

Carrier Access Terms

Moorebank Intermodal Precinct - IMEX Terminal

(Effective 1 November 2025)



RECITALS

- A. Qube is responsible for the operation and management of the IMEX Terminal and is required to provide access to the IMEX Terminal in accordance with its open and non-discriminatory access obligations outlined in clause 2.2 of the Terminal Access Protocol.
- B. Qube, through its appointed IMEX Terminal Operator, manages the capacity allocation or scheduling of windows for the arrival of Trucks to receive or deliver Containers at the IMEX Terminal through the use of the Vehicle Booking System.
- C. This Agreement sets out the terms and conditions upon which Qube agrees to allow Carriers to access the IMEX Terminal to receive or deliver a Container through the use of the Vehicle Booking System.

It is agreed as follows:

1. ACCESS ARRANGEMENTS

1.1 Terminal Access Protocol

- (a) Qube and the Carrier acknowledge and agree that this Agreement is subject to the provisions of the Terminal Access Protocol (including the Terminal Operating Procedure) to the extent that they related to access to the IMEX Terminal for the provision of the Truck Terminal Access Service, as amended and notified to the Carrier from time to time. For the avoidance of doubt, the Carrier is an 'Access Seeker' and an 'Account Customer' for the purposes of the Terminal Access Protocol (including the Terminal Operating Procedure).
- (b) The Parties acknowledge that Qube may amend the Terminal Access Protocol (including the Terminal Operating Procedure) from time to time, provided any such variation or amendment is communicated to the Carrier via publication on the Booking System or via the IMEX Terminal Site at least 30 Business Days before the variation or amendment takes place.

1.2 Access Agreement

- (a) Subject to the Carrier satisfying the Eligibility Criteria set out in clause 8.4 of the Terminal Access Protocol and successfully registering as a Booking System user, Qube grants a non-exclusive contractual right of access to the IMEX Terminal on and subject to the terms set out in this Agreement.
- (b) By using the Booking System, the Carrier will be deemed to have accepted and agreed to this Agreement.

1.3 Variation of Access Agreement

- (a) A Carrier acknowledges and agrees that Qube may vary or amend these terms and conditions of this Agreement (including the Fees) from time to time, provided any such variation or amendment is communicated to the Carrier via publication on the Booking System at least 30 Business Days before the variation or amendment takes effect (**Variation Notice**).
- (b) If the Carrier continues to use the Booking System after the Variation Notice is made, the Carrier will be deemed to have accepted and agreed to such variation or amendment.

1.4 IMEX Terminal Operator

The Parties acknowledge and agree that:

- (a) Qube has appointed the IMEX Terminal Operator to provide the Truck Terminal Access Service to the Carrier as a subcontractor for, and agent of, Qube;
- (b) any reference to Qube under this Agreement will be taken to include a reference to the IMEX Terminal Operator where acting as a subcontractor for, or agent of, Qube;
- (c) the IMEX Terminal Operator may exercise any right or perform any obligation of Qube under this Agreement including:
 - (i) supplying the Truck Terminal Access Service;
 - (ii) operating and maintaining the IMEX Terminal;
 - (iii) issuing any notice or invoice and receiving payment of amounts payable by the Carrier under this Agreement; and
 - (iv) engaging with the Carrier in relation to the operation of the IMEX Terminal and the Truck Terminal Access Service, including managing in any complaint or dispute.
- (d) Qube will be responsible for the acts or omissions of the IMEX Terminal Operator in performing any obligation under this Agreement.

1.5 Benefit of Agreement

The Carrier acknowledges and agrees that:

- (a) the benefit of any rights, conditions, indemnities, defences, exclusions or limitations of liability in favour of, or for the benefit of, Qube under this Agreement will also be held by Qube to the benefit of, and will extend to, any of Qube's Personnel involved in the provision of the Truck Terminal Access Service; and
- (b) Qube may exercise, enforce and claim the benefit of all rights granted in this Agreement in its own right and on behalf of Qube's Personnel.

2. VEHICLE BOOKING SYSTEM

2.1 Booking System Registration

- (a) Carriers must be registered with Qube in order to access and use the Booking System.
- (b) By registering with Qube, the Carrier warrants that it is a bona fide Carrier. For the purposes of this Agreement, a 'bona fide' Carrier is a person engaged in a business of transporting Containers to or from the IMEX Terminal by Truck.
- (c) In order to register as a Booking System user, the Carrier must complete and submit a registration form on the Booking System Site.

- (d) Upon successful registration, the Carrier will be issued with a Carrier Access Code which must be used for the purpose of accessing and using the Booking System. The Carrier must protect its Carrier Access Code and must ensure that it is only used by authorised Personnel.
- (e) The Carrier must ensure that it and its Related Bodies Corporate maintain and use no more than one Carrier Access Code to make bookings through the Booking System. The Carrier must not use a Carrier Access Code issued to any other Carrier.
- (f) If Qube has reasonable grounds to suspect that a person seeking access to the Booking System or an existing Booking System user (in each case, a relevant person) is not a bona fide Carrier pursuant to clause 2.1(b):
 - (i) the relevant person must provide such information as may be reasonably requested by Qube to verify the relevant person's status as a bona fide Carrier;
 - (ii) Qube may suspend the relevant person's Booking System registration application or Booking System usage rights (as applicable) and access to the IMEX Terminal pending receipt by Qube of the information referred to in clause 2.1(f)(i); and
 - (iii) if the relevant person fails to supply the information in clause 2.1(f)(i) or Qube determines in its discretion that the information supplied under clause 2.1(f)(i) does not verify the relevant person's status as a bona fide Carrier, Qube may terminate the relevant person's registration application or usage rights (as applicable) and any access rights to the IMEX Terminal.

2.2 Booking Slots

- (a) Slots will be advertised in advance on the Booking System and the Carrier may use the Booking System to make a Booking. The Carrier must book a Slot for every Container that it wishes to collect from or deliver to the IMEX Terminal.
- (b) Each Booking will constitute a separate and binding agreement between the Parties that commences when the Booking is made and expires upon the completion by each Party of its respective obligations under this Agreement.
- (c) Additional Slots may be advertised from time to time on the Booking System, in which case the relevant Carriers will be notified via the Booking System Site. Such Slots will be available on a first come, first served basis.
- (d) Except as otherwise provided in this Agreement, Slots are non-transferrable. The Carrier may not pool Slots or attempt to re-sell Slots to other Carriers.
- (e) The Carrier may also use the Booking System to view, edit or list existing Bookings.
- (f) The Carrier must comply with all timings and other requirements relating to a Booking as confirmed during the Booking process. Access to the IMEX Terminal prior to or after the relevant Time Zone will be at the discretion of Qube which access may be subject to further terms and conditions as advised by Qube. A No Show Fee may also be applicable in certain circumstances to partially compensate Qube for any impact on Qube operations arising from a Carrier's failure to comply with timings and other requirements relating to a Booking.

2.3 Information Requirements

The Carrier must provide all information requested by the Booking System by no later than 60 minutes before the commencement of the time slot at the IMEX Terminal in relation to a Booking, which may include:

- (a) With respect to the Truck and the Driver, the Truck Identification Number and the identity of the Driver of the Truck in respect of the Booking; and
- (b) with respect to the relevant Container, details about the relevant train; the Container number; the Container dimensions, specifications and door direction; the commodity group (including, where relevant, hazardous class); whether the Container is full or empty; the Pre-Receipt Advice (PRA) or Electronic Import Delivery Order (EIDO) (as applicable); and the verified gross mass of the Container, together with any other information required to be provided in accordance with any applicable legal or regulatory requirements.

2.4 Notified Closures

- (a) Subject to clause 2.4(b), Qube may close the IMEX Terminal (and cancel any Booking) at its discretion without incurring any liability to the Carrier by, to the extent reasonably practicable, giving Carriers not less than 24 hours' prior notice published through the Booking System Site. Slots will be removed over any closed period.
- (b) Qube may close the IMEX Terminal (and cancel any Booking) by giving Carriers less than 24 hours' prior notice if a Force Majeure Event occurs or for any other reason where Qube requires to do so for the safe and efficient operation of the IMEX Terminal or otherwise in response to any safety, operational or industrial issues, in which case Qube will use reasonable endeavours to give the Carrier as much notice as is reasonably practicable.

2.5 Cancellation of a Booking

- (a) Where the Carrier cancels a Booking 24 hours or more prior to the commencement of the Truck Terminal Access Service Window, the Carrier will not be liable for the Truck Terminal Access Service Fee for the Booking.
- (b) In the event Qube cancels a Booking pursuant to clause 2.4, the Carrier will be notified by email and the Carrier will not be liable for the Truck Terminal Access Service Fee for the Booking.
- (c) If the Carrier fails to provide the information requested by the Booking System by no later than 60 minutes before the Truck is scheduled to arrive at the IMEX Terminal in relation to a Booking and Qube has reasonably determined that any missing information has operational or safety significance, Qube may cancel that Booking and deny the Carrier access to the IMEX Terminal and the Carrier will remain liable to pay the Fees in accordance with clause 5(g).

3. BOOKING SYSTEM FEES AND PAYMENT

3.1 Booking System Fees

- (a) In consideration of allowing the Carrier to use the Booking System and/or access the IMEX Terminal in accordance with this Agreement, the Carrier must pay to Qube the Fees.
- (b) The Carrier acknowledges that Qube may amend the Fees payable from time to time in accordance with clause 1.3.

3.2 Payment of Booking System Fees

- (a) The Carrier will pay the Fees relating to each Booking made through the Booking System and is responsible to pay any other charges in accordance with this Agreement.
- (b) The Carrier must pay each invoice issued by Qube within 7 days of the date of the invoice. Payments must be made in accordance with the payment instructions specified on the relevant invoice (unless otherwise agreed by Qube in writing).

- (c) Qube will invoice and collect the Truck Terminal Access Service Fees and other charges payable by the Carrier to the IMEX Terminal under this Agreement.
- (d) The Carrier must, no later than 7 days from the date of an invoice, pay Qube:
 - (i) the Truck Terminal Access Service Fee for each Booking made;
 - (ii) any Early Fees, Late Fees and or No-Show Fees charged to the Carrier during the invoice period;
 - (iii) all government charges and taxes relating to this Agreement or payments to be made under it, including stamp duty, financial institutions duty and GST; and
 - (iv) any costs and expenses incurred in the exercise or attempted exercise by Qube of its rights under this Agreement, including collection of Truck Terminal Access Service Fees and legal fees (calculated on a solicitor and own client basis).
- (e) Subject only to this clause 3.2(c), the Carrier must not withhold, deduct or set off from any moneys due or otherwise payable to Qube under this Agreement. Where an invoice or part of an invoice is genuinely disputed by the Carrier, the Carrier must provide written notice of such payment dispute before the due date for payment and must pay any undisputed portion of the invoice by the due date. Qube and the Carrier must negotiate in good faith to resolve the dispute within 7 days. Following that attempt, if Qube reasonably considers that the disputed amount remains payable to it then Qube may give written notice to the Carrier and require the Carrier to pay the disputed amount within the later of the original due date specified on the invoice and 7 days after Qube's written notice. If the Carrier does not pay the outstanding amount in accordance with this clause 3.2(c), then Qube may exercise any of its rights under this Agreement as if the outstanding amount was due and owing to Qube. If the Carrier pays the outstanding amount in accordance with this clause 3.2(c) and a further resolution of the dispute subsequently determines that such amount or portion thereof was not payable to Qube, then Qube must repay that amount to the Carrier.
- (f) The Carrier will not be able to manifest a Container on the Booking System if the Container is subject to unpaid fees or charges, including storage fees. In such circumstances, if the Carrier wishes to proceed to manifest the Container in question, the Carrier will be required to pay such fees or charges to Qube (subject to clause 3.2(c)). All payments made under this clause 3.2(f) must be received by Qube in cleared funds prior to the Carrier's arrival at the Terminal for the relevant Booking.

3.3 Goods and Services Tax

- (a) Words used in this clause that are defined in the GST Law have the meaning given in that legislation.
- (b) Unless otherwise specified, all amounts payable under this Agreement are exclusive of GST and must be calculated without regard to GST.
- (c) If a supply under this Agreement is a taxable supply, the recipient of that taxable supply (recipient) must, in addition to any other consideration, pay to the Party making the taxable supply (supplier) the amount of GST in respect of the supply.
- (d) The recipient will only be required to pay an amount of GST to the supplier if and when the supplier provides a valid tax invoice to the recipient in respect of the taxable supply.
- (e) If there is an adjustment to a taxable supply made under this Agreement then the supplier must provide an adjustment note to the recipient.
- (f) The amount of a Party's entitlement under this Agreement to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that Party is entitled in respect of those costs, expenses or liabilities.

4. CARRIER'S OBLIGATIONS

4.1 Health and Safety Requirements

- (a) The Carrier must ensure that at all times whilst at the IMEX Terminal:
 - (i) complies immediately and fully with all applicable Laws and any directions given to them by Qube;
 - (ii) complies with all IMEX Terminal Requirements;
 - (iii) its drivers do not possess any weapons, bombs, bomb-making materials or firearms
 - (iv) its Drivers are licensed, suitably trained, competent, experienced to drive the Trucks and its configurations;
 - (v) its Drivers wear seatbelts at all times while the vehicle is in motion
 - (vi) its Drivers maintain 3 points of contact when accessing or egressing vehicles
 - (vii) its Drivers do not drink alcohol, or smoke or consume illicit drugs in, on or immediately adjacent to the IMEX Terminal;
 - (viii) its Drivers are at all times while at the IMEX Terminal medically fit for work and must not:
 - (A) enter the IMEX Terminal with a breath alcohol exceeding 0.00 or with a drug level exceeding Australian Standards cut off levels;
 - (B) bring onto the IMEX Terminal or consume any alcohol or illicit drugs within the IMEX Terminal; and
 - (C) exceed their maximum regulated hours for driving and working and are not otherwise impaired by fatigue;
 - (ix) its Drivers wear Australian Standards compliant personal protection equipment (**PPE**) as required in Qube's conditions of entry detailed on the signage at the entrance to the IMEX Terminal or as otherwise notified from time to time and wear the following PPE as a minimum:
 - (A) long sleeved shirt, with sleeves rolled down;
 - (B) high visibility vest or shirt;
 - (C) broad brimmed or legionnaire style hat;
 - (D) protective footwear;
 - (E) protective safety glasses; and
 - (x) takes all reasonable steps to ensure all Containers are transported in a safe and secure manner and in accordance with applicable Laws.
- (b) The Carrier must ensure that its Trucks are maintained in good, suitable and roadworthy condition and comply with all Laws, including in respect of road registration and speed limiting devices.
- (c) The Carrier must, upon Qube's request, promptly provide evidence of compliance with clauses 4.1(a) and 4.1(b).

- (d) At any time whilst at the IMEX Terminal, the Carrier's Personnel must participate in drug and alcohol testing carried out by or on behalf of Qube at the IMEX Terminal intended for such Personnel. By accessing the IMEX Terminal, the Carrier and its Personnel are deemed to have consented to drug and alcohol testing. If any of the Carrier's Personnel fail to comply with any requirement relating to drug and alcohol testing, Qube may refuse Terminal entry, or suspend or permanently prohibit further access to the IMEX Terminal, to the relevant person.
- (e) The IMEX Terminal will use its reasonable endeavours to provide notifications of any excessive delays within the IMEX Terminal via the Booking System Site Qube's broadcast alert system, which sends emails and SMS messages to registered Carriers. Notwithstanding this clause 4.1(e), the Carrier remains responsible for managing its fatigue-related obligations under the relevant Laws.
- (f) Where any of the Carrier's Personnel are determined or otherwise reasonably suspected by Qube to be unfit for duty (including where any of its Personnel undergo a drug and alcohol test and return a non-negative result, are found to have exceeded their maximum regulated working hours, or are observed to be suffering from fatigue or acting erratically or in a manner deemed by Qube to be unsafe) the Carrier must:
 - (i) replace the relevant Personnel in order for the Carrier to be permitted by the IMEX Terminal to continue to operate the Truck at the IMEX Terminal; and
 - (ii) ensure its Personnel leave the Depot or, at Qube's election, arrange for the safe transportation of the relevant Personnel away from the IMEX Terminal.
- (g) If the Carrier's Personnel fail to comply with any requirement under this clause 4, then Qube may in its sole discretion deny that person or those persons access to or remove them from the IMEX Terminal without any liability and such non-compliance will be deemed a breach of this Agreement by the Carrier.

4.2 Compliance with Laws

- (a) Qube and the Carrier acknowledge and agree that each of them have obligations under the Health and Safety Laws, the Chain of Responsibility Laws, the Dangerous Goods Laws and the Environmental Protection Laws.
- (b) Without limiting any other provision of this Agreement, the Carrier must comply with, and ensure that its Associates comply with, the Health and Safety Laws, the Chain of Responsibility Laws, the Dangerous Goods Laws and the Environmental Protection Laws and must retain proper, complete and accurate records of such compliance.
- (c) The Carrier must maintain suitable management systems, policies and procedures to in relation to compliance with and management of the Carrier's various obligations under the Health and Safety Laws, the Chain of Responsibility Laws, the Dangerous Goods Laws and the Environmental Protection Laws (and any other applicable Laws).
- (d) Insofar as the Chain of Responsibility Laws are concerned, and without limiting its other obligations under this clause 4, the Carrier must ensure, so far as reasonably practicable, the safety of their road transport activity, so that:
 - (i) all Trucks used to transport Containers to and from the IMEX Terminal complies with all Laws and weight restrictions applying to them and are adequately maintained and fit for purpose in all respects;
 - (ii) if the Carrier is dropping off a Container to the IMEX Terminal, any goods packed in a Container do not exceed the Container's gross weight or safety approval rating and Container's gross weight inscribed on the Container's Convention for Safe Containers Plate;
 - (iii) the individual axle group weights and gross mass of its Trucks are within the legal limits required for the transport of goods by road;
 - (iv) the dimensions of its Trucks (and the Containers) are within the legal limits required for the transportation of goods by road; and
 - (v) Trucks are driven safely and that drivers comply with all applicable speed limits, routes, permits and other Laws applicable to heavy vehicles.
- (e) If the Carrier is dropping off a Container to the IMEX Terminal, the Carrier must provide a "complying container weight declaration" (as defined in the *Heavy Vehicle National Law (NSW)*) to Qube. The Carrier acknowledges that Qube relies on cargo weight advices supplied by other parties in the supply chain, including the Carrier and its Personnel, as being true and correct.
- (f) If, in Qube's reasonable opinion, the Carrier has failed to comply with an obligation under the Health and Safety Laws, the Chain of Responsibility Laws, the Dangerous Goods Laws and / or the Environmental Protection Laws, Qube may:
 - (i) suspend the Carrier's right to access the Terminal until such time as the Carrier has demonstrated to the satisfaction of Qube that such failure has been remedied; and/or
 - (ii) notify the relevant Authority in the event of becoming aware of a breach.

4.3 Traffic Management

The Carrier acknowledges that Qube has policies and procedures to regulate traffic within the IMEX Terminal and the Carrier must, at all times whilst at the IMEX Terminal:

- (a) adhere to the traffic flow as set out in the Traffic Management Plan and follow any internal traffic signs at the IMEX Terminal;
- (b) at all times while a Truck is at the IMEX Terminal comply with the following:
 - (i) vehicle hazard lights are switched on; and
 - (ii) vehicle headlights are illuminated;
- (c) comply with the IMEX Terminal's maximum speed limits;
- (d) do not use mobile phones, including hands free sets, while driving in the IMEX Terminal;
- (e) give way to pedestrians and IMEX Terminal vehicles (for example, forklifts) operating in the IMEX Terminal;
- (f) remain in the Truck cabin while the Truck Servicing is being performed and only exit the Truck where it is in a designated safe zone and the Personnel are wearing the required PPE;
- (g) only use designated pedestrian walkways and do not walk around the IMEX Terminal without an IMEX Terminal representative;
- (h) do not walk behind or around forklifts while being loaded or unloaded; and
- (i) do not drive or walk under suspended loads.

4.4 Incident and Hazard Reporting Requirements

- (a) The Carrier must immediately (and subject to clause 4.4(b) in any event prior to the Carrier's departure from the IMEX Terminal) report to Qube the following:
 - (i) any injury or other harm to any person or any damage to the Truck, a Container or any other property;
 - (ii) any pollution, contamination or environmental harm caused, threatened or may be caused;
 - (iii) any incident which is required by Law to be reported or notified to any relevant Authority;
 - (iv) any other accident, incident or near-miss event (whether or not causing damage or harm);
 - (v) any emergency situation, any actual or potential hazard or risk, unsafe area or work practice which occurred, or was identified by the Carrier or any of its Personnel, at the IMEX Terminal; or
 - (vi) any breach of any applicable Law involving the Carrier or any of its Personnel, or which comes to their attention, in connection with the provision of the Truck Terminal Access Service or otherwise occurring at the IMEX Terminal.
- (b) The Carrier acknowledges and agrees that it or the Driver must report any damage to a Container before the Driver secures the twist locks on all four corners of the Container in the designated twist lock engagement area as defined on the Traffic Management Plan.
- (c) In response to any of the events set out in clause 4.4(a), Qube shall be entitled to take such action as it deems necessary to overcome and alleviate the cause and consequences of the event and the Carrier shall assist Qube wherever and however reasonably and practicably necessary.
- (d) The Carrier agrees to provide such cooperation and information as is reasonably requested by Qube in respect of any investigation or enquiry into any the events set out in clause 4.4(a) which the Carrier may have had an involvement or knowledge.

4.5 Other Obligations

The Carrier must ensure that:

- (a) A Qube credit application, carrier pre-qualification and this Agreement are to be completed by the Carrier and approved by Qube prior to the Carrier accessing the Booking System. The credit account application and this Agreement can be requested from the Qube by emailing QubeMoorebankConcierge@qube.com.au and the Carrier pre-qualification link will be sent to the carrier when their credit account application has been approved by Qube;
- (b) Driver's are to complete the relevant site induction/s before entering the IMEX Terminal;
- (c) Drivers do not perform maintenance or cleaning activities on any Truck whilst in the IMEX Terminal;
- (d) Drivers do not access the top of Trucks or Containers (point of work);
- (e) all Container locking pins for all four corners of each Container are present and in good working condition;
- (f) Drivers ensure all Container locking pins are in the ready position for Container loading or unloading. Damage resulting from failure to correctly position Container locking pins will be the responsibility of the Carrier;
- (g) for pick-ups, Drivers secure the twist locks on all four corners of the Container prior to departing the IMEX Terminal in the designated twist lock engagement area as defined on the Traffic Management Plan;
- (h) the correct Container is loaded onto the Truck prior to departure from the IMEX Terminal by verifying the Container number;
- (i) for deliveries, Drivers must ensure that twist locks are disengaged prior to proceeding past the twistlock disengagement area as defined on the Traffic Management Plan;
- (j) side loader trailers must have contrasting hi visibility markings on the trailer arms; and
- (k) all skeletal trailers must be fitted with safety chains.

5. TRUCK ARRIVAL PROCEDURES

- (a) The Carrier must make a Booking through the Booking System for every Container it wishes to collect from or deliver to the IMEX Terminal.
- (b) If a Truck arrives at the IMEX Terminal without a Booking the IMEX Terminal will not be able to provide access.
- (c) The Carrier's access to the IMEX Terminal is subject to compliance with Qube's IMEX Terminal Requirements. By entering the IMEX Terminal, the Carrier's Personnel are deemed to have agreed to such IMEX Terminal Requirements.
- (d) The Carrier is required to arrive at the IMEX Terminal for access within the relevant Time Zone.
- (e) Access to the IMEX Terminal by the Carrier for a Booking prior to the commencement of the Time Zone for that Booking will be at Qube's discretion and, if such access is granted, the Carrier will be required to pay the Early Fee for failing to arrive within the allocated Time Zone. Qube may, at its own discretion, refuse early access to the IMEX Terminal and request the Driver to exit the IMEX Terminal and return during the Time Zone for that Booking.
- (f) Access to the IMEX Terminal by the Carrier for a Booking after the conclusion of the Time Zone for that Booking will be at Qube's discretion and, if such access is granted, the Carrier will be required to pay the Late Fee for failing to arrive within the allocated Time Zone. Qube may, at its own discretion, refuse late access to the IMEX Terminal and request the Carrier's Personnel to exit the IMEX Terminal and the Carrier must, at its sole cost, make a new Booking through the Booking System for another Time Zone.
- (g) If the Carrier:
 - (i) fails to attend its Booking for any reason (including where such failure is the result of the Carrier's non-compliance with the IMEX Terminal's access requirements or this Agreement);
 - (ii) fails to provide the information requested by the Booking System pursuant to clause 2.3 and Qube, at its discretion, cancels the Booking in accordance with clause 2.5(c); or
 - (iii) arrives after the conclusion of the Time Zone for that Booking and Qube, at its discretion, does not grant the Carrier access to the IMEX Terminal in accordance with clause 5(f),

then the Carrier will remain liable to pay the Truck Terminal Access Service Fee and the No Show Fee to partially compensate Qube for any impact on its operations arising from a Carrier's failure to comply with timings and other requirements relating to a Booking.

- (h) Each of the No Show Fee, Early Fee and Late Fee are Qube's reasonable assessment of the loss it will incur by reason of allowing the Carrier access to the IMEX Terminal outside of the Time Zone, or the Carrier failing to attend an allocated Booking.

6. LIABILITY AND INDEMNITY

6.1 Exclusion of Implied Warranties and Statutory Guarantees

To the extent permitted by Law:

- (a) all guarantees, terms, conditions, undertakings, warranties, representations, whether express or implied, whether statutory or otherwise, relating to this Agreement which may be lawfully excluded, restricted or modified by agreement between Qube and the Carrier or otherwise are so excluded, restricted or modified;
- (b) where any legislation implies or imposes a guarantee, term, condition, warranty, representation or undertaking relating to this Agreement, Qube's liability is limited, at Qube's election, to performing the Truck Terminal Access Service again, or the payment of the cost of having the Truck Terminal Access Service performed again.

6.2 Indemnity

To the maximum extent permitted by Law, the Carrier must indemnify and keep indemnified Qube, the IMEX Terminal Operator and their respective Personnel from and against any Claim or Loss of any nature suffered or incurred by or made or brought against any of the Indemnified Persons due to or arising out of or in connection with:

- (a) any breach of clause 4 of this Agreement by the Carrier;
- (b) any fraud, negligence or Wilful Misconduct of the Carrier in connection with this Agreement; or
- (c) any Third Party Claim but only to the extent caused or contributed to by the breach of this Agreement by, or the fraud, negligence or Wilful Misconduct of, the Carrier,

except to the extent caused or contributed to by the breach of this Agreement by, or the fraud, negligence or Wilful Misconduct of, Qube, the IMEX Terminal Operator or their respective Personnel.

6.3 Limitations of Liability

- (a) Qube will have not have any liability to the Carrier (or any person claiming through the Carrier) for Containers once they have been collected and have been pinned by the Carrier in the designated twist lock engagement area as defined on the Traffic Management Plan.
- (b) Neither Party will be entitled to make a Claim against the other Party under or in connection with this Agreement, whether in contract, tort (including negligence), statute, equity or otherwise in respect of any single event or series of related events for an amount less than **\$1,000**.
- (c) The maximum liability of a Party to the other Party arising out of any single event or series of related events under or in connection with this Agreement, whether in contract, tort (including negligence), statute, equity or otherwise, is limited as follows:
 - (i) insofar as the liability relates to damage to a Container, up to a maximum of **\$5,000**;
 - (ii) insofar as the liability relates to any loss or damage to the contents of a Container, up to a maximum of **\$100,000**;
 - (iii) insofar as the liability relates to damage to a Truck, up to a maximum of **\$150,000**; and
 - (iv) insofar as the liability relates to any liability not covered in (i) to (iii) above, including in respect of personal injury or death, up to a maximum of **\$5,000,000**.

6.4 Exclusion of Consequential Loss

Notwithstanding any other provision of this Agreement, neither Party will have any liability to the other Party for any Consequential Loss even if those damages or losses may reasonably be supposed to have been in contemplation of both Parties as a probable result of any breach at the time they entered into this Agreement.

6.5 Notification of Claims

- (a) To the extent permitted by Law, a Party (the **First Party**) will not be liable to the other Party for, and the First Party is not entitled to make, any Claim whatsoever against the other Party or its Personnel due to, arising out of, or in any way in connection with any events or circumstances listed in clause 4.4(a) if the First Party has not given written notice to the other Party within 20 Business Days from the date of any such event or circumstance occurring or alleged to have occurred, setting out the particulars (to the extent reasonably known) of all of the following:
 - (i) the event, fact, matter or circumstance on which the Claim is or will be based;
 - (ii) the provision of the Agreement or other basis for the Claim together with available substantiating evidence;
 - (iii) the quantum or likely quantum of the Claim if and to the extent it can be estimated; and
 - (iv) any measures taken by the First Party to reduce or mitigate the impact of the event, fact, matter or circumstance on which the Claim is based.
- (b) To the extent permitted by Law, a Party (the **First Party**) will not be liable to the other Party for any Claim for any Loss if that other Party does not commence legal proceedings against the First Party within 12 months of that other Party providing the First Party with written notice in accordance with clause 6.5(a) or of the date that other Party should have provided the First Party written notice in accordance with clause 6.5(a). This is necessary to allow for the prompt and efficient management of claims and to ensure that the First Party has access to all relevant company records or other data, or to its Personnel or other parties who may have had an involvement in, or knowledge of and are able to properly recall, the matters in connection with the Claim.

7. INSURANCE

- (a) The Carrier must, prior to commencement of the Booking, at its own cost, effect and maintain until the termination of this Agreement:
 - (i) public liability insurance to cover its liability to Qube and third parties for loss of or damage to property and the death of or injury to any person (other than liability covered under workers' compensation insurance) for a limit of not less than \$20,000,000 for any one occurrence;
 - (ii) comprehensive motor vehicle insurance in respect of all Truck, trailers and equipment for their full replacement value; and
 - (iii) workers' compensation insurance as required by Law.

- (b) Qube must at all times while providing access to the IMEX Terminal, effect and maintain at its own cost:
 - (i) public liability insurance to cover its own liability and third parties for loss of or damage to property and the death of or injury to any person (other than liability covered under workers' compensation insurance) for a limit of not less than \$20,000,000 for any one occurrence; and
 - (ii) workers' compensation insurance as required by Law.
- (c) The Carrier must promptly provide Qube with a copy of the certificates of for each insurance required under clause 7(a) as reasonably requested by Qube from time to time.

8. FORCE MAJEURE

- (a) If a Force Majeure Event occurs:
 - (i) the Party affected by the Force Majeure Event will submit a notice to the other Party as soon as reasonably practicable after the occurrence of the Force Majeure Event providing details of the Force Majeure Event, the extent to which that Party is unable to comply with its obligations and any steps taken to mitigate the consequences of the Force Majeure Event;
 - (ii) the relevant obligations of a Party under this Agreement (other than an obligation to pay) will be suspended to the extent that the affected Party is wholly or partially precluded from complying with those obligations under this Agreement by the Force Majeure Event; and
 - (iii) the affected Party will promptly, on the cessation of the Force Majeure Event, notify the other Party of the cessation and recommence performance of its obligations under this Agreement.
- (b) If the Force Majeure Event persists for more than 30 consecutive days after notice is given under clause 8(a)(i) in respect of that Force Majeure Event, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party.

9. DEFAULT, SUSPENSION AND TERMINATION

9.1 Event of Default

A Party is deemed to be in default of this Agreement where any one or more of the following occur:

- (a) a Party breaches any warranty or obligation under this Agreement which breach is not capable of remedy;
- (b) a Party breaches any warranty or obligation under this Agreement which breach is capable of remedy and the Carrier does not remedy that breach within 5 Business Days after receipt of written notice from Qube requiring it to be remedied;
- (c) a Party repeatedly or persistently breaches this Agreement, regardless of whether those breaches are capable of, or are, remedied;
- (d) Qube has suspended the Carrier's right (or the right of any specific Personnel of the Carrier) to use the Booking System and to access the IMEX Terminal under clause 9.2(b), and the Carrier and/or its relevant Personnel fail to remedy the breach to Qube's reasonable satisfaction by the Remedy Date (as defined in clause 9.2(c)(iii)), in which case the Carrier will be deemed to be in default of this Agreement;
- (e) either Party is subject to an Insolvency Event;
- (f) any other event occurs or circumstance arises which, in the reasonable opinion of Qube, is likely to materially and adversely affect the ability of the Carrier to perform any or all of its obligations under or otherwise comply with the terms of this Agreement, and that event or those circumstances continue for at least 5 Business Days after receipt of written notice to the Carrier from Qube, in which case the Carrier will be deemed to be in default of this Agreement, or
- (g) where the Carrier has any amount payable to Qube outstanding for greater than 7 days past the contractual due date for payment.

(each an **Event of Default**)

9.2 Suspension and/or Termination for Default

- (a) Either Party may by giving written notice to the other Party at any time after an Event of Default occurs in respect of that other Party, terminate this Agreement with immediate effect by giving notice in writing to that other Party.
- (b) Without prejudice to its other rights and remedies against the Carrier under this Agreement or otherwise at law, Qube may at any time after an Event of Default occurs and subject to clause 9.2(c), de-activate the Carrier's Booking System access and suspend access to the IMEX Terminal by giving notice in writing to the Carrier (**Default Notice**).
- (c) If Qube elects to suspend the Carrier's access rights under clause 9.2(b), the Default Notice must state:
 - (i) the reason that Qube has elected to suspend the Carrier's access rights; and
 - (ii) acting reasonably, the steps that the Carrier and / or the relevant Personnel must take to remedy the breach in order for the suspension to be removed; and
 - (iii) the date by which the Carrier must take those steps (**Remedy Date**).
- (d) If the Carrier remedies the breach to Qube's reasonable satisfaction by the Remedy Date, Qube must remove the suspension immediately, in which case Qube will, at the Carrier's sole cost, re-activate the Carrier's access to the Booking System and the IMEX Terminal.
- (e) If the Carrier fails to remedy the breach to Qube's reasonable satisfaction by the Remedy Date, Qube may immediately terminate this Agreement by giving further written notice in accordance with clause 9.2(a).
- (f) Termination of this Agreement for any reason shall not abrogate, impair, release or extinguish any debt, obligation of liability of one Party to the other which may have accrued under this Agreement, including (without limitation) any such debt, obligation or liability which was the cause of termination or arose out of such cause.
- (g) Clauses 1.4, 3, 4.4, 6, 9.2(f), 10, 12, 14, 15, 16 and 17 will survive expiry or termination of this Agreement. Nothing in this clause 9.2(g) prevents any other provision of this Agreement, as a matter of interpretation, surviving expiry or termination.

10. CARRIER COMPLAINTS AND DISPUTES RESOLUTION

10.1 Complaints Handling System

The Carrier may submit a complaint in relation to Qube's operation of the IMEX Terminal under the Terminal Access Protocol.

10.2 Dispute Resolution

If a dispute arises between Qube and the Carrier in connection with this Agreement, Qube and the Carrier will comply with the dispute resolution mechanism contained in clause 15 of the Terminal Access Protocol.

11. SUBCONTRACTING

Either Party may, at any time, subcontract some or all of its obligations under this Agreement without the other Party's consent. Such subcontracting will not relieve a Party of its obligations under this Agreement and that Party remains liable to the other Party for any breach, negligence, act or omission of the subcontractor as fully as if it was the breach, negligence, act or omission of that Party.

12. CONFIDENTIALITY

All documents and other information concerning the business, affairs or personal information (as defined under the *Privacy Act 1988* (Cth)) of a Party made available by or behalf of that Party (**Discloser**) to the other Party (**Recipient**) in connection with this Agreement which is identified as confidential or which the Recipient knows, or ought reasonably to be expected to know, is confidential to the Discloser, in any form or media whatsoever, whether before or after the date of this Agreement, must only be used for a legitimate purpose in connection with this Agreement and must not be disclosed by the Recipient to a third Party except:

- (a) where the Recipient needs to make a disclosure to its Personnel, auditors, insurers, professional provided that such disclosure is limited to being required for the legitimate purpose in connection with this Agreement and the third party recipient is under a contractual obligation to keep the information confidential (any disclosure by such person shall be deemed to be a breach of the Agreement by the Recipient); or
- (b) as required by law or court order, the requirements of any lawful authority or the rules of any recognised stock exchange, and in those circumstances the Discloser must, where it is lawful to do so, give prompt written notice of such disclosure requirement and the confidential information must only be disclosed to the extent necessary to comply with the disclosure requirement; or
- (c) with the written prior consent of the Discloser.

13. PRIVACY

- (a) Qube is committed to protecting the privacy of all invitees or other attendees at the Depot, and any collection of personal information is subject to the terms of Qube's Privacy Policy, which is available on the Qube website at <https://qube.com.au/privacy/> (as amended from time to time), and otherwise on request.
- (b) Qube collects and uses data, including personal information, for a range of purposes relating to the functions and activities of Qube and its invitees or other attendees at the Depot, which are reasonably necessary and detailed in its Privacy Policy. Qube only makes use of biometric information, video surveillance and facial recognition technology in identifying an individual for security, risk management, loss prevention, regulatory and incident investigation purposes at the Depot.
- (c) The types of personal information that Qube may collect include name, gender, date of birth, age, identification information, signatures, driver's licence number, contact details (addresses and phone numbers), vehicle number plate details, employer or business details, biometric information, images and information from video surveillance, facial recognition technology and other cameras at the Depot (including in car parks, pick up areas and Depot entrances).
- (d) The CCTV surveillance systems, biometric information and facial technology used at the Depot may include some of the following features:
 - (i) cameras which capture video footage of an area, which is then transmitted to a monitor or recording device for review;
 - (ii) cameras which capture, obtain and transfer information relating to an individual's distinct physiological or biological traits (such as their facial characteristics, iris or hand shape) which can be utilised to verify their identity due to their uniqueness;
 - (iii) motion detection, remote access, and video analytics, which can automatically detect and alert Qube to suspicious behaviour or events;
 - (iv) facial recognition technology to identify individuals and track their movements;
 - (v) drivers licence scanning technology to match personal information for verification or identification purposes; and
 - (vi) cameras which collect images, which is then used by facial recognition technology to generate and collect faceprints.
- (e) The Carrier acknowledges and agrees that:
 - (i) it has obtained and reviewed a copy of Qube's Privacy Policy; and
 - (ii) the Carrier has adequately informed their Personnel of:
 - (A) the use of CCTV surveillance systems, facial recognition technology and the collection of their biometric information, faceprints and image at the Depot;
 - (B) Qube's Privacy Policy, and the collection of personal and sensitive information (including biometric information and their image from CCTV surveillance systems and facial recognition technology) prior to arriving at the Depot or completing any induction program;
 - (C) their right to refuse the collection of biometric information and their image from CCTV Surveillance systems and facial recognition technology and such refusal may result in Qube refusing to provide access to the Depot; and
 - (D) their right to discuss the collection of their images and biometric information with Qube by contacting Qube's Privacy Officer (section 7 of the Qube Privacy Policy).
- (f) The Carrier warrants each of the following to Qube:
 - (i) any personal and sensitive information that the Carrier or its Personnel discloses to Qube under this Agreement has been collected and disclosed in accordance with the *Privacy Act 1988* (Cth); and
 - (ii) Qube is authorised, either by express consent of the individual or by Law, to collect the personal and sensitive information from the Carrier and use and hold the personal and sensitive information for the purposes set out in this Agreement or Qube's Privacy Policy.

14. LIMITATION OF QUBE'S LIABILITY

- (a) Qube RE Services (No.2) Pty Ltd (ACN 605 751 782) enters into this Agreement in its capacity as trustee of the Moorebank Industrial Terminals Operations Trust (ABN 83 828 453 861) (**Operations Trust**) and in no other capacity.

- (b) The Parties acknowledge that Qube incurs the Trustee Liabilities solely in its capacity as trustee of the Operations Trust and agree that (to the maximum extent permitted by law) Qube will cease to have any Trustee Liability if Qube ceases for any reason to be trustee for the Operations Trust.
- (c) A Trustee Liability may be enforced against Qube only to the extent to which:
 - (i) Qube is actually indemnified in respect of that Trustee Liability out of the property of the Operations Trust; and
 - (ii) there is sufficient property held by Qube as trustee at the time, which is available to meet that indemnity, (after all assets of the Operations Trust have been allocated to meet the indemnity and any other valid claims).
- (d) The restrictions in clause 14(c) does not apply to any Trustee Liability to the extent to which there is, whether under the trust deed of the Operations Trust or by operation of law, a reduction in the extent of Qube's indemnification, or in respect of which Qube is not entitled to be indemnified, out of the property of the Operations Trust, as a result of Qube's own fraud, negligence or breach of trust.
- (e) This limitation of Qube's Trustee Liability applies despite any other provisions of this Agreement and extends to all Trustee Liabilities of Qube in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement or its performance.
- (f) For the purposes of this clause 14, **Trustee Liability** means any liability or obligation (of any kind including, without limitation, in contract, tort (including negligence), statute, equity or otherwise) of Qube which arises in any way under or in connection with this Agreement or its performance, or any representation, warranty, conduct, omission, agreement or transaction made under or in connection with this Agreement or its performance

15. NOTICES

Any notice, Claim, consent, approval, request, demand or other communication relating to this Agreement:

- (a) must be personally served on Qube or posted to the address of Qube or sent to the email address of Qube as set out in Schedule 1 or as otherwise notified by Qube from time to time.
- (b) must be personally served on the Carrier or posted to the address of the Carrier or sent to the email address of the Carrier as provided in the Carrier's Booking System account which may be amended at any time by the Carrier.
- (c) is taken to have been received:
 - (i) if hand delivered, upon delivery;
 - (ii) if posted, the 5th Business Day after posting within Australia, otherwise the 10th Business Day after posting;
 - (iii) if sent by email, the time when the email leaves an information system under the control of the Carrier or of the party who sent it on behalf of the Carrier provided that the sender does not receive a notice from an automated message system indicating that the transmission has been delayed or has failed,
 but if a notice is received by hand or email after 5:00pm or on a day which is not a Business Day, it is taken as having been received at 9:00am on the next Business Day.

16. GENERAL PROVISIONS

16.1 Entire Understanding

This Agreement and any documents expressly incorporated by reference herein contains the entire understanding between the Parties concerning the subject matter of this Agreement and supersedes all prior communications between the Parties. Except as expressly stated otherwise in this Agreement, neither Party has relied on any representation, warranty or undertaking of any kind made by or on behalf of the other Party in relation to the subject matter of this Agreement.

16.2 Governing Law and Jurisdiction

This Agreement is governed by and must be construed in accordance with the law for the time being in force in New South Wales. The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales and to the courts hearing appeals therefrom in respect of all matters or things arising out of this Agreement.

16.3 Severability

If any provision of this Agreement is prohibited, invalid or unenforceable in any jurisdiction, that provision will be severed from this Agreement to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

16.4 Assignment and Novation

- (a) The Carrier must not assign, novate or otherwise transfer this Agreement or any part of it to any other person without Qube's prior written consent which must not be unreasonably withheld or delayed.
- (b) Qube may assign, novate or transfer any of its rights and obligations under this Agreement under this Agreement to a Related Body Corporate or to any person who is or may be responsible for the operation and management of the IMEX Terminal who has the expertise, the financial resources and other relevant resources to enable it to discharge the obligations of the Company under this Agreement at any time by giving the Carrier written notice.

16.5 Trustee Provisions

If the Carrier enters into this Agreement as a trustee, it represents and warrants in its own right and as trustee of the relevant trust that, as at the date of this Agreement and until such time as all of the Carrier's obligations under this Agreement are discharged:

- (a) the Carrier is the sole trustee of that trust;
- (b) the Carrier has the requisite capacity and authority to enter this Agreement on behalf of, and to bind the beneficiaries of, that trust and to perform all the Carrier's obligations under this Agreement pursuant to the documents governing that trust; and
- (c) the Carrier has the right to be fully indemnified out of the assets of that trust in relation to this Agreement and the assets of that trust are sufficient to satisfy all obligations of the Carrier under this Agreement.

16.6 No Waiver

A failure or delay by a Party in exercising any power or right conferred on the Party by this Agreement does not operate as a waiver of the power or right. A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Agreement. A waiver of a breach does not operate as a waiver of any other breach.

16.7 Relationship between the Parties

The Customer engages Qube as an independent contractor and this Contract does not create a relationship between the Customer and Qube of employer and employee, principal or agent, partnership or joint venture.

16.8 Further Assurances

Each Party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

16.9 Amendment

Subject the amendments made pursuant to clauses 1.1 and 1.3, no amendment of this Agreement will be of any force or effect unless in writing signed by an authorised representative of each Party.

17. DEFINITIONS AND INTERPRETATION

17.1 Definitions

In this Agreement, unless the context clearly indicates otherwise:

Agreement means this agreement comprising these terms and conditions (including the recitals, schedules and any documents expressly incorporated by reference herein) as may be amended from time to time.

Authority means any governmental, semi-governmental or judicial person, or other person (whether autonomous or not) who is charged with the administration of a law or regulation having jurisdiction in connection with this Agreement, the IMEX Terminal or the performance of each Party's obligations under this Agreement.

Booking means an arrangement between a Carrier (or any of its Related Bodies Corporate) and Qube for the provision of the Truck Terminal Access Service at the IMEX Terminal for a Truck operated by the Carrier or any of its Personnel.

Booking System means the booking system in use in respect of the IMEX Terminal as operated by Qube and accessed via the Booking System Site.

Booking System Site means [Navis Smart Access App](#).

Business Day means a day (that is not a Saturday, Sunday, public holiday or bank holiday) in New South Wales.

Carrier means a person engaged in a business or undertaking which includes the transportation of Containers to or from the IMEX Terminal by Truck.

Carrier Access Code means the unique code assigned to a Carrier by the Booking System after successful registration on the Booking System and which is to be used when accessing and using the Booking System.

Chain of Responsibility Law means any applicable Law relating to chain of responsibility obligations, including in relation to driver fatigue, fatigue management, vehicle mass and dimension, vehicle maintenance, loading requirements (including load restraint), speed management, towing and coupling requirements, vehicle permits, transport documentation for goods, Container weight declarations, dangerous goods and/or any other matters relating to the safe operation of vehicles, and includes the *Heavy Vehicle National Law (NSW)*.

Claim means any claim, notice, demand, remedy, suit, account, action, proceeding, investigation, right of action, or any claim for compensation or abatement howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether in connection with this Agreement or at Law.

Closed Terminal Day means any day which Qube designates as a day on which the IMEX Terminal will be closed, including but not limited to a public holiday or bank holiday, or as otherwise notified to the Carrier in accordance with clause 2.4.

Consequential Loss means any loss of profit or anticipated profit, loss of revenue or anticipated revenue, loss of savings or anticipated savings, loss of business, loss or denial of opportunity, loss of production, loss of existing or future contract, loss of use, loss or corruption of data, loss of access to markets, loss of or damage to goodwill or reputation, damage to credit rating, loss due to business interruption, contractual liabilities to third parties, wasted overheads, punitive or exemplary loss or damage, arising out of or in connection with this Agreement and any other loss or damage that is in the nature of indirect, special, incidental or consequential loss or damage.

Container means any shipping, freight or intermodal container or other like transport and storage unit for moving cargo between locations, and where the context required, includes any cargo therein.

Corporations Act means the *Corporations Act 2001* (Cth) as amended from time to time.

Dangerous Goods Law means any applicable Law relating to the carriage or storage of dangerous goods as defined in the International Maritime Dangerous Goods (IMDG) Code or the Australian Dangerous Goods Code (7th Edition) and any cargo which are or which may become dangerous, volatile, explosive, flammable or offensive or which are or may become harmful to any person, property or the environment.

Driver means the person driving or operating the Truck.

Early Fee means the fee charged to the Carrier where the Carrier arrives early and, at Qube's discretion, is granted access to the IMEX Terminal for a Booking prior to the commencement of the Truck Terminal Access Service Window for that Booking as set out in Item 5.

Environmental Protection Laws means any applicable Law relating to the protection of the environment or natural resources, and includes the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).

Fees include the Truck Terminal Access Service Fee, Early Fee, Late Fee, No Show Fee or any other fees as specified in the Reference Price Schedule from time to time or as otherwise agreed by the Parties.

Force Majeure Event means any event or circumstance or combination of events or circumstances which prevents, impedes, hinders or delays a Party from performing any of its obligations under this Agreement (other than an obligation to pay), occurring either before or after the date of this Agreement and is beyond a Party's reasonable control, including:

- (a) act of God, severe weather event, fire, smoke, inclement weather, cyclone, tornado, hurricane, landslide, storm, tempest, flood, earthquake, lightning, induction caused by lightning, extreme heat or other natural disaster;
- (b) action or inaction by, or compliance with a lawful requirement, order, demand or direction of, any Authority or order of any court, including any regulatory action affecting the IMEX Terminal;

- (c) accident, incident, emergency or genuine safety risk which has caused or threatens to cause injury to persons, damage to property or harm to the environment on, in or adjacent to the IMEX Terminal, and includes any action of any person taken in response to such accident, incident, emergency or genuine safety risk;
- (d) failure, malfunction, breakdown or damage to the IMEX Terminal or Qube's infrastructure or equipment;
- (e) any unscheduled repair or maintenance of the IMEX Terminal or Qube's infrastructure or equipment;
- (f) any restriction of access at the IMEX Terminal imposed by Qube where reasonably necessary for the operation of the IMEX Terminal due to unforeseeable external factors including:
 - (i) network issues including without limitation track possessions, weather, signalling outages, congestion, regulatory actions or track closure;
 - (ii) road issues including without limitation weather, congestion, signalling, closure;
 - (iii) rail operator or third party carrier issues including late or early arrival or departure from the IMEX Terminal including without limitation equipment failures or crew issues;
 - (iv) issues at any other rail terminal;
 - (v) the availability of equipment or labour within the IMEX Terminal;
 - (vi) the availability of Containers for loading or unloading to or from a wagon or Truck;
 - (vii) rolling stock or Truck issues including type or defect that causes delay;
- (g) act of the public enemy, acts of terrorism (whether actual or threatened), cyber-attacks, cyber warfare, ransomware attacks, war (whether declared or not), rebellion, riot; insurrection, sabotage or cyber sabotage, national emergency (whether in fact or law), martial law or civil disturbances;
- (h) endemic, epidemic, pandemic (including an event which arises from the COVID-19 pandemic or any other strain evolving therefrom), infectious disease outbreak or other public health emergency;
- (i) trade sanction or other export or import restriction, quarantine restriction, confiscation, prohibition, nationalisation, requisition, expropriation or embargo by or under the order of any Authority;
- (j) any industrial action (including any strike, stoppage, picket line, work ban, go slow or lock out) or other labour dispute affecting Qube's Personnel; and
- (k) any delay or non-performance by a Party's Personnel affecting the performance of any part of that Party's obligations under this Agreement which is attributable to any of the events set out in paragraphs (a) to (j).

GST means any tax imposed by or through the GST Law on a supply (without regard to any input tax credit) including, where relevant, any related interest, penalties, fines or other charges to the extent they relate to a supply under this Agreement.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Health and Safety Law means any applicable law relating to workplace health and safety including the Chain of Responsibility Laws.

IMEX Terminal means the IMEX (import-export) terminal directly adjacent to the Moorebank Logistics Park at the location set out in Item 2.

IMEX Terminal Opening Hours means the times during which the IMEX Terminal will be open as set out in Item 3, or as otherwise notified to the Carrier in accordance with clause 2.4.

IMEX Terminal Operator means Qube's Related Body Corporate which is responsible for the operation of the IMEX Terminal as appointed by Qube from time to time.

IMEX Terminal Requirements means:

- (a) any safety, health, environment, access and security requirements of the Site, or part thereof, as notified from time to time by Qube (including where displayed on any signage); and
- (b) any other plans, policies or procedures of Qube or another party as notified in advance by Qube or otherwise made available to the Carrier from time to time;

IMEX Terminal Site means <https://logosmpl.com.au/terminals/import-export-terminal/>

IMEX Terms and Conditions means these terms and conditions on which Qube agrees to provide a Carrier with access to the Booking System, as amended from time to time and available from <https://qube.com.au/operations/logistics/>.

Insolvency Event means where a Party becomes insolvent or bankrupt, enters into an arrangement with creditors, enters into a scheme or arrangement (voluntary or otherwise) or, being a company, has a receiver, administrator, liquidator or other external administrator appointed or goes into liquidation, or it has otherwise ceased to carry on business.

Item means the item (however numbered or designated) in Schedule 1 that corresponds to that numbered item.

Late Fee means the fee charged to the Carrier where the Carrier arrives late and, at Qube's discretion, is granted access to the IMEX Terminal for a Booking after to the conclusion of the Truck Terminal Access Service Window for that Booking as set out in Item 6.

Laws means and includes national, federal, state, territory or local government statutes, regulations, subordinate legislation or laws, by-laws, ordinances, orders, directions, awards and proclamations (including any future legislative enactments or amendments), including the Health and Safety Laws, the Chain of Responsibility Laws, the Dangerous Goods Laws and the Environmental Protection Laws; approvals, requirements or other preconditions required by Law or any Authority; the common law and the principles of equity as applied from time to time in New South Wales and any Australian Standards, codes of practice or any other relevant industry standards.

Loss means any losses, liabilities, damages, injuries, costs, charges or expenses (including lawyers' fees and expenses on a full indemnity basis), fines and penalties howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether in connection with this Agreement or at Law.

No Show Fee means the fee charged to the Carrier for any unutilised Bookings as defined in clause 5(g) and set out in Item 7.

Party means a party to this Agreement.

Personnel means, in relation to a Party, its Related Bodies Corporate, officers, employees, agents, suppliers, contractors or subcontractors, or those of its Related Bodies Corporate, and:

- (a) in the case of Qube, includes the IMEX Terminal Operator but excludes the Carrier; or
 - (b) in the case of the Carrier, includes its Drivers and any person who has an interest in the Containers or in any cargo therein.
- Qube** means the Party identified at Item 1 and any of its Related Bodies Corporate involved in the provision of the Truck Terminal Access Service.
- Reference Price Schedule** means the schedule of prices or tariffs payable by the Carrier to Qube for the provision of the Truck Terminal Access Service, as amended from time to time, available from <https://logosmlp.com.au/terminal-access/pricing/> and otherwise published on the Booking System.
- Related Body Corporate** has the meaning given to it in the Corporations Act.
- Site Rules** means the rules set out in Item 8.
- Slot** means the opportunity for the making of a booking within a Time Zone.
- Terminal Access Protocol** means the document titled Moorebank IMEX Terminal Access Protocol, as amended from time to time, available from <https://logosmlp.com.au/terminal-access/protocol-and-procedures/>.
- Terminal Operating Procedure** means the Terminal Operating Procedure referred to in Annexure 4 of the Terminal Access Protocol.
- Third Party Claim** means any Claim by any third person who owns or otherwise has an interest in the Container and any cargo therein (other than the Carrier) against Qube for any loss of or damage to the Containers and any cargo therein arising out of, relating to or in connection with any or all of the Carrier's Trucks, the IMEX Terminal, any delay, performance or non-performance of Truck Terminal Access Service, or this Agreement.
- Time Zone** means the result of the division of each day (other than a Closed Terminal Day) into 24 periods within which a Truck is required to arrive at the IMEX Terminal for the purpose of being provided with the Truck Terminal Access Service pursuant to a Booking.
- Traffic Management Plan** means the traffic management plan applying to the IMEX Terminal as provided in Schedule 2, as amended from time to time;
- Truck** means a vehicle and its trailing equipment used to transport a Container to or from the IMEX Terminal by road. A Truck is operated by a Carrier if the Truck is used for the purposes of the business of the Carrier, by the Carrier or by any of its Personnel.
- Truck Identification Number** means the unique identifier of a Truck as registered with Qube or the number of a Truck as displayed on the registered number plates of that Truck.
- Truck Terminal Access Service** means the provision of access for a Truck to enter the IMEX Terminal to receive or deliver a container at the IMEX Terminal, and includes the loading or unloading of Containers onto or from Trucks by Qube or its Personnel at the IMEX Terminal and any other services that are incidental to that loading or unloading.
- Truck Terminal Access Service Fee** means the fees charged to the Carrier for the Truck Terminal Access Service as set out in Item 4 of this Agreement and the Reference Price Schedule.
- Truck Terminal Access Service Window** means each 120 minute period during the IMEX Terminal Opening Hours in relation to a Booking.
- Wilful Misconduct** means any act or failure to act which was a deliberate and wrongful act or omission committed with the intention of causing harmful consequences, or that involved reckless disregard or wanton indifference to the likely consequences but shall not include any negligence or a breach of duty or any error of judgement.








17.2 Interpretation

In this Agreement, unless the context clearly indicates otherwise:

- (a) no rule of construction applies to the disadvantage of a Party on the basis that it put forward this Agreement or any part of it, or seeks to rely on this Agreement or any part of it;
- (b) a reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, consolidated, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this Agreement) or agreement, or a provision of a document (including this Agreement) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) an Authority which ceases to exist is a reference to either an Authority that the Parties agree to substitute for the named Authority, or failing agreement, to an Authority having substantially the same objects as the named Authority;
 - (iv) a Party to this Agreement includes their executors, administrators, successors and permitted assigns including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
 - (v) the Carrier also includes a reference to the Carrier's Personnel;
 - (vi) a part, clause or schedule is a reference to a part and clause of, and a schedule to, this Agreement and a reference to this Agreement includes any schedule;
 - (vii) an expression importing a natural person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
- (c) any obligation on the Carrier includes an obligation of the Carrier to ensure that the Carrier's Personnel also comply with that obligation;
- (d) if any amount becomes payable under this Agreement on a day which is not a Business Day, that amount is payable on the next Business Day;
- (e) words denoting the singular number include the plural and vice versa;
- (f) headings are for convenience only, and do not affect the interpretation of this Agreement;
- (g) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
- (h) wherever the words 'including', 'for example' or similar expressions are used in this Agreement, those words will be interpreted in all cases as if they were preceded by the further words 'but not limited to' or the appropriate grammatical derivative.

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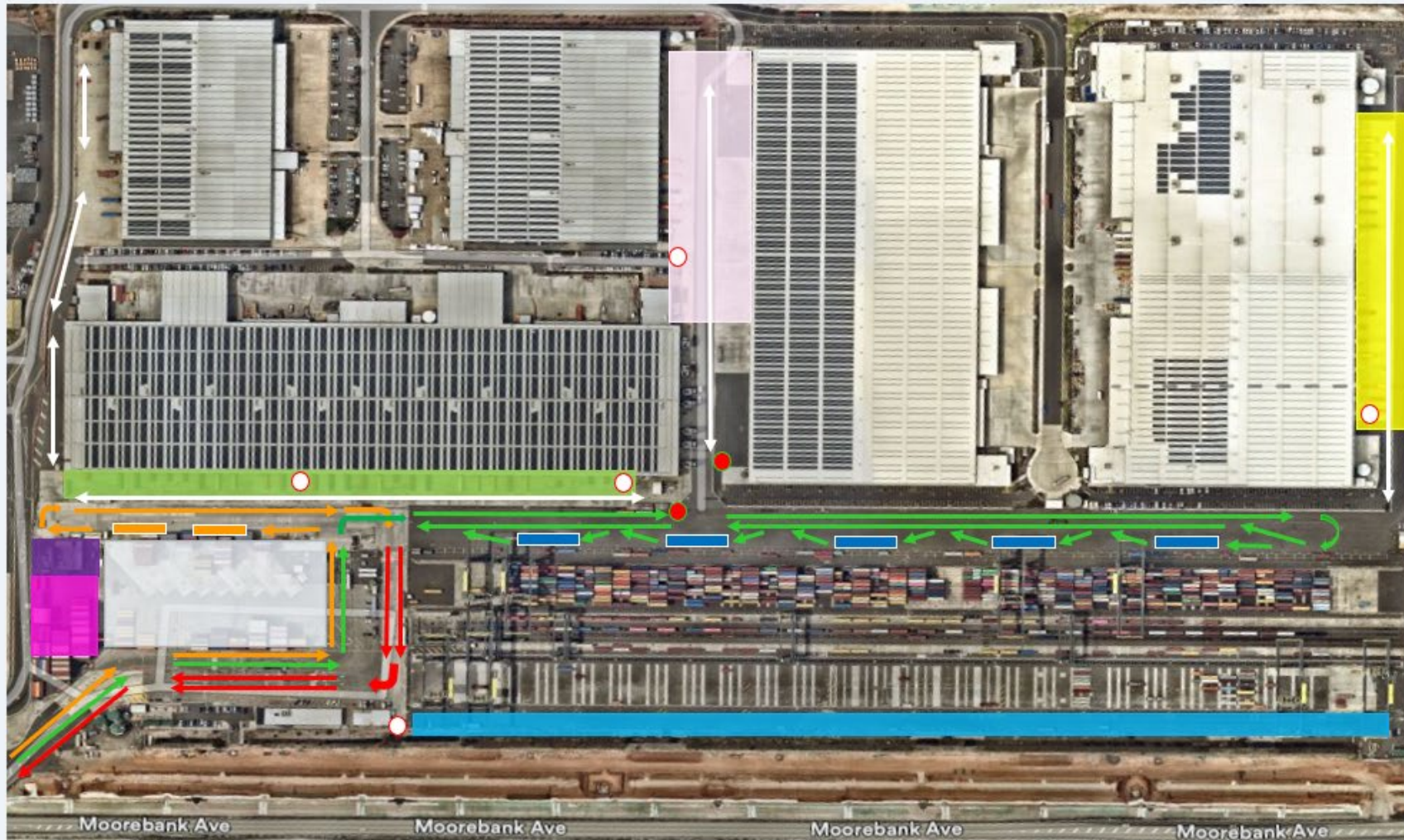
Schedule 1 – Details

Item	Description	Details
1.	Qube	<p>Name: Qube RE Services (No. 2) Pty Limited in its capacity as trustee of the Moorebank Industrial Terminals Operations Trust</p> <p>ABN: 81 605 751 782</p> <p>Address: Level 27, 45 Clarence Street, Sydney, NSW 2000</p>
2.	IMEX Terminal Details	<p>Address: Container Place, Moorebank, NSW, 2170</p> <p>Email: Nicholas.Williamson@qube.com.au</p>
3.	IMEX Terminal Opening Hours	As available on the Booking System Site or as otherwise notified to the Carrier in accordance with clause 2.4 or amended from time to time.
4.	Truck Terminal Access Service Fee	As per the Reference Pricing available at https://logosmlp.com.au/terminal-access/pricing/ Currently \$12.95 plus GST per booking
5.	Early Fee	As set out in the Reference Price Schedule
6.	Late Fee	As set out in the Reference Price Schedule
7.	No Show Fee	As set out in the Reference Price Schedule, for the avoidance of doubt, the Carrier will remain liable for each Truck Terminal Access Service Fee booking made and the vehicle a no show fee.
8.	Special Conditions	<p>The Carrier must comply with the following safety rules at all times whilst at the IMEX Terminal (Site Rules):</p> <div>  <p>The speed limit is 20km/h unless otherwise sign-posted.</p> </div> <div>  <p>Combilift and reach stacker drivers have limited vision of the immediate surrounding area. They have right of way at all times.</p> </div> <div>  <p>Truck drivers MUST remain in their cabins while being loaded/unloaded. If you need to change the set up of your trailer drive to the designated pin/unpin areas.</p> </div> <div>  <p>Truck drivers MUST follow the traffic management plan/arrows on the ground and stay in the designated lanes at all times.</p> </div> <div>  <p>Truck drivers MUST hold a current HV licence, be competent and fit to drive a heavy vehicle in line with COR requirements.</p> </div> <div>  <p>You must be inducted prior to entry to site – No induction No entry!</p> </div> <div>  <p>PPE is mandatory – Safety footwear and high visibility clothing with reflective strip</p> </div>

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IMEX Terminal Traffic Flow

QUBE



Key:

- IMEX Terminal
- Truck Out
- ECP "MEP"
- MEP / MXP
- Wash Bay
- M&R Area
- RS Exchange
- RS Exchange
- ↔ ITV Lane
- Strad Zone 1
- Strad Zone 2
- Strad Zone 3
- Strad Zone 4
- ITV Safety Zone
- Traffic Control