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## **Terminal Operating Protocol**

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## Contents

	Page	
1	Introduction	1
	1.1 Purpose	1
	1.2 Interpretation	1
2	General	1
	2.1 Provision of information	1
	2.2 Conditions precedent	1
	2.3 IT systems integration	2
	2.4 Patrick Nominee	2
3	Terminal availability Schedule	2
4	Train load/unload requirements	2
	4.1 Train and Container requirements for loading and unloading	2
	4.2 Information to be provided by Access Holders	3
	4.3 Management control	3
	4.4 Train loading and unloading	4
	4.5 Throughput maximisation	5
5	Daily variations	5
6	In gate/Out gate	6
7	Safety	6
	7.1 Safety management plan	6
	7.2 General safety obligations	6
	7.3 Access Holder compliance with Terminal Systems	8
8	Performance measures	8
9	Variations	8
Schedule 1	Dictionary	9
	1. Terms defined in the Access Agreement	9
	2. Defined terms	9

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## 1 Introduction

### 1.1 Purpose

This Terminal Operating Protocol provides for the proper, efficient and safe provision of the Services and management of the Terminal.

### 1.2 Interpretation

In this Terminal Operating Protocol, a defined term or expression has the meaning set out in the Dictionary at Schedule 1.

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## 2 General

### 2.1 Provision of information

The Access Holder acknowledges and agrees that in respect of the Services, the Access Holder must demonstrate to Patrick's reasonable satisfaction (including by the provision of any documents or information reasonably required by Patrick), that the Access Holder:

- (a) meets all of the Access Criteria;
- (b) is able to provide credit support, where required by Patrick;
- (c) has completed the Rail Site Induction, executed the Contractor HSE Agreement and Safety Interface Agreement;
- (d) has ensured that its Associates are aware of and comply with all applicable laws and all reasonable lawful directions and orders given by Patrick in accordance with the Access Agreement and Terminal Access and Operating Protocol, or any person authorised by law to give directions to the Access Holder; and
- (e) meets the Train Load/Unload Requirements.

### 2.2 Conditions precedent

Patrick will have no obligation to provide the Services or allocate Windows unless and until the Access Holder demonstrates to the satisfaction of Patrick that the Access Holder:

- (a) meets all of the Access Criteria;
- (b) holds all insurances as required by Patrick under an Access Agreement;
- (c) is able to provide credit support, where required by Patrick;
- (d) has completed the Rail Site Induction, executed the Contractor HSE Agreement and Safety Interface Agreement;
- (e) has ensured that its Associates are aware of and comply with all applicable laws and all reasonable lawful directions and orders given by Patrick in accordance with the Access Agreement and Terminal Access and Operating Protocol, or any person authorised by law to give directions to the Access Holder; and
- (f) meets the Train Load/Unload Requirements.

### **2.3 IT systems integration**

Patrick will provide the Access Holder with access to a system that electronically exchanges information related to provision of the Services.

### **2.4 Patrick Nominee**

From time to time, Patrick may nominate a third party to undertake certain operational functions at the Terminal (“**Patrick Nominee**”). For the avoidance of doubt:

- (a) where a Patrick Nominee is appointed:
  - (i) the Patrick Nominee will be responsible for day to day operational matters only; and
  - (ii) Patrick will manage all negotiations, agreements and disputes in relation to access matters, (including window allocation) directly with Access Seekers and Access Holders; and
- (b) where a Patrick Nominee is not appointed, all references to the Patrick Nominee will be read as Patrick.

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## **3 Terminal availability Schedule**

- (a) Patrick will prepare a Schedule for the Terminal which it will publish on its website and manage in accordance with the Capacity Allocation Protocol.
- (b) Patrick will use all reasonable endeavours to facilitate the operation of the Terminal in accordance with the Schedule.
- (c) Patrick may vary the Schedule from time to time in accordance with the Capacity Allocation Protocol.
- (d) Patrick will keep the Schedule up to date on a monthly basis.

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## **4 Train load/unload requirements**

### **4.1 Train and Container requirements for loading and unloading**

- (a) Access Holders must ensure that:
  - (i) the Train does not exceed a maximum Rake length of 1200m;
  - (ii) the Train can be divided into two equal Rakes each with a maximum length of 600m;
  - (iii) all wagons have readable wagon numbers;
  - (iv) the Containers are “International Standard Organisation (ISO)” Top Lift containers only;
  - (v) there is no cargo that is over dimensional or out of gauge;
  - (vi) there are no Unloadable Wagons;

- (vii) there are no Unserviceable Wagons;
  - (viii) there are no damaged Containers;
  - (ix) on arrival at the Terminal the physical presentation of the Train is identical to the information provided in the BAPLIE Train Consist, including the front of the Rake and order of wagons aligned to stated direction of travel; and
  - (x) any other reasonable requirements related to Train or Container presentation at the Terminal, as notified by the Patrick Nominee from time to time are complied with.
- (b) Access Holders acknowledge and agree that, subject to clause 7, the Patrick Nominee:
- (i) will not service any damaged or leaking Containers; and
  - (ii) will leave any damaged or leaking Containers on the Train.
- (c) Access Holders must ensure that the Containers and Train complies with all applicable laws and regulations (including, without limitation, the Health and Safety Law, the Dangerous Goods Law and the Rail National Safety Law).

#### **4.2 Information to be provided by Access Holders**

- (a) Access Holders must provide the following information to the Patrick Nominee at least twelve (12) hours prior to the scheduled commencement of the relevant Window:
- (i) the following Train specific information:
    - (A) a fully completed electronic BAPLIE Train Consist transmitted to Patrick through 1-Stop;
  - (ii) the following Container specific information:
    - (A) the PRA consistent with information provided in the BAPLIE Train Consist and received in an electronic form capable of being processed by 1-Stop, enabling the generation of an acceptance APERK message back to the originator; and
    - (B) documentation and information requested by the Patrick Nominee or required under applicable Law or standards relating to Dangerous Goods;
  - (iii) marshalling requirements; and
  - (iv) return loading plan
- (b) Access Holders must provide any other reasonable information requested by either Patrick or the Patrick Nominee.

#### **4.3 Management control**

- (a) Loading and unloading of Containers from Trains in the Terminal will be undertaken by the Patrick Nominee in accordance with the provisions of the Access Agreement.

- (b) The Patrick Nominee will determine where and how an Access Holder will split the Rake and advise that Access Holder at the time of arrival.
- (c) The Patrick Nominee may direct an Access Holder of required gaps or breaks in the Rake (including in the event that the loading equipment is out for maintenance) by notice as soon as reasonably practicable after the Patrick Nominee becomes aware.
- (d) The Patrick Nominee will determine the placement of the import Containers, including having regard to:
  - (i) the efficiency of overall operations of the Terminal;
  - (ii) Container placement to minimise the need for re-pinning; and
  - (iii) the need to ensure that hazardous Containers will be appropriately segregated in accordance with the approved code of practice for the storage and handling of Dangerous Goods.

#### **4.4 Train loading and unloading**

- (a) Access Holders will be responsible for the timely presentation of the wagon consist to allow the Patrick Nominee to load Containers.
- (b) When loading the Containers the Patrick Nominee will have regard to the information provided by the Access Holder pursuant to clause 4.2.
- (c) The Patrick Nominee will check Containers to ensure they are safe for loading and/or unloading respectively having regard to container integrity, load restraint and compliance plating. The Patrick Nominee will advise an Access Holder of Containers which are not safe for loading.
- (d) The Patrick Nominee will load the containers within the safety conditions of the wagon consist presented by an Access Holder having regard to axle load, height, drawbar and network restrictions.
- (e) The Patrick Nominee will not be obliged to load a container which is not received in the Terminal prior to two (2) hours before the scheduled Train departure time, but the Patrick Nominee will use reasonable endeavours to do so subject to obligations to other Access Holders and provided the Patrick Nominee considers it is efficient to do so (in its absolute discretion).
- (f) Access Holders will provide the Patrick Nominee with all necessary written authorities to deal with the Containers to be loaded onto or unloaded from such Access Holder's Trains, including, for example:
  - (i) written authorities enabling access to Containers for the purposes of:
    - (A) inspecting Containers to check that they are within specification;
    - (B) checking the safety of the Container; and
  - (ii) any other documents or information reasonably required by the Patrick Nominee.
- (g) Access Holders will ensure that any loading standards, marshalling requirements and network restrictions have been met during the pre-departure check. For

avoidance of any doubt, the ultimate responsibility for the Train being safely loaded in accordance with any required Law or standards prior to its release onto the network remains with that Access Holder.

#### **4.5 Throughput maximisation**

Patrick (or Patrick's Nominee as applicable) will undertake all Terminal activities using best endeavours to maximise the throughput of the Terminal during operating hours, including turning around Trains efficiently and using reasonable endeavours to catch up any delays to the Schedule where reasonably practicable (regardless of the cause of the delay) having regard to the Port Rail Access Principles.

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## **5 Daily variations**

- (a) As soon as an Access Holder becomes aware that a Train is likely to arrive before or after its scheduled arrival time or has been or may be cancelled, the Access Holder must notify the Patrick Nominee and, in any case, will use best endeavours to provide 24 hours' notice to the Patrick Nominee. The Access Holder must use its best endeavours to mitigate and minimise any impact of the delay or cancellation on the Terminal.
- (b) The Patrick Nominee must consistently and reasonably exercise its discretion as to whether to allow Access to the Terminal for any Window allocated to an Access Holder who operates an Unhealthy Train if such Access has the potential to affect adversely other Trains to which a Window has been allocated by Patrick.
- (c) Access Holders may request the Patrick Nominee to:
  - (i) give priority to the provision of Services to certain of their Trains;
  - (ii) vary the Train departure times to accommodate variations; and/or
  - (iii) prioritise the container loading to meet customer expectations.
- (d) The Patrick Nominee will use reasonable endeavours to comply with requests made under sub-paragraph 5(c) above as long as there are no negative impacts on others or the overall operations of the Terminal from doing so.
- (e) If a Train cannot be completed substantially in accordance with the Schedule, the Patrick Nominee will advise Access Holders and the Port Rail Manager as soon as reasonably practicable and use best endeavours to recover the Schedule where possible.
- (f) If a Train fails within the Terminal:
  - (i) the Patrick Nominee will (or will use best endeavours to procure that the appropriate party) clear the failed Train as soon as reasonably practical; and
  - (ii) the Access Holder will, in a timely and professional manner, provide all necessary assistance required by the Patrick Nominee to facilitate the clearance of any failed Train.
- (g) Patrick may determine and adjust the scheduling of Windows in accordance with the Capacity Allocation Protocol.

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## 6 In gate/Out gate

- (a) Patrick will publish Terminal operating hours from time to time on its website. Patrick will provide reasonable notice of any change to the Terminal operating hours to Access Holders.
- (b) Patrick will provide standard freight opening and closing receipt times for each of Access Holders' Train services that will be consistent across all Access Seekers.
- (c) For the purpose of maximising utilisation, Access Holders may request that Patrick receives Containers prior to the opening and closing times. For the avoidance of doubt, such request may be accepted or refused at the absolute discretion of Patrick.
- (d) The Patrick Nominee will notify Access Holders of any exceptions in data or load integrity that may impact on the successful gating of Access Holders' Containers. Access Holders will be responsible for resolving any data or load integrity exceptions that arise out of the in-gating or out-gating process and immediately notify the Patrick Nominee once the exception has been resolved.

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## 7 Safety

### 7.1 Safety management plan

- (a) Patrick will publish a safety management plan on its website, which Patrick, the Patrick Nominee and Access Holders are each required to follow and which will include obligations for all relevant parties to have and maintain appropriate interface agreements.
- (b) The Patrick Nominee will provide to Access Holders all information necessary for the safe operation of Access Holders' Trains within the Terminal.
- (c) Access Holders will develop and provide a safety management plan for its rail operation that is consistent with requirements of the Patrick Nominee's safety management plan.

### 7.2 General safety obligations

- (a) Access Holders and each Access Holders' Associate must complete the Rail Site Induction prior to Access to the Terminal and refresher training every two (2) years unless refresher training is required earlier as determined by Patrick (or the Patrick Nominee as applicable) in its discretion.
- (b) Access Holders must ensure that they have completed all the usual departure checks in accordance with the Access Holder Systems, including checking twist-locks are engaged and ensuring that all Containers are correctly seated on all four corners.
- (c) Access Holders must immediately report to the Patrick Nominee all incidents and near misses involving actual or potential damage or injury to any property or person or any hazard or potential hazard identified by that Access Holder or any of its Associates at or near the Terminal. Such Access Holder must promptly complete an incident statement detailing what occurred and was observed (a copy of which must be provided to the Patrick Nominee within five (5) Business Days)



and must thereafter co-operate and make itself or its Associates reasonably available for subsequent investigations into such matters.

- (d) If, in the Patrick Nominee's reasonable opinion, the provision of the Services is (or could be) unsafe for any reason or the Container or Train does not comply with applicable Laws and standards (including, without limitation, the Health and Safety Law, the Dangerous Goods Law and the Rail National Safety Law) or the Container is unsuitable to be handled using the equipment and operating procedures normally used by the Patrick Nominee in providing the Services, the Patrick Nominee may:
  - (i) refuse to provide the Services;
  - (ii) take measures it considers to be reasonably practicable at the Access Holder's risk and expense in order to cause the Container or Train and / or the Services as applicable to comply with all applicable Laws and standards or suitability requirements for handling by the Patrick Nominee; and / or
  - (iii) store or deal with the Container at the Access Holder's risk and expense until the Access Holder has made suitable arrangements (in the reasonable opinion of the Patrick Nominee) for its collection or removal.
- (e) The Access Holder is only permitted to enter the Terminal with prior permission from the Patrick Nominee.
- (f) The Patrick Nominee has the right to remove or direct the immediate removal of any Access Holder, Containers and/or any other property from within the Terminal on safety grounds.
- (g) The Terminal has a zero limit for alcohol and other drugs and has a policy of random testing.
- (h) The Patrick Nominee and the Access Holder will ensure:
  - (i) compliance with the safety management plan for the Terminal; and
  - (ii) all Rolling Stock, plant and equipment admitted to the Terminal is safe and is operated in a safe manner.
- (i) The Patrick Nominee has the authority to enforce that Access Holders will ensure its Associates entering the Terminal (excluding any administration buildings) comply with the following personal protective equipment:
  - (i) long sleeved shirt, with sleeves rolled down;
  - (ii) high visibility vest or shirt;
  - (iii) broad brimmed or legionnaire style hat;
  - (iv) protective footwear;
  - (v) protective safety glasses; and
  - (vi) protective safety glove and hearing protection when accessing the locomotive provisioning facility.

### **7.3 Access Holder compliance with Terminal Systems**

Access Holders and each Access Holder's Associates must comply with the Terminal Systems at all times.

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## **8 Performance measures**

Patrick will consult with Access Holders on the performance measures, targets and action plans developed in respect of the Services.

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## **9 Variations**

- (a) Patrick may vary this Terminal Operating Protocol from time to time, if Patrick determines that a variation is necessary or appropriate for the proper, efficient or safe provision of the Services, operation or management of the Terminal.
- (b) The ability of Patrick to vary the Terminal Operating Protocol is subject to any consents or approvals Patrick is required to obtain.
- (c) Any variation to the Terminal Operating Protocol must be consistent with the Port Rail Operating Protocols.

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## Schedule 1 Dictionary

### 1. Terms defined in the Access Agreement

- (a) Unless the contrary intention appears, a word or expression which has a defined meaning in the Access Agreement has the same meaning when used in this Terminal Operating Protocol.
- (b) If there is any inconsistency between a provision of this Terminal Operating Protocol and any provision of an Access Agreement, the provision of the Access Agreement prevails, unless it is clear a contrary intention appears.

### 2. Defined terms

**Access Agreement** means an agreement for Access between Patrick and an Access Holder (which, for the avoidance of doubt, may or may not be in the form of the SAA).

**Access Holder** means a person who has an entitlement to Access under an Access Agreement and satisfies the Access Criteria.

**Ancillary Services** means those services referred to as “ancillary services” (if any) in an Access Agreement or the Standard Access Agreement.

**APERK** means the response message sent back to the Access Holder accepting the PRA or rejecting the PRA, if in error.

**Capacity Allocation Protocol** means the PoM Capacity Allocation Protocol published by PoM, as amended from time to time.

**Contractor HSE Agreement** means the Patrick Nominee Terms and Conditions of Site Access entered into by the Access Holder

**High Deck Wagon** means a wagon which exceeds the maximum permissible height accepted on the network when loaded with a 9’6 container.

**Licensed Area** means that area of the port rail terminal licensed to Patrick by PoM for the purposes of operating the Terminal and set out in the Access Holder’s Access Agreement or the Standard Access Agreement.

**Patrick** means Patrick Container Ports Pty Ltd ACN 009 762 985.

**Patrick Nominee** means any nominee appointed by Patrick under clause 2.4.

**PoM** means Port of Melbourne Operations Pty Ltd as trustee for the Port of Melbourne Unit Trust (ABN 67 610 925 178).

**Port Rail Operating Protocols** means the business rules for the use of the Port Rail Network from time to time which, as at the date of this agreement, are managed on a day to day basis by the Port Rail Manager.

**Rail Site Induction** means the online induction for accessing the Terminal.

**Rake** means the Train minus the locomotive and consists of the wagons only.

**Rolling Stock** means any vehicle that operates on or uses a railway track including a locomotive, light inspection vehicle, road/rail vehicle, trolley, carriage, diesel multiple unit

and wagon (but does not include a vehicle designed to operate both on and off a railway track when the vehicle is not operating on a railway track).

**Safety Interface Agreement** means a safety interface agreement between the Access Holder and the Patrick Nominee for the Patrick Rail Terminal.

**Services** means the Reference Services and any Ancillary Services as defined in the Access Holder's Access Agreement or the Standard Access Agreement, in each case on the Licensed Area.

**Terminal Operating Protocol** means this terminal operating protocol as amended from time to time and published on Patrick's website.

**Terminal Systems** means the Rail Site Induction, all other policies and procedures applicable to the Terminal, and all reasonable directions issued by the Patrick Nominee including (without limitation) with respect to health and safety matters and drug and alcohol testing.

**Top Lift** means Containers with appropriate corner casting enabling the Container to be lifted from the top surface.

**Train Load/Unload Requirements** means each of the requirements set out in clause 4.

**Unloadable Wagon** means a High Deck Wagon which is unable to transport 9'6 Containers.

**Unserviceable Wagon** means a red carded wagon. A red carded wagon is allowed to be on the line but not allowed to carry Containers.