

Tradeslot Registered Bidder Agreement for Online Auctions

Date

Parties

1. **Tradeslot Pty Ltd** incorporated in Melbourne, Victoria
(ABN 69 092 784 846) (**Tradeslot**)
2. [_____ (ABN: _____)] (**You, Your**)

Bidder Company Name

It is agreed as follows.

1. Background

The following Tradeslot Registered Bidder Agreement (**Agreement**) applies to You as a user of the Service.

1.1 Definitions

The following definitions apply unless the context requires otherwise:

Auction Rules means those rules set out in Schedule 1 of the Registered Seller’s Port Loading Protocols as varied from time to time.

Authorised User means a person under Your control that has been issued with a User Code and Password by Tradeslot, for the purpose of accessing the Service. The maximum number of Authorised Users is specified in Part B of Schedule 1.

Commencement Date means the date specified as such in Part B of Schedule 1.

Lot Specification means a unique specification of goods that a Registered Seller wishes to sell via auction on the Shipping Capacity Auctions website.

Online Auction means each auction conducted in accordance with the Auction Rules and this Agreement

Password means the phrase issued to Your Authorised Users by Tradeslot on acceptance of Your Registration Form.

Premium Increment, Auction Fee, Bidder are defined in the Auction Rules.

Registered Seller means Viterra Operations Ltd, 124-130 South Terrace, Adelaide SA 5000.

Registration Form means a *Tradeslot Registered Bidder Agreement* completed by You.

Service means access to and use of the Shipping Capacity Auction website in accordance with this Agreement and the Auction Rules.

Shipping Capacity Auctions website means the website at www.shippingcapacity.com.

Term means the initial term of Agreement as specified in Part B of Schedule 1 and includes any subsequent extensions made to the term.

User Code means the code issued to Your Authorised Users by Tradeslot on acceptance of Your Registration Form.

Viterra Operations Ltd (Viterra) website means the website at <http://www.viterra.com.au/>

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, body corporate, partnership, unincorporated body or other entity includes any of them.
- (e) The meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions.
- (f) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible form but excludes any communication using email.
- (g) A reference to dollars and \$ is to Australian currency.
- (h) A reference to a *year* or a *month* is to a calendar year or month respectively
- (i) The Schedules form part of this Agreement. If there is any inconsistency between the provisions of a Schedule, then the provisions of the Schedule will prevail to the extent of the inconsistency and the provisions of this Agreement must be construed accordingly.

2. Agreement

2.1 Services and Term

Tradeslot agrees to provide You with the Service from the Commencement Date, in accordance with this Agreement.

3. Auction Rules

The Registered Seller has made Auction Rules regarding the conduct of Online Auctions and the Service and You agree to comply with such Auction Rules. The Registered Seller may make, amend, alter and replace such rules in accordance with the Port Loading Protocols.

4. Your Specific Obligations

4.1 You agree:

- (a) to obtain access to the Shipping Capacity Auction website at Your own expense and using Your own equipment;

- (b) at all times to use the Service and Shipping Capacity Auction website responsibly and in accordance with all applicable laws, by-laws and regulations;
- (c) not to misuse the Service or Shipping Capacity Auction website in any way, including to perform or assist anyone in performing any unlawful act;
- (d) to only access the Service and the Shipping Capacity Auction website by using the User Codes and Passwords issued to Your Authorised Users and not to attempt to access the Services or Shipping Capacity Auction website using another person's User Code and Password;
- (e) to pay all taxes, duties, levies, stamp duty and government charges arising out of or in relation to Your use of the Service or any transaction entered into by You as a result of the use of the Service.
- (f) not to interfere with, manipulate, damage or disrupt any networks connected or used in relation to the Service;
- (g) to at all times ensure that Tradeslot has up-to-date information in relation to You and Your use of the Service;
- (h) not to make any statement which has the effect of or implies that Tradeslot certifies or endorses any product, service or activity of any person, or any information or material referred to or transmitted through the use of the Service;
- (i) that You will not, without the prior written consent of Tradeslot, resell, assign or transfer, or attempt to resell, assign or transfer Your rights or obligations under this Agreement;
- (j) You will not (or enable any person to) load a virus, Trojan Horse, time bomb, worm, cancelbot, or other computer software that may cause the Shipping Capacity Auction website to fail, overload or perform in a manner inconsistent with the functional operation of the Service.
- (k) to at all times accept and adhere to the Auction Rules;
- (l) to the full extent permitted by law, that You use the Service at Your own risk.

4.2 You acknowledge that Tradeslot:

- (a) may provide information relating to Your use of the Service and Shipping Capacity Auction website, only if that information does not disclose Your personal details (unless You have given Tradeslot permission in writing to do so);
- (b) does not make any representations about any goods or services You may bid for using the Services;
- (c) is not responsible for any losses, damages, actions, claims, costs and expenses You may suffer through Your failure to maintain security in relation to Your Passwords and User Codes or through unauthorised use of Your Passwords or User Codes;
- (d) provides the Service on an 'as is' and 'as available' basis and makes no warranties or representations of any kind;
- (e) to the maximum extent permitted by law, expressly excludes all representations and warranties (express, implied or statutory) including the warranties of merchantability, fitness, quality or suitability for a particular purpose, which may

relate in any way to the supply of the Service or otherwise in connection to this Agreement;

- (f) takes no responsibility for ensuring that:
 - i. Lot Specifications have been correctly specified;
 - ii. You are invited to be a Bidder to respond to the Registered Seller's Lot specifications;
 - iii. The Registered Seller set a reasonable Auction Fee, or Premium Increment, in relation to each Lot specification listed;
 - iv. You are allowed sufficient time for registering and bidding for each Lot Specification listed on the Shipping Capacity Auction website; and
 - v. You have access to the Shipping Capacity Auction website during an Online Auction.

5. Network Services and Availability

- (a) Tradeslot is neither responsible nor liable for any failure to provide the Service as a result of failure beyond its reasonable control. You acknowledge that access to the Service may be disrupted by failures or disruptions to telecommunications networks and by routine maintenance or upgrades conducted by Tradeslot or by third parties.
- (b) Tradeslot will endeavour not to perform any routine maintenance or upgrades during an Online Auction.
- (c) Where an Online Auction is unexpectedly disrupted, Tradeslot will respond to that disruption in accordance with the Auction Rules.
- (d) You must notify Tradeslot of any faults or problems with the Service, immediately upon becoming aware of them.

6. Password and Security

6.1 You are Responsible

Tradeslot will issue a User Code and Password for each of Your Authorised Users. You must, and must ensure that Your Authorised Users will, keep Your User Codes and Passwords secure and confidential.

6.2 Use of User Code and Password

- (a) You acknowledge that Tradeslot can assume that any information or electronic transmission submitted to the Service listed under Your User Codes and using Your Passwords originates from You, and;
- (b) You release and discharge Tradeslot in respect of any losses, damages, actions, claims, costs and expenses suffered or incurred by You as a result or otherwise in connection with the use of Your User Codes and Passwords.

6.3 Notification of Unauthorised Use

You must immediately notify Tradeslot upon becoming aware of any unauthorised use of a User Code or if You believe a User Code or Password has become compromised.

6.4 Replacement Password and Account

On the loss or theft of a User Code or Password (and if You immediately notify Tradeslot of such loss or theft), Tradeslot agrees to issue Your Authorised User with a new User Code and/or Password, as the case may be.

6.5 Audit of Authorised Users

You must ensure that the number of Authorised Users does not exceed the maximum specified in Part B of Schedule 1. Tradeslot reserves the right to take all reasonable steps to ensure this obligation is complied with.

7. Confidentiality and Security

- (a) Each of Tradeslot and You agrees to take precautions not less than those employed to protect its own confidential information and proprietary information, to protect the confidential information and proprietary information of the other party from disclosure.
- (b) You acknowledge that although Tradeslot will take all reasonable precautions to protect the security of the Service, the Service may involve the transmission of information over data networks that may not be secure. Accordingly, You agree that Tradeslot will not be liable for any interception by a third party of a transmission, or for any damage caused in connection with a transmission beyond its reasonable control.

8. Intellectual Property

8.1 Rights in the Shipping Capacity Auction website

You acknowledge and agree that all rights (including intellectual property rights) in the Shipping Capacity Auction website and the contents of that site are and will remain owned by Tradeslot, the Registered Seller or its licensors.

8.2 No licence

Nothing in this Agreement will be construed as conferring upon You any licence or other rights to the intellectual property or other proprietary rights of Tradeslot, the Registered Seller, their respective affiliates or any other third party.

8.3 No reverse engineering

You must not copy, modify, merge, create a derivative work of, reverse engineer, decompile, reverse assemble the whole or any part of the Shipping Capacity Auction website or otherwise attempt to obtain the algorithms by which the Shipping Capacity Auction website performs its functions.

8.4 Other intellectual property rights

You acknowledge that Tradeslot and/or the Registered Seller owns or has exclusive rights to the Tradeslot trademarks and copyright, including the Shipping Capacity Auction website, the system design and the system 'look and feel'. Unless specified in this Agreement, You have no right to use or do any act (or allow any person to do any act) inconsistent with Tradeslot's ownership and rights in such trademarks and copyrights.

9. Upgrades and Support

- (a) If You notify Tradeslot of any:
 - (i) difficulties You are having with the Service – Tradeslot must endeavour to notify You of an appropriate method of use (by telephone, fax or email as Tradeslot considers appropriate) as soon as reasonably practicable; or
 - (ii) defect in the Service – Tradeslot must endeavour to correct that defect as soon as reasonably practicable.
- (b) Apart from the services identified in clause 9(a), Tradeslot is not obliged to provide any other support or maintenance to You, unless otherwise agreed in writing.

10. Your Warranties

You warrant to Tradeslot that:

- (a) to the best of Your knowledge all information contained in the Tradeslot Registration Form is true, accurate and complete and that Tradeslot may rely on this information;
- (b) other than contained in this Agreement and the Auction Rules, You have not relied on any representations made by Tradeslot or any other party in relation to the Service.

11. Limitation of Liability and Indemnity

11.1 Limitation of liability

- (a) To the extent that warranties implied by law in relation to the supply of the Service by Tradeslot to You cannot be excluded, Tradeslot's liability for any loss or liability arising out of this Agreement, or the supply of the Service, shall be limited to (at Tradeslot's discretion) the supply of the Service again or the cost of having the Service supplied again.
- (b) Under no circumstances will Tradeslot be liable to You for any indirect, incidental or consequential damages, any damages for loss of profits, goodwill or anticipated savings, or any damages for other intangible losses even if they may reasonably be supposed to have been in the contemplation of the parties and whether under contract, tort, equity, statute or otherwise however occasioned (including due to negligence) arising out of or otherwise in connection with this Agreement. Tradeslot's aggregate liability for loss and damage not excluded and otherwise in connection with this Agreement (including for Tradeslot's negligence) is limited to **[\$100]**.
- (c) Tradeslot's liability under this Agreement shall be reduced proportionately to the extent Your acts or omissions contributed directly or indirectly to the loss and damage or to the extent Tradeslot's liability was caused directly or indirectly by any failure by You to comply with Your obligations under this Agreement.

11.2 Indemnity

You release and indemnify Tradeslot and its related corporations from and against all losses, damages, actions, claims, costs and expenses suffered or incurred by Tradeslot or its related corporations as a result of or otherwise in connection with Your use of the Service, including any authorised or unauthorised use of Your User Code or Password.

12. Termination

- (a) Either Tradeslot or You may terminate this Agreement immediately by notice in writing to the other party, if that party:-
 - (i) commits a breach of this Agreement (unless the breach is capable of remedy, in which case if the party in breach fails to remedy the breach within 14 days after being required in writing to do so); or
 - (ii) enters bankruptcy, liquidation or administration, has a receiver or other type of controller appointed or enters a composition or arrangement with its creditors, or becomes or is deemed to become insolvent.
- (c) Upon any termination of this Agreement, You:
 - (i) will no longer be entitled to use the Service (and will not attempt to do so); and
 - (ii) will have Your User Codes and Passwords immediately revoked;
- (d) Termination of this Agreement does not affect any accrued rights or remedies of either You or Tradeslot.

13. Relationship between Parties

Nothing in this Agreement constitutes Tradeslot as Your partner, agent or employee or of any other persons, including any Registered Seller. Tradeslot provides a forum for parties to meet for the purposes of entering into contracts with each other for the purchase and supply of goods and services. Nothing in this Agreement grants You the authority or power to bind, contract in the name of, or create a liability against Tradeslot.

14. Waiver

If You breach any of the terms and conditions of this Agreement, Tradeslot's failure to pursue legal action or to enforce any remedy against You will not constitute a waiver of Tradeslot's legal rights. Any waiver of any provision of this Agreement will only be effective if it is in writing and signed by Tradeslot or an agent or representative of Tradeslot.

15. Governing law and jurisdiction

Unless expressly stated to the contrary, the laws of Victoria, Australia govern this Agreement. You consent to the non-exclusive jurisdiction of Victorian Courts regarding any disputes in connection with this Agreement.

16. Notice

Any notice or other communication given or made under this Agreement must be in writing, signed by the sender and delivered to the intended recipient at the relevant address specified in Part A of Schedule 1.

17. Amendment

No amendment or variation of or to this Agreement is valid or binding on a party unless made in writing and executed by both You and Tradeslot.

EXECUTED as an agreement.

Signed for and on behalf of **Tradeslot Pty Ltd** by its authorised officer in the presence of:

Signature

Print Name

Witness

Print Name

Signed for and on behalf of _____ by its duly authorised officer in the presence of:

Authorised Officer

Print Name

Witness

Print Name

Schedule 1

A. Contact Details

Your details

1. Name:
2. ACN/ABN:
3. Address:
4. Contact person:
5. Telephone:
6. Fax:
7. Email:

Tradeslot details

1. Name: **Tradeslot Pty Ltd**
2. ACN/ABN: **ABN 69 092 784 846**
3. Address: Suite 6.01, 365 Little Collins Street
Melbourne, VIC 3000
Australia
4. Contact person: Madhuri Dagar
5. Telephone: + 61 3 9016 3436
6. Email: auctionmanager@tradeslot.com

B. Commencement Date & Authorised Users

Commencement Date: / /2012 (dd/mm/2012)

Term: From the Commencement date until 30 September 2014

Number of Authorised Users: [5].