

MELBOURNE PORT TERMINAL
LOADING PROTOCOL

EFFECTIVE - 1ST SEPTEMBER 2016

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A. Introduction

1. These Port Loading Protocols provide information on how Emerald Logistics Pty Ltd ACN 087 280 260 (the “**Port Operator**”) will allocate and provide ship loading services at Melbourne Port Terminal (“**MPT**”) and how vessels will be managed for loading.
2. The Port Operator provides services to parties which have entered into Storage and Handling Agreements with the Port Operator. If a party which has not entered into a Storage and Handling Agreement requests services from the Port Operator, then the terms and conditions contained in the Port Operator’s prevailing Storage & Handling Agreement as published on the Port Operator’s website (www.emeraldgrain.com) is deemed to be accepted by that party through conduct, and shall be applicable to any services rendered by the Port Operator to the exporter.
3. For the purposes of these protocols, a user of the Port Operator’s services shall be referred to as the “**Client**”.
4. The Port Operator operates on a just-in-time cargo accumulation basis. At all times the Port Operator’s overriding objectives are to maximise terminal export throughput and operational efficiencies.
5. These protocols apply for all commodities, including Bulk Wheat. The protocols must be read in conjunction with the current Storage and Handling Agreement to which the Client or a party is otherwise bound pursuant to clause 2.
6. These protocols are at all times subject to the rules and regulations of the Port of Melbourne Corporation (“**POMC**”) and Clients must ensure that they comply with all rules and requirements set by the POMC.

B. Shipping Stem

7. The Port Operator will publish its current shipping stem details on its website www.emeraldgrain.com. Shipping stem details are ordinarily updated each business day.

8. MPT’s berth is located at Appleton Dock F Berth. Although it is a common user berth, the Port Operator has a 24 hour priority window for its vessel operations.
9. The Port Operator’s shipping stem may not include other shipping allocated to the berth by the POMC. Clients are encouraged to check the POMC website - www.portofmelbourne.com/port-operations/ship-movements/departures for other shipping allocations and to contact Customer Service by phone (03) 9274 8880 or email customerservice@emeraldgrain.com to check other terminal operations which may impact ship-loading operations.

C. Intent to Ship

10. To request shipping capacity at MPT a Client must:
 - (a) complete and lodge an “**Intent to Ship Advice**” (see Annexure 1); and
 - (b) pay the Booking Fee in accordance with the terms of the Storage and Handling Agreement.
11. By the close of business on the next business day after receipt of a valid Intent to Ship Advice the Port Operator will make a record of this intent on its Shipping Stem as “pending”. The Port Operator will accept or reject the Intent to Ship Advice within 5 Business Days of receipt.
12. In deciding to accept or reject an Intent to Ship Advice the Port Operator may consider:
 - (a) Existing Intent to Ship Advice submitted by the Port Operator’s other clients;
 - (b) Un-allocated capacity at MPT;
 - (c) Whether the Client has executed a Storage and Handling Agreement; and
 - (d) Other matters which the Port Operator reasonably considers to be relevant, including, without limitation matters going to the efficiency and timeliness of cargo accumulation at port and of loading.
13. Subject to clause 12, Intent to Ship Advices will be dealt with in the order that they are received unless the Port Operator reasonably considers an alternative order to be more efficient for the operation of the port.

14. If the Port Operator accepts the Intent to Ship Advice it will:
 - (a) Forward an acceptance notice to the Client;
 - (b) Forward an invoice for the applicable Booking Fee to the Client; and
 - (c) Change the status on its Shipping Stem.
15. A “**Booking**” is made upon notification of acceptance by the Port Operator of the Client’s Intent to Ship Advice. An Intent to Ship Advice which is rejected or which the Port Operator does not respond to within 5 business days of receiving the relevant Intent to Ship Advice, is deemed to have lapsed and no Booking Fee shall be payable by the Client in respect thereof.
16. If the Client does not pay the Booking Fee within the terms of the Storage and Handling Agreement, then the Booking will be cancelled.
17. If a Booking remains unused by the end of the nominated month it lapses and any Booking Fee paid by the Client is forfeited.
18. If the nominated or actual tonnage loaded exceeds that initially nominated then an additional Booking Fee is payable by the Client. The Client will be invoiced for any additional Booking Fee once the Port Operator becomes aware that the tonnage to be loaded or that has been actually loaded is higher than the original Booked tonnes.
19. If the nominated or actual tonnage loaded is lower than that initially nominated then the shortfall and associated Booking Fee is forfeited or the Port Operator may at its sole discretion allocate the unused nominated capacity to a later month with spare capacity (but no later than 30 September of that Shipping Year). Unused nominated capacity that has been re-allocated by the Port Operator in accordance with this Clause 19 shall be deemed to be a discrete and individual Booking and not an addition to another Booking that the Client may have in that later month.
20. The Port Operator may, at its sole discretion, allow the deferral or splitting of a Booking provided it receives at least 3 months prior written notice by the Client before the relevant vessel’s estimated time of arrival (“**ETA**”). In

determining acceptance or rejection of a Client’s request to defer or split a Booking the Port Operator will consider, amongst other matters:

- (a) Existing Intent to Ship Advices/ Bookings/Vessel Nominations; and
- (b) un-allocated capacity at MPT.

The Port Operator may, at its sole discretion, consider requests made by Clients with less than 3 months’ notice. In such circumstances, the Port Operator’s General Manager’s (or his/her authorised representative’s) determination is final.

21. The Client must make a written request for “**Shipping Windows**” when completing the Intent to Ship Advice. The Shipping Window will include the period within which the Client vessel ETA will occur and be either:
 - (a) Between the 1st and 15th of the month; or
 - (b) Between the 16th and the last day of the month.

The purpose of the Shipping Windows is to spread the shipping task evenly across the month. The Port Operator will make the final allocation of Shipping Windows at its sole discretion taking into account all other provisions of these protocols and especially clause 4.

D. Vessel Nomination

22. Written nomination of a vessel name must be received at least 30 business days prior to the vessel’s ETA in the form of the “**Vessel Nomination**” (see Annexure 2). Vessel Nomination must be provided by the Client with all required details completed.
23. Vessel Nominations are to be accompanied by a cargo assembly plan detailing the supply chain arrangements to be used to deliver the relevant Grain to MPT and must include load sites, load grade, quality specifications, fumigation certificates and associated tonnages.
24. In the absence of a cargo assembly plan, the Port Operator shall consult with the Client. If the lack of a cargo assembly plan or any non-compliances are not thereafter redressed by

the Client in a timely manner, and the Port Operator on reasonable grounds believes this would impact adversely on the efficiency and timeliness of loading at MPT, then the Port Operator may at its discretion do any of the following:

- (a) Arrange for the transport of client grain from any of its upcountry storage sites to the terminal to complete the cargo using road or rail freight, the full cost of which will be to the client account; or
 - (b) Reject the Vessel Nomination, in which case the Booking Fee will be forfeited.
25. The Port Operator may, at its sole discretion, consider Vessel Nominations received on less than 30 business days' notice.
26. Upon receipt of the Vessel Nomination and the accompanying cargo assembly plan the Port Operator may, at its sole discretion, accept or reject the Vessel Nomination. The Port Operator will accept or reject the Vessel Nomination within 5 Business Days of receipt.
27. The Port Operator reserves the right to reject a Vessel Nomination where its ETA is up to one week earlier than an existing vessel nomination without the approval of the person responsible for the existing vessel nomination.

E. Estimated Load Dates

28. Upon acceptance of a Vessel Nomination the Client will be notified of any vessel queuing and an estimate of load dates based on:
- (a) Other vessels nominated to be loaded;
 - (b) Site accumulation and transport plan, including transport availability;
 - (c) Nominated vessel ETA;
 - (d) Ownership of stock; and
 - (e) Impact on terminal efficiencies.
29. Determination of estimated load dates is also based on MPT operating shipping and intake on a 24/7 basis (excluding closed port days) provided sufficient notice is received.
30. Estimated load dates are approximate only and are not fixed or final. Estimated load dates may change due to:
- (a) Changes to cargo;

- (b) Delays in cargo accumulation;
- (c) Delays in loading prior vessels;
- (d) Weather;
- (e) AQIS instructions;
- (f) Cargo quality problems; and
- (g) POMC instructions.

F. Cargo Accumulation

31. In order to maximize the efficiency and throughput capacity of the port, accumulation at port of cargo by rail will be expected to be an important component of the cargo assembly plan.
32. Cargo accumulation will not commence prior to payment of the Booking Fee by the Client and receipt by the Port Operator of a properly completed Vessel Nomination.
33. As a general rule cargo accumulation should not commence more than two weeks before relevant vessel ETA.
34. The Port Operator will determine, at its sole discretion, the order of cargo accumulation taking into account:
- (a) Vessel ETA;
 - (b) Date Vessel Nomination received by the Port Operator;
 - (c) Grain availability at MPT;
 - (d) Site accumulation and transport plan;
 - (e) Ownership of stock and agreed stock swaps between clients; and
 - (f) Impact on terminal efficiencies.
35. Only grain that is owned by the Client will be accepted for accumulation. The Port Operator may accept grain for accumulation that is not owned by the Client if the owner of the grain provides the Port Operator with written confirmation of its intention to either:
- (a) Sell the grain to the Client in port prior to vessel ETA; or
 - (b) Swap the grain with the Client's other grain stored with the Port Operator.
36. The Port Operator reserves the right not to fully accumulate a cargo in accordance with a Vessel Nomination if this is necessary in order to maximise efficiency for all of the Port Operator's client vessel turnarounds (for

example where multiple vessels are arriving within a short time frame).

37. Clients acknowledge and agree that Grain accumulated at MPT will be commingled with stock of the same grade and not segregated by ownership.
38. Where a Client's grain remains at MPT after completion of ship-loading pursuant to a Vessel Nomination and the Client retains ownership of that grain (**Surplus Grain**), the Client must arrange to relocate the Surplus Grain away from MPT within 2 business days of being notified by the Port Operator. If the Port Operator reasonably considers that the presence of the Surplus Grain may interfere with the receipt of grain for future shipment(s), the Port Operator may relocate the Surplus Grain to another the Port Operator storage site and all costs of transport and associated storage fees will be payable by the Client.

G. Vessel Loading

39. The order of vessel loading will generally be determined by the Port Operator having consideration to the following:
 - (a) Clause 4;
 - (b) Vessel ETA;
 - (c) Date Vessel Nomination received by the Port Operator;
 - (d) Date Vessel passed surveys;
 - (e) Grain availability at MPT;
 - (f) Site accumulation and transport plan;
 - (g) Ownership of stock and stock swaps between clients; and
 - (h) Impact on terminal efficiencies.
40. The Port Operator may, at its sole discretion, determine that loading a vessel the subject of the Vessel Nomination received later or with a later ETA is in the interests of terminal efficiency.
41. Where reasonable and necessary to facilitate the efficient loading of clients' vessels, the Client acknowledges and agrees to the Port Operator loading Stored Grain of equivalent grade onto the Client's vessel. If the Port Operator loads Stored Grain onto a Client's vessel, the Client agrees that, if requested by the Port Operator, it will execute grain Stock Swaps (See Annexure 3) with the Port Operator

or the Port Operator's other clients to facilitate continued efficiency at MPT.

42. The Client acknowledges that specific terminal and supply chain efficiency requirements, including the desire to fully utilise available resources and the ability to optimise positioning of stock may result in clients' vessels being loaded out of arrival order.
43. Clients may negotiate changes to cargo accumulation and estimated load dates with the Port Operator's other clients. The Port Operator may or may not, at its sole discretion, agree to implement such changes.
44. Prior to commencement of loading, a vessel must have passed a marine, AQIS or any other survey required by law.
45. Should a vessel fail such survey (or be made the subject of a detention order) the Port Operator may, at its sole discretion, change the order of loading or direct the vessel's removal from the berth.
46. The Client indemnifies the Port Operator for all costs, expenses and liabilities incurred by the Port Operator in connection with a vessel failing any surveys. Such costs, expenses and liabilities may include but are not limited to:
 - (a) labour costs;
 - (b) treatment costs;
 - (c) lost profits; and
 - (d) any third party claims (for example where the terminal is blocked and causes other Port Operator clients to experience delays.
47. If the Port Operator determines, at its sole discretion, that a vessel has a high risk of failing surveys it may require the Client to procure or pay for an "in transit" marine surveyor's report be provided prior to allowing the vessel to berth.
48. The Port Operator will not commence loading without prior written instructions from the Client to do so.

H. Vessel Substitution or Delay

49. In the event that a vessel is substituted or delayed and the substituted or delayed vessel ETA is greater than 5 days from the original vessel ETA then the Booking Fee may, by the issue of a notice, be forfeited to the Port Operator if in the reasonable opinion of the Port Operator the substitution or delay would cause disruption to the efficient operation of MPT.
50. The Client indemnifies the Port Operator for all costs, expenses and liabilities in connection with:
- (a) the cancellation of a vessel within 14 days of the original ETA;
 - (b) the delay of a vessel from its original ETA by more than 5 days; or
 - (c) a substituted vessel ETA being more than 5 days after the original ETA,
- such cost, expenses and liabilities may include but are not limited to:
- (a) repositioning costs;
 - (b) storage costs;
 - (c) treatment costs;
 - (d) lost profits; and
 - (e) any third party claims where the terminal is blocked and causes other Port Operator clients to experience delays.
51. The Port Operator will use its best endeavours to mitigate any costs and expenses incurred in relation to the situations outlined in clause 50 and will verify any costs, expenses and liabilities incurred in writing with reasonable supporting documentation. However, the Client agrees it will remain ultimately responsible.

I. Dispute Resolution

52. In the event that the Client disputes the Port Operator's adherence to these protocols (including, without limitation the acceptance or rejection of a Vessel Nomination, or prioritisation of terminal services), the following procedures will apply:
- (a) The Client must notify the Port Operator in writing of the dispute, the

reasons for the dispute and the resolution which the Client requests.

- (b) In the case of a dispute regarding rejection of an intent to Ship or Vessel Nomination, the dispute notice must be received by the Port Operator by 16:00 Australian Eastern Standard Time on the next business day following receipt of the notice from the Port Operator of the rejection.
- (c) The Port Operator must use its best endeavours to respond to the Client within 2 Business Days following receipt of the dispute notice. The Port Operator response must notify the Client whether the Port Operator will change its decision and, if not it must provide an explanation or basis for the Port Operator's decision.
- (d) If the Client is not satisfied by the Port Operator's response, or if the Port Operator fails to respond to the dispute notice within one business day of its receipt, the Client may serve written notice to the Port Operator within one business day of receipt of the Port Operator's response, or within one business day of when the Port Operator's Response was due.
- (e) Upon receipt of this escalation notice, the Port Operator must use all reasonable endeavours to arrange a meeting between the Port Operator's General Manager and the Client within two business days of receipt of the escalation notice. Where the Port Operator's General Manager is unavailable for such a meeting within the timeframe specified, the Port Operator will make available a suitable alternative authorised representative to meet with the Client within two business days of receipt of the escalation notice. To facilitate the expeditious resolution of disputes, the meeting can take place either face to face or by telephone.
- (f) At the meeting, the Port Operator's General Manager (or appointed representative) and the Client will discuss the subject of the dispute

notice and the Port Operator's response and use all reasonable endeavours to reach an agreed outcome. Where such agreed outcome cannot be achieved, given the need for clarity, efficiency and certainty in this dispute resolution process, the Port Operator's General Manager (or appointed representative) will make a final decision in relation to the dispute notice and (within 10 business days after the meeting) notify that decision and the reasons for that decision in writing to the Client.

- (g) In reaching the final decision, the Port Operator's General Manager (or appointed representative), acting on behalf of the Port Operator, must take into account the circumstances of the dispute and details set out in the dispute notice and, acting reasonably and in good faith, reach a decision that is consistent with the wording, or if that is unclear, the intent of these Protocols (and, in the case of Bulk Wheat, the Access Undertaking). the Port Operator's General Manager (or appointed representative) may also have regard to the objectives of:
- maximising the efficient operation of MPT;
 - maximising export throughput at the MPT;
 - ensuring the non-discriminatory treatment of clients; and
 - ensuring consistency of decisions.

J. Interpretation

53. Unless otherwise defined in these Protocols or in clause 55 below, capitalised terms in these protocols have the same meaning as given to them in the Storage & Handling Agreement.
54. If anything in these protocols are in conflict with terms and conditions in the Storage and Handling Agreement, these protocols will prevail.
55. The following definitions apply to these protocols:

- (a) **Booking Fee** means the Booking Fee as detailed in the Storage and Handling Agreement between the Client and the Port Operator;
- (b) **Shipping Year** means 1 October to 30 September;
- (c) **Storage and Handling Agreement** means the agreement by that title entered into between the Port Operator and the Client, or the document by that title published on the Port Operator's website which the Client is bound pursuant to clause 2 of these protocols.

Annexure 1 - Intent to Ship Advice
Load Details

Projected Load Ports		
Total tonnage		
Tolerance		
Shipping month		
Shipping Window (FH / LH)		

Quality Parameters / Comments

Load Grade	Quality Specifications	Parcel 1	Parcel 1

Name:

Signature: Date:

Annexure 2 - Vessel Nomination & Cargo Assembly Plan
 Vessel Details:

Vessel name			
Owner		Hatches	
Authority to load		Year built	
Gross tonnage		Holds	
Net tonnage		Laycan	
Vessel type		DWT	
Flags		LOA	
Draft		Beam	

Load Details:

Load ports	
Date	
Total tonnage	

Tolerance	
Contract grades	
Stowage factor	
Client reference	
Contract number	
Destination	
Discharge port	
Exporter	
Export Inspection charge	

Quality Parameters:

Load Grade	Quality Specifications	Parcel 1	Parcel 2	Parcel 3	Parcel 4

Cargo Assembly Plan:

Originating Site	Grade	Tonnes	Fumigation Certificate
Total			

Name:

Signature: Date:

Annexure 3 – Stock Swap Form


 Emerald Grain
MPT Negative Stock Agreement

Borrower:

Borrowed Stocks				
Commodity	Grade	Tonnes	Date Borrowed	Date To Be Returned
<input type="text"/>	<input type="text"/>			
<input type="text"/>	<input type="text"/>			
<input type="text"/>	<input type="text"/>			
<input type="text"/>	<input type="text"/>			

Stock Replacement Plan				
Grade	Transport Mode	Tonnes	Start Date	End Date
<input type="text"/>	<input type="text"/>			
<input type="text"/>	<input type="text"/>			
<input type="text"/>	<input type="text"/>			
<input type="text"/>	<input type="text"/>			

a) For good consideration, Borrower undertakes to replace borrowed stocks in accordance with the above Stock Replacement Plan, as may be varied by agreement in writing between the parties from time to time, and to pay MPT any agreed grade spreads, freight location differentials (GTA) and any other costs required to ensure that MPT and/or its related bodies corporate are not financially disadvantaged by the borrowing and stock replacement.

b) If stocks are not replaced within the agreed timeframe Borrower will indemnify MPT and/or its related bodies corporate against all reasonable costs and losses arising from non-compliance (including without limitation market losses, logistics costs, enforcement costs (including legal costs on solicitor/own client basis), costs of delays in freight and shipping, and other incurred expenses).

c) "MPT" means Emerald Logistics Pty Ltd ABN 39 087 280 260 and "related bodies corporate" has the meaning defined in the Corporations Act 2001 (Cth).

We, the undersigned, give our approval for the plan outlined above:

For Borrower:

<input type="text"/>	<input type="text"/>	<input type="text"/>
Name	On Behalf of (company)	Signature

For MPT:

<input type="text"/>	<input type="text"/>	<input type="text"/>
Name	On Behalf of (company)	Signature