Platform is not available. Note – vessels requiring two port loading should forward relevant information to BOTH ports.

**2. Shipping Stem**

Pursuant to its obligations under Schedule 1, Part 5 ) of the *Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014*, GrainCorp will publish Shipping Stem information on its website (**Shipping Stem**).

**3. Cargo Nomination Application Procedure**

- 3.1 Subject to the availability of Elevation Capacity, If a Customer requests the elevation of grain onto a vessel at an Exempt Port Terminal, the Customer must submit a **Cargo Nomination Application (CNA)** to GrainCorp via the Workflow Online Platform.
- 3.2 A CNA submitted must include the following minimum information:
- a) The Load Port;
  - b) The basis of the request – either (1) Nominated Elevation Capacity – *ExportDirect* or (2) Nominated Elevation Capacity – Other;
  - c) A separate CNA is required for each port if a Customer requires a two port load;
  - d) A Requested Elevation Period; and
  - e) The Tonnage of the nominated cargo.
- 3.3 The CNA may include other information (if known) as outlined in clause 12.4.
- 3.4 For each Port Terminal, GrainCorp will publish the maximum Tonnes that can be loaded per vessel (**Maximum Vessel Tonnage**).
- 3.5 Each cargo nominated under a CNA must have an upper Tonnage limit equal to the Maximum Vessel Tonnage for an Exempt Port Terminal.

**4. Notification of a CNA Acceptance or Rejection**

- 4.1 If GrainCorp accepts a CNA, GrainCorp will notify the Customer by forwarding to the Customer an acknowledgement of Acceptance of a CNA (**AOA**) (clause 5).

- 4.2 If GrainCorp rejects the CNA, GrainCorp will notify the Customer of its decision.
- 4.3 GrainCorp can approve the CNA request at its sole discretion which may be subject to any other agreements, or conditions agreed with the Customer pertaining to an Exempt Port Terminal. The request will be deemed final and cannot be reversed by the requesting Customer.

**5. Acknowledgement of Acceptance (AOA) of a CNA**

- 5.1 To confirm the booking of Elevation Capacity and the Confirmed Elevation Period, the Customer must complete and return to GrainCorp an AOA within two (2) business days of 5.00 pm AEST of the day of notification of acceptance of a CNA (Part B, clause 4).
  - 5.1.1 If a Customer fails to submit an AOA within the time specified in Part B, clause 5.1, the CNA will lapse and become invalid. The Booked Elevation Capacity related to a lapsed CNA will become available for booking by another Customer from the commencement of the first business day following the end of the period specified in Part B, clause 5.1.
- 5.2 A Customer is only able to either accept or reject the offer of Elevation Capacity and the Confirmed Elevation Period made by GrainCorp. No amendments to the requested Elevation Capacity or Confirmed Elevation Period can be made to an AOA.
- 5.3 Upon acceptance of the AOA by the Customer, the Customer shall be liable for the Booking Fee and will agree to the payment terms of Booking Fee invoicing and payment contained in the Port Terminal Services Agreement pursuant to which the Customer's grain is handled at an Exempt Port Terminal.
- 5.4 The Booking Fee payable upon the return of an AOA to GrainCorp is in addition to any other fees that may be applicable to the receipt, storage, and elevation of grain for the Booked Elevation Capacity.
- 5.5 Failure to make payment in cleared funds within seven (7) days of the date on which a tax invoice for a Booking Fee is provided to the Customer by email will cause the Customer to forfeit its allocated Booked Elevation Capacity and Confirmed Elevation Period relevant to the unpaid invoice(s).
- 5.6 If the Customer:
  - (a) fails to comply with the requirements of Part B, clauses 5.5, 12, 14, 16, 17, 18, 19, 20, 21 or 33.5: or
  - (b) cancels the Booked Elevation Capacity,the Booked Elevation Capacity and Confirmed Elevation Period may be cancelled by GrainCorp and the Customer will forfeit any Booking Fee previously paid, and/or remain liable for any Booking Fee agreed to under Part B, clauses 5.3, 5.5 and 5.9 (even if not yet invoiced).
- 5.7 Where a Customer executes Booked Elevation Capacity and the total Tonnage elevated is **less** than the booked Tonnage for which a Booking Fee has been paid, GrainCorp will reimburse the Customer an amount at the relevant Booking Fee rate equivalent to the difference between the booked Tonnage and the actual Tonnage elevated, up to an amount not exceeding 10% of the original Booking Fee amount.
- 5.8 Where a Customer executes Booked Elevation Capacity and the total Tonnage elevated is **more** than the booked Tonnage for which a Booking Fee has been paid, GrainCorp will invoice the Customer an amount at the relevant Booking Fee rate equivalent to the difference between the actual Tonnage elevated and the original Booking Fee.

**6. Execution of Booked Elevation Capacity**

- 6.1 Booked Elevation Capacity will not be executed prior to the first day of a Confirmed Elevation Period, and (subject to clause 19) must be executed before the last day of a Confirmed Elevation Period.
- 6.2 If, due to factors within the control of the Customer, that Customer is unable to execute Booked Elevation Capacity within the Confirmed Elevation Period (plus five (5) days from the last day of that Period), or the Elevation Period to which Booked Elevation Capacity has been moved, the Booking Fee related to any unused Booked Elevation Capacity is forfeited.
- 6.3 Elevation Capacity booked in a Shipping Year **must be used** within that Shipping Year.
- 6.4 Elevation Capacity not executed during a Shipping Year **cannot be carried** forward into the next Shipping Year.
- 6.5 Any Booking Fees related to unused Booked Elevation Capacity will be forfeited after the end of a Shipping Year and Booking Fees relating to forfeited Booked Elevation Capacity is also forfeited.

**7. Reallocation of Confirmed Elevation Capacity**

- 7.1 A Customer may request GrainCorp to transfer, by way of reallocation, Booked Elevation Capacity for a Load Port to another Customer that agrees to accept that allocation by amending the relevant CNA(s) using the Workflow.
- 7.2 Prior to any approved reallocation, GrainCorp will consider the type of Nominated Elevation Capacity booked by the Customer (that is, *ExportDirect* or *Other*) and whether there is available matching Nominated Elevation Capacity (*ExportDirect* or *Other*).
- 7.3 GrainCorp can approve the request for reallocation of the Confirmed Elevation at its sole discretion which may be subject to any other agreements or conditions agreed with the Customer pertaining to an Exempt Port Terminal. The request will be deemed final and cannot be reversed by the requesting Customer.
- 7.4 For the avoidance of doubt:
  - 7.4.1 Booked Elevation Capacity reallocated to a new Customer under this clause 7, is not considered a 'new' booking; and
  - 7.4.2 Booked Elevation Capacity transferred from another Load Port under clause 8, or from another Elevation Period at an Exempt Port Terminal, by a Customer is not considered a 'new' booking.

**8. Request for a change to Load Port and/or Confirmed Elevation Period**

- 8.1 A Customer may seek to make a Load Port and/or Confirmed Elevation Period change to a CNA by:
  - (a) Consulting with GrainCorp Logistics and discussing the details of the change to the Load Port and/or Confirmed Elevation Period required by the Customer; and
  - (b) Amending the relevant CNA in Workflow and submitting the request to GrainCorp.
- 8.2 A request to change a Confirmed Elevation Period and/or to change the Load Port from another Port Terminal to an Exempt Port Terminal must comply with the following:
  - 8.2.1 The request must be lodged no later than the date on which the Customer provides an

ETA Nomination and associated information under Clause 12 (being no later than twenty-one (21) days prior to the first day of the Confirmed Elevation Period. Refer to clauses 5 and 10 of the Protocols).

8.2.2 GrainCorp can approve the change to Load Port and / or Confirmed Elevation Period request at its sole discretion which may be subject to any other agreements or conditions agreed with the Customer pertaining to an Exempt Port Terminal. The request will be deemed final and cannot be reversed by the requesting Customer.

8.3 A request to change the Load Port from an Exempt Port Terminal to another Port Terminal is subject to the Port Terminal Services Protocols in place in respect of that Port Terminal.

## **9. Managing Elevation Capacity**

9.1 Once Elevation Capacity has been booked, the period of time in which the capacity is to be delivered becomes the Confirmed Elevation Period.

9.2 A Customer that has accepted Elevation Capacity by accepting any or all AOA(s) sent to them by GrainCorp, has 'Booked Elevation Capacity'.

9.3 Booked Elevation Capacity can be divided by the Customer into more than one parcel during the Confirmed Elevation Period. For example, if a Customer has Booked Elevation Capacity of 50,000 Tonnes, in a Confirmed Elevation Period, they can elect to have that capacity delivered as multiple lifts into multiple vessels. Booked Elevation Capacity **cannot be increased by dividing the booked capacity into multiple lifts and adding the +10% cargo elevation allowance to each multiple**. Multiple lifts shall collectively equal no more than the sum of the Booked Elevation Capacity. If a Customer wishes to divide Booked Elevation Capacity into multiple lifts, they must:

- a) Contact GrainCorp shipping operations in Sydney and provide advice on their intentions;
- b) Amend existing CNAs to reflect the change in vessel Tonnes;
- c) Submit a new 'supplementary' can(s) via Workflow for the relevant Tonnages, making note of the reference number of the existing original CNA that refers to the Booked Elevation Capacity; and
- d) Ensure that GrainCorp shipping operations in Sydney is fully aware of the request of the Customer.

AOA(s) will be forwarded to the Customer after the assessment of the CNAs is complete.

9.4 The ability of GrainCorp to divide Booked Elevation Capacity into multiple lifts during the Confirmed Elevation Period will depend upon other elevation bookings during that period.

## **10. Reducing Booked Elevation Capacity**

10.1 To **decrease** the Booked Elevation Capacity requested for an Elevation Period, a Customer must first accept an AOA and then submit an amended CNA via the Workflow to reflect the reduced Elevation Capacity required.

**Please Note:** Reducing the Booked Elevation Capacity does not reduce the liability of the Customer for the Booking Fee applied to the original CNA. The amount that represents the difference between the CNA tonnage accepted by the Customer through the submission of an AOA and any subsequent reduction to Booked Elevation Capacity made by a Customer is forfeited.

10.2 Where a Customer requests a reduction in the Booked Elevation Capacity and the actual Tonnage elevated to vessel is more than 10% above the Booked Elevation Capacity, the

Customer will be liable to pay a Booking Fee on the difference between the Booked Elevation Capacity plus 10%, and the actual Tonnage elevated to vessel.

**11. Increasing Booked Elevation Capacity**

- 11.1 To **increase** the Booked Elevation Capacity requested for an Elevation Period, a Customer must first submit a CNA, then accept the related AOA and then submit an amended CNA via the Workflow requesting that additional Elevation Capacity be added to the Booked Elevation Capacity. Customers should consult the Shipping Stem prior to submitting additional requests for Elevation Capacity, to ensure that the relevant Exempt Port Terminal has sufficient available Elevation Capacity to meet additional demand in the Requested Elevation Period.
- 11.2 Should sufficient Elevation Capacity be available, GrainCorp will send to the Customer an AOA relating to the CNA requesting additional Elevation Capacity.
- 11.3 If a Customer accepts the offered Elevation Capacity, it will be liable to pay a Booking Fee equal to the total of the additional elevation Tonnage requested (refer to Part B, clause 5).

**12. Estimated Time of Arrival (ETA) Nomination – 21 to 42 Day Notice**

- 12.1 Subject to Part B, clause 12.2, following the return of an AOA to GrainCorp by a Customer (Part B, clause 5), but no earlier than forty-two (42) days up to and no later than twenty-one (21) days prior to the first day of the nominated Confirmed Elevation Period, the Customer must lodge a written estimated time of arrival, by updating the information in the original can which is to contain the minimum information set out in Part B, clause 12.4 below (**ETA Nomination**).
- 12.2 A Customer may lodge an ETA Nomination earlier than forty-two (42) days prior to the first day of the Confirmed Elevation Period, but in doing so forfeits its right to request a transfer of its Booked Elevation Capacity to another Customer under Part B, clause 7.
- 12.3 Customers are encouraged to lodge an ETA Nomination forty-two (42) days before the first day of the Confirmed Elevation Period to enable GrainCorp to commence a stock and logistics risk assessment for the vessel.
- 12.4 The ETA Nomination must contain the following minimum information (unless already provided in the CNA):
  - a) Estimated Time of Arrival (ETA) for the vessel;
  - b) The grain and grade(s) (if known) (refer to Part B, clause 21);
  - c) The name of the Nominated Vessel (if known) (refer to Part B, clause 14); and
  - d) Whether the vessel involves a two port load.
- 12.5 The ETA nominated by the Customer must be within the Confirmed Elevation Period.
- 12.6 Should a Customer fail to comply with this minimum notice period, the Customer will forfeit their Booked Elevation Capacity and Booking Fee (Part B, clause 5.7).
- 12.7 An ETA nomination received by GrainCorp outside business hours (8:00 am to 4:00 pm AEST) Monday to Friday or on public holidays is taken to have been received at the commencement of the next business day.

**13. Assigned Load Date**

- 13.1 Following the nomination of a vessel ETA (Part B, clause 14.1) and within two (2) business days of receipt of an ETA Nomination, GrainCorp will notify the Customer of an **Assigned Load Date**

which is the date on which GrainCorp has scheduled the commencement of vessel loading. On provision of such advice to a Customer, GrainCorp will publish this (and other relevant) information as a vessel scheduled to load on the Shipping Stem.

- 13.2 The allocation of the Assigned Load Date may be subject to any other agreements or conditions agreed with the Customer pertaining to an Exempt Port Terminal.
- 13.3 GrainCorp will update the Assigned Load Date taking into account:
- 13.3.1 Other Booked Elevation Capacity previously accepted by GrainCorp that appear as 'accepted' on the GrainCorp shipping stem; and
- 13.3.2 The sufficiency of capacity to receive and handle the Customer's grain at the time of the anticipated commencement of cargo accumulation at the Exempt Port Terminal.
- 13.4 If the Assigned Load Date is not acceptable to the Customer, the Customer can request another Assigned Load Date and GrainCorp, subject to availability, may provide an alternate Assigned Load Date.
- 13.5 In order to maximise elevator efficiency, the Assigned Load Dates will be provided on an even spread basis for each Elevation Period at each Load Port that takes into account vessel size, exempt Port Terminal capacity and other operating factors (such as planned non-grain ships at the berth and planned port elevator maintenance).
- 13.6 Where a Customer seeks an Assigned Load Date in an Confirmed Elevation Period, and that capacity is not available, GrainCorp (at its sole discretion) can provide an Assigned Load Date in the following Elevation Period on a first come first served and non-discriminatory basis.
- 13.7 If there is a change to the ETA for a vessel, Customers must provide an updated ETA for the vessel to enable GrainCorp to efficiently manage port capacity. Unless agreed by GrainCorp and the Customer the Assigned Load Date, provided under this clause, will not be changed.
- 13.8 GrainCorp reserves the right to change the Assigned Load Date and will immediately notify the Customer of any such decision, taking into account factors mentioned in Part B, clauses 13.3.1, 13.3.2 and other relevant factors.

**14. Vessel Nomination – Minimum 10 Day Notice**

- 14.1 At any time from the ETA Nomination (clause 12.1) up to but no later than ten (10) days prior to the date of the ETA, the customer must lodge a **Vessel Nomination** by adding the information required in Part B, clauses 14(a) to 14(d) to the original CNA:
- a) The name of the Nominated Vessel;
- b) Details of the vessel length, depth, and maximum air draft, or any other vessel characteristic that may inhibit or affect loading performance;
- c) Details of the last three (3) cargoes carried and the last three (3) ports of call; and
- d) Accurate information relating to any preparations made to the vessel to ensure it passes the regulatory marine and AQIS pre-loading surveys.
- 14.2 Should a Customer fail to comply with this minimum notice period, the Customer forfeits their Booked Elevation Capacity and Booking Fee.
- 14.3 A Vessel Nomination received by GrainCorp outside business hours (8:00 am to 4:00 pm AEST) Monday to Friday or on public holidays is taken to have been received at the commencement of the next business day.

**15. Variations to ETA Nomination or Vessel Nomination Notice Periods**

- 15.1 At the request of a Customer GrainCorp may vary or waive the minimum notice periods noted in Part B, clauses 12 and/or 14 following consultation with a Customer.
- 15.2 GrainCorp will not consider any variation to, or waiving of, the notice periods noted in clauses 12 and/or 14 unless a Customer provides a written request seeking GrainCorp to do so, before the notice period expires.
- 15.3 The action of submitting a written request under Part B, clause 15.1 does not guarantee that GrainCorp will grant a variation or waiver. In making any decision to vary or waive the minimum notice periods noted in Part B, clauses 12 and/or 14, GrainCorp will consider the extent to which Customer's inability to comply with the notice periods is within the Customer's control and the impact of the variation on the efficient operation of the Exempt Port Terminal and will notify the Customer in writing of the relevant decision within one (1) business day of receipt of a request.

**16. Substituting Nominated Vessels**

- 16.1 Subject to Part B, clause 14, the Customer may, by submitting amendments to Section 1 of the relevant CNA, substitute a Nominated Vessel with another vessel at the nominated Port Terminal for the Booked Elevation Capacity (+/- 10% tolerance on elevated tonnes), provided the substituted vessel is a 'similar performing' vessel<sup>1</sup>.
- 16.2 The Customer will not be required to pay a new Booking Fee, or to submit a new CNA if a vessel substituted under Part B, clause 16.1 will arrive within five (5) days of the most recent nominated ETA (Part B, clause 12).
- 16.3 If the Customer's substitution involves an increase in Booked Elevation Capacity of more than 10%, commodity or grade substitution, or any alteration to the SAP that will impact upon the accumulation or elevation of other Customers' cargo, the Customer, if demand for elevation at the Exempt Port Terminal is committed to other Customers or if the substitution request requires activities that will decrease the efficiency of grain elevation at the Exempt Port Terminal, may be required to pay a new Booking Fee and/or may be required to submit a new CNA.
- 16.4 Notification of a request for substitution of a Nominated Vessel received by GrainCorp outside business hours (8:00 am to 4:00 pm AEST) Monday to Friday or on public holidays is taken to have been received at the commencement of the next business day.

**17. Changing a Load Port**

- 17.1 Where a Customer wishes to change its Load Port from a Port Terminal to an Exempt Port Terminal, the following provisions will apply:
- 17.1.1 If the Customer has received an Assigned Load Date under Part B, clause 13, the Customer must inform GrainCorp no later than twenty-one (21) days from the Assigned Load Date of the Customer's desire to change the Load Port. If a Customer wishes to submit a request to change the Load Port, and to secure a new Assigned Load Date (refer to Part B, clauses 3 to 5 inclusive) the request can only be processed by updating the relevant CNA by updating the original CNA using the GrainCorp Workflow Online Platform.
- 17.1.2 GrainCorp can approve the request at its sole discretion which may be subject to any other agreements or conditions agreed with the Customer pertaining to an Exempt Port

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<sup>1</sup> 'Similar performing' is a vessel of similar size and capacity, with similar rates of ballasting and loading capability, as the originally nominated vessel.

Terminal. The request will be deemed final and cannot be reversed by the requesting Customer.

- 17.2 Any commodity accumulated by a Customer that is stored at an Exempt Port Terminal for a cargo for which the Load Port has been changed, will accrue storage charges in addition to the standard storage charges detailed in the Port Terminal Services Agreement pursuant to which the Customer's grain is handled at an Exempt Port Terminal.

17.2.1 Charges mentioned under Part B, clause 17.2 will apply from the 6<sup>th</sup> day after the Assigned Load Date, until the grain is either loaded to a vessel, or removed from the Port Terminal. Any additional fees accrued are payable prior to the elevation of the grain to a vessel or to other transport.

## **18. Vessel Loading Order**

- 18.1 Where a Customer's vessel is delayed due to late arrival or is cancelled (Part B, clause 34), or a Customer notifies GrainCorp of a requirement to change a Load Port (Part B, clause 17), or a Customer's vessel fails regulatory or related surveys (Part B, clause 33), or a Customer has failed to accumulate sufficient grain at a Port Elevator to complete loading (Part B, clause 23), or to ensure operational efficiencies at the Port Terminal from the order of the loaded vessels, GrainCorp shall in each of these circumstances have the right to change the Assigned Load Date or ETA (Part B, clause 13) of a vessel or to change the order in which vessels are loaded from the order shown on the Shipping Stem.

- 18.2 GrainCorp can change the vessel loading order at its sole discretion which may be subject to any other agreements or conditions agreed with the Customer pertaining to an Exempt Port Terminal.

- 18.3 In making a change to vessel loading order, GrainCorp shall notify all affected parties in writing, where such notice will contain details of:

18.3.1 The specific changes to vessel loading order and the affected parties; and

18.3.2 The reason(s) for the changes made to vessel loading order.

- 18.4 Where GrainCorp changes an Assigned Load Date, or changes the order in which vessels are loaded, GrainCorp shall make appropriate changes to the Shipping Stem on the next business day after the notification referred to in clause 18.3 has been issued.

## **19. Late Vessels Arriving Outside the Confirmed Elevation Period**

- 19.1 If a vessel presents for loading more than five (5) days after the end of a Confirmed Elevation Period, and *no amendment to the Confirmed Elevation Period or Assigned Load Date has been requested*, the following will apply:

- a) If there is sufficient capacity in the following Elevation Period, GrainCorp may, in its sole discretion, load the vessel in the next Elevation Period. Where a vessel is loaded in the following Elevation Period, GrainCorp will not be required to comply with Part C, clauses 10, 13-15, 17, 22-25, 27, 33 or 35-38 of the Port Terminal Services Protocols, so long as GrainCorp does not discriminate between Customers in favour of its own trading division; or
- b) If there is insufficient capacity in the following Elevation Period, the Customer will forfeit their Assigned Load Date and, the Booking Fee will also be forfeited;
- c) Loading priority will be given to vessels that already have Booked Elevation Capacity in the relevant Elevation Period; and

- d) GrainCorp will apply the Additional Terminal Storage Fee detailed in in the Port Terminal Services Agreement pursuant to which the Customer's grain is handled at an Exempt Port Terminal to the total Tonnage of an assembled cargo for each day from the first day of the Elevation Period following the Confirmed Elevation Period until the commencement of vessel loading.

19.2 GrainCorp will not apply the abovementioned fee where delays caused by rain, elevator mechanical failure or other factors that can reasonably be described as relating to the failure of GrainCorp to meet the Assigned Load Date may be the cause of a vessel rolling back into the following Elevation Period.

## **20. Two Port Loading**

20.1 Where Booked Elevation Capacity requires loading from two Port Terminals, an Assigned Load Date will be allocated at both Port Terminals after the Customer's ETA Nomination (Part B, clause 12) is received.

### *Two Port Loading Delay – no Customer fault*

20.2 Provided that all cargo Tonnage has been accumulated at the second Load Port, Assigned Load Date priority at the second Port Terminal will be retained if a delay during loading at the first Port Terminal is, in GrainCorp's opinion, due to no fault of the Customer, where delays may include but are not limited to those caused by weather, mechanical breakdown of Port Terminal equipment, or AQIS rejection of infested grain.

### *Two Port Load Delay – Customer's fault*

20.3 The Assigned Load Date of a vessel at a second Load Port will lose priority if, during loading at the first Port Terminal, the vessel is delayed in GrainCorp's opinion due to the Customer's fault, including but not limited to, the Customer's vessel being late, the Customer's failure to accumulate sufficient cargo Tonnage at the first Port Terminal, failure of the Customer's vessel to pass relevant marine, AQIS and any other survey required by regulation.

20.4 Should priority at a second Load Port be lost due to circumstances noted in Part B, clause 20.3, GrainCorp will review the original Booked Elevation Capacity and will allocate a new Assigned Load Date in the chronological order in which the CNA was originally received, taking into account other Elevation Capacity booking(s) previously accepted by GrainCorp and the sufficiency of capacity to receive and handle the Customer's grain.

## **21. Cargo Assembly Planning – Site Assembly Plan**

21.1 The Customer will work with GrainCorp Logistics and will be required to compile the detailed content of a **Site Assembly Plan (SAP)** prior to commencement of accumulation of a cargo Tonnage at the nominated Port Terminal at any time from the date on which the Customer is notified of its Assigned Load Date (Part B, clause 5), up to, but no later than, and twenty eight days (28) before the Assigned Load Date (Part B, clause 13).

21.2 Should a Customer fail to comply with this minimum notice period, the Customer will forfeit their Booked Elevation Capacity and Booking Fee (Part B, clause 5.7).

21.3 The SAP must contain details of:

- a) The commodity, variety and grade(s);
- b) The location of the commodity(s); and
- c) The method of accumulation of the cargo Tonnage.

- 21.4 GrainCorp is under no obligation to receive grain at any of its Port Terminals for Booked Elevation Capacity more than twenty one (21) days in advance of the Assigned Load Date.
- 21.5 Where both GrainCorp and the Customer agree, an SAP may allow for the accumulation of cargo Tonnage at an Exempt Port Terminal more than twenty one (21) days in advance of an Assigned Load Date.

**22. Cargo Assembly by Road from non-GrainCorp Storage**

- 22.1 Where a Customer intends to accumulate cargo Tonnage by road from non-GrainCorp Storages , the Customer may request to accept sampling and testing services offered by GrainCorp at a site other than the nominated Load Port.

**23. Insufficient Grain Accumulated to Load Vessel**

- 23.1 A Customer shall accept full responsibility for the accumulation of all cargo Tonnage at an Exempt Port Terminal and for procuring all transport for the accumulation of such cargo Tonnage.
- 23.2 Recognising the obligations of the Customer for the accumulation of cargo(s) (Part B, clause 30) GrainCorp is not liable for, and does not guarantee, that individual cargo Tonnage will be available at an Exempt Port Terminal by the Assigned Load Date, regardless of the date(s) upon which CNA(s) were lodged by the Customer.
- 23.3 If a Customer has not accumulated sufficient commodity to complete loading of the vessel at an Exempt Port Terminal by the Assigned Load Date, and the vessel has berthed and passed all required marine, AQIS or other relevant surveys, GrainCorp may commence to load the vessel with any and all applicable grain owned by the Customer at the Exempt Port Terminal, in such a manner as to comply with the directions of the captain of the vessel and / or stevedore that will ensure the stability of the vessel. GrainCorp may then direct the movement of a part loaded vessel off the berth at the Customer's expense, if the next vessel on the Shipping Stem is ready to berth and has sufficient cargo Tonnage assembled to commence and complete loading.
- 23.4 A relocated vessel may be allowed back on the berth for the recommencement of loading when the balance of the cargo Tonnage has been accumulated at the Exempt Port Terminal, taking into account:
  - 23.4.1 Other Booked Elevation Capacity;
  - 23.4.2 The sufficiency of capacity to receive and handle the Customer's commodity at the time of the anticipated commencement of cargo Tonnage accumulation at the Load Port.

**24. Port Terminal Stock Swaps**

- 24.1 Should a Customer fail to accumulate sufficient cargo Tonnage in a timely manner (Part B, clause 23), the Customer is permitted to 'swap' stock with another Customer holding title to an equivalent commodity at an Exempt Port Terminal.
- 24.2 When a 'stock swap' occurs, all transactions related to such a swap(s) must be completed prior to completion of elevation of the commodity to a vessel.
- 24.3 Charges described in the Port Terminal Services Agreement pursuant to which the Customer's commodity is handled at an Exempt Port Terminal will apply to all stock swaps involving the transfer of title of grain held in storage at an Exempt Port Terminal.

**25. Grain Origination – Ex GrainCorp Storage**

- 25.1 If a commodity arriving at the Port Terminal from a GrainCorp Storage cannot be elevated to a

Nominated Vessel due to quality reasons that are no fault of the Customer (excluding infestation or where the Customer's cargo quality / grade specifications vary from the relevant Commodity Standards) GrainCorp will:

- 25.1.1 Replace that commodity with a commodity of the nominated grade at GrainCorp's cost; or
  - 25.1.2 Deem the Customers 'Grain Accounting Stock Tonnes' in the GrainCorp storage network for that component of stock outside of the quality requirements referred to in clause 22.1 to have remained at the originating GrainCorp Storage; or
  - 25.1.3 'Stock swap' at an Exempt Port Terminal the rejected commodity with a commodity of an equivalent quality profile to that specified in the CNA, in doing so, GrainCorp will assume ownership of the rejected grain at the Exempt Port Terminal.
- 25.2 If insect infestation is detected in the commodity arriving at the Exempt Port Terminal from a GrainCorp Storage, GrainCorp will comply with its obligations under the Port Terminal Services Agreement pursuant to which the Customer's grain is handled at an Exempt Port Terminal.

**26. Grain Origination – Ex Non–GrainCorp Storage**

- 26.1 GrainCorp does not assume any liability for any loss or damage associated with a commodity sent to the Exempt Port Terminal from non-GrainCorp storage facilities that does not meet the quality specifications specified in an accepted CNA and related SAP.
- 26.2 If a commodity received at an Exempt Port Terminal from non-GrainCorp Storage fails to meet the quality specifications defined by the Customer in the relevant CNA and related SAP, or such grain is rejected by AQIS as being unfit for elevation onto a vessel, the Customer remains the owner of the commodity until it is removed from the Exempt Port Terminal in its entirety at its own cost. Until the commodity is removed, the commodity will be subject to any applicable storage and related fees detailed in in the Port Terminal Services Agreement pursuant to which the Customer's commodity is handled at an Exempt Port Terminal.

**27. Treated or Fumigated Grain**

- 27.1 The Customer must advise, prior to the dispatch of any commodity to an Exempt Port Terminal, if that commodity is to be, or has been, treated or fumigated with any protectants or insecticides approved for application to that commodity.
- 27.2 The Customer must also provide advice on the chemical treatment used, or planned to be used on the commodity, and must not deliver a commodity to an Exempt Port Terminal:
- (a) until advised that such treatments are acceptable to GrainCorp; or
  - (b) that poses any significant market risks that may cause AQIS to reject the grain on inspection, or would cause the grain to fail Australian or importing country residue surveillance.

**Please Note** - Port Terminals have a nil tolerance for fumigant residues above accepted Maximum Residue Levels.

**28. Fumigation Clearance Certificate**

- 28.1 Where a commodity has been fumigated, the Customer must provide a '**Clearance Certificate**' stating that the commodity is free from all fumigant residues, issued by a licensed fumigator.
- 28.2 The requirement under this clause does not apply to grain received from GrainCorp Storages, as all commodity treatment and fumigation activities are carried out in a manner that ensures they

meet Port Terminal grain receipt requirements.

**29. Additional Terminal Storage Charge for Residual Grain at an Exempt Port Terminal**

- 29.1 Any residual commodity remaining in an Exempt Port Terminal after the completion of vessel loading, or as the result of a vessel cancellation, will accrue an **Additional Terminal Storage Charge** detailed in the Port Terminal Services Agreement pursuant to which the Customer's commodity is handled at an Exempt Port Terminal.
- 29.2 If the Customer continues to retain title to a residual commodity, or is unable to relocate the residual commodity, the Customer acknowledges that GrainCorp may reposition or relocate grain to another (non-Port Terminal) site at the Customer's cost, including storage, freight and weighing.
- 29.3 Where a commodity has been delivered to an Exempt Port Terminal from non-GrainCorp Storage and is rejected as being unfit for loading onto a vessel, GrainCorp will not be liable for any loss or damage relating to the degradation of the quality of that commodity. The Customer remains liable for this grain at all times and until the grain is sold or removed from an Exempt Port Terminal.
- 29.4 Clause 29.1 will not apply if:
- 29.4.1 Residual commodity remaining in an Exempt Port Terminal as a result of a rejection to load to vessel by AQIS was moved to that Exempt Port Terminal from a GrainCorp Storage; or
  - 29.4.2 The Customer has Booked Elevation Capacity with an Assigned Load Date within 14 days of the previous vessel's completion of loading, where previously rejected commodity may be included as part of that cargo Tonnage; or
  - 29.4.3 The Customer sells residual commodity to another Customer, or agrees that the commodity can be included as a component of the cargo of a vessel of another Customer, where cargo Tonnage accumulation for that Customer commences within 14 days of the completion of loading of the vessel upon which the rejected commodity was originally to be loaded.

**30. Provision of Transport for the Accumulation of Cargo Tonnage**

- 30.1 For the avoidance of doubt, the Customer is responsible for organising all matters related to the booking and/or provision of transportation.
- 30.2 By accepting a CNA, GrainCorp does not undertake to provide to the Customer any transportation services associated with the accumulation of a commodity for an accepted CNA.
- 30.3 Where a Customer specifically contracts with GrainCorp to provide cargo Tonnage accumulation services, or where GrainCorp is contracted to supply transportation services to a Customer, any such contract for the provision of such services will be separate to the provision of Port Terminal Services described under this Port Terminal Services Protocols.

**31. Vessel Readiness to Load – In Transit Marine Survey**

- 31.1 If GrainCorp assesses that a vessel presents a higher than acceptable risk of failing a marine, AQIS or related survey required under regulation, GrainCorp may request that the Customer provide assurance of the fitness or readiness of a vessel to load by procuring an 'in transit' marine surveyor report, either at the previous discharge port or at anchor at the Load Port. GrainCorp may refuse to accept a vessel 'alongside' to present for the marine, AQIS or related survey required under Regulation if such a request is not complied with, within three (3)

business days.

- 31.2 Any costs incurred in relation to Part B, clause 31.1, shall be the responsibility of the Customer.
- 31.3 GrainCorp may record all information relating to the vessel readiness to load performance of the Customer, its shipping agents and shipping lines, and may incorporate this information into relevant CNA assessment procedures in the future.

**32. Vessel Authority to Load**

- 32.1 Prior to calling a vessel to the berth and commencing loading, GrainCorp will forward to the Customer an **Authority to Load** for the Customer's approval. The Authority to Load will include all quality information relating to the Customer's cargo.
- 32.2 The Customer must approve the Authority to Load and return it to GrainCorp prior to the commencement of elevation of a commodity to a vessel.
- 32.3 The Customer acknowledges that GrainCorp has the right to mitigate dust emissions at the Exempt Port Terminal.
- 32.4 Such mitigation may include moisture conditioning of applied to the commodity on loading.
- 32.5 Notwithstanding any other provision in this Port Terminal Services Protocols, the Customer understands and accepts that matters and events beyond GrainCorp's control may occur, including but not limited to, changes in vessel scheduling and arrival or departure times, failure of vessels to pass any quarantine requirements or other inspections, grain quality related matters, harbour/port congestion, berth occupation by vessels under the direction of a Port Authority, lack of performance and delays due to freight or other service providers and rain or high winds, that prevent vessel loading which means GrainCorp cannot guarantee that cargo Tonnage will be ready for loading, or that they can or will be loaded as scheduled. GrainCorp will try to avoid any changes or delays where possible, and will keep the Customer informed of developments.

**33. Vessels Failing Regulatory Survey**

- 33.1 The Customer is solely responsible for the condition and state of readiness of vessels presented to GrainCorp for loading and for a vessel passing relevant marine, AQIS and any other survey required by regulation relating to the export.
- 33.2 In the event of the Customer's vessel failing a marine, AQIS or other survey that may be required by regulation, GrainCorp reserves the right to give berthing and elevating priority to other vessels on its Shipping Stem, and to assign any vessel that has failed a survey, which is re-presented for loading, a new ETA or Assigned Load Date.
- 33.3 Where a vessel fails marine, AQIS or other survey and loading is delayed until the Elevation Period following the Confirmed Elevation Period, the following will apply:
- (a) On the 11<sup>th</sup> day after the original Assigned Load Date, GrainCorp will apply the Additional Terminal Storage Fee as detailed in the Port Terminal Services Agreement pursuant to which the Customer's commodity is handled at an Exempt Port Terminal to the total Tonnage of the assembled cargo until the commencement of vessel loading; and
  - (b) GrainCorp will load the ship in a later Elevation Period in accordance with Part B, clause 19.
- 33.4 Where a vessel is not able to load until the Elevation Period following the end of a Confirmed Elevation Period, loading priority will be given to vessels that have Booked Elevation Capacity in

the relevant Elevation Period.

- 33.5 Where a vessel fails marine, AQIS or other survey and the failure results in GrainCorp making changes to the order in which vessels are to be loaded to avoid the Port Terminal having no capacity to receive grain, any vessel costs which are incurred by other Customers arising from their vessel being moved off and/or onto the berth and which can be demonstrated by GrainCorp, or the Customer, shall be the responsibility of the Customer of the failed vessel to a maximum in the aggregate of \$50,000 per vessel failure. This clause 33.5 will only apply where the vessel failure:
- (a) would otherwise result in a Port Blockage; and
  - (b) requires another vessel to be moved off and/or onto the berth.

**34. Late or Cancelled Vessels**

- 34.1 If a vessel fails to be available for loading within ten (10) days of the Assigned Load Date or if a vessel has been cancelled by the Customer then:
- 34.1.1 The Customer forfeits any Booking Fee previously paid and remains liable for any Booking Fee not paid (even if not yet invoiced).
  - 34.1.2 If the Customer wishes to make a new Elevation Capacity booking, the Customer must submit a new CNA per Part B, clause 3 and must pay a new Booking Fee.
- 34.2 All commodity stored in an Exempt Port Terminal accumulated for a vessel that is late or cancelled, will accrue additional storage charges (in addition to the standard storage charges detailed in in the Port Terminal Services Agreement pursuant to which the Customer's commodity is handled at an Exempt Port Terminal).
- 34.2.1 Such charges will apply from the 11<sup>th</sup> day after the Assigned Load Date relating to late or cancelled Booked Elevation Capacity (clause 34.1 and 34.2) until the grain is either elevated to a vessel or removed from an Exempt Port Terminal.
- 34.3 Any additional fees accrued are payable prior to the elevation of the relevant grain to a vessel or other transport.

**35. Supply Chain Disruption**

- 35.1 At any time during a period:
- 35.1.1 of Force Majeure (as defined in either the Country Storage and Handling Agreement, *Bulk Wheat Port Terminal Services Agreement*, *Bulk Grain Port Terminal Services Agreement* or other similar agreement); or
  - 35.1.2 where the operation of an Exempt Port Terminal is severely limited or stopped due to one of the following operational factors or supply chain disruptions:
    - (a) the disruption of rail services to a Port Terminal;
    - (b) a closure of a Port Terminal due to mechanical breakdown;
    - (c) a closure of a Port Terminal due to a direction from a port authority; or
    - (d) a Port Blockage,

GrainCorp may offer to load a Customer's vessel at an alternative Port Terminal or a later Elevation Period, subject to there being sufficient capacity, and the Customer may agree to loading at that alternative Port Terminal or later Elevation

Period.

- 35.2 Where a vessel is to be loaded at an alternative Port Terminal the Port Terminal Services Protocols for that Port Terminal will apply. Where a vessel is to be loaded at an Exempt Port Terminal in a later Elevation Period in accordance with clause 34, GrainCorp will not be required to comply with Part B, clauses 6, 9-12, 13, 18-21, 23, 29 or 31-34 of these Port Terminal Services Protocols.