



1.1 Introduction

This document sets out a summary of whether the proposed changes to the Port Loading Protocols and Standard terms are made under clause 9.3(b) of the Access Undertaking (non-auction changes) or clause 9.5(b) of the Access Undertaking (auction changes).

1.2 The Port Loading Protocols

	Summary of change	Explanation	Clause reference in the Access Undertaking
1	Clause 1 - Introduction		
	There are only minor changes to clause 1 (Introduction) of the Protocols.		The new reference to the allocation of Capacity in clause 1(a) is a variation under clause 9.3(b). The other changes to clause 1 are variations under clause 9.5(b).
2	Clause 2 - How to make a Booking		
	Clause 2 involves a number of changes to the Protocols to reflect the introduction of the new Auction System for making Bookings. The new clause 2 provides that:		All changes in the new clause 2 are variations under clause 9.5(b).
	<i>Overview</i>		
	<ul style="list-style-type: none"> The primary method of allocation of Capacity will be by Auction (clause 2.1(b)); If Capacity is not acquired at Auction, that Capacity will become available 	<p>The primary method of allocation by Auction reflects the requirements set out in the Access Undertaking.</p> <p>The proposal to allocate Capacity that is not acquired at Auction on a FIFO basis reflects</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>on a FIFS basis (clause 2.1(c));</p> <ul style="list-style-type: none"> If “Additional Capacity” (i.e. new Capacity) becomes available after Auction, that Capacity will become available on a FIFS basis <u>unless</u> (i) the cumulative amount of Additional Capacity that has become available in respect of that Year exceeds 200,000 metric tonnes; and (ii) the relevant parcel of Additional Capacity that has become available exceeds 50,000 metric tonnes; and (iii) there are 60 or more days until the start of the Slot to which the parcel of Additional Capacity relates (in which case that Capacity will be offered at an additional Auction) (clause 2.2(d)); 	<p>feedback that Viterra has received from Clients. The Auctions will provide an equal opportunity for all Clients to acquire Capacity and a method of allocating any scarce Capacity to the Clients that value it the most. However, if that Capacity is not acquired by Clients at Auction (i.e. it is not Capacity that is in demand), it is important to maximise throughput at the Port Terminals and, therefore, that the Capacity is available to whoever wishes to acquire it on a FIFS basis.</p> <p>The possible availability of “Additional Capacity” on a FIFS basis also reflects the feedback obtained from Clients during informal consultation.</p> <p>It is possible that “additional” or “new” Capacity may become available that was not on offer at the relevant Auction(s). These are typically small amounts of Capacity that become available for operational reasons and which are only available for execution within a relatively short time period. It is not practicable or cost effective for a separate Auction to be held each time one of these opportunities arises.</p> <p>However, to ensure that the Auction remains the primary method of allocating Capacity (and to ensure that the “Additional Capacity” on offer outside the Auction System is limited to relatively small volumes or volumes that can only be executed within a short time period), clause 2.2(d)</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
		provides that the Additional Capacity <i>will be</i> auctioned if the thresholds set out in Column 2 are satisfied.	
	<i>The Auction process</i>		
	<ul style="list-style-type: none"> There will be one Auction for the October to January Harvest Shipping Period (likely to be held in August each year) and two Auctions for the February to September Non-Harvest Shipping Period (likely to be held within approximately four weeks of each other in November / December each year). The second Auction will only offer Capacity that is not acquired at the first Auction, and Capacity for the Non-Harvest Shipping Period will not be available on a FIFS until after the second Auction (clauses 2.2(a)-(b)). If there is no Unallocated Capacity at the end of the first Auction in respect of a Non-Harvest Shipping Period there will not be a second Auction in respect of that Period. <p>Viterra will schedule any “additional auctions” in respect of Additional Capacity as necessary.</p>	<p>This process for auctioning Capacity in two “bundles” (October to January and February to September), with one Auction for the October to January period and two Auctions for the February to September period reflects the feedback provided by Clients during the informal consultation process.</p> <p>The proposed timing of the Auctions also reflects industry feedback, with a preference not to hold the February to September Auctions until at least November when Clients will have greater visibility of the likely crop size and demand.</p> <p>The proposal to hold two Auctions within approximately four weeks of each other in respect of the Non-Harvest Shipping Period also reflects feedback from Clients in relation to appropriate measures to reduce the risk of any “gaming”.</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<ul style="list-style-type: none"> Where Capacity is acquired at an Auction less than 60 days prior to the start of the relevant Slot, the Client must comply with all Table A requirements within 2 Business Days of being notified of its allocation (clause 2.2(e)); 	<p>This provision is consistent with the current arrangements in relation to FIFS Bookings.</p>	
	<ul style="list-style-type: none"> Viterra will publish details of the date and time of each Auction and the Capacity on offer at least 10 Business Days prior to the start of the Auction. Viterra will also publish an indicative date and time for each Auction to be held in respect of an October-September period by the preceding 1 July (clauses 2.3(a)-(b)); 	<p>This timing is intended to ensure that Clients have sufficient notice of the relevant Auction, and have sufficient time to execute an Auction Participation Deed and Auction Provider Bidder Agreement (if not already done), to register as a Bidder, and to submit any Proxy bids.</p> <p>The indicative timeline is intended to assist Clients with their planning.</p>	
	<i>The first in first served process</i>		
	<ul style="list-style-type: none"> Viterra will, within five Business Days of publication of the Auction results, publish on its website details of the Capacity that remains available after the first Auction for the Harvest Shipping Period, the second Auction for the Non- Harvest Shipping Period, or any “additional auction” (as the case requires) (clause 2.4(a)); 	<p>This provision is intended to increase the level of transparency for Clients in relation to the Capacity that may be available for Booking following an Auction.</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<ul style="list-style-type: none"> Viterra will also publish, within 2 Business Days, details of: <ul style="list-style-type: none"> any Capacity that becomes available as a result of a surrender or movement of a Booking; and any Additional Capacity that becomes available (clause 2.4(b)). <p>Clause 2.4(c) makes it clear that Viterra may decide not to “re-offer” Capacity which becomes available as a result of a movement of surrender. Specifically, in determining whether or not to make that Capacity available, Viterra will have regard to operational considerations, including practical constraints at the relevant Port Terminal, current wait time for vessels, the length of the vessel queue and the timing of vessel arrivals within the relevant Slot and Grace Period; and</p>	<p>This provision is intended to increase the level of transparency for Clients in relation to the Capacity that may be available for Booking following:</p> <ul style="list-style-type: none"> the movement of a Booking; the surrender of a Booking; or Viterra identifying the availability of “Additional Capacity”. <p>Clause 2.4(c) is intended to provide Viterra with the ability to make operational decisions about the availability of Capacity following any movement or surrender of a Booking. In many cases, this Capacity will be able to be utilised by other Clients. However, there may be circumstances where the overall efficiency of the Port Terminal and throughput will be increased if that Capacity is not re-offered (e.g. if there is already a substantial vessel queue as a result of vessels arriving in close time proximity, or several vessels arriving during the Grace Period).</p> <p>Naturally, Viterra will seek to re-offer this Capacity where operationally possible.</p>	
	<ul style="list-style-type: none"> Once the availability of this Capacity is published on Viterra’s website, it will not be available for booking on a FIFO basis for at least two Business 	<p>This new provision is intended to ensure that all Clients have a reasonable and equal opportunity to see what Capacity is available for Booking on a FIFO basis before any Bookings can be made.</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	Days. The FIFS process is then largely similar to the current process (clause 2.4(d)).	Viterra will make it clear the time and date on which that Capacity will be available for Booking.	
3	Clause 3 - Slot Bookings		
	Clause 3 involves a number of changes to reflect the introduction of the Auction System. In particular:		
3.1	<i>Update of Shipping Stem</i>		All changes in the new clause 3.1 are variations under clause 9.5(b).
	<p>The new clause 3.1(a) makes it clear that Viterra will update the Shipping Stem on the next Business Day after the “Auction Results Validation Date” (that is, the date that all Auction results are finalised) or acceptance of a Booking on a FIFS basis.</p> <p>The requirements in relation to accepting FIFS Bookings remain largely similar to those in the current Protocols.</p>	This change is intended to provide clarity in relation to timing. Viterra will (and is only in a position to) update the Shipping Stem once it has finalised the Auction results.	
3.2	<i>Split Bookings</i>		All changes in the new clause 3.2 are variations under clause 9.3(b).
	<p>Viterra proposes to amend clause 3.2 (previously clause 3.3) to make it clear that:</p> <ul style="list-style-type: none"> the aggregate volume of a Booking 	<p>These changes reflect that:</p> <ul style="list-style-type: none"> the aggregate amount of the Bookings (post-splitting) should not exceed the 	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>(for the purposes of splitting a Booking) does not include the tolerance levels associated with the Booking;</p> <ul style="list-style-type: none"> • Bookings can only be split 30 days prior to the start of the relevant Slot unless approved by Viterra; and • Clients must pay any fees associated with the splitting of Bookings at the time of application. 	<p>original amounts of the Bookings. Tolerance is an operational allowance and does not form part of the original Booking;</p> <ul style="list-style-type: none"> • from an operational and planning perspective, Viterra is likely to require 60 days to enable any split booking. Viterra will seek to accommodate “splitting” within this time where operationally possible. However, the proposed change reflects that there will be a number of considerations which may impact on this decision such that splitting cannot be guaranteed within the 60 day time period; • the restriction that bookings can only be split within the same Slot ensures that the “new” Booking will not be in relation to a Slot that has not previously been auctioned. 	

	Summary of change	Explanation	Clause reference in the Access Undertaking
3.3.	<i>Allocation of Estimated Load Date</i>		All changes in the new clause 3.3 are variations under clause 9.3(b).
	The new clause 3.3 (previously clause 5) makes it clear that the “Load Date” is an estimate only.	This change reflects the current practice that, once vessel and other information is provided by Clients, Viterra is able to provide an estimated load date. However, this date is an estimate only. There are a number of factors which may impact on the actual date of loading (as set out in the Protocols). Those factors include changes to the information provided by Clients, as well as operational issues and matters outside the control of all parties.	
4	Clause 4 - Changes in Slots and Estimated Load Dates by Viterra		All changes in the new clause 4 are variations under clause 9.3(b).
4.1	The key amendments to clause 4 (previously clause 6) are as follows:		
	<ul style="list-style-type: none"> changing the references to the “Load Date” to “Estimated Load Date”; 	See above.	
	<ul style="list-style-type: none"> making it clear that Viterra may make changes to the Booked Slot and/or Estimated Load Date if: <ul style="list-style-type: none"> a vessel fails to pass <i>either</i> required marine and/or AQIS port surveys (clause 4(a)(iv)); the Client has failed to 	<p>The first change makes it clear that failing <i>either</i> marine or AQIS surveys may result in a change to the Booking Slot and/or Estimated Load Date. Currently the Protocols refer to marine “<i>and</i>” AQIS surveys.</p> <p>The Table A requirements form part of the Protocols. This change (inserting specific reference to Table A) is intended to highlight to Clients the</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>comply with the Protocols (“including the requirements set out in Table A”) (clause 4(a)(ix));</p> <ul style="list-style-type: none"> it is necessary for OH&S reasons (including for fumigation) (clause 4(a)(xi)); and any other event arises which is outside the reasonable control of Vitterra (e.g. tug availability or AQIS labour) (clause 4(a)(xiii)). 	<p>importance of those requirements in relation to vessel load dates.</p> <p>The final two changes reflect the reality that OH&S issues (including in relation to fumigation) and the actions of other participants (e.g. Flinders Port and AQIS) can have an impact on vessel loading. These changes do not change the way that the Port Terminals operate. Rather, they are inserted for clarity and transparency.</p>	
	<ul style="list-style-type: none"> deleting the ability for Vitterra to make changes to the Booked Slot or Estimated Load Date for the reason that there is a delay in receipt of the Client’s authority to load (clause 4(a)(vii)). 	<p>This change reflects feedback provided during the consultation process. It is also consistent with Vitterra’s current processes where it does not require an authority to load form.</p>	
4.2	Vitterra proposes to delete clause 6.3 (previous numbering).	Vitterra proposes to delete this clause as it has been superseded by the new clause 2.4(b).	This change is made under clause 9.5(b).
5	Clause 5 - Guiding Principles for determining Terminal Services Priority		
5.1	Loading priority (clauses 5.2-5.3, previously		The majority of changes made in new clauses 5.1 – 5.4 are made under clause

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	<i>clauses 7.1-7.2)</i>		<p>9.3(b). However, the following variations are made under clause 9.5(b):</p> <ul style="list-style-type: none"> clause 5.2(a)(i) and clause 5.3(a)(i) – (Auction Bookings are not “accepted” by Viterra in the same way as FIFS bookings); and clause 5.2(a)(viii) and clause 5.3(a)(v) – Auction Slots are 14-16 days, not the previous 30 days.
	Viterra proposes to amend the Protocols so it is clear that its obligation to load vessels in order of arrival (and to provide services other than loading based on the <i>estimated</i> order of arrival) is subject to:		
	<ul style="list-style-type: none"> the Client complying with, and not being in default of, any obligation under its Services Agreement or the Protocols (including the Table A requirements) (clauses 5.2(a)(iii) and 5.3(a)(iii), previously clauses 7.1.1(c) and 7.1.2(c)); 	The Protocols currently refer to compliance with the relevant agreement. While the agreements require compliance with the Protocols, this change is intended to make it clear that priority is subject to Clients complying with the Protocols, including all Table A requirements.	
	<ul style="list-style-type: none"> the vessel arriving within the 14-16 day Booking Slot (clauses 5.2(a)(viii) and 5.3(a)(v), previously clauses 7.1.1(g) and 7.1.2(e)); 	The current Protocols refer to a 15 day period. The changes reflect the movement to half-month Slots for the Auction (i.e. Slots of 14-16 days).	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<ul style="list-style-type: none"> the Client not making any changes to load grades and/or quality and/or tonnage requirements within the 14 days prior to vessel ETA (clauses 5.2(a)(ix) and 5.3(a)(vii), previously clauses 7.1.1(i) and 7.1.2(f)); 	The current Protocols do not refer to tonnage requirements, and also referred to the “ <i>last 14 days</i> ”. These changes are added for clarity.	
	<ul style="list-style-type: none"> the ETA not varying by more than one day from the date specified at 14 days prior to the ETA (or, in the case of a vessel substitution, the ETA not changing from the original vessel ETA by more than one day (clauses 5.2(a)(x) and (xi) and 5.3(a)(vi) and (vii), previously clause 7.1.1(j)). 	<p>The Protocols currently require that the “vessel has not been substituted” and the ETA has not changed.</p> <p>The purpose of these changes is to prevent any practice by Clients of nominating early ETAs in order to obtain accumulation priority, but then changing the vessel ETA.</p>	
	Viterra also proposes to delete the “example” set out in clause 7.1.3 of the current Protocols.	Viterra does not consider that the example provides greater clarity. Accordingly, it proposes to delete it.	This variation is made under clause 9.3(b).
5.2	Grace Period (clause 5.5, previously clause 7.1.5(d))		All changes in the new clause 5.5 are variations under clause 9.3(b).
	Viterra proposes to amend clause 5.5(b)(ii) (previously clause 7.1.5(d)) so that, if a vessel arrives during the Grace Period, Viterra will be able to consider both the impact on other Bookings and “ <i>Viterra Operations’ operational requirements</i> ” in seeking to re-	Given the increasing use that certain Clients are making of the Grace Period, this change is intended to make it clear that Viterra needs to be able to consider a range of operational issues in determining how those vessels can be re-prioritised. Any operational decisions will be to maximise the	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	prioritise the vessel.	throughput at the Port Terminals, reduce bottle necks, and respect the requirements of all Clients.	
	Viterra also proposes to amend clause 5.5(b) so that it more clearly addresses the loading priority that will be accorded to vessels that arrive in the Grace Period (or, in the case of two-port loading, outside the Grace Period if attributable to a delay at the first Viterra Port Terminal).	See “Summary of Change” Column.	
5.3	<i>Tolerance (clause 5.6)</i>		All changes in the new clause 5.6 are variations under clause 9.3(b).
	Viterra proposes to amend the Protocols so it is clear that it will permit a +/- 10% tolerance in respect of the execution of Capacity acquired (whether at Auction or under the FIFO system).	This change reflects the existing practice at Viterra’s Port Terminals, and is intended only to provided greater transparency and clarity.	
5.4	<i>Short lead-time bookings (previously clause 7.1.6)</i>		
	Viterra proposes to delete clause 7.1.6 (short lead-time bookings) from the Protocols.	<p>This clause is not required. Clause 2.4 of the proposed Protocols does not preclude short lead-time Bookings, provided that:</p> <ul style="list-style-type: none"> • Unallocated Capacity is available; and • the Client satisfies all relevant Table A 	This change is made under clause 9.5(b).

	Summary of change	Explanation	Clause reference in the Access Undertaking
		requirements at the time of Booking.	
5.5	Two-port loading (clause 5.7, previously clause 7.1.7)		All changes in the new clause 5.7 are variations under clause 9.3(b).
	Viterra proposes to amend the Protocols so that where the Client is loading a vessel at more than one of Viterra's Port Terminals, the Client may, with Viterra's consent, redistribute the tonnages in respect of those two Bookings across the two Port Terminals within a +/- 10% tolerance provided that the aggregate tonnages across the two Bookings is not exceeded (clause 5.7(c)).	<p>The purpose of this change is to provide greater flexibility to Clients.</p> <p>If a Client has a Booking at two of Viterra's Port Terminals, the proposed clause will allow the Client to vary the amount to be loaded at each Port Terminal (plus or minus 10%), provided that the amount loaded at both Port Terminals does not, in aggregate, exceed the amount of the two original Bookings. For clarity, this will not require a new Booking (or Additional Capacity) at either Port Terminal.</p>	
5.6	Marine surveys (clause 5.8)		
	<p>Viterra proposes to insert a new clause 5.6 which provides that, in circumstances where there is vessel congestion or potential vessel congestion at a Port Terminal, Viterra Operations may require Clients to:</p> <ul style="list-style-type: none"> engage a qualified marine surveyor to undertake a marine survey at anchorage (for the purpose of being issued with a certificate of fitness to load grain in accordance with 	The purpose of this change is to facilitate operational efficiency at the Port Terminals, and also to provide earlier visibility of when vessels are likely to fail marine surveys.	All changes in the new clause 5.8 are variations under clause 9.3(b).

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>applicable legislation) on arrival of the relevant vessel at the Port Terminal (or, if possible, at an alternate Australian port whilst in transit); and</p> <ul style="list-style-type: none"> provide a copy of the marine surveyor's report to Viterra Operations. 		
6	Clause 6 - Failure to meet Table A Requirements		
6.1	<p>The only changes to clause 6 (previously clause 8) are to make it clear that:</p> <ul style="list-style-type: none"> Viterra will notify the Client within 1 Business Day “<i>of identifying the failure</i>” to comply with the Table A requirements or pay any charges (clause 6(a)); and where a Client fails to name a vessel within the Booking Slot or Grace Period, the Booking will be removed from the Shipping Stem “<i>and the Capacity associated with the Booking will be forfeited</i>” (clause 6(c)). 	<p>The first change reflects the fact that Viterra can only advise Clients of a breach once it is aware of, and has identified, the breach. This change is intended to clarify, rather than change, the meaning of the relevant clause.</p> <p>The second change is intended to make it clear that the consequence of being removed from the Shipping Stem in the Booking Slot or Grace Period is that the Capacity is forfeited. In this situation, it is unlikely that the Capacity would be able to be re-offered to other Clients.</p>	<p>The changes made to new clauses 6(a) and (b) are made under clause 9.3(b).</p> <p>The changes made to new clause 6(c) are made under clause 9.5(b).</p>

	Summary of change	Explanation	Clause reference in the Access Undertaking
7	Clause 7 - Movement of Bookings		
7.1	Viterra proposes to amend clause 7 (previously clause 9) of the Protocols so that:		
	<ul style="list-style-type: none"> There are no limitations on the number of times that Bookings can be moved (subject only to available Capacity). Currently, the Protocols provide that Bookings can only be moved once (previously clause 9.2); 	This reflects feedback from Clients that they wish to be able to move Bookings more than once.	This change is made under clause 9.5(b).
	<ul style="list-style-type: none"> Clients will move Bookings to a new Slot (i.e. a 14-16 day period), rather than the current situation where Bookings are moved to a 30 day window (previously clause 9.1); 	This change reflects that, under the Auction System, Capacity will be offered in respect of half month periods (i.e. 14-16 day periods). Table A has also been amended to reflect the booking of 14-16 day Slots.	This change is made under clause 9.5(b).
	<ul style="list-style-type: none"> Unless agreed by Viterra, the application to move a Booking must be made at least 45 days prior to the start of the relevant Slot (clauses 7(a) and 7(g)). Currently, an application to move a Booking must be made at least 30 days prior to the start of the Slot (previously clause 9.1); 	This change reflects that, from an operational and planning perspective, Viterra is likely to require 45 days to facilitate the movement of any Booking. This is particularly the case given that there will now be no limit on the number of times that Bookings can be moved. Viterra will seek to accommodate Booking movements within this time where operationally possible. However, the proposed change reflects that there will be a number of considerations which may impact on this decision such that movement cannot be guaranteed within the 45 day time period.	This change is made under clause 9.3(b).

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<ul style="list-style-type: none"> It is clear that Bookings for the Harvest Shipping Period can only be moved within that same Harvest Shipping Period, and Bookings made within the Non-Harvest Shipping Period can only be moved within that same Non-Harvest Shipping Period (and after the second Auction (if applicable)) (clause 7(a) and (e), previously clause 9.1); 	<p>This requirement reflects feedback from Clients. It also ensures that Bookings can only be moved to Slots that have previously been offered at Auction, and that Bookings acquired at Auction have the correct Auction Premium Rebate entitlements.</p>	<p>This change is made under clause 9.5(b).</p>
	<ul style="list-style-type: none"> Viterra will publish details of any movement of Bookings on the next Shipping Stem, but will not be required to send an “all Client” email if this results in Capacity becoming available (clause 7(d)(i), previously clause 9.5.1); 	<p>The current requirement to send an “all Client” email was intended to ensure that all Clients became aware of possible additional Capacity at the same time and were not disadvantaged in their ability to book that Capacity.</p> <p>However, clause 2.4(d) of the proposed Protocols provides that Unallocated Capacity (which includes Capacity which becomes available as a result of the movement of a Booking) will only become available for booking on a FIFS basis two Business Days (or such longer time as notified by Viterra) after its availability is published on Viterra’s website (i.e. the Shipping Stem). Given this gap between publication and the availability of Bookings, there is no longer any requirement for an “all Client” email.</p>	<p>This change is made under clause 9.5(b).</p>
	<ul style="list-style-type: none"> It is clear that Viterra may at any time initiate discussions with a Client in 	<p>This change reflects the existing practice that Viterra may initiate discussions with a Client about</p>	<p>This change is made under clause 9.3(b).</p>

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	relation to the movement of a Booking (clause 7(f)).	the potential movement of a Booking if that movement would result in increased Capacity or operational efficiencies. The clause does not enable Vitterra to move a Booking to another Slot without the Client's consent.	
7.2	Vitterra has also removed the reference (previously in clause 9.7) to Bookings made before 1 October 2011.	This reference has been removed as the transition from the 2009 Access Undertaking to the 2011 Access Undertaking is now complete. The clause is therefore no longer relevant.	This change is made under clause 9.5(b).
8	Clause 8 - Conditional refund of Booking Fee or Auction Fee for early surrender of Capacity		The new ability for clients to obtain a <i>pro rata</i> refund is a change made under clause 9.3(b). The changes to refer to the Auction Fee and Premium Increment are made under clause 9.5(b).
8.1	Vitterra proposes to amend clause 8 (previously clause 10) of the Protocols so that:		
	<ul style="list-style-type: none"> It is clear that, if a surrendered Booking is replaced in part (i.e. by a smaller Booking), the Client will still be entitled to a partial refund which is calculated on a <i>pro rata</i> basis (clause 8.2(a); previously clause 10.1.5); and 	This amendment is intended to provide Clients with greater flexibility, and an ability to obtain a partial / <i>pro rata</i> refund even if the "replacement Booking" is for a lesser volume of Grain.	See above
	<ul style="list-style-type: none"> It is clear that the refund will be based on the Auction Fee (or Booking 	This reflects the fact that the Auction Premiums are not retained by Vitterra, but are distributed to	See above

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	Fee if acquired under the FIFS system), but will not incorporate any Auction Premium (clauses 8.2(a)-(b); previously clauses 10.1.5 and 10.2).	Clients through the Auction Premium Rebate. Accordingly, Viterra cannot refund these amounts upon cancellation. If a Booking is surrendered, the relevant Slot will not be re-auctioned. However, the Slot may be available for re-Booking on a FIFS basis.	
8.2	Viterra has also removed the reference (previously in clause 10.2.3) to Bookings made before 1 October 2011.	This reference has been removed as the transition from the 2009 Access Undertaking to the 2011 Access Undertaking is now complete. The clause is therefore no longer relevant.	This change is made under clause 9.5(b).
9	Clause 9 and Attachment 1 - Transferring Bookings		All changes to new clause 9 and Attachment 1 are made under clause 9.5(b).
9.1	Viterra proposes to amend clause 9 (previously clause 11) of the Protocols so that:		
	<ul style="list-style-type: none"> There are no limitations on the number of times that Bookings can be transferred (clause 9(a)). Currently, the Protocols provide that Bookings can only be transferred once (previously clause 11.1.5); 	<p>This reflects feedback from Clients that they wish to be able to transfer Bookings more than once.</p> <p>In order to avoid potential distortions, Clients will not be able to transfer Bookings that they have acquired during the first Non-Harvest Shipping Period Auction until after the second Auction in respect of that period.</p>	
	<ul style="list-style-type: none"> The transfer must comply with the process set out in clause 9. 	This change is intended to provide clarity about the process for transfers and the time at which a	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	Otherwise, it is of no effect. The transfer will be effective when approved by Viterra (clauses 9(a)(ii) and 9(b), previously clause 11.2);	transfer takes effect.	
	<ul style="list-style-type: none"> The Transferee and Transferor must provide a signed Transfer Notice to Viterra: <ul style="list-style-type: none"> 60 days prior to the first date of the Slot, where the original and new Bookings are different in respect of Table A requirements; and 30 days prior to the first date of the Slot, where the original and new Bookings are identical in respect of Table A requirements <p>(clause 9(a)(ii); previously clause 11.1.1);</p>	<p>The current Protocols provide that transfers can take place up to 30 days prior to the commencement of the Slot. Viterra proposes to maintain this timeframe where the Transferee's new Booking is identical in respect of Table A requirements.</p> <p>However, in circumstances where the new Booking involves different Table A requirements, this can have significant operational implications (e.g. ensuring that stock is available and can be accumulated without impacting on other Clients). Accordingly, Viterra proposes to increase this timeframe to 60 days prior to the start of the relevant Slot. Changes from the load grades set out in the Transferor's Booking will therefore not require approval by Viterra if the transfer is outside this 60 day period.</p> <p>Clients can request the ability to transfer Bookings within that 60 or 30 day period (as the case requires). However, whether or not Viterra can accommodate the transfer will depend on a range of operational considerations.</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<ul style="list-style-type: none"> Both the Transferee and Transferor must have a current Service Agreement in place and not be subject to a breach notice issued by Vitterra (clause 9(a)(iii)); and 	This change is intended to make it clear that both the Transferee and Transferor will be subject to the terms of their Access Agreement with Vitterra (or, if they have not signed an agreement, the Standard Terms in respect of Bulk Wheat and the S&H Agreement in respect of other commodities).	
	<ul style="list-style-type: none"> the Transferee must pay the transfer fee within 7 days of the date on which the Transfer Notice is provided to Vitterra (and the Transferor must have paid all fees which were due and payable up until the transfer date, including any Auction fees or premia) (clause 9(a)(iv)). Vitterra proposes to make a consequential change to paragraph 6 of the Transfer Notice in Attachment 1 to the Protocols. 	<p>This provision is intended to make clear both the timing of payment of the transfer fee, and the fact that the Transferor is responsible for all charges which are due and payable in respect of a Booking up until the date of transfer.</p> <p>As the Transferee is responsible for all payments from the date of transfer (see the Transfer Notice), this provision is intended to ensure that Vitterra is able to recover charges which are incurred prior to that date.</p>	
9.2	Vitterra has also removed the reference (previously in clause 11.4.2) to Bookings made before 1 October 2011.	This reference has been removed as the transition from the 2009 Access Undertaking to the 2011 Access Undertaking is now complete. The clause is therefore no longer relevant.	
9.3	<p>Vitterra proposes to amend the Transfer Notice to (Attachment 1):</p> <ul style="list-style-type: none"> include a reference to the Auction reference number (if any) and the 	See “Summary of Change” Column.	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>SCNO number of the Booking;</p> <ul style="list-style-type: none"> • make it clear that transfers can relate to part Bookings; and • make it clear that the Transferee is responsible for all fees payable on and from the transfer date. 		
10	Clause 10 - Demonstrating Stock Entitlement		All changes to new clause 10 are made under clause 9.3(b).
10.1	<p>The only proposed changes to this clause 10 (previously clause 13) are:</p> <ul style="list-style-type: none"> • the addition of “or alternative arrangements have been agreed with the Viterro Operations” to clause 10.2(a); • the addition of “unless otherwise agreed by Viterro Operations,” to clause 10.2(d); and • clarification that the stock must be available for outturn to meet the Client’s Slot. 	These changes reflect the existing practice at Viterro’s Port Terminals and provides Clients with additional flexibility.	
11	Clause 11 - Export Standard Requirements		All changes to new clause 11 are made under clause 9.3(b).

	Summary of change	Explanation	Clause reference in the Access Undertaking
11.1	<p>The only proposed changes to this clause 11 (previously clause 14) are:</p> <ul style="list-style-type: none"> capitalising the term “Booking” so that the definition of that term is clearer; and providing that Clients must provide a Transport Plan within 14 days of vessel ETA (rather than the current situation that requires the Transport Plan 18 days prior to the opening of the relevant Slot). 	<p>This change is intended to provide Clients with greater flexibility and reflects the fact that a Transport Plan is not required until 14 days prior to vessel ETA.</p>	
12	Clause 12 - Dispute Resolution		All changes to new clause 10 are made under clause 9.5(b).
12.1	<p>The only proposed changes to this clause 12 (previously clause 15) are:</p> <ul style="list-style-type: none"> replacing the words “vessel nomination” with “Booking”; excluding any disputes in relation to the conduct of the Auction; and making it clear that the time frame for lodging disputes in respect of rejected Bookings relates to the FIFS system and not Capacity acquired at Auction. 	<p>Changing the words “vessel nomination” to “Booking” is intended to ensure consistency of terms across the Protocols. It does not change the meaning.</p> <p>Disputes in relation to the conduct of the Auction (or allocation of Capacity under the Auction) are excluded from the general dispute resolution procedure, as they will be governed by the new Grievance procedure in clause 11 of the Auction Rules.</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
13	Clause 13 - Vitterra Website		
13.1	Clause 13 introduces a new provision to make it clear that where Vitterra has an obligation under the Protocols to publish information on the Vitterra Website, it will publish that information in a prominent position in the same location as the Shipping Stem.	This change is intended to provide clarity in relation to where information in relation to Auctions and the Protocols will be published on its website. This change is consistent with requirements in the Access Undertaking.	
14	Clause 14 - Varying these Protocols		
14.1	Vitterra proposes to insert a new clause committing to undertake a review of (and to consult with clients in relation to) the operation Auction system following the 2012 auctions (clause 14(b)).	<p>This change is intended to address feedback that Vitterra has received through the consultation process (and also reflects the existence of timing requirements as set out in the ACCC access undertaking).</p> <p>The proposed review is intended to ensure that industry participants have an opportunity to provide feedback after experiencing the first season of auctions. The timing of that review is also likely to align better with feedback from current reviews in relation to other grain auctions and, with the experience of Vitterra's first auctions, enable industry participants to provide feedback on an informed basis.</p>	This change is made under clause 9.5(b).
	Vitterra also proposes to change clause 14 (previously clause 16) by amending the heading from "Review of these Protocols" to	See "Summary of Change" Column.	This change is made under clause 9.3(b).

	Summary of change	Explanation	Clause reference in the Access Undertaking
	“Varying these Protocols”.		
15	Clause 15 - Use of Information		All changes to new clause 15 are made under clause 9.5(b).
15.1	Clause 15 sets out an acknowledgment by Clients that Viterro will (and is required to) publish certain information about Bookings by the Client, and that Tradeslot will need to provide information to Viterro about the Auction.	<p>If a Client acquires Capacity at Auction or applies for a Booking through the FIFS system, that information will be published on the Shipping Stem. The amount paid by the Client will also be evident from whether it acquires the Capacity on a FIFS basis, or during a particular round at an Auction.</p> <p>These are important transparency measures and are consistent with existing requirements in relation to the management of the Shipping Stem.</p>	
16	Clause 16 and Schedule 2 - Transitional Provisions		All changes to new clause 16 and Schedule 2 are made under clause 9.5(b).
16.1	<p>Clause 16 and Schedule 2 set out the transitional provisions that will apply in order to facilitate the “cut-over” from the current FIFS system to Auctions as the primary means of allocating Capacity. These transitional provisions form part of the Auction System that is being implemented in accordance with the Access Undertaking.</p> <p>The precise timing for the introduction of the Auction System (and therefore the running of</p>		

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>any Auctions) depend on whether the ACCC issues an Auction Objection Notice in accordance with the Access Undertaking.</p> <p>If the ACCC does not issue an Auction Objection Notice, the Auction System is likely to be introduced in late April / early May 2012. In this situation:</p>		
	<ul style="list-style-type: none"> Viterra will close the Shipping Stem to all new Bookings within one Business Day after the “Objection Notice Date” (that is, the date by which the ACCC is required to object to the Auction System if it proposes to do so) (Schedule 2, clause (a)(i)); 	<p>The purpose of this provision is to enable Viterra to:</p> <ul style="list-style-type: none"> continue to receive Bookings on a FIFO basis until that date; and cease to receive Bookings until it has determined the precise dates of the period for which Capacity will be offered at the first Auction. 	
	<ul style="list-style-type: none"> Viterra will, within 5 Business Days, publish details of the date and time of the first Auction and the Lots to be auctioned. The Auction will be held between 10 and 20 Business Days after the date that this information is published (Schedule 2, clause (a)(ii)); 	<p>The purpose of this provision is to ensure that Clients have sufficient notice of the first Auction, and sufficient time to execute the Auction Participation Deed, the Auction Provider Bidder Agreement, to register as a Bidder, and to submit any Proxy bids.</p> <p>This timing also ensures that the first Auction will not be held until after the date on which the variations to the Protocols and Standard Terms take</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
		effect.	
	<ul style="list-style-type: none"> The Auction will offer all Capacity (which has not already been Booked) for the period starting on the date which is 30 days after the Auction Date and ending on 30 September 2012 (“Auction Period”) (Schedule 2, clause (a)(iii)); 	<p>This provision reflects that:</p> <ul style="list-style-type: none"> only Capacity which has not already been Booked will be auctioned; and it is not practically possible for the Auction to apply to Capacity for Slots that will be executed within 30 days. Both Vitterra and Clients require a lead time of at least 30 days. <p>Given that the first Auction will relate only to Capacity that has not already been Booked (and that the June to September period is not typically capacity-constrained), Vitterra will hold only one Auction in respect of this period.</p>	
	<ul style="list-style-type: none"> After it has published details of the Auction Date (and the period to which the Auction will apply), Vitterra will re-open the Shipping Stem for Bookings on a FIFS basis, but only in respect of Bookings which would be executed prior to the start of the Auction Period (Schedule 2, clause (a)(iv)); 	<p>This provision is intended to ensure that Clients can continue to Book Capacity which would not be Auctioned (because it occurs before the Lots offered at Auction).</p>	
	<ul style="list-style-type: none"> After the Auction, Vitterra will re-open the Shipping Stem to enable 	<p>This provision ensures that Clients will have an ability to acquire the relevant Capacity at Auction if</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	Bookings for Unallocated Capacity (that is, Capacity not acquired at the Auction) on a FIFS basis (Schedule 2, clause (a)(v)).	they choose to do so. If the Capacity is not acquired at Auction, it should be made available for all Clients on a FIFS basis.	
	Notwithstanding the above, no Auction will occur in circumstances where there is no unallocated Capacity at the time the Shipping Stem is closed.	This reflects that an Auction can only occur if there is available Capacity.	
	From the time the Shipping Stem is closed, no Client may move a Booking in respect of Capacity that relates to a Slot within the Auction Period until after the date of the Auction.	See the “Summary of Change” column.	
	If the ACCC issues an Auction Objection Notice (and subsequently withdraws it based on Viterra’s revised proposal), the Auction System is likely to be introduced in late July / early August 2012. In this situation:		
	<ul style="list-style-type: none"> Viterra will, within 5 Business Days of the Revised Proposal Decision Date (as defined in the Access Undertaking), publish details of the date and time of the first Auction and the Lots to be auctioned. The Auction will be held between 6 and 15 Business Days after the date that this information is published (and 	<p>The purpose of this provision is to ensure that Clients have sufficient notice of the first Auction, and sufficient time to execute the Auction Participation Deed, the Auction Provider Bidder Agreement, to register as a Bidder, and to submit any Proxy bids.</p> <p>This timing also ensures that the first Auction will not be held until after the date on which the</p>	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	after the variations take effect) (Schedule 2, clause (b)(i));	variations to the Protocols and Standard Terms take effect. The Shipping Stem is already closed in respect of Bookings for 1 October 2012 onwards.	
	<ul style="list-style-type: none"> the Auction will offer all Capacity at the Port Terminals for the period 1 October 2012 to 31 January 2013 (Schedule 2, clause (b)(ii)); and 	This provision is intended to ensure that there is sufficient lead time (for both Viterra and Clients) between the Auction and execution of the Capacity that is auctioned.	
	<ul style="list-style-type: none"> After the Auction, Viterra will re-open the Shipping Stem to enable Bookings for Unallocated Capacity (that is, Capacity not acquired at the Auction) on a FIFS basis (Schedule 2, clause (b)(iii)). 	This provision ensures that Clients will have an ability to acquire the relevant Capacity at Auction if they choose to do so. If the Capacity is not acquired at Auction, it should be made available for all Clients on a FIFS basis.	
17	Clause 17 - Definitions		All changes to new clause 17 are made under clause 9.5(b).
17.1	Viterra proposes to amend the Protocols (as set out in Attachment 2) to introduce or vary a number of definitions to support the introduction of the Auction System and the matters explained above. Key new definitions are “Additional Capacity”, “Auction”, “Auction Fee”, “Auction Period”, “Auction Provider”, “Auction Rules”, “Booking”, “Capacity”, “Harvest Shipping Period”, “Lot”, “Non-Harvest Shipping Period”,	See “Summary of Change” Column.	

	Summary of change	Explanation	Clause reference in the Access Undertaking
	“Premium Increment”, “Unallocated Capacity” and definitions associated with calculation of the Auction Premium Rebate.		
17.2	<p>Viterra also proposed to amend the definition of:</p> <ul style="list-style-type: none"> • “Site Assembly Plan” so it is clear that that the plan must specify the tonnages and grades and each site; and • “Transport Plan” so it is clear that the plan includes details of the transport mode and tonnages by grade and date. 	See “Summary of Change” Column.	
18	Table A requirements		
18.1	<p>Viterra proposes to update and amend the Table A requirements to:</p> <ul style="list-style-type: none"> • reflect the introduction of an Auction System as the primary method for allocating Capacity (and the operation of 14-16 days Slots); • provide a transitional mechanism from existing FIFS Bookings (which operate to 30 day windows, narrowed to 15 day Slots), to the new 	See “Summary of Change” Column.	<p>A small number of changes to Table A are made under clause 9.3(b) so that it more accurately reflects current practice (see bullet point 3 and following paragraphs in the “Summary of Change” column).</p> <p>However, a number of changes are also required for consistency with the Auction System and are therefore introduced under clause 9.5(b).</p>

	Summary of change	Explanation	Clause reference in the Access Undertaking
	<p>arrangements; and</p> <ul style="list-style-type: none"> to provide greater clarity (and updated information) in relation to what information Viterra requires at each point in time. <p>The additional information requirements are intended to facilitate planning and operational efficiency at the Port Terminals, particularly during peak shipping periods and given the ability for increased transfers and movements of Bookings.</p> <p>The information in relation to last three cargos is intended to provide earlier visibility of when vessels will or may be likely to fail marine surveys.</p>		

1.3 The Auction Rules

All of the Auction Rules relate to the Auction. Accordingly, changes to the Protocols to incorporate the Auction Rules are made under clause 9.5(b).

2 Proposed changes to the Standard Terms and the S&H Agreement

All changes to the Standard Terms and S&H Agreement are made under clause 9.5(b).