GRAINCORP OPERATIONS LIMITED

(ABN: 52 003 875 401)

**BULK WHEAT and BULK GRAIN PORT TERMINAL SERVICES PROTOCOLS**

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| Document Date: | Effective from X March 2013 |
| Season: | 2013 / 14 |
| Appended as Annexure B to: | 2011 / 14 Bulk Wheat Port Terminal Services Agreement |
|  | 2013 / 14 Bulk Grain Port Terminal Services Agreement (Non-wheat) |
|  | 2013 / 16 Long Term Port Terminal Services Agreement |

These Port Terminal Services Protocols apply to the provision of access to the Port Terminal owned by GrainCorp at Carrington (Newcastle) (**Newcastle Port Terminal**), and the handling of regulated grain (bulk wheat) and other non-regulated grains through the Newcastle Port Terminal.

. These Port Terminal Services Protocols are structured as follows:

**Part A – Terms and Acronyms**

Part A sets out terms and acronyms used in the Port Terminal Services Protocol.

**Part B – Terminal Operating Protocols**

applies to the handling of regulated grain (bulk wheat) and other non-regulated grains handled through the Newcastle Port Terminal.

Part A – Terms and Acronyms

Any terms not defined in these Port Terminal Services Protocols have the same meaning as those defined in the *GrainCorp Bulk Wheat Port Terminal Services Agreement* and / or *the Bulk Grain Port Terminal Services Agreement (Non–Wheat)* for the relevant season.

**Acknowledgement of Acceptance (AOA)**. GrainCorp will forward an AOA to a customer following receipt and approval of a CNA. By sending an AOA to a customer, GrainCorp is making an ‘offer’ to confirm the booking of Elevation Capacity at a particular terminal during a particular Elevation Period. By accepting an AOA, the customer is agreeing to pay the relevant Booking Fee and assuming responsibility for advising GrainCorp of the manner in which Elevation Capacity is to be supplied.

**Assigned Load Date (ALD).** This is the date allocated by GrainCorp following receipt of advice from a customer of a vessel ETA, and which determines the order in which vessels will be loaded within a Confirmed Elevation Period.

**Booked Elevation Capacity (BEC)**. This is the number of tonnes of grain cargo elevation GrainCorp agrees to provide to a customer at a particular time during the Confirmed Elevation Period, following completion and return to GrainCorp of an AOA. Booked Elevation Capacity can consist of one or more ‘lifts’ of ‘cargos’ onto vessels.

**Booking Fee.** Subject to clause 85.8, this is the non–refundable per tonne fee a customer is liable to remit to GrainCorp once they acknowledge and accept an offer of Elevation Capacity by completing and returning an AOA.

**Cargo Nomination Application (CNA).** This is the application submitted to GrainCorp via the Workflow Online Platform by customers seeking to book grain Elevation Capacity at one or multiple GrainCorp grain export Port Terminals.

**Confirmed Elevation Period (CEP).** This is the Elevation Period in which Elevation Capacity is confirmed as being accepted by a customer, and will be available at a particular Port Terminal.

**Customer**. This is a customer that has entered into or intends to enter into a *Bulk Wheat Port Terminal Services Agreement, Bulk Grain Port Terminal Services Agreement* or a *Long Term Port Terminal Services Agreement* with GrainCorp.

**Elevation Capacity.** This is the number of tonnes of grain cargo elevation GrainCorp agrees to provide to a customer at a particular time during a particular period.

**Elevation Period.** A period of one (1) calendar month.

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

**ETA Nomination.** This has the meaning given in clause 1312.

**Load Port.** This has the meaning given in clause 0.1.

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

**Mtpa.** Million tonnes per Shipping Year.

**Newcastle Port Terminal.** This means GrainCorp’s Carrington (Newcastle) Terminal.

**Nominated Elevation Capacity.** This is the tonnage of Elevation Capacity published on the GrainCorp website that is available during any one Elevation Period at a particular port.

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

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

**Port Terminal.** This means each of GrainCorp’s:

* + 1. Carrington (Newcastle) Terminal;
		2. Fisherman Islands Terminal;
		3. Geelong Terminal;
		4. Gladstone Terminal;
		5. Mackay Terminal;
		6. Port Kembla Grain Terminal; and
		7. Portland Terminal.

**Requested Elevation Period (REP).** This is the Elevation Period in which a customer has requested Elevation Capacity.

**Shipping Stem.** This has the meaning given in clause 0.

**Shipping Year.** This has the meaning given in clause 6.3.

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

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

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

Part B – Terminal Operating Protocols

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

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1. Application and Notices
	1. If the customer requests GrainCorp to load grain on a vessel at the Newcastle PortTerminal , the customer must seek to book Elevation Capacity and indicate their Requested Elevation Period by submitting a CNA. The following procedures apply to requesting Elevation Capacity and an Elevation Period, accepting or declining a CNA, modifying a CNA and for managing the allocation of Terminal Elevation Capacity at the Newcastle Port Terminal.
	2. All CNA applications and other related matters and modifications and other relevant notices, must be completed using the GrainCorp Workflow Online Platform. Customers will receive a Workflow online login. The Workflow Online Platform is operated through a web browser. Any notices and applications pursuant to these Protocols and directed to GrainCorp that cannot be completed on the Workflow Online Platform are to be sent to the email address set out below. GrainCorp will make available on its website PDF document versions of all forms relevant to these Protocols. These forms should only be used if the Workflow Online Platform is not available.

**To avoid doubt, notices and applications relating to the Newcastle Port Terminal other than those required to be completed on the GrainCorp Workflow platform are to be directed to ‘carringtonshipping@graincorp.com.au’.**

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| Note – vessels requiring two port loading should forward relevant information to BOTH ports. |  |
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1. Shipping Stem

Pursuant to the obligations of Wheat Export Port Terminal service providers under the *Wheat Export Marketing Act 2008 (Cth)* (**Act**), GrainCorp will publish Shipping Stem information on its website in accordance with Section 9(4) of the Act (**Shipping Stem**).

1. Cargo Nomination Application Procedure
	1. If a customer requests elevation of grain onto a vessel at Newcastle Port Terminal operated by GrainCorp, the customer must submit a **Cargo Nomination Application** (**CNA**) to GrainCorp via the Workflow Online Platform.
	2. A CNA submitted must include the following minimum information.
		1. The port at which the cargo is to be loaded (**Load Port**).
		2. A separate CNA is required for each port if a customer requires a two port load.
		3. A Requested Elevation Period
		4. The volume of the nominated cargo.
	3. The CNA may include other information (if known) as outlined in clause 12.4.
	4. Each cargo nominated under a CNA must have an upper tonnage limit equal to the Maximum Vessel Tonnage for the Newcastle Port Terminal.
2. Notification of a CNA Acceptance or Rejection
	1. If GrainCorp accepts a CNA, GrainCorp will notify the customer by forwarding to the customer an **Acknowledgement of Acceptance of a CNA** (**AOA**) (clause 5).
	2. If GrainCorp rejects the CNA GrainCorp will notify the customer of the decision to reject.
	3. GrainCorp can approve the CNA request at is sole discretion which may be subject to any other agreements, or conditions agreed with the customer pertaining to Newcastle. The request will be deemed final and cannot be reversed by the requesting customer.
3. Acknowledgement of Acceptance of a CNA
	1. To confirm the booking of Elevation Capacity and the Confirmed Elevation Period, the customer must complete and return to GrainCorp an AOA within two (2) business days of 5.00 pm AEST of the day of notification of acceptance of a CNA (clause 1).
		1. If a customer fails to submit an AOA within the time specified in clause 5.1, the CNA will lapse and become invalid as a consequence of not having been confirmed by the customer. The Booked Elevation Capacity related to a lapsed CNA will become available for booking by another customer from the commencement of the first business day following the end of the period specified in clause 5.1.
	2. A customer is only able to either **accept or reject** the offer of Elevation Capacity and the Confirmed Elevation Period made by GrainCorp. No amendments to the requested Elevation Capacity or Confirmed Elevation Period can be made on an AOA.
	3. Upon returning to GrainCorp an AOA in accordance with clause 5.1, the customer will be liable for the Booking Fee and will agree to the payment terms of Booking Fee invoicing and payment contained in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal.
	4. On the business day following the receipt of an AOA from the customer, GrainCorp will change the status of any relevant CNA(s) on the Shipping Stem, from ‘Pending Assessment’ to ‘Accepted’.
	5. The Booking Fee payable upon the return of an AOA to GrainCorp is in addition to any other fees that may be applicable to the receipt, storage, and elevation of grain for the Booked Elevation Capacity.
	6. Failure to make payment in cleared funds within seven (7) days of the date on which a tax invoice for a Booking Fee is provided to the customer by email will cause the customer to lose any allocated Booked Elevation Capacity and Confirmed Elevation Period relevant to the unpaid invoice(s).
	7. In a circumstance where the customer
		* + 1. provides an AOA but subsequently fails to comply with the requirements of clauses 5.6, 12, 14, 16,17, 1.1, 19, 20, 21 or 33.5, or
				2. cancels the Booked Elevation Capacity;

the Booked Elevation Capacity and Confirmed Elevation Period may be cancelled by GrainCorp and the customer will forfeit any Booking Fee previously paid, and / or remain liable for any Booking Fee agreed to under clauses 5.3, 5.5 and 5.9 (even if not yet invoiced).

* 1. Where a customer executes Booked Elevation Capacity and the total tonnage elevated is **less** than the booked tonnage for which a Booking Fee has been paid, GrainCorp will rebate to the customer an amount at the relevant Booking Fee rate equivalent to the difference between the booked tonnage and the actual tonnage elevated, up to an amount not exceeding 10% of the original Booking Fee amount.
	2. Where a customer executes Booked Elevation Capacity and the total tonnage elevated is **more** than the booked tonnage for which a Booking Fee has been paid, GrainCorp will invoice the customer an amount at the relevant Booking Fee rate equivalent to the difference between the actual tonnage elevated and the original Booking Fee.
1. Execution of Booked Elevation Capacity
	1. Booked Elevation Capacity will not be executed prior to the first day of a Confirmed Elevation Period, and (subject to clause 19) must be executed before the last day of a Confirmed Elevation Period.
	2. If due to factors within the control of the customer that customer is unable to execute Booked Elevation Capacity within the Confirmed Elevation Period (plus five (5) business days from the last day of that Period), or the Elevation Period to which Booked Elevation Capacity has been moved, the Booking Fee related to any unused Booked Elevation Capacity will be forfeited.
	3. Elevation Capacity booked between 1st October and 30th September (**the Shipping Year**) **must be used** within that Shipping Year.
	4. Elevation Capacity not executed during a Shipping Year **cannot be carried** forward into the next Shipping Year.
	5. Any Booking Fees related to unused Booked Elevation Capacity **will be forfeited** after the end of a Shipping Year (30th September) and Booking Fees relating to forfeited Booked Elevation Capacity will also be forfeited.
2. Reallocation of Confirmed Elevation Capacity
	1. A customer may request GrainCorp to transfer, by way of reallocation, Booked Elevation Capacity for a Load Port to another customer that agrees to accept that allocation by amending the relevant CNA(s) using Workflow.
	2. GrainCorp can approve the request for reallocation of theConfirmed Elevation at is sole discretion which may be subject to any other agreements or conditions agreed with the customer pertaining to Newcastle. The request will be deemed final and cannot be reversed by the requesting customer.
	3. For the avoidance of doubt;
		1. Booked Elevation Capacity reallocated to a new customer under this clause 17, is not considered a ‘new’ booking.
		2. Booked Elevation Capacity transferred from another Load Port under clause 8, or from another Elevation Period at the Newcastle Port Terminal, by a customer is not considered a ‘new’ booking.
3. Request for a change to Load Port and/or Confirmed Elevation Period
	1. A customer may seek to make a Load Port and/or Confirmed Elevation Period change to a CNA shown as ‘Approved’ on the GrainCorp Shipping Stem by,

Consulting with GrainCorp Logistics and discussing the details of the change to the Load Port and/or Confirmed Elevation Period required by the customer.

Amending the relevant CNA in Workflow and submitting the request to GrainCorp.

* 1. A request to change a Confirmed Elevation Period and/or to change the Load Port from another Port Terminal to the Newcastle Port Terminal must comply with the following:
		1. the request must be lodged no later than the date on which the customer provides an ETA Nomination and associated information under Clause 12 (being no later than twenty-one (21) days prior to the first day of the Confirmed Elevation Period. Refer to clause 5 and 10 of the Protocols).
		2. GrainCorp can approve the change to Load Port and / or Confirmed Elevation Period request at is sole discretion which may be subject to any other agreements or conditions agreed with the customer pertaining to Newcastle. The request will be deemed final and cannot be reversed by the requesting customer.

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

1. Managing Elevation Capacity
	1. Once Elevation Capacity has been booked, the period of time in which the capacity is to be delivered becomes the Confirmed Elevation Period.
	2. A customer that has accepted Elevation Capacity by accepting any or all AOAs sent to them by GrainCorp, has ‘Booked Elevation Capacity’.
	3. Booked Elevation Capacity can be divided by the customer into more than one parcel during the Confirmed Elevation Period. For example, if a customer has Booked Elevation Capacity of 50,000 tonnes, in a Confirmed Elevation Period, they can elect to have that capacity delivered as multiple lifts into multiple vessels. Booked Elevation Capacity **cannot be increased by dividing the booked capacity into multiple** **lifts and adding the +10% cargo elevation allowance to each multiple**. Multiple lifts shall collectively equal no more than the sum of the Booked Elevation Capacity. If a customer wishes to divide Booked Elevation Capacity into multiple lifts, they must,
		* 1. Contact GrainCorp shipping operations in Toowoomba and provide advice on their intentions.
			2. Amend existing CNAs to reflect the change in vessel tonnes.
			3. Submit new ‘supplementary’ CNAs via Workflow for the relevant tonnages, making note of the reference number of the existing original CNA that refers to the Booked Elevation Capacity that appears on the Shipping Stem.
			4. Ensure that GrainCorp shipping operations in Toowoomba is aware of the request of the customer.

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

* 1. The ability of GrainCorp to divide Booked Elevation Capacity into multiple lifts during the Confirmed Elevation Period will depend upon other elevation bookings during that period.
1. Reducing Booked Elevation Capacity
	1. To **decrease** the Booked Elevation Capacity requested for a particular Elevation Period, a customer must firstly accept an AOA and then submit an amended CNA via the GrainCorp Workflow system to reflect the reduced Elevation Capacity required.

**Note**.

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

Where a customer requests a reduction in the Booked Elevation Capacity and the actual tonnage elevated to vessel is more than 10% above the Booked Elevation Capacity, the customer will be liable to pay a Booking Fee on the difference between the Booked Elevation Capacity plus 10%, and the actual tonnage elevated to vessel.

1. Increasing Booked Elevation Capacity
	1. To **increase** the Booked Elevation Capacity requested for a particular Elevation Period, a customer must firstly submit a CNA, then accept the related AOA and then submit an amended CNA via the GrainCorp Workflow system requesting that additional Elevation Capacity be added to the Booked Elevation Capacity. Customers should consult the GrainCorp shipping stem prior to submitting additional requests for Elevation Capacity, to ensure that the relevant Port Terminal has sufficient Elevation Capacity to meet additional demand in the Requested Elevation Period.
	2. Should sufficient grain Elevation Capacity be available, GrainCorp will send to the customer an AOA relating to the CNA requesting additional Elevation Capacity.
	3. If a customer accepts the offered Elevation Capacity, they will be **liable to pay a Booking Fee** equal to the total of the additional elevation tonnage requested (refer to clause 5).
2. Estimated Time of Arrival (ETA) Nomination – 21 to 42 Day Notice
	1. Subject to clause 12.2, following the return of an AOA to GrainCorp by a customer (clause 5), but no earlier than forty-two (42) days up to and no later than twenty-one (21) days prior to the first day of the nominated Confirmed Elevation Period, the customer must lodge a formal **ETA Nomination** by updating the information in the original CNA.
	2. A customer may lodge a formal ETA Nomination earlier than forty-two (42) days prior to the first day of the Confirmed Elevation Period, but in doing so forfeits its right to request a transfer of its Booked Elevation Capacity to another customer under clause7.
	3. Customers are encouraged to lodge an ETA Nomination forty-two (42) days before the first day of the Confirmed Elevation Period to enable GrainCorp to commence a stock and logistics risk assessment for the vessel.
	4. The ETA Nomination must contain the following information (unless already provided in the CNA):
		1. Estimated Time of Arrival (ETA) for the vessel;
		2. The grain and grade(s) (if known) (refer to clause 21);
		3. The name of the Nominated Vessel (if known) (refer to clause 14); and
		4. Whether the vessel involves a two port load.
	5. The ETA nominated by the customer must be within the Confirmed Elevation Period.
	6. Should a customer fail to comply with this minimum notice period, the customer will forfeit their Booked Elevation Capacity and Booking Fee (clause 5.7).
	7. An ETA nomination received by GrainCorp outside business hours (8:00 am to 4:00 pm AEST) Monday to Friday or on public holidays is taken to have been received at the commencement of the next business day.
3. Assigned Load Date
	1. Following the nomination of a vessel ETA (clause 14.1) and within one (1) business day of receipt of an ETA Nomination, GrainCorp will notify the customer of an **Assigned Load Date** which is the date on which GrainCorp has scheduled the commencement of vessel loading. On provision of such advice to a customer, GrainCorp will update the shipping stem with the relevant information.
	2. The allocation of the Assigned Load may be subject to any other agreements or conditions agreed with the customer pertaining to Newcastle.
	3. GrainCorp will update the Assigned Load Date taking into account:
		1. Other Booked Elevation Capacity previously accepted by GrainCorp that appear as ‘accepted’ on the GrainCorp shipping stem, and
		2. The sufficiency of capacity to receive and handle the customer’s grain at the time of the anticipated commencement of cargo accumulation at the port.
	4. If the Assigned Load Date is not acceptable to the customer, the customer can request another Assigned Load Date and GrainCorp, subject to availability, may provide another Assigned Load Date.
	5. In order to maximise port elevator efficiency, the Assigned Load Dates will be provided on an even spread basis for each Elevation Period at each Load Port that takes into account vessel size, port capacity and other operating factors (such as planned non-grain ships at the berth and planned port elevator maintenance).
	6. Where a customer seeks an Assigned Load Date in the final seven days of the Confirmed Elevation Period, and that capacity is not available, GrainCorp (at is sole discretion) can provide an Assigned Load Date in the following Elevation Period on a first come first served and non-discriminatory basis.
	7. If there is a change to the ETA for a vessel, customers are encouraged to provide an updated ETA for the vessel to enable GrainCorp to efficiently manage port capacity. The Assigned Load Date, provided under this clause, will not be changed.
	8. GrainCorp reserves the right to change the Assigned Load Date and will immediately notify the customer of any such decision, taking into account factors mentioned in sub clauses 13.3.1, 13.3.2 and other relevant factors.
4. Vessel Nomination – Minimum 10 Day Notice
	1. At any time from the ETA Nomination (clause 12.1) up to but no later than ten (10) days prior to the date of the ETA, the customer must lodge a **Vessel Nomination** by adding the information required in clauses 14.1.1 to 14.1.4 to the original CNA.
		1. The name of the Nominated Vessel;
		2. Details of the vessel length, depth, and maximum air draft, or any other vessel characteristic that may inhibit or affect loading performance;
		3. Details of the last three (3) cargoes carried and the last three (3) ports of call,
		4. Information relating to any preparations made to the vessel to ensure it passes the regulatory marine and AQIS pre–loading surveys.
	2. Should a customer fail to comply with this minimum notice period, the customer will forfeit their Booked Elevation Capacity and Booking Fee.
	3. A Vessel Nomination received by GrainCorp outside business hours (8:00 am to 4:00 pm AEST) Monday to Friday or on public holidays is taken to have been received at the commencement of the next business day.
5. Variations to ETA Nomination or Vessel Nomination Notice Periods
	1. At the request of a customer GrainCorp may vary or waive the minimum notice periods noted in clauses 12 and / or 14 following consultation with a customer.
	2. GrainCorp will not consider any variation to, or waiving of, the notice periods noted in clauses 12 and / or 14 unless a customer provides a written request seeking GrainCorp to do so, before the notice period expires.
	3. The action of submitting a request under sub clause 15.1 does not guarantee that GrainCorp will grant a variation or waiver. In making any decision to vary or waive the minimum notice periods noted in clauses 12 and / or 14, GrainCorp will consider the extent to which customer’s inability to comply with the notice periods is within the customer’s control and the impact of the variation on the efficient operation of the Port Terminal and will notify the customer in writing of the relevant decision within one (1) business day of receipt of a request.
6. Substituting Nominated Vessels
	1. Subject to clause 14, the customer may, by submitting amendments to Section 1 of the relevant CNA, substitute a Nominated Vessel with another vessel at the nominated Port Terminal for the Booked Elevation Capacity (+/– 10% tolerance on elevated tonnes), provided the substituted vessel is a ‘similar performing’ vessel[[1]](#footnote-1).
	2. The customer will not be required to pay a new Booking Fee, or to submit a new CNA if a vessel substituted under clause 16.1 will arrive within five (5) days of the most recent nominated ETA (clause 12).
	3. If the customer’s substitution involves an increase in Booked Elevation Capacity of more than 10%, commodity or grade substitution, or any alteration to the Site Accumulation Plan that will impact upon the accumulation or elevation of other customers’ cargo, the customer, if demand for elevation at the Port Terminal is committed to other customers or if the substitution request requires activities that will decrease the efficiency of grain elevation at the Port Terminal, may be required to pay a new Booking Fee and / or may be required to submit a new CNA.
	4. Notification of a request for substitution of a Nominated Vessel received by GrainCorp outside business hours (8:00 am to 4:00 pm AEST) Monday to Friday or on public holidays is taken to have been received at the commencement of the next business day.
7. Changing a Load Port
	1. Where a customer wishes to change its Load Port from another Port Terminal to the Newcastle Port Terminal, the following provisions will apply:
		1. If the customer has received an Assigned Load Date under clause 13, the customer must inform GrainCorp no later than twenty-one (21) days from the Assigned Load Date of the customer’s desire to change the Load Port. If a customer wishes to submit a request to change the Load Port, and to secure a new Assigned Load Date (refer to clauses 1.1 through 5) the request can only be processed by updating the relevant CNA by updating the original CNA using the GrainCorp Workflow Online Platform.
		2. GrainCorp can approve the request at its sole discretion which may be subject to any other agreements or conditions agreed with the customer pertaining to Newcastle. The request will be deemed final and cannot be reversed by the requesting customer.
	2. Any grain accumulated by a customer that is stored at the Newcastle Port Terminal for a cargo **for which the Load Port has been changed**, will accrue storage charges in addition to the standard storage charges detailed in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal.
		1. Charges mentioned under clause 17.2 will apply from the 6th day after the Assigned Load Date, until the grain is either loaded to a vessel, or removed from the Port Terminal. Any additional fees accrued are payable prior to the elevation of the grain to a vessel or to other transport.
8. Vessel Loading Order
	1. Where a customer’s vessel is delayed due to late arrival or is cancelled (clause 33.534), where a customer notifies GrainCorp of a requirement to change a Load Port (clause 17), where a customer’s vessel fails regulatory or related surveys (clause 3334), or where a customer has failed to accumulate sufficient grain at a Port Elevator to complete loading (clause 23) or to ensure operational efficiencies at the Port Terminal from the order of the loaded vessels, GrainCorp shall have the right to change the Assigned Load Date or ETA (clause 13) of a vessel or to change the order in which vessels are loaded from the order shown on the shipping stem.
	2. GrainCorp can change the vessel loading order at its sole discretion which may be subject to any other agreements or conditions agreed with the customer pertaining to Newcastle.
	3. In making a change to vessel loading order, GrainCorp shall notify all affected parties in writing, where such notice will contain details of:
		1. The specific changes to vessel loading order and the affected parties.
		2. The reason(s) for the changes made to vessel loading order.
	4. Where GrainCorp changes an Assigned Load Date, or changes the order in which vessels are loaded, GrainCorp shall make appropriate changes to the shipping stem on the next business day after the notification referred to in clause18.3 has been issued.
9. Late Vessels Arriving Outside the Confirmed Elevation Period
	1. If a vessel presents for loading more than five (5) days after the end of a Confirmed Elevation Period, and ***no amendment to the Confirmed Elevation Period or Assigned Load Date has been requested*,** the following will apply.
		* 1. If there is sufficient capacity in the following Elevation Period, GrainCorp may, in its sole discretion, load the vessel in the next Elevation Period. Where a vessel is loaded in the following Elevation Period, GrainCorp will not be required to comply with Part C, clauses 10, 13-15, 17, 22-25, 27, 33 or 35-38 of the Port Terminal Services Protocols, so long as GrainCorp does not discriminate between customers in favour of its own trading division
			2. If there is insufficient capacity in the following Elevation Period, the customer will forfeit their Assigned Load Date and, the Booking Fee will also be forfeited.
			3. Loading priority will be given to vessels that already have Booked Elevation Capacity in the relevant Elevation Period.
			4. GrainCorp will apply the Additional Terminal Storage Fee detailed in in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminalto the total tonnage of an assembled cargo for each day **from the first day of the Elevation Period following** the Confirmed Elevation Period until the commencement of vessel loading.
	2. GrainCorp **will not** apply the abovementioned fee where delays caused by rain, elevator mechanical failure or other factors that can reasonably be described as relating to the failure of GrainCorp to meet the Assigned Load Date may be the cause of a vessel rolling back into the following Elevation Period.
10. Two Port Loading
	1. Where Booked Elevation Capacity requires loading from two Port Terminals, an Assigned Load Date will be allocated at both Port Terminals after the customer’s ETA Nomination (clause 12) is received.

Two Port Loading Delay – no customer fault

* 1. Providing that all cargo tonnage has been accumulated at the second Load Port, Assigned Load Date priority at the second Port Terminal will be retained if a delay during loading at the first Port Terminal is no fault of the customer, where delays may include but are not limited to those caused by weather, mechanical breakdown of Port Terminal equipment, or AQIS rejection of infested grain.

Two Port Load Delay – customer’s fault

* 1. The Assigned Load Date of a vessel at a second Load Port will lose priority if, during loading at the first Port Terminal, the vessel is delayed due to the customer’s fault, including but not limited to, the customer’s vessel being late, the customer’s failure to accumulate sufficient cargo tonnage at the first Port Terminal, failure of the customer’s vessel to pass relevant marine, AQIS and any other survey required by regulation.
	2. Should priority at a second Load Port be lost due to circumstances noted in clause 20.3, GrainCorp will review the original Booked Elevation Capacity and will allocate a new Assigned Load Date in the chronological order in which the CNA was originally received, taking into account other Elevation Capacity booking(s) previously accepted by GrainCorp that appear as ‘accepted’ on the GrainCorp Shipping Stem and the sufficiency of capacity to receive and handle the customer’s grain.
1. Cargo Assembly Planning – Site Assembly Plan
	1. The customer will work with GrainCorp Logistics and will be required to compile the detailed content of a **Site Assembly Plan** (SAP) prior to commencement of accumulation of a cargo tonnage at the nominated Port Terminal at any time from the date on which the customer is notified of its Assigned Load Date (clause 5), up to, but no later than, and twenty-eight days (28) before the Assigned Load Date (clause13).
	2. Should a customer fail to comply with this minimum notice period, the customer will forfeit their Booked Elevation Capacity and Booking Fee (clause 5.7).
	3. The Site Assembly Plan will contain details of,
		1. The grain and grade(s),
		2. The location of the commodity(s), and
		3. The method of accumulation of the cargo tonnage.
	4. GrainCorp is under no obligation to receive grain at any of its Port Terminals for Booked Elevation Capacity more than twenty-one (21) days in advance of the Assigned Load Date.
	5. Where both GrainCorp and the customer agree, an SAP may allow for the accumulation of cargo tonnage at a Port Terminal more than twenty-one (21) days in advance of an Assigned Load Date.
2. Cargo Assembly by Road from non GrainCorp Storage
	1. Where a customer intends to accumulate cargo tonnage by road from bulk grain storages not managed by GrainCorp, the customer may request to accept sampling and testing services offered by GrainCorp at a site other than the nominated Load Port.
3. Insufficient Grain Accumulated to Load Vessel
	1. A customer shall accept full responsibility for the accumulation of all cargo tonnage at a GrainCorp Port Terminal and for procuring all transport for the accumulation of such cargo tonnage.
	2. Recognising the responsibilities of the customer for the accumulation of cargo(s) (clause 30) GrainCorp is not liable for, and does not guarantee, that individual cargo tonnage will be available at a Port Terminal by the Assigned Load Date, regardless of the date(s) upon which CNA(s) were lodged by the customer.
	3. If a customer has not accumulated sufficient grain to complete loading of the vessel 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 any and all applicable grain owned by the customer at the Port Terminal, in such a manner as to comply with the directions of the captain of the vessel and / or stevedore that will ensure the stability of the vessel. GrainCorp may then request the movement of a part loaded vessel off the berth at the customer’s expense, if the next vessel on the Shipping Stem is ready to berth and has sufficient cargo tonnage assembled to commence and complete loading.
	4. A relocated vessel may be allowed back on the berth for the recommencement of loading when the balance of the cargo tonnage has been accumulated at the Port Terminal, taking into account:
		1. Other Booked Elevation Capacity
		2. The sufficiency of capacity to receive and handle the customer’s grain at the time of the anticipated commencement of cargo tonnage accumulation at the Load Port.
4. Port Terminal Stock Swaps
	1. Should a customer fail to accumulate sufficient cargo tonnage in a timely manner (clause 2523), the customer is permitted to ‘swap’ stock with another customer holding title to suitable grain at the Newcastle Port Terminal.
	2. When a ‘stock swap’ occurs, all transactions related to such a swap(s) must be completed prior to completion of elevation of grain to a vessel.
	3. Charges described in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal will apply to all stock swaps involving the transfer of title of grain held in storage at all Port Terminals.
5. Grain Origination – Ex GrainCorp Storage
	1. If grain arriving at the Port Terminal from a GrainCorp country site cannot be elevated to a Nominated Vessel due to quality reasons that are no fault of the customer (excluding infestation or where the customers cargo quality / grade specifications vary from the relevant Grain Trade Australia receival standards) GrainCorp will:
		1. Replace that grain with grain of the nominated grade at GrainCorp’s cost, or
		2. Deem the customers ‘Grain Accounting Stock Tonnes’ in the GrainCorp storage network for that component of stock outside of the quality requirements referred to in clause 24.125.1 to have remained at the originating GrainCorp country site, or
		3. ‘Stock swap’ at the Newcastle Port Terminal the rejected grain with grain of an equivalent quality profile to that specified in the CNA, in doing so, GrainCorp will assume ownership of the rejected grain at the Port Terminal.
	2. If insect infestation is detected in grain arriving at the Port Terminal from a GrainCorp Storage, GrainCorp will comply with its obligations under the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal*.*
6. Grain Origination – Ex Non–GrainCorp Storage
	1. GrainCorp will not assume any liability for any losses associated with grain sent to the Port Terminal from non-GrainCorp storage facilities that does not meet the quality specifications specified in an accepted CNA and related SAP.
	2. If grain received from non-GrainCorp storage facilities fails to meet the quality specifications defined by the customer in the relevant CNA and related SAP, or such grain is rejected by AQIS as being unfit for elevation onto a vessel, the customer remains the owner of the grain until it is removed from the Port Terminal in its entirety. Until such grain is removed, the grain will be subject to any applicable storage and related fees detailed in in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal..
7. Treated or Fumigated Grain
	1. The customer must advise, prior to the dispatch of any grain to the Newcastle Port Terminal, if that grain is to be, or has been, treated or fumigated with any grain protectants or insecticides approved for application to grain.
	2. The customer must also provide advice on the chemical treatment used, or planned to be used on grain, and must not deliver grain to the Port Terminal
		* + 1. until advised that such treatments are acceptable to GrainCorp, or
				2. that poses any significant market risks that may cause AQIS to reject the grain on inspection, or would cause the grain to fail Australian or importing country residue surveillance.

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

1. Fumigation Clearance Certificate
	1. Where grain has been fumigated, the customer must provide a **‘Clearance Certificate’** stating that the commodity is free from all fumigant residues, issued by a licensed fumigator.
	2. The requirement under this clause does not apply to grain received from GrainCorp Storages, as all grain treatment and fumigation activities are carried out in a manner that ensures they meet Port Terminal grain receival requirements.
2. Additional Terminal Storage Charge for Residual Grain at the Port Terminal
	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 **Additional Terminal Storage Charge** detailed in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal.
	2. If the customer continues to retain title to residual grain, or is unable to relocate residual grain, the customer acknowledges that GrainCorp may reposition or relocate grain to another (non–Port Terminal) site at the customer’s cost, including storage, freight and weighing.
	3. Where grain has been delivered to a Port Terminal from non–GrainCorp storage facilities and is 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 customer remains the owner of this grain at all times and until the grain is sold or removed from the Port Terminal.
	4. Clause 29.1 will not apply if:
		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 storage, or
		2. The customer has Booked Elevation Capacity with an Assigned Load Date within 14 days of the previous vessel’s completion of loading, where previously rejected grain may be included as part of that cargo tonnage, or;
		3. The customer sells residual grain to another customer, or agrees that the grain can be included as a component of the cargo of a vessel of another customer, where cargo tonnage accumulation for that customer commences within 14 days of the completion of loading of the vessel upon which the rejected grain was originally to be loaded.
3. Provision of Transport for the Accumulation of Cargo Tonnage
	1. For the avoidance of doubt, the customer is responsible for organising all matters related to the booking and / or provision of transport.
	2. By accepting a CNA, GrainCorp does not undertake to provide to the customer any grain transportation services associated with the accumulation of grain for an accepted CNA.
	3. Where a customer specifically contracts GrainCorp to provide cargo tonnage accumulation services, or where GrainCorp is specifically contracted to supply grain transportation services to a customer, a contract for the provision of such services will be entered into, and such a contract will be separate to the provision of Port Terminal services described under this Protocol.
4. Vessel Readiness to Load – In Transit Marine Survey
	1. If GrainCorp assesses that a vessel presents a higher than acceptable risk of failing a marine, AQIS or related survey required under Regulation, GrainCorp may request that the customer provide assurance of the fitness or readiness of a vessel to load by procuring an ‘in transit’ marine surveyor report, either at the previous discharge port or at anchor at the Load Port. GrainCorp may refuse to accept a vessel ‘alongside’ to present for the marine, AQIS or related survey required under Regulation if such a request is not complied with, within three (3) Business Days.
	2. Any costs incurred in relation to clause 31.1, shall be the responsibility of the customer.
	3. GrainCorp may record all information relating to the vessel readiness to load performance of the customer, its shipping agents and shipping lines, and may incorporate this information into relevant CNA assessment procedures in the future.
5. Vessel Authority to Load
	1. Prior to calling a vessel to the berth and commencing loading, GrainCorp will forward to the customer an **Authority to Load** for the customer’s approval. The Authority to Load will include all quality information relating to the customer’s cargo.
	2. The customer must approve the Authority to Load and return it to GrainCorp prior to the commencement of elevation of grain to a vessel.
	3. The customer acknowledges that GrainCorp has the right to mitigate dust emissions at the Port Terminal.
	4. Such mitigation may include moisture conditioning of grain paths.
	5. Notwithstanding any other provision in this Protocol, the customer understands and accepts that matters and events beyond GrainCorp’s control may occur, including but not limited to, changes in vessel scheduling and arrival or departure times, failure of vessels to pass any quarantine requirements or other inspections, grain quality related matters, harbour / port congestion, berth occupation by vessels under the direction of a Port Authority, lack of performance and delays due to freight or other service providers and rain or high winds, that prevent vessel loading which means GrainCorp cannot guarantee that cargo tonnage will be ready for loading, or that they can or will be loaded as scheduled. GrainCorp will try to avoid any changes or delays where possible, and will keep the customer informed.
6. Vessels Failing Regulatory Survey
	1. The customer is responsible for the condition and state of readiness of vessels presented to GrainCorp for loading and for a vessel passing relevant marine, AQIS and any other survey required by regulation relating to the export of grain from Australia.
	2. In the event of the customer’s vessel failing a marine, AQIS or other survey that may be required by regulation, GrainCorp reserves the right to give berthing and elevating priority to other vessels on its Shipping Stem, and to assign any vessel that has failed a survey, which is re-presented for loading, a new ETA or Assigned Load Date.
	3. Where a vessel fails marine, AQIS or other survey and loading is delayed until the Elevation Period following the Confirmed Elevation Period, the following will apply.
		* 1. On the 11th day after the original Assigned Load Date, GrainCorp will apply the Additional Terminal Storage Fee as detailed in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminalto the total tonnage of the assembled cargo until the commencement of vessel loading.
			2. GrainCorp will load the ship in a later Elevation Period in accordance with clause 191.
	4. Where a vessel is not able to load until the Elevation Period following the end of a Confirmed Elevation Period, loading priority will be given to vessels that have Booked Elevation Capacity in the relevant Elevation Period.
	5. Where a vessel fails marine, AQIS or other survey and the failure results in GrainCorp making changes to the order in which vessels are to be loaded to avoid the Port Terminal having no capacity to receive grain, any vessel costs which are incurred by other Customers arising from their vessel being moved off and/or onto the berth and which can be demonstrated by GrainCorp, or the Customer, shall be the responsibility of the Customer of the failed vessel to a maximum of $50,000 per vessel failure. This clause 37.5 will only apply where the vessel failure:
		* 1. would otherwise result in a port blockout; and
			2. requires another vessel to be moved off and/or onto the berth.
7. Late or Cancelled Vessels
	1. If a vessel fails to be available for loading within ten (10) days of the Assigned Load Date or if a vessel has been cancelled by the customer then:
		1. The customer forfeits any Booking Fee previously paid and remains liable for any Booking Fee not paid (even if not yet invoiced).
		2. If the customer wishes to make a new Elevation Capacity booking, the customer must submit a new CNA per clause 1.1 and must pay a new Booking Fee.
	2. All grain in a Port Terminal accumulated for a vessel that is late or cancelled, will accrue additional storage charges (in addition to the standard storage charges detailed in in the Port Terminal Services Agreement pursuant to which the customer’s grain is handled at the Newcastle Port Terminal*.*
		1. Such charges will apply from the 11th day after the Assigned Load Date relating to late or cancelled Booked Elevation Capacity (clause 34.1 and 34.2) until the grain is either elevated to a vessel or removed from the Port Terminal.
	3. Any additional fees accrued are payable prior to the elevation of the relevant grain to a vessel or other transport.
8. Supply Chain Disruption
	1. At any time during a period:
		1. of Force Majeure as defined in either the *Bulk Wheat Port Terminal Services Agreement*, *Bulk Grain Port Terminal Services Agreement* or *Long Term Port Terminal Services Agreement*; or
		2. where the operation of Newcastle Port Terminal is severely limited or stopped due to one of the following operational factors or supply chain disruptions:
			1. the disruption of rail services to a Port Terminal;
			2. a closure of a Port Terminal due to mechanical breakdown;
			3. a closure of a Port Terminal due to a direction from a port authority; or
			4. a Port Blockage,

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

* 1. Where a vessel is to be loaded at an alternative Port Terminal the Port Protocols for that Port Terminal will apply. Where a vessel is to be loaded at the Port of Newcastle in a later Elevation Period in accordance with clause 34, GrainCorp will not be required to comply with clauses 6, 9-12, 13, 18-21, 23, 29 or 31-34 of the Port Terminal Services Protocols.
1. ‘Similar performing’ is a vessel of similar size and capacity, with similar rates of ballasting and loading capability, as the originally nominated vessel. [↑](#footnote-ref-1)