

Ancillary Service Provider Licence Application / Renewal form 2024-25

Ports Victoria at Station Pier

All entities seeking to provide Ancillary Services at Station Pier must enter into an Ancillary Services Provider Licence Agreement (**Licence Agreement**) with Ports Victoria (**PV**).

The Ancillary Services Providers subject to a Licence Agreement include (but is not limited to) the following;

- vessel mooring and unmooring
- stevedoring
- passenger ground handling and portage
- tour operators
- providedoring and security
- waste services
- repair and maintenance services
- bunkering services

Licence Agreement Terms and Conditions are attached to this form.

Unless otherwise defined or the context requires, capitalised terms in this Application have the meaning given to them in the Terms and Conditions.

On signing and submitting this Application Form on behalf of the applicant, the person signing declares that:

- (a) they are authorised to sign for and on behalf of the Applicant; and
- (b) the Terms and Conditions are agreed to and that they will apply if the Licence Agreement is granted

For an application to be assessed, all required documents must be provided with the completed and signed Application Form.

Once an Application has been assessed:

- If the Application is successful, the Applicant will be notified that a Licence Agreement has been formed and the Terms and Conditions apply to that Licence Agreement; or
- If the Application is not successful, the Applicant will be notified of this.

If you have any queries, please email asp@ports.vic.gov.au (preferred) or phone Station Pier Operations at PV on 03 5225 3500

Item 1. **Application details**

Name of Applicant:

ABN:

Type of Entity

(tick as applicable)

- ☐ Sole Trader
- ☐ Partnership
- ☐ Trust
- ☐ Company (execution of the licence application must be in accordance with *Corporations Act 2001* s 127))

Contact for the Application:

Name:

Phone:

Email:

Address of Applicant:

Name and address of directors or principals of the Applicant:

Name:

Position:

Address:

Name:

Position:

Address:

Names and contact details of local management team:

Name:

Position:

Telephone:

Email:

Name:

Position:

Telephone:

Email:

Initially engaged for Ancillary Services by:

Ship Agent:

Owner:

Vessel (if known)

Item 2.

**Applicant's Principal contact for Station Pier Licence Agreement
(if granted)**

Name:

Capacity:

- ☐ Applicant
☐ Employee
☐ Agent (please provide authority to act)

Position:

Address for Correspondence:

Telephone:

Alternate Telephone:

Email:

Item 3.

Description of Ancillary Services

**Tick which Ancillary Services
will be conducted by the
Applicant:**

- ☐ Vessel mooring and unmooring
☐ Stevedoring
☐ Passenger ground handling and portage
☐ Tug operations
☐ Redoring and chandlery
☐ Waste services
☐ Vessel repair and maintenance services
☐ Bunkering services
☐ Other

Item 4. Documentation to be provided

The Applicant must provide PV with the following documentation together with the completed Application Form. PV will not assess the Application if it is incomplete. Please advise in the comments column if you have any difficulty providing the requested documents. If you have any questions about the documentation which is required, email asp@ports.vic.gov.au.

No	Document Provided?	Comments (if this is not being provided, include a comment explaining reason)
1	Copy of Certification of Incorporation of Company or Copy of Certificate of Business Name (or both if applicable). <input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Certificates of currency and policy schedules of the following insurance policies, in the name of applicant, or where in the name of a related entity, also showing evidence of how the insurance applies to the applicant: <ul style="list-style-type: none">• public liability insurance for an amount of not less than \$20 million public risk in respect of any single occurrence <input type="checkbox"/> Yes <input type="checkbox"/> No• workers' compensation insurance <input type="checkbox"/> Yes <input type="checkbox"/> No• plant and equipment insurance not less than \$10 million and \$20 million in aggregate <input type="checkbox"/> Yes <input type="checkbox"/> No• any other insurances the Applicant is required by law to have <input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Copy of the Applicant's Occupational Health & Safety Management System. <input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Copy of the Applicant's Environment Management System. <input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Safe Work Method Statements relevant to the applicant's proposed work at Station Pier. <input type="checkbox"/> Yes <input type="checkbox"/> No	

Item 5. Employees, contractors and Subcontractors

By submitting this application, the applicant acknowledges that each individual required to access Station Pier under a Licence Agreement will:

- be required to undertake an induction before being able to access Station Pier under this licence. A link will be provided to successful applicants to enable the Station Pier Induction to be undertaken;
- receive a Ports Victoria Pier Access Card (PAC) or be entered into the Ports Victoria Pier Access Management System (PAMS) – (further information will be sought from ASP licensees and employees to enable this); and
- comply with Ports Victoria COVID-19 Vaccination Requirements Policy, and be required, on request, to demonstrate their vaccination status is in accordance with the policy, or as required by any law, Public Health Order, or equivalent instrument.

Item 6.

Vehicles, plant and equipment

Applicants must provide details of any vehicles, plant and equipment which may be brought onto the Station Pier precinct to provide ancillary services. If more equipment than space provided below, please provide a separate list to PV.

Item description and ownership
(provider or otherwise)

Registration Number / Serial
Number

Condition (new, good, used)

SAMPLE

Privacy Collection Notice

Ports Victoria is collecting personal information, which may include sensitive personal information, in order to assess the application for an Ancillary Services Provider Licence, manage the use of any licence which may be granted as a result of this application, and monitor access by individuals accessing Station Pier or other sites managed by Ports Victoria under any licence granted. Ports Victoria and licensees are required to comply with State and Federal legislation relating to, for example, border security and critical infrastructure.

Signatures of Applicant

Any signatory on this Application:

- represents and warrants to PV that they have the authority and power to sign the Application on behalf of the Applicant; and
- agree on behalf of the Applicant, to the Terms and Conditions contained within this Application Form, and that these Terms and Conditions will apply to the Licence Agreement, if it is granted.

If the Applicant is a company, the signatories must be in accordance with section 127 (1) of the *Corporations Act 2001* (Cth), (i.e.: 2 Directors, Director/Secretary or Sole Director/Secretary)

SIGNED for and on behalf of the **Applicant**)
by its authorised signatory(ies):)
)

Signature of authorised signatory

Date:

Name:

Position:

Please submit this application to PV by email to:

Once an application is submitted with all the required documents, the expected time for a decision on the granting of the licence is maximum 4 weeks. If any documents are not received, the application cannot be processed.

If you have any queries, please email asp@ports.vic.gov.au (email is preferred, so your query can be directed to the most appropriate person) or call Station Pier Operations at PV on 03 5225 3562.

Ports Victoria Acknowledgement

THE FOLLOWING ITEM 7 AND ITEM 8 ARE FOR COMPLETION BY PORTS VICTORIA ONLY

Item 7. Approval by Ports Victoria

Ports Victoria:

☐ Approves the granting of this Licence Agreement:

- For the Access Period;
- On the terms and conditions attached to this Licence Agreement,
- Subject to the Special Conditions set out below.

The Special Conditions are acknowledged as agreed by the Provider in separate correspondence.

Rejects the Application

Special Conditions:

Item 8. Access Period

Commencement Date:

Expiry Date:

Signed by Ports Victoria

SIGNED for and on behalf of the
PORTS VICTORIA ABN 51 347 220
146 by its Authorised delegate:

Signature of authorised delegate

Name:

Position:

Date:

Ancillary Service Provider Licence Application / Renewal form 2024-25

Ancillary Service Provider Licence Terms and Conditions

1. Background

Ancillary Services at Station Pier and West Finger Pier include the following activities and services provided by ancillary service providers for vessels alongside the wharf or other activities:

- vessel mooring and unmooring,
- stevedoring,
- passenger ground handling,
- portage,
- tour operators,
- providedoring and chandlery,
- waste services,
- vessel repair and maintenance services, and
- bunkering services.

An Ancillary service provider is an entity that is contracted by vessel operators, their ship agents and facility hirers to perform support services during periods of berth or facility access at Ports Victoria common user facilities and berths, primarily at Station Pier and West Finger Pier.

A licence granted to an ancillary service provider (**Provider**):

- a. will replace any existing or previously issued ASP licence, whether or not expired, that has been in place at Station Pier and West Finger Pier. The licence granted to the Provider is granted under these Licence Terms and Conditions (**Licence Agreement**); and
- b. Is granted only for the purpose of the Ancillary Services required by a Ship Agent or Owner

Ancillary service providers normally operate in the Ports Victoria common user areas of Station Pier and West Finger Pier in support of berth, terminal and facility hirers.

Holding an ancillary service provider licence (and complying the conditions of the licence) is a condition of access to Station Pier and West Finger Pier to support vessel operators, agents or other parties that hire the common user berths and terminals.

Ports Victoria and the Provider both acknowledge that other people will be using the common user areas of Station Pier and West Finger Pier in addition to Ports Victoria and the Provider. Ports Victoria and the Provider undertake to use their best endeavours to ensure that they do not impede the proper use of the common user areas of Station Pier and West Finger Pier by such people. Ports Victoria will not discriminate in favour or against the Provider in relation to its use of common user areas of Station Pier and West Finger Pier.

2. Definitions and interpretation clauses

2.1. Definitions

In this Licence Agreement:

Ancillary Services means the ancillary services provided by the Provider as described in Item 4 of the Application Form which are required by an Owner or Shipping Agent.

Applicant means the business or entity described in Item 1 of the Application Form and is the Provider for the purpose of these Terms and Conditions.

Application means the application completed by the Applicant, comprising Item 1 to Item 7 inclusive of the Application Form.

Application Form means the Ancillary Services Provider Application Form accepted by Ports Victoria (in writing).

Authorisations means any consent, registration, filing, agreement, notice of non-objection, notarisation, certificate, licence, approval, permit, authority or exemption issued by any Governmental Agency.

Business Day means a day on which banks are open for business in Melbourne, Victoria, excluding a Saturday, Sunday or public holiday in that city.

Commencement Date means the date set out in Item 9 of the Application.

COVID-19 Vaccination Requirements Policy means Ports Victoria's policy found at <https://www.vicports.vic.gov.au/safety-and-security/safety/Pages/safety.aspx>;

Environment means the physical factors of the surroundings of human beings including the land, waters, atmosphere, climate, sound, odours, tastes, the biological factors of animals and plants, and the social factor of aesthetics.

Environmental Laws means a Law relating to the Environment, including any Law relating to land use, planning, heritage, coastal protection, water catchments, pollution of air or waters, soil or groundwater contamination, chemicals, waste, use of hazardous or dangerous goods or substances, building regulations, public and occupational health and safety, noxious trades, or any other aspect of protection of the Environment or person or property.

Environmental Management System means the Provider's environmental management system provided to Ports Victoria by the Provider and attached to the Application Form.

Equipment means any plant or equipment, including any motor vehicle, listed in Item 6 of the Application Form.

Expiry Date means the date set out in Item 8 of the Application Form

Force Majeure Event means

- a. an act of God;
- b. war;
- c. revolution;
- d. any unlawful act against public order or authority;
- e. a national or state-wide strike or industrial dispute; or
- f. a government restraint.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, court, department, commission, authority, tribunal, agency or entity.

Harbour Master means a 'harbour master' as defined by section 3 of the *Marine Safety Act 2010* (Vic).

Insolvency Event means the occurrence of any of the following events:

- a. an application is made to a court for an order or an order is made that a body corporate be wound up, and the application is not withdrawn, stayed or dismissed within 21 days of being made;
- b. appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or controller in respect of a body corporate or its assets;
- c. except to reconstruct or amalgamate while solvent, a body corporate enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them;
- d. a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent or is otherwise wound up or dissolved;
- e. a body corporate is or states that it is insolvent as that term is defined in section 95A of the *Corporations Act 2001 (Cth)*;
- f. as a result of the operation of section 459F(1) of the *Corporations Act 2001 (Cth)*, a body corporate is taken to have failed to comply with a statutory demand;
- g. a body corporate is or makes a statement from which it may be reasonably deduced that the body corporate is the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act 2001 (Cth)*;
- h. a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable law;
- i. a body corporate ceases to carry on business; or
- j. anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Law means:

- a. the present or future requirements of any statute, regulation, order, rule, by-law, ordinance, subordinate legislation, common law, equity or other document enforceable under any statute, regulation, rule or subordinate legislation, common law or equity;
- b. the lawful requirements, directions or instructions of any Governmental Agency including but not limited to the Harbour Master; and
- c. the listing rules of any recognized stock exchange.

Licence Agreement means the Application Form signed by the Applicant and Ports Victoria, and the Terms and Conditions in conjunction with any attached Schedules or Annexures.

Licensed Area means all common areas at Station Pier and West Finger Pier as identified at Schedule 2 (**Plan Identifying Licensed Area**) unless directed otherwise by Ports Victoria.

Licence Fee means the licence fee payable by the Provider to Ports Victoria in respect of the licence created under this Licence Agreement, as notified to the Provider by Ports Victoria.

Loss means any and all liability, loss, damage, penalties, payments, costs (including the cost of any settlement and legal costs and expenses on a solicitor-client basis), charges and expenses.

Maritime Security Guard means a maritime security guard as defined in the *Maritime Transport and Offshore Facilities Security Act 2003 (Cth)*.

Mooring Services Guidelines means Ports Victoria's guidelines found at : www.vicports.vic.gov.au/cruise-shipping/Pages/station-pier-shipping-services.aspx as amended from time to time.

Occupational Health and Safety Laws means the *Occupational Health and Safety Act 2004 (Vic)* and the *Occupational Health and Safety Regulations 2007 (Vic)* and any other Laws concerning occupational health and safety in connection with the Ancillary Services.

OH&S Management System means the Provider's occupational health & safety management system provided to Ports Victoria by the Provider and attached to the Application Form.

Owner means an 'owner' or 'operator' of a vessel as defined by section 4 of the PMA and has engaged or is able to engage the Provider to provide the Ancillary Services.

Personnel means any agent, representative, officer, employee, contractor or subcontractor of a party.

Pier Access Card or PAC means an access card granted to the Personnel of the Provider by Ports Victoria to access Station Pier.

Pier Access Management System or PAMS means a management system used by Ports Victoria to enable access for the Personnel of the Provider to Station Pier.

PMA means the *Ports Management Act 1995* (Vic)

Port Authorised Officer means an authorised officer as defined in Part 5C of the PMA.

Port Facility Security Officer means the person appointed as the port facility security officer by Ports Victoria or his or her delegate pursuant to the *Maritime Transport and Offshore Facilities Security Regulations 2003*.

Port Rules means directions, standards and other requirements published on Ports Victoria's websites as updated from time to time.

Ports Victoria means Ports Victoria (ABN 51 347 220 146) of East 1E, 13-35 Mackey Street, North Geelong VIC 3215, and includes its successors in title, assignors, servants, agents and employees.

Ports Victoria Drugs and Alcohol Policy means Ports Victoria's policy found at <https://www.vicports.vic.gov.au/safety-and-security/safety/Pages/safety.aspx> as amended from time to time.

Ports Victoria Safety and Environment Management Plan means Ports Victoria's safety and environment management plan, which can be located at <https://www.vicports.vic.gov.au/publications/Pages/SEMP.aspx>, as amended from time to time.

Ports Victoria Policies and Procedures includes any policy, procedure, publication or guideline of Ports Victoria (as amended from time to time), including but not limited to the policies and procedures of Ports Victoria that are publicly available and relevant to the carrying out of Ancillary Services under this Licence Agreement on Ports Victoria's website at: <http://www.vicports.vic.gov.au/Page/default.aspx>.

Shipping Agent means the shipping agent (if any) who is authorised by the Owner to engage the Provider.

Station Pier means the station pier precinct in Port Melbourne, Victoria.

Station Pier Induction means safety, security and other necessary training provided online through Ports Victoria that is required to be completed in order to gain access to Station Pier

Station Pier Induction Processing Fee means the fee set out at Item 2.

Term means the period from the Commencement Date to the Expiry Date.

Terms and Conditions means the terms that make up the Licence Agreement, being clauses 1 to 14 and all Schedules and Annexures.

West Finger Pier means the west finger pier precinct in Port Melbourne, Victoria.

2.2. Interpretation

In this Licence Agreement, unless a contrary intention is expressed:

- 2.2.1. other parts of speech and grammatical forms of a word or phrase defined in this Licence Agreement have a corresponding meaning;
- 2.2.2. a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Government Agency (whether or not having a separate legal personality);
- 2.2.3. a reference to anything (including any right) includes a part of that thing, but nothing in this clause implies that performance of part of an obligation constitutes performance of the obligation;
- 2.2.4. a reference to a document (including this Licence Agreement) includes all amendments or supplements to, or replacements or novations of, that document;
- 2.2.5. a reference to a party to any document includes that party's successors and permitted assigns;
- 2.2.6. a reference to any statute, regulation, proclamation, ordinance, binding instrument or by-law includes all statutes, regulations, proclamations, ordinances, binding instruments or by-laws amending, consolidating or replacing it and a reference to a statute includes all regulations, proclamations, ordinances, binding instruments or by-laws issued under that statute;
- 2.2.7. a promise, agreement, representation or warranty by two or more persons binds them jointly and severally;

- 2.2.8. a provision of this document may not be construed adversely to a party solely on the ground that the party (or that party's representative) was responsible for the preparation of this document or the preparation or proposal of that provision;
- 2.2.9. a reference to a body (including an institute, association or authority) whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- 2.2.10. the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expressions in this Licence Agreement do not limit what else is included and must be construed as if they are followed by the words 'without limitation', unless there is express wording to the contrary;
- 2.2.11. a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- 2.2.12. a reference to '\$', 'A\$', 'AUD', 'dollars' or 'Dollars' is a reference to the lawful currency of the Commonwealth of Australia.

2.3. Business Day

Where the day on or by which something must be done is not a Business Day, that thing must be done on or by the next Business Day.

3. Grant of licence

- 3.1.1. In consideration of payment of the Licence Fee as set out in Item 1 (Licence Fee) of Schedule 1 (General) by the Provider, Ports Victoria grants to the Provider a non-exclusive licence to access (but not occupy) the Licensed Area for the Term to the extent necessary to carry out the Ancillary Services.
- 3.1.2. The Provider must not use the Licensed Area:
- (a) for any purpose other than to perform the Ancillary Services;
 - (b) at any time outside the Term;
 - (c) otherwise than strictly in accordance with this Licence Agreement.
- 3.1.3. Ports Victoria may permit any other ancillary service provider or any other person or entity to access the Licensed Area in its discretion. The Provider must cooperate with any other person or entity in the Licensed Area and must always conduct itself (and procure that its agents, employees, officers, contractors and subcontractors conduct themselves) in a polite and professional manner.
- 3.1.4. The rights granted to the Provider under this Licence Agreement are personal to the Provider and must not be transferred, sub-licensed, assigned, charged or otherwise dealt with by the Provider. Any purported transfer, sub-licence, assignment, charge or other dealing in breach of this clause will result in the immediate cancellation of this Licence Agreement.
- 3.1.5. The rights conferred on the Provider in respect of this Licence Agreement rest in contract only and do not create in or confer upon the Provider any interest in the Licensed Area.
- 3.1.6. Access to the Licensed Area is subject to the Provider obtaining a Ports Victoria Pier Access Card or arranging to have their details entered into the Ports Victoria Pier Access Management System.
- 3.1.7. Other fees, charges and requirements may apply in respect of the Provider's access to the Licensed Area, depending on the activities carried out by the Provider and any Equipment brought into the Licensed Area by the Provider. The Provider must inform itself of these fees, charges and requirements and ensure that it complies with them.

4. Directions

- 4.1.1. The Provider must comply with any direction issued or given (whether in writing or verbally) by Ports Victoria, the Harbour Master and the Port Authorised Officer (whichever is applicable) including, without limitation, any direction concerning matters relating to occupational health and safety, security or quality assurance. The Harbour Master's Direction will take priority over any direction given by Ports Victoria or the Port Authorised Officer.

4.1.2. If the Provider does not comply with a direction issued or given under clause 4.1.1, Ports Victoria may, at its absolute discretion:

- (a) without further notice take whatever steps it considers necessary to ensure compliance by the Provider. Any costs incurred in connection with this clause are recoverable by Ports Victoria as a debt due and payable from the Provider;
- (b) by written notice to the Provider, immediately terminate this Licence Agreement or require the Provider to show cause why this Licence Agreement should not be terminated.

5. Provider Obligations

5.1. General Obligations

The Provider must:

- 5.1.1. acquire and maintain all Authorisations necessary for the provision of the Ancillary Services;
- 5.1.2. comply with all applicable Laws relating to the provision of the Ancillary Services;
- 5.1.3. ensure that each of its Personnel who will enter the Licensed Area under the Applicant's Licence Agreement (if it is granted) will:
 - (a) Apply for a Ports Victoria Pier Access Card (and provide the material required to support the application) or request the Ship Agent or vessel operator to enter the Providers details into the Ports Victoria Pier Access Management System;
 - (b) Undertake the Station Pier Induction before being able to access Station Pier under this licence. (A link will be provided to successful applicants to enable the Station Pier Induction to be undertaken.)
 - (c) Ensure that any equipment is free from environmental hazards, such as waste water in open receptacles (for example liquids within tip bins, tip trucks or open trailers).
 - (d) Comply with the Ports Victoria COVID-19 Vaccination Requirements Policy, and be required, on request, to demonstrate their vaccination status is in accordance with the policy, or as required by any Law, Public Health Order, or equivalent instrument; and
 - (e) Either:
 - (i) present a valid Ports Victoria Pier Access Card
 - (ii) or have their details entered into the Ports Victoria Pier Access Management (PAM) System and present an original copy of a government issued photo identification document (for example, a driver's licence or passport), each time they enter the Licensed Area;

If Personnel attempts to access the Licenced Area:

 - (iii) without completing the Station Pier Induction in accordance with clause 5.1.3(b), prior to arrival at Station Pier, Ports Victoria may charge the Station Pier Induction Processing Fee, which is payable by the Provider prior to access to Station Pier.
 - (iv) with environmentally hazardous materials in accordance with clause 5.1.3(c), which requires cleaning prior to access, in addition to Ports Victoria denying access to Station Pier, Ports Victoria may charge the Station Pier Environmental Hazard Fee, which is payable by the Provider prior to then accessing Station Pier. Any clean up costs will be additional and charged by PV for time and equipment used.
- 5.1.4. comply with all of Ports Victoria Policies and Procedures (as are applicable to the Ancillary Services);
- 5.1.5. comply with Ports Victoria's Safety and Environment Management Plan;
- 5.1.6. ensure that it's Personnel do not smoke cigarettes, cigars or e-cigarettes within Station Pier.
- 5.1.7. ensure that all employees, contractors and sub-contractors comply with the Ports Victoria COVID-19 Vaccination Requirements Policy.

- 5.1.8. comply with any other documentation reasonably required by Ports Victoria;
- 5.1.9. only use the Licensed Area designated by Ports Victoria for use by the Provider;
- 5.1.10. pay all stamp duty, taxes (including GST) and any other governmental or statutory charges payable or assessed on this Licence Agreement and any other related documentation;
- 5.1.11. ensure that all Equipment is in good order and a proper state of repair;
- 5.1.12. ensure that Equipment is only operated by properly qualified and licensed persons;
- 5.1.13. participate in, and ensure that all of its Personnel participate in, any induction programs, or training required by Ports Victoria;
- 5.1.14. ensure that all Ancillary Services are performed by properly trained, qualified and, where relevant, licensed Personnel;
- 5.1.15. not access or attempt to access the Licensed Area:
 - (a) without prior completion of the Station Pier Induction.
 - (b) with any materials that may cause an environmental risk (such as liquids within skip bins or open trailers);
- 5.1.16. not bring or permit to be brought on or into the Licensed Area any machinery, plant or equipment except the Equipment without the prior written consent of Ports Victoria;
- 5.1.17. not permit or allow any cargo, machinery, plant or equipment, including any B-double trucks, that exceeds the design loadings referred to in the Port Rules (Ports Victoria Safe Load Chart) to be brought on or into the Licensed Area;
- 5.1.18. not do or allow anything to be done that might damage the Licensed Area (such as storing flammable substances or bring heavy equipment onto the Licensed Area except for the Equipment);
- 5.1.19. promptly notify Ports Victoria of any damage caused to the Licensed Area and repair such damage according to any reasonable directions provided by Ports Victoria;
- 5.1.20. keep the Licensed Area in a clean and tidy condition, free from rubbish, litter and fire hazards;
- 5.1.21. not make any alteration or addition to (including erecting any signs on) any part of the Licensed Area without Ports Victoria's prior written consent;
- 5.1.22. not cause any nuisance, damage, obstruction, annoyance or inconvenience to the occupiers or users of any adjoining premises or the Licensed Premises;
- 5.1.23. comply with any reasonable security and fire safety requirements of Ports Victoria and the Harbour Master in relation to the Licensed Area;
- 5.1.24. comply, on time, with all requirements, orders and notices of Authorities and any insurers and all laws concerning the Provider's use or occupation of the Licensed Area, and the Provider's property;
- 5.1.25. ensure that it and its Personnel:
 - (a) cooperate with all other ancillary service providers and other persons or entities in the Licensed Area; and
 - (b) do not obstruct the activities of any other person or entity in the Licensed Area;
 - (c) keep the Licensed Area, and any areas used in connection with the Licensed Area, clean and tidy at all times during and at the completion of their use by the Provider;
 - (d) at the completion of the Licence Agreement, surrender and deliver to Ports Victoria all keys, access cards and other items enabling access to or use of any facilities situated in or around the Licensed Area;
 - (e) make good any damage caused or contributed to by the Provider and its Personnel in the Licensed Area;
 - (f) not carry on from, permit to be carried on from, bring onto, or permit to be brought onto the Licensed Area, any offensive or illegal activity or practice or do or permit to be done any matter or thing, which constitutes a nuisance or harm to Ports Victoria or any other person;
 - (g) comply with the Port Rules;

- (h) remove any Equipment from the Licensed Area at the direction of Ports Victoria;
- (i) on request, provide the information to Ports Victoria required in the application form for the licence or as required under these Licence Terms and Conditions; and
- (j) on request, attend coordination meetings, planning meetings and personnel training sessions required by Ports Victoria.

5.2. Quality Assurance Obligations

The Provider must, at all times, establish and maintain a documented quality assurance system in respect of all Ancillary Services performed by the Provider. The Provider's quality assurance system must comply with best industry practice and any applicable Australian or Victorian standards or regulations.

5.3. Audit

- 5.3.1. The Provider must allow Ports Victoria and its agents, representatives and officers to access all premises, personnel and materials to enable Ports Victoria to audit the Provider's compliance with these Licences Terms and Conditions, including all obligations set out in this clause.
- 5.3.2. Ports Victoria will, except in circumstances where it determines (acting reasonably) that the Provider may or is in breach of this Licence Agreement, provide the Provider with reasonable prior notice before requesting access to any premises, personnel and materials under clause 5.3.1.
- 5.3.3. The Provider must ensure that an appropriately authorised representative of the Provider attends any audit conducted by Ports Victoria.

5.4. Equipment Obligations

- 5.4.1. The Provider must, in respect of any Equipment:
 - (a) only bring onto the Licensed Area the Equipment as detailed in the Application (as relevant);
 - (b) ensure that all Equipment is stored in accordance with any directions provided by Ports Victoria and in accordance with all laws;
 - (c) ensure that all Equipment is fit for purpose, properly licensed and certified (as required) and that all required servicing and maintenance requirements have been performed on the Equipment in accordance with supplier or manufacturer guidelines;
 - (d) insure and keep insured that Equipment to its full value on a replacement or reinstatement basis (the amount of which shall be as reasonably nominated by the Provider);
 - (e) bear the risk of any loss or damage to the Equipment and releases Ports Victoria in respect of any liability for damage, loss, failure or theft of any Equipment or contents of any Equipment;
 - (f) comply with any reasonable direction provided by Ports Victoria to move, remove, relocate or clear Equipment from the area (or any other area or areas so designated by Ports Victoria);
 - (g) comply with any reasonable direction provided by Ports Victoria to repair any faulty or equipment posing a risk to public health and safety or a risk of damage to any property;
 - (h) store Equipment in designated areas only;
 - (i) ensure that the Provider's ownership of all Equipment is appropriately visible or identifiable.
 - (j) maintain appropriate spill control equipment, where reasonably required to manage leaks associated with Equipment malfunctions;
 - (k) permit Ports Victoria or its Personnel to inspect all Equipment, if requested; and
 - (l) except through appropriately licensed ancillary service providers, not carry out repair or maintenance work on any Equipment in the Licensed Area without Ports Victoria's prior written consent.

- 5.4.2. The use of the Equipment in the Licensed Area may be subject to any other permits, licences, fees or charges imposed in respect of the use of such Equipment in the Licensed Area, and this Licence Agreement does not derogate from such obligations. The Provider is responsible for making all enquiries and ensuring it has such arrangements in place prior to bringing any Equipment into the Licensed Area.

5.5. Occupational health and safety obligations

5.5.1. The Provider must:

- (a) comply with:
 - (i) Ports Victoria Safety and Environment Management Plan, unless otherwise directed by Ports Victoria;
 - (ii) the OH&S Management System;
 - (iii) Occupational Health and Safety Laws;
 - (iv) Ports Victoria port rules, guidelines, standards, Harbour Master Directions and Ports Victoria Mooring Guidelines where relevant to the service being provided;
 - (v) Ports Victoria COVID-19 Vaccination Requirement Policy; and
 - (vi) Ports Victoria Drugs and Alcohol Policy;
- (b) ensure that all of its Personnel who access the Licensed Area:
 - (i) are comprehensively instructed regarding the content of the Ports Victoria Safety and Environment Management Plan; and
 - (ii) complete the Station Pier Induction; and
 - (iii) participate in and procure that each of its Personnel engaged in performing the Ancillary Services and/or who access the Licensed Area participate in, any Ports Victoria safety, environment, emergency and security induction sessions, training or information sessions as required by Ports Victoria from time to time.

- 5.5.2. If the Provider does not comply with this clause 5.5, or if Ports Victoria, in its absolute discretion, forms the view that the Provider has not complied with this clause 5.5, which Ports Victoria considers may adversely affect the safe or orderly operation of the Licensed Area, then Ports Victoria may immediately terminate this Licence Agreement by written notice to the Provider or require the Provider to show cause why this Licence Agreement should not be terminated.

5.6. Environmental matters

The Provider must:

- 5.6.1. comply at all times with all Environmental Laws;
- 5.6.2. comply with the Ports Victoria Safety and Environment Management Plan, unless otherwise directed by Ports Victoria;
- 5.6.3. comply with the Environment Management System;
- 5.6.4. immediately notify Ports Victoria of any failure to comply with any Environmental Laws;
- 5.6.5. not store or keep on or permit to be stored or kept upon or around the Licensed Area any petrol or other flammable fuel or hazardous materials; and
- 5.6.6. notify Ports Victoria via Duty Officer 24/7 (03) 9644 9745 and in writing of any environmental incidents that occur on site as soon as practicable and follow up with a written report detailing what occurred, contributing factors and what processes or procedures have been put in place to prevent a reoccurrence of the incident within 10 Business Days of the date the environment incident occurred.

6. Termination of Licence Agreement

6.1. Immediate Termination

Ports Victoria may, to the extent permitted by Law, terminate this Licence Agreement immediately by notice to the Provider:

- 6.1.1. in accordance with clauses 4.1.2(b), 5.5.2 and 11.2;
- 6.1.2. if the Provider is in default of its obligations under this Licence Agreement and has not remedied such default within 7 days of Ports Victoria giving notice to the Provider of the default;
- 6.1.3. if Ports Victoria no longer has the right at Law to grant the Licence Agreement to the Provider in accordance with its terms; or
- 6.1.4. if the Provider enters into an Insolvency Event.

6.2. Ports Victoria may rectify

- 6.2.1. If the Provider does not comply with any term of this Licence Agreement then without limiting any other right or remedy of Ports Victoria, Ports Victoria may (but is not obligated to), without notice, remedy that breach.
- 6.2.2. The Provider must pay or reimburse Ports Victoria on demand for any reasonable costs incurred by Ports Victoria in connection with remedying the breach.

6.3. Termination for Force Majeure Event

Either party may terminate this Licence Agreement immediately by providing notice in writing to the other party if a Force Majeure Event continues for at least two months.

6.4. Consequences of termination

Termination of this Licence Agreement in accordance with clause 8 (Termination of Licence Agreement) is without prejudice to any accrued rights or claims available to either party for any prior breaches of this Licence Agreement.

7. Security

- 7.1.1. The Provider acknowledges that the Licensed Area includes security regulated ports in accordance with the *Maritime Transport and Offshore Facilities Security Act 2003* (Cth).
- 7.1.2. The Provider acknowledges and understands that Ports Victoria is subject to a federally approved maritime security plan. The Provider may be required to comply with directions given by Ports Victoria in respect of that maritime security plan.
- 7.1.3. The Provider shall comply, and shall procure that all of its Personnel comply, with all directions made by Ports Victoria including Ports Victoria's Port Facility Security Officer (or their delegate) or the Maritime Security Guard in respect to security matters in the Licensed Area. Any direction given by the Ports Victoria Port Facility Security Officer (or their delegate) will prevail over any direction given by the Maritime Security Guard.
- 7.1.4. The Provider must, ensure that its Personnel, report any breaches of security, criminal activity or suspicious behaviours to at least one of the following:
 - (a) Victoria Police Emergency
 - (b) the Port Facility Security Officer;
 - (c) Ports Victoria's Duty Port Authorised Officer
 - (d) Security Contract Manager or
 - (e) the Maritime Security Guard.

8. Insurance

8.1. Insurances to be maintained by Provider

8.1.1. During the Term, the Provider must maintain:

- (a) Public liability insurance for the Provider's business activities for an amount of not less than \$20 million in respect of any single occurrence or such higher amount as Ports Victoria may from time to time reasonably require;
- (b) workers compensation insurance;
- (c) insurance covering the full replacement value of any Equipment (including where relevant motor vehicle insurance); and other insurances, which are required by Law.

8.1.2. The Provider must ensure that each insurance policy (except for statutory insurance policies):

- (a) is maintained with an insurer reasonably acceptable to Ports Victoria;
- (b) provides that the insurer will provide to Ports Victoria at least 15 Business Days' written notice if the policy is to lapse or be cancelled; and
- (c) is on terms specified in this Licence Agreement or, if not so specified, provides a reasonable and appropriate level of cover having regard to the risks assumed by the parties in relation to the performance of this Licence Agreement.

8.2. Proof of Insurance

The Provider must provide Ports Victoria with a copy of any certificates of currency as evidence of each insurance policy required under this Licence Agreement. When new insurance policies commence, policies are renewed, or if requested by Ports Victoria.

8.3. Subcontractors

The Provider must procure that any subcontractor engaged by the Provider strictly complies with the requirements set out in this clause and provide Ports Victoria with copies of certificates of currency and policy schedules relating to such insurances on request.

9. Indemnity and release

9.1. Release

9.1.1. The Provider uses and occupies the Licensed Area and performs the Ancillary Services at its own cost and risk.

9.1.2. To the fullest extent permitted by Law, the Provider releases (and must procure that the Provider's Personnel release) Ports Victoria and its Personnel from all claims, demands, actions, proceedings, damages, losses, liabilities, costs and expenses of every kind in respect of or resulting from any accident, damage, death, loss or injury in connection with the Licensed Area or the Provider's use of occupation of the Licensed Area except to the extent caused by the wilful acts or negligence of Ports Victoria.

9.2. Indemnity

9.2.1. The Provider indemnifies Ports Victoria at all times from and against all claims, demands, actions, proceedings, liabilities, costs and expenses of every kind and all loss and damage suffered or incurred by Ports Victoria as a result of or in connection with:

- (a) any accident, damage, death, loss or injury in connection with the Licensed Area or the Provider's use or occupation of the Licensed Area to the extent caused by the Provider;
- (b) any loss of or damage to any property; and

- (c) a breach by the Provider of any of this Licence Agreement.

9.3. Operation of Indemnity and Survival

- 9.3.1. The Provider's obligations to release and indemnify Ports Victoria under this clause 9 will be reduced proportionately to the extent caused or contributed to by Ports Victoria or any of its Personnel.
- 9.3.2. The indemnity and release set out in this clause are independent from the other obligations of the Provider under this Licence Agreement and do not come to an end when the Licence Agreement terminates or expires.

10. Goods and Services Tax (GST)

10.1. Goods and Services Tax (GST)

- 10.1.1. Words or expressions used in this clause are defined in *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)* have the same meaning given to them in that Act.
- 10.1.2. Unless otherwise stated, any amount specified in this Licence Agreement as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.
- 10.1.3. If a party makes a taxable supply under this Licence Agreement (Supplier), then the recipient of the taxable supply (Recipient) must also pay, in addition to the consideration for that supply, the amount of GST payable in respect of the taxable supply at the time the consideration for the taxable supply is payable.
- 10.1.4. Notwithstanding the foregoing, the Recipient is not obliged under this Licence Agreement to pay the amount of any GST payable until the Supplier provides it with a valid tax invoice for the taxable supply.
- 10.1.5. If an adjustment event arises in relation to a taxable supply made by a Supplier under this Licence Agreement, the amount paid or payable by the Recipient pursuant to clause 10.3 (Liability to pay GST) will be amended to reflect the adjustment and a payment will be made by the Recipient to the Supplier or vice versa as the case may be.
- 10.1.6. If a third party makes a taxable supply and this Licence Agreement requires a party to this Licence Agreement (the payer) to pay for, reimburse or contribute to (pay) any expense or liability incurred by the other party to that third party for that taxable supply, the amount the payer must pay will be the amount of the expense or liability plus the amount of any GST payable in respect thereof but reduced by the amount of any input tax credit, to which the other party is entitled in respect of the expense or liability.
- 10.1.7. This clause does not merge on completion and will continue to apply after expiration or termination of this Licence Agreement.

11. Change of Provider Information

11.1. Warranty

The Provider warrants that all information provided by it to Ports Victoria for the purposes of the Application is and shall remain accurate, complete and correct in all respects.

11.2. Breach

If Ports Victoria, in its absolute discretion, forms the view that any change or alteration advised by the Provider or otherwise ascertained by Ports Victoria may adversely affect the safe or orderly operation of the Licensed Area, then Ports Victoria may immediately terminate this Licence Agreement by written notice to the Provider or require the Provider to show cause why this Licence Agreement should not be terminated.

12. Assignment

The Provider must not assign its rights under this Licence Agreement, grant any sub-licence or otherwise transfer any of its rights under this Licence Agreement without first receiving the prior written consent from Ports Victoria, which consent must not be unreasonably withheld but Ports Victoria may impose conditions if it grants consent to any such dealing as it sees fit.

13. Dispute Resolution

13.1. Dispute Notice

- 13.1.1. If a party claims that a dispute has arisen under or in connection with this Licence Agreement (**Dispute**), that party must give notice of the Dispute (**Dispute Notice**) to the other party specifying the nature of the Dispute.
- 13.1.2. A Dispute cannot be the subject of litigation until the provisions of clauses 13.2 (Resolution by parties), 13.3 (Resolution by senior executives), 13.4 (Mediation) and 13.5 (ADC Mediation Guidelines) have been complied with (except where a party seeks urgent interlocutory relief from a court, in which case that party does not need to comply with clause 13.2 (Resolution by parties), 13.3 (Resolution by senior executives), 13.4 (Mediation) and 13.5 (ADC Mediation Guidelines) before seeking such relief).

13.2. Resolution by parties

Within three Business Days of the date of the Dispute Notice (or such other period as agreed between the parties to the Dispute) each of the parties to the Dispute must meet and use their reasonable endeavours to resolve the Dispute.

13.3. Resolution by senior executives

If the Dispute is not resolved under clause 13.2 (Resolution by parties) within 10 Business Days (or such other period agreed between the parties to the Dispute) after the date of the Dispute Notice, the Dispute must be referred to the senior executives of each of the parties to the Dispute, who must meet and use their reasonable endeavours to resolve the Dispute.

13.4. Mediation

If the Dispute is not resolved under clause 13.3 (Resolution by senior executives) within 15 Business Days (or such other period agreed between the parties to the Dispute) after the date of the Dispute Notice, the parties to the Dispute must refer the Dispute to mediation administered by the Australian Disputes Centre (**ADC**) before having recourse to litigation.

13.5. ADC Mediation Guidelines

- 13.5.1. The mediation under clause 13.4 (Mediation) must be conducted in accordance with the ADC Guidelines for Commercial Mediation, which are operating at the time the matter is referred to the ADC (Guidelines). The Guidelines set out the procedures to be adopted for the mediation, the process of selection of the mediator and the costs involved.
- 13.5.2. The terms of the Guidelines are deemed to be incorporated into this Licence Agreement.

13.6. Parties' obligations

Pending resolution of any Dispute, the parties must continue to perform their obligations under this Licence Agreement without prejudice to their respective rights and remedies (except where such obligations are the subject of the Dispute).

13.7. Litigation

If the Dispute is not resolved under clause 13.4 (Mediation) within 40 Business Days after the date of the Dispute Notice, either party may commence litigation proceedings.

14. General

14.1. Waiver

- 14.1.1. A waiver of a right, remedy or power must be in writing and signed by the party giving the waiver.
- 14.1.2. A party does not waive a right, remedy or power if it delays in exercising, fails to exercise or only partially exercises that right, remedy or power.
- 14.1.3. A party does not waive its rights under this Licence Agreement because it grants an extension or forbearance to the other party.
- 14.1.4. A waiver given by a party in accordance with clause 14.1.1:
 - (a) is only effective in relation to the particular obligation or breach in respect of which it is given and is not to be construed as a waiver of that obligation or breach on any other occasion; and
 - (b) does not preclude that party from enforcing or exercising any other right, remedy or power under this Licence Agreement, nor is it to be construed as a waiver of any other obligation or breach.

14.2. Relationship

Nothing in this Licence Agreement creates a relationship of employer and employee, principal and agent or partnership between any of the parties to this Licence Agreement.

14.3. Further Assurances

- 14.3.1. Each party, at its own expense will do all things and execute all further documents necessary to give full effect to this Licence Agreement.
- 14.3.2. This Licence Agreement supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the parties.

14.4. Counterparts and Signing

- 14.4.1. This Licence Agreement may be executed in any number of counterparts, each signed by one or more parties. Each counterpart when so executed is deemed to be an original and all such counterparts taken together continue one document.
- 14.4.2. A party that has executed a counterpart of this document may exchange that counterpart with another party by faxing or emailing it to the other party or the other party's legal representative and it is intended that such exchange is to take effect as delivery of this Licence Agreement.
- 14.4.3. The parties agree that this Licence may be signed electronically in accordance with the *Electronic Transaction (Victoria) Act 2000*.

14.5. Costs

Each party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery and completion of this Licence Agreement and any other related documentation.

14.6. Governing Law

- 14.6.1. This document is governed by and is to be construed under the laws in force in Victoria.

- 14.6.2. Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria and courts of appeal from them in respect of any proceedings arising out of or in connection with this document. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

14.7. Subcontracting

- 14.7.1. The Provider must not subcontract the performance of the Ancillary Services (or any part of them) except with the express written consent of Ports Victoria.
- 14.7.2. The Provider is liable for the actions of any subcontractor engaged by the Provider as if they were actions of the Provider.
- 14.7.3. The Provider must ensure that each subcontractor strictly complies with the requirements set out in this Licence Agreement and will be liable for any failure by a subcontractor to do so.
- 14.7.4. If requested by Ports Victoria, the Provider must procure that each subcontractor complete a separate application form to access Station Pier to provide the subcontracted Ancillary Services.

SAMPLE

Schedule 1. General

Item	Description	Details
Item 1.	Licence Fee	<p>\$1 (if demanded) for the Term.</p> <p>In addition to the licence fee, where required, a \$12 fee will be charged for each Pier Access Card (PAC) provided. If a replacement card needs to be issued, a \$50 fee will be charged for each card. If the PAC holder leaves the Providers employment, the PAC must be retrieved and returned to Ports Victoria.</p> <p>Ports Victoria will issue a Tax Invoice to the Provider for each PAC or replacement PAC provided to it by Ports Victoria, which is payable by the Provider to Ports Victoria within 30 days of the date of the Tax Invoice.</p> <p>If any use of the Port Victoria night yard is requested for the purpose of detaching trailers (including separating b-double trailers), this is to be arranged separately with Ports Victoria, with a fee quoted by Ports Victoria for freight and access and use.</p>
Item 2.	Station Pier Induction Processing Fee	\$100 (excluding GST)
Item 3.	Environmental Hazard Processing Fee	\$500 (excluding GST)
Item 4.	Information to be provided by the Provider	<p>When requested by Ports Victoria from time to time, the Provider is to provide the following information in order to ensure coordination of activity within the Licensed Area:</p> <ul style="list-style-type: none"> • Details of the Equipment to be brought into the Licensed Area including the time of arrival and departure. • Details of the volume of victuals, ships stores or other cargo to be handled, picked up, dropped off or marshalled in any way within the Licensed Area including the time of arrival and departure. • Details of the volume of passengers to be handled, picked up, dropped off or marshalled in any way within the Licensed Area including the time of arrival and departure. • Details of any specialised communications equipment (equipment that receives or transmits communications) and information technology equipment or apparatus to be used within the Licensed Area (including without limitation mobile phones). <p>The information is to be provided to Ports Victoria in the format requested within two Business Days of the request or sooner where it is specified and applies to a planned activity within the Licensed Area.</p>
Item 5.	Meetings:	<p>When requested by Ports Victoria the Provider is to attend coordination meetings, planning meetings or personnel training sessions that are applicable to the operation, security or safe working of the Licensed Area or access/egress of the Licensed Area.</p>

Schedule 2. Plan Identifying Licensed Area

