

Port Terminal Services Protocol

Any terms not defined in this Protocol have the same meaning as those defined in the GrainCorp Storage and Handling Agreement for the relevant season and / or the Wheat Port Terminal Services Agreement (Applicable post 1 October 2009).

This Port Terminal Services Protocol applies to the handling of regulated grains (bulk wheat) and to other non regulated grains handled through Port Terminals owned by GrainCorp.

Application

If the Client requests GrainCorp to load grain on a vessel at a port terminal owned by GrainCorp, the Client must nominate a cargo for loading at a Port Terminal by submitting a **Cargo Nomination Application (CNA)** form.

The following procedures for nominating a cargo and accepting or declining a Cargo Nomination apply (**Protocol**).

All notices and applications pursuant to the Protocol and directed to GrainCorp are to be sent to the following email addresses for the applicable Port Terminal.

For the avoidance of doubt, notices and applications for cargos that require two port loading are to be directed to the email addresses of **both** Port Terminals.

PORT	EMAIL ADDRESS
Mackay	mackayshipping@graincorp.com.au
Gladstone	gladstoneshipping@graincorp.com.au
Fisherman Is	fishermanisshipping@graincorp.com.au
Carrington	carringtonshipping@graincorp.com.au
Port Kembla	portkemblashipping@graincorp.com.au
Geelong	Geelongshipping@graincorp.com.au
Portland	portlandshipping@graincorp.com.au

1 Cargo Nomination Application Procedure

If the Client requests GrainCorp to load grain on a vessel at a Port Terminal operated by GrainCorp, the Client must:

- 1.1 Submit to GrainCorp on the relevant form a Cargo Nomination Application (**CNA**) on a date not less than 28 days prior to the commencement date of the Load Laycan (**Laycan**).
- 1.2 The Client may nominate a cargo with an Initial Expected Date of Arrival of less than 28 days; however acceptance of the nomination is at the sole discretion of GrainCorp acting reasonably.
- 1.3 A Cargo Nomination Application must include:
 - 1.3.1 The Port or Ports at which the cargo is to be loaded;
 - 1.3.2 The name of the vessel (if known);
 - 1.3.3 A 14 day **Load Laycan**
 - 1.3.4 A cargo specification that outlines the grain and grade for the nominated cargo, the location of the grain and grade (GrainCorp, Approved Bulk Handling Company or non-approved storage facilities), blending requirements and other services required by the Client at the Port Terminal;
 - 1.3.5 Confirmation that the Client will, if it is accumulating grain from a non-approved storage(s), operate under the applicable protocols and procedures, as advised by GrainCorp from time to time for the relevant Port Terminal;
 - 1.3.6 Confirmation that the Client will/has contract(ed) sufficient rail and/or road transport to accumulate the grain tonnage to the Port Terminal for the nominated cargo prior to the nominated Load Laycan;
 - 1.3.7 Confirmation that the vessel is expected to be ready to load on arrival at the Port Terminal;
 - 1.3.8 The destination of nominated cargo, including details of all phytosanitary and other certification requirements of the destination country;
 - 1.3.9 Details of any special or unusual features of the nominated vessel that may impact in any way vessel loading performance (For the avoidance of doubt, Tween Decker vessels will not be accepted for loading at GrainCorp Port Terminals); and
 - 1.3.10 Details of the holders of any encumbrances over the commodities and the proposed release of any encumbrances.
- 1.4 When receiving treated or fumigated grain by other Approved Bulk Handling Company, the Client must advise on submitting the **CNA** (and prior to delivery), the details of any chemical treatment used or planned to be used, and not deliver the grain until advised that such treatments are acceptable to GrainCorp. Port Terminals have a nil tolerance for fumigant residues above accepted Maximum Residue Levels. Where the grain has been fumigated, the Client must provide a 'clearance certificate' stating that the commodity is free from all fumigant residues, issued by a licensed fumigator.
- 1.5 A **Cargo Nomination Advice** will not be accepted by GrainCorp outside business hours (8:00am to 4:00pm) Monday to Friday. Should a Cargo Nomination be submitted outside of these times, the nomination is taken to have been received at the commencement of the next business day.

2 Cargo Nomination Application Review and Acceptance Procedure

2.1 GrainCorp will complete a **Risk Assessment** of a Cargo Nomination Application within a maximum of 5 business days following receipt of a completed **CNA** form. The 5 business day Risk Assessment period will commence from 8.00 AM on the first business day following receipt of a CNA., Cargo Nomination Applications will be Assessed in chronological order of receipt, using the information supplied by the Client in the **CNA**.

The **Risk Assessment** will take into account all particulars of the Client's request, including the following:

- 2.1.1 The information provided by the Client required under Clause 1 is complete and correct;
- 2.1.2 The Client provides written confirmation to GrainCorp that it will have sufficient grain tonnage of the relevant grade (at GrainCorp, approved or non-approved storage facilities) for the nominated cargo;
- 2.1.3 The Client provides written confirmation to GrainCorp that it has contracted sufficient rail and/or road transport to accumulate the grain tonnage to the Port Terminal for the nominated cargo prior to the nominated **Load Laycan**;
- 2.1.4 Phytosanitary and market access risks, including the presence of insects in stored grain and the application of grain protectants and fumigants for grain from Approved Bulk Handling Companies or non-approved, including on-farm, storage facilities as per the **GrainCorp Storage and Handling Agreement for the relevant season and / or the Wheat Port Terminal Services Agreement (Applicable post 1 October 2009)**;
- 2.1.5 Whether GrainCorp has available and sufficient intake, grain segregation, storage and shipping capacity at the Port Terminal that will allow loading of the grain onto the nominated vessel, taking into account:
 - (a) Other cargo(s) previously accepted by GrainCorp that appear as accepted cargo nominations on the GrainCorp Shipping Stem (see Clause 2.5);
 - (b) Sufficient capacity to receive and handle grain under the applicable protocol for accumulation by road of grain into GrainCorp Port Terminals from ex-farm and non-approved storage facilities as advised by GrainCorp from time to time;
- 2.1.6 Any other supporting information or documents in the event that issues arise which may cause any legal, regulatory, reputational or practical concerns, including the compliance with port of destination requirements and any potential event that may be a notifiable matter by GrainCorp to Wheat Exports Australia.

2.2 GrainCorp will accept or decline a **CNA** based on a **Risk Assessment** that takes into account the criteria outlined in Clause 2.1.

2.3 If GrainCorp accepts a **Cargo Nomination Application**, GrainCorp:

- 2.3.1 will assign a load date (**Assigned Load Date**). The Client must then pay a booking fee (in accordance with Clause 5) (**Booking Fee**), to confirm the accepted **Cargo Nomination**; and
- 2.3.2 may impose reasonable conditions in accepting a **Cargo Nomination** including, the mode of transport, port operating arrangements, requirement for overtime, source of grain and if applicable, the application of the relevant protocols and procedures, as advised by GrainCorp from time to time for the relevant Port Terminals from non-approved storage facilities; and

- 2.3.3 GrainCorp will notify the Client in writing of the acceptance of a **Cargo Nomination** and of the related **Assigned Load Date**, and any reasonable conditions imposed.
- 2.4 If GrainCorp declines a **Cargo Nomination**, GrainCorp must provide to the Client reason(s) for this decision, and will provide the reasons in writing.
- 2.5 Pursuant to the obligations of wheat export port terminal service providers under the Bulk Wheat Export Accreditation Scheme established under the *Wheat Export Marketing Act 2008* (Cth) ("**Act**"), GrainCorp will publish 'Shipping Stem' information on its website www.graincorp.com.au in accordance with Section 24(4) of the Act for all accepted **CNA's (Shipping Stem)**.
- 2.6 In the event that two or more **Cargo Nominations** are received with identical or similar **Laycans** (i.e. within 5 business days of each other), and providing that all prior conditions as identified in this Protocol have been met, GrainCorp will assign an **Assigned Load Date** in accordance with Clause 3, in the order in which the **CNA's** were received.
- 2.7 Where a **Cargo Nomination** requires loading from two Port Terminals, an **Assigned Load Date** will be allocated at both Port Terminals. In the event that a vessel is delayed during loading at the first Port Terminal due to:
- 2.7.1 A late or substituted vessel, the Client's failure to present sufficient cargo to the first Port Terminal or failure to pass relevant Marine, AQIS and any other survey required by regulation, the **Assigned Load Date** at the second load port will lose priority and be subject to a review of the **Risk Assessment** as detailed in Clause 2.1 and allocated a new **Assigned Load Date** at the second load port accordingly.
- 2.7.2 no fault of the Client (including but not limited to weather effected loading delays, mechanical breakdown of Port Terminal equipment, AQIS rejection of infested grain), and providing cargo has been accumulated at the second load port by the **Assigned Load Date**, that vessel will retain its priority on the shipping stem at the second Port Terminal.

3 Vessel Nomination – 21 Day Notice

- 3.1 No later than 21 days before the first date of the **Laycan** the Client will inform GrainCorp by providing an update to Section 1 of the relevant **Cargo Nomination** the following information that will constitute a **Vessel Nomination**:
- The name of the Vessel,
 - The Estimated Time of Arrival (**ETA**) of the nominated vessel (which must be within the Load Laycan),
 - Details of the vessel length, depth, and maximum air draft, or any other vessel characteristic that may inhibit or affect loading performance,
 - Contact details of Ship's Agent (24 hour basis),
 - Contact details of Cargo Agent if one employed by customer (24 hour basis),
 - Contact details of ship's Captain,
 - Any variations that may have been applied and accepted to the original **CNA**; and
 - Details of the last three (3) cargoes carried the last three (3) ports of call and information relating to any preparations made to the vessel to ensure it passes the regulatory Marine and AQIS pre-loading surveys.

GrainCorp will then update the **Cargo Nomination** and **Assigned Load Date** for the vessel, which will be within the **Laycan**.

If the Client fails to comply with Clause 3.1, including an **ETA** later than the **Laycan** the Client forfeits their **Cargo Nomination** and the **Booking Fee**.

A **Vessel Nomination** will not be accepted by GrainCorp outside business hours (8:00am to 4:00pm) Monday to Friday. Should a **Vessel Nomination** be submitted outside of these times, the Confirmation is taken to have been received at the commencement of the next business day.

- 3.2 If GrainCorp at its sole discretion acting reasonably assesses that the readiness of a vessel to load (**Vessel Readiness to Load**) presents a higher than acceptable risk of failing a Marine, AQIS or related survey, GrainCorp may request that the customer provide assurances of the fitness of a vessel in the form of an 'in-transit' marine surveyor report. 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.
- 3.3 Any costs associated with an 'in-transit' marine survey, or a refusal to accept a vessel 'alongside', shall be the responsibility of the Client.
- 3.4 GrainCorp may record any and all information relating to the Vessel Readiness to Load performance of the Client, its shipping agents and shipping lines, and may incorporate this information into relevant cargo **Risk Assessment** procedures.

4 Site accumulation

- 4.1 No later than 21 days before the Assigned Load Date the Client will provide stock information that will allow GrainCorp to develop a Site Assembly Plan (**SAP**) for the accumulation of the grain for delivery to the Port Terminal based on details provided in the **CNA**. The **SAP** will detail the location of the grain and grade to be accumulated for the nominated vessel from GrainCorp, Approved Bulk Handling Company or non-approved or ex-farm storage facilities.
- 4.2 The Client and GrainCorp will be required to compile and agree the **SAP** prior to accumulation to the Port Terminal commencing.
- 4.3 GrainCorp is under no obligation to receive grain at any of its port terminals against an accepted cargo nomination more than 21 days in advance of the **Assigned Load Date**.
- 4.4 Without limitation, GrainCorp is not liable to the Client or any third party, or any person claiming through or on behalf of the Client, for any costs, losses or delays, whether direct or indirect, that may arise if grain is not accumulated at the Port Terminal before the **Assigned Load Date** for any reason.

5 Booking Fee

- 5.1 To confirm a **Cargo Nomination** the Client must pay to GrainCorp a non-refundable booking fee (as per the relevant **Port Terminal Services and Fees Schedule** for the relevant season) within 3 days (Monday to Friday) of GrainCorp notifying a Client that an **Assigned Load Date** has been assigned to an accepted **CNA**. Once a **CNA** is accepted, GrainCorp will provide a tax invoice against which this fee is to be paid. This fee is in addition to any other fees that may be applicable to the accumulation of grain and shipping of grain for the nominated cargo. Failure to make payment in cleared funds within 3 days of such notification will cause the Client to lose any allocated **Assigned Load Date**.
- 5.2 In a circumstance where the Client nominates a cargo and pays the **Booking Fee** but it is subsequently found that the Client has failed to comply with the requirements of Clauses 1.2, 2.1.1-2.1.4, 2.3.2, 3.1, or 4.1, the **Assigned Load Date** can be cancelled by GrainCorp and the Client forfeits any **Booking Fee** previously paid and will be required to re-nominate another cargo or provide a substitute vessel in accordance with Clauses 2 and 3.

6 Substituting Nominated Vessels

Substituting Vessels Outside the 21 Day Period

- 6.1 Subject to Clause 5.2, no later than 21 days before the first date of the **Laycan**, the Client may, by submitting amendments to Section 1 of the relevant **CNA**, substitute the nominated vessel with another vessel at the nominated Port Terminal for the same cargo (+/- 5% tolerance on cargo tonnes) without the Client being required to pay a new **Booking Fee** or having to re-nominate a new cargo, provided that the substituted vessel is scheduled to arrive within 5 days of the originally **Assigned Load Date**. This is subject to GrainCorp having the right to alter the **Assigned Load Date** when a vessel is substituted by the Client.

Substituting Vessels Within the 21 Day Period

- 6.2 The Client may apply to substitute a vessel at the nominated Port Terminal for the same cargo (+/- 5% tolerance on cargo tonnes) within the 21 day period, provided that the **ETA** is the same at the original **ETA**. If GrainCorp in its sole discretion acting reasonably approves the substituted vessel, the Client may be required to pay a new **Booking Fee** and may be required to re-nominate under the procedures outlined in Clause 1.

Notification of a request for a **Substitution of a Nominated Vessel** will not be accepted by GrainCorp outside business hours (8:00am to 4:00pm) Monday to Friday. Should a Vessel Substitution be submitted outside of these times, the Substitution is taken to have been received at the commencement of the next business day.

7 Loading of Vessels

- 7.1 Prior to loading the vessel, GrainCorp will provide the Client with an authority to load (**Authority to Load**) for the Client's approval. The **Authority to Load** will include all quality information relating to the Client's cargo.
- 7.2 The Client must approve the **Authority to Load** and return to GrainCorp prior to the commencement of loading.
- 7.3 The Client acknowledges that GrainCorp has the right to mitigate dust emissions at the Port Terminal. Such mitigation may include moisture conditioning of grain paths.
- 7.4 Notwithstanding any other provision in this Protocol, the Client 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, vessel congestion, 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 all cargos 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 Client informed.

8 Late or Cancelled Vessels

- 8.1 If a vessel's **Authority to Load** or **ETA** advised under Clause 3.1 is later than 5 days after the **Assigned Load Date**, or the vessel has been cancelled by the Client (or related parties to the vessel) then:
- 8.1.1 The Client forfeits any **Booking Fee** previously paid;
 - 8.1.2 The Client must re-nominate to secure a new **Assigned Load Date** as per Clauses 1 and 2 and must pay a new **Booking Fee**; and

- 8.1.3 All grain in the Port Terminal accumulated for that nominated vessel will accrue additional storage charges (in addition to the standard storage charges). These fees are specified in relevant **Port Terminal Services and Fees Schedule** for the season relating to the **CNA**, and apply from the sixth day after the **Assigned Load Date**, until such time as the grain is either loaded to a vessel or removed from the Port Terminal. Any additional fees accrued are payable prior to the outloading of the grain to a vessel or other transport.
- 8.1.4 The Client must notify GrainCorp by updating the **CNA** form as soon as practicable on receipt of knowledge that the vessel will be late, or that the vessel is to be cancelled. Any update to a **CNA** must be received by GrainCorp during normal business hours. Any notification received outside business hours (as specified elsewhere in this Protocol) will be deemed to have been received at the commencement of the next business day.

9 Changing Load Port

- 9.1 The Client must inform GrainCorp as soon as reasonably practicable of the Client's desire to change the Load Port and must do so in writing using the **CNA** form. Any notification of a change in Load Port must be submitted to GrainCorp only during business hours. Any notification received outside business hours (as specified elsewhere in this Protocol) will be deemed to have been received at the commencement of the next business day.
- 9.2 If the Client changes the Load Port:
 - 9.2.1 The Client forfeits any **Booking Fee** previously paid;
 - 9.2.2 The Client must re-nominate to secure a new **Assigned Load Date** as per Clauses 1 and 2 and must pay a new **Booking Fee**; and
 - 9.2.3 All grain in the Port Terminal accumulated for that nominated vessel will accrue additional storage charges (in addition to the standard storage charges). These fees are specified in the relevant **Port Terminal Services and Fees Schedule** for the season relating to the **CNA**, and apply from the sixth day after the **Assigned Load Date**, until such time as the grain is either loaded to a vessel or removed from the Port Terminal. Any additional fees accrued are payable prior to the outloading of the grain to a vessel or other transport; however
 - 9.2.4 If the change in Load Port creates operational efficiencies for GrainCorp, GrainCorp in its sole right and discretion acting reasonably may elect to waive some of (or all) Clauses 9.2.1 to 9.2.3, and assign a new **Assigned Load Date** with the agreement of the Client.

10 Vessels Failing Regulatory Survey

- 10.1 The Client is responsible for the condition and state of readiness of vessels presented to GrainCorp for loading as per relevant Marine, AQIS and any other survey required by regulation relating to the export of grain from Australia.
- 10.2 In the event of the Client's vessel failing an AQIS or other survey that may be required by regulation, GrainCorp reserves the right to give priority to other vessels on its Shipping Stem and to assign the re-presented vessel an **Assigned Load Date** that can accommodate the vessel at the sole discretion of the GrainCorp acting reasonably.
- 10.3 All other items shall be treated in accordance with Clause 3 of the GrainCorp Storage and Handling Agreement for the relevant season and / or the Wheat Port Terminal Services Agreement (Applicable post 1 October 2009) for the season relating to the **CNA** and Clauses 5 and 6 of the Port Terminal Services Protocol shall apply.

11 Insufficient Grain Accumulated to Load Vessel

- 11.1 GrainCorp is not liable for, and does not guarantee, cargo availability at a Port Terminal by the **Assigned Load Date**, regardless of the period of notification provided by the Client, and the Client accepts full responsibility for the accumulation of any and all cargos.
- 11.2 If the Client has not accumulated sufficient grain at a 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 the available grain in such a manner as to comply with the directions of the Captain of the vessel, or the stevedore, to ensure the stability of the vessel.
- 11.3 GrainCorp may request the movement of a part loaded vessel off the berth at the Client's expense if the next vessel on the Shipping Stem at the Port Terminal is ready to berth and has sufficient cargo assembled to commence and complete loading.
- 11.4 A relocated vessel may be allowed back on the berth for the recommencement of loading when the balance of the cargo has been accumulated at the Port Terminal.
- 11.5 If grain arriving at the Port Terminal from a GrainCorp Country Site cannot be loaded onto the nominated vessel due to quality reasons through no fault of the Client (excluding infestation or where the Clients cargo quality / grade specifications vary from the relevant GTA receival standards) GrainCorp will:
 - 11.5.1 replace that grain with grain of the nominated grade and at GrainCorp's cost;
 - 11.5.2 deem the Clients Grain Accounting Stock Tonnes for that component of stock outside of the quality requirements referred to in Clause 11.5 to have remained at the originating GrainCorp Country Site; and
 - 11.5.3 'stock swap' the rejected grain at a Port Terminal with grain of an equivalent quality profile to that specified in the **CNA**, and GrainCorp will assume ownership of the rejected grain at the Port Terminal.
- 11.6 GrainCorp will not be liable for any grain that does not meet the **CNA** requirement that has been sent to the Port Terminal from an Approved Bulk Handling Company or non approved storage facilities. The Client remains the owner of this grain until it is out loaded in its entirety, and until this time, the grain will be subject to any applicable storage and related fees and charges.

12 Residual Grain at the Port Terminal

- 12.1 Any residual grain remaining in the Port Terminal after the completion of vessel loading, or as the result of a vessel cancellation, will accrue an occupancy charge and fees detailed in **the relevant Port Terminal Services and Fees Schedule**. The Client acknowledges that GrainCorp may reposition or relocate the grain into outside storage or other off-wharf storage at the Client's cost, including storage, freight and weighing.
- 12.2 Where grain has been delivered to a Port Terminal from any Approved Bulk Handling Company or non-approved storage(s) and rejected as being unfit for loading onto a vessel, GrainCorp will not be liable for any loss relating to the degradation of the quality of that grain. The Client remains the owner of this grain at all times and until the grain is sold or removed from the Port Terminal.
- 12.3 Clause 12.2 will not apply if:
 - 12.3.1 residual stock remaining in the Port Terminal as a result of a rejection to load to vessel by AQIS was moved to the Port Terminal from a GrainCorp Country Site; or
 - 12.3.2 the Client has a cargo nomination with a Assigned Load Date commencing within 14 days of the previous vessel's completion of loading, where previously rejected grain may be included as part of that cargo; or

- 12.3.3 the Client sells residual grain to another client or agrees that the grain can be included as a component of the cargo of a vessel of another client, where cargo accumulation for that client commences within 14 days of the completion of loading of the vessel upon which the rejected grain was originally to be loaded.

13 Dispute Resolution

- 13.1 If the Client wishes to dispute GrainCorp's rejection of a **CNA** for bulk grain export, the following procedures will apply:
- 13.1.1 The Client must notify GrainCorp in writing of the dispute, the reasons for the dispute and the requested resolution (**Dispute Notice**) by 4 pm on the next business day after the receiving notice of the rejection.
 - 13.1.2 GrainCorp must use best endeavours to respond to the Client within two Business Days of receiving the Dispute Notice (**Response**). The Response must set out whether GrainCorp intends to reverse its decision and, if not, must provide an explanation or basis for GrainCorp's decision.
 - 13.1.3 If the Client is not satisfied with the Response or GrainCorp fails to respond within two Business Days, then the Client may serve an escalation notice on GrainCorp within the later of two Business Days of receipt of the Response or when the Response was due (**Escalation Notice**).
 - 13.1.4 Upon receipt of an **Escalation Notice** GrainCorp must use all reasonable endeavours to arrange a meeting within 5 business days of receipt of the **Escalation Notice** between GrainCorp's Executive General Manager, Ports and New Business, and the Client to provide an opportunity for the Client to air its grievances.
 - 13.1.5 To avoid doubt, this Clause 13 does not apply to a dispute concerning the grade, quality, sampling, testing or classification of grain¹.

¹ A dispute of this nature will be referred to a mutually agreed independent testing company in accordance with the relevant dispute resolution clause in the Wheat Port Terminal Services Agreement.