
Standard Customer Agreement

Dated:

Qube RE Services (No.2) Pty Limited

AND

[The Customer]

Date of Agreement:

Parties

- 1 The Party specified in Item 1 of the Reference Schedule (**Terminal Operations Co**).
- 2 The Party specified in Item 2 of the Reference Schedule (the **Customer**).

Background

- (a) Terminal Operations Co is one of three entities that comprise PDC.
- (b) PDC has constructed and is responsible for operating the IMEX Terminal.
- (c) The Customer wishes to acquire Services supplied by Terminal Operations Co at the IMEX Terminal.
- (d) Terminal Operations Co has appointed the Operator to act as its subcontractor and agent in the provision of Services to the Customer under this Agreement.
- (e) Terminal Operations Co has agreed to supply Services (directly and/or through the Operator), and the Customer wishes to acquire the Services from Terminal Operations Co on the terms in this Agreement.

Agreed terms:

INTRODUCTION

Structure of Agreement

There are 4 parts in this Agreement:

Part 1 Reference Schedule	Part 2 Services	Part 3 Pricing	Part 4 Terms and conditions
Part 1 specifies the contract particulars.	Part 2 provides a description of the Services available at the IMEX Terminal (and which Services Terminal Operations Co will be providing to the Customer).	Part 3 specifies the Services Charges.	Part 4 contains the terms and conditions on which Terminal Operations Co will provide the Services.

PART 1: Reference Schedule

Item 1	Terminal Operations Co details	Name:
		ABN:
		Address:
		Email:
Item 2	Customer details	Name:
		ABN:
		Address:
		Email:
Item 3	Commencement Date	[insert]
Item 4	Expiry Date	[insert]

PART 2: Services

Services			
Item	Service	Description of available Services at the IMEX Terminal	Terminal Operations Co to provide Service [Yes/No]
1	Reference Services	<p>Rail Terminal Access Service</p> <ul style="list-style-type: none"> (a) provision of access by a Train into the IMEX Terminal; (b) allocation of the Train to a track for unloading and loading; and (c) facilitating the departure of a Train from the IMEX Terminal. 	
		<p>Rail Terminal Loading and Unloading Service</p> <ul style="list-style-type: none"> (a) unloading of containers from wagons onto the ground or to a truck or an internal transfer vehicle in the IMEX Terminal; (b) internal transfer of containers within the IMEX Terminal; (c) short term container storage within the IMEX Terminal area including aggregation for further transport (for the period specified in clause 5.2(a)); and (d) loading of containers from a truck or an internal transfer vehicle onto the ground and loading containers from ground or storage area to Train wagons. 	
		<p>Truck Terminal Access Service</p> <ul style="list-style-type: none"> (a) in-gate processing of trucks including collection of Customer booking information, inventory management of containers and notification by the Customer of the nature and description of the goods and other relevant information; (b) provision of access by a truck to the IMEX Terminal to collect or deliver a container; 	

		(c) out-gate processing of Trucks, including matching of release numbers to container numbers and integration of electronic information for ending possession of the container.	
2	Ancillary Services		
3	Other Services		

PART 3: Service Charges

The following Services Charges will apply to this Agreement:

Reference Service	Service Charges
Rail Terminal Access Service	[insert]
Rail Terminal Loading and Unloading Service	[insert]
Truck Terminal Access Service	[insert]

Description of Ancillary Service	Service Charges
[insert]	[insert]
[insert]	[insert]
[insert]	[insert]

Description of Other Service	Service Charges
[insert]	[insert]

Service charges are based upon the supply of services on an ad hoc basis (i.e. no commitment on volume, term etc.). Where services are supplied on a committed basis, service charges may differ and will be agreed on a case by case basis.

PART 4: Terms and conditions

1 Terminal Access Protocol

Terminal Operations Co and the Customer acknowledge and agree that this Agreement is subject to the provisions of the Terminal Access Protocol (including the Terminal Operating Procedure and the Capacity Allocation Protocol) as amended from time to time.

2 Operator

The Parties acknowledge and agree that:

- (a) Terminal Operations Co has appointed the Operator to provide Services to the Customer as a subcontractor for, and agent of, Terminal Operations Co;
 - (b) any reference to Terminal Operations Co under this Agreement will be taken to include a reference to the Operator where acting as a subcontractor for, or agent of, Terminal Operations Co;
 - (c) the Operator may exercise any right or perform any obligation of Terminal Operations Co under this Agreement including (without limitation):
 - (i) supplying any or all of the Services;
 - (ii) operating and maintaining all or any part of the IMEX Terminal;
 - (iii) issuing any notice or invoice and receiving payment of amounts payable by the Customer under this Agreement; and
 - (iv) engaging with the Customer in relation to the operation of the IMEX Terminal and the Services, including managing in any complaint or dispute.
 - (d) Terminal Operations Co will be responsible for the acts or omissions of the Operator in performing any obligation under this Agreement.
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3 Services and Services Charges

3.1 Services to be provided by Terminal Operations Co

Terminal Operations Co must:

- (a) provide the relevant Services to the Customer for the entire Term pursuant to this Agreement;
- (b) perform its obligations and responsibilities under this Agreement with due care and skill; and
- (c) ensure that Terminal Operations Co's Personnel perform the Services in a safe manner and are properly qualified and trained.

3.2 Charges for incidental assistance or services required to obtain Reference Services

- (a) Where Terminal Operations Co requires the Customer to acquire assistance or services from Terminal Operations Co which are reasonably necessary and incidental to obtaining access to a Reference Service (for example, safety or site induction courses or

assistance to configure IT systems interfaces), Terminal Operations Co will offer such assistance or services at a reasonable cost to the Customer.

3.3 Conditions precedent

Terminal Operations Co will have no obligation to provide the access or Services under this Agreement until the Customer demonstrates to the satisfaction of Terminal Operations Co:

- (i) that the Customer has all necessary accreditations;
- (ii) that the Customer holds all insurances as required by, and in compliance with, clause 12; and
- (iii) that the Customer has provided the Security Deposit to Terminal Operations Co (if required) in compliance with clause 9.

3.4 Services Charges, invoices and payments

- (a) The Customer must pay Terminal Operations Co the Services Charges and all other amounts owing to Terminal Operations Co pursuant to this Agreement.
- (b) Terminal Operations Co will invoice the Customer for the Services after completion of each relevant Service.
- (c) The Customer must pay into the account notified by Terminal Operations Co to the Customer the amount invoiced in full within the Payment Term without discount, deduction, counterclaim or set-off.
- (d) If the Customer has not paid an amount due under this Agreement within the Payment Term, the Customer must pay interest on the amount unpaid at the Agreed Rate. The interest payable under this clause 3.4(d) accrues from day to day from and including the due date for payment up to the actual date of payment and may be capitalised by Terminal Operations Co at monthly intervals.
- (e) The Customer must pay all expenses and charges that are reasonably incurred by Terminal Operations Co for its compliance with any Laws that are applicable to the Services or any order or requirement made under them or with the requirement of any market, harbour, dock, wharf, railway, shipping, customs, warehouse, port or any other relevant charges; and
- (f) Unless otherwise expressly stated, all consideration to be provided under this Agreement is exclusive of GST and is pursuant to clause 15 of this Agreement.

3.5 Review and variation of Service Charges for ad-hoc Reference Services

- (a) Terminal Operations Co will review Service Charges for ad-hoc Reference Services not less than once per year and may vary Service Charges at any time by publishing a notice of the updated Service Charges on the IMEX Terminal website not less than 30 Business Days' prior to their commencement.
- (b) Terminal Operations Co will review Service Charges for Reference Services that are not ad-hoc Reference Services (including any contracted services) as follows: *[insert the manner for reviewing prices agreed between Terminal Operations Co. and the Customer]*.

4 Rights and Obligations

4.1 Terminal Operations Co's rights and obligations

- (a) If any identifying document or mark on a container is lost, damaged, destroyed or defaced, then Terminal Operations Co may open any document, wrapping, package or container to inspect the container or its contents either to determine their nature or condition or to determine their ownership or destination.
- (b) Terminal Operations Co shall be entitled to exercise a general and/or particular lien over, and a right of sale of, a container or its contents in respect of any amount owed by the Customer to Terminal Operations Co and any amounts owed by any related entity of the Customer to Terminal Operations Co.
- (c) Prior to exercising its rights under clause 4.1(b) the Operator will provide the customer with 10 Business Days' notice in writing.
- (d) The lien referred to in clause 4.1(b) is in addition to any applicable statutory lien.
- (e) If in Terminal Operations Co's reasonable opinion a container or its contents:
 - (i) are or are liable to become Dangerous Goods;
 - (ii) do not comply with all applicable Laws; or
 - (iii) are unsuitable to be handled using the equipment and operating procedures at the IMEX Terminal (including as contemplated by the Terminal Operating Procedure),Terminal Operations Co may:
 - (iv) refuse to provide the Services in respect of that container; or
 - (v) take whatever measures it considers to be reasonably necessary (including opening the container, weighing and measuring the container or its contents, requiring the container to be repacked or reloaded and delaying or rescheduling their loading and carriage) at the Customer's risk and expense in order to cause the container, its contents, the vehicle or Train by which the container will be transported or the driver of such vehicle or Train to comply with all applicable Laws and to otherwise be suitable for handling.
- (f) If in Terminal Operations Co's reasonable opinion the weight of any container materially varies from the weight as declared on the documentation provided to Terminal Operations Co by the Customer, Terminal Operations Co may:
 - (i) refuse to provide the Services in respect of the container;
 - (ii) advise relevant regulatory authorities; and
 - (iii) require the Customer to take the necessary measures to rectify and re-declare the correct weight and amend the documentation at their risk and expense.
- (g) Terminal Operations Co may (at its own cost) engage an independent third party to conduct an audit or review of the Customer's compliance with its obligations under this Agreement, including compliance with any applicable Laws. If the independent third party discovers a breach or non-compliance by the Customer of its obligations under this Agreement, the Customer must comply at its cost with any reasonable findings or recommendations of such audit or review in relation to the breach or non-compliance.

- (h) Terminal Operations Co has no obligation to inspect a container and no inspection will increase Terminal Operations Co's liability under this Agreement.
- (i) If the Customer does not utilise contracted 'take or pay' capacity under this Agreement, then Terminal Operations Co may reallocate such capacity to other Customers in accordance with the Capacity Allocation Protocol and without any cost to Terminal Operations Co. [*Clause to be inserted if take or pay arrangements are negotiated*]
- (j) Terminal Operations Co will be released from its obligations under this Agreement to the extent and for the duration that performance of this Agreement is delayed, hindered or prevented by a Force Majeure Event.
- (k) Terminal Operations Co is not responsible for and has no liability in respect of any inaccuracy in the description provided by a Customer of a container or its contents.
- (l) Terminal Operations Co warrants that it:
 - (i) will comply with all applicable laws; and
 - (ii) to the extent that Terminal Operations Co is required to load or unload a vehicle, it will use equipment that complies with all relevant safety standards and any IMEX Terminal staff involved in the loading or unloading have the requisite skill, competence, knowledge and experience and will be appropriately licenced, accredited and certified to load and unload the vehicles and/or trains.

4.2 Customer's rights and obligations

- (a) The Customer warrants that it:
 - (i) is, or is the authorised agent or bailee of, the person owning (or having an interest in) any Container being delivered to or collected from the IMEX Terminal by or on behalf of the Customer;
 - (ii) will provide Terminal Operations Co with any information that Terminal Operations Co reasonably requires for the efficient conduct of the provision of the Services, including any notice, forecast or other information specified in this Agreement or the Terminal Access Protocol, in a timely manner;
 - (iii) is and will remain compliant with all applicable Laws and has and will maintain all accreditations, licences and approvals as required by Law, and provide Terminal Operations Co with all necessary assistance, information and documentation to enable Terminal Operations Co to comply with such Laws;
 - (iv) will ensure that the Customer's Personnel are aware of and comply with all applicable Laws and all reasonable lawful directions and orders given by Terminal Operations Co in accordance with this Agreement or any person authorised by Law to give directions to the Customer;
 - (v) will comply at all times with Terminal Operations Co's Policies and Procedures;
 - (vi) will comply at all times with the Terminal Access Protocol (including the Capacity Allocation Protocol and the Terminal Operating Procedure);
 - (vii) will provide reasonable assistance to Terminal Operations Co in order to enable it to perform the Services (if required);
 - (viii) to the extent that it is required to load or unload a vehicle or Train under this Agreement, will ensure that any equipment used complies with all relevant safety

standards and any person involved in the loading or unloading will have the requisite skill, competence, knowledge and experience and will be appropriately licensed, accredited and certified;

- (ix) will allow Terminal Operations Co to obtain immediate access to any Commercial Document (as that term is defined in the *Customs Act 1901* (Cth)) where Terminal Operations Co is required to produce the Commercial Document at the request of a Government Agency;
- (x) ensure that no Dangerous Goods are transported into the IMEX Terminal except and to the extent (including on any applicable terms) approved in advance by the Operator;
- (xi) ensure all Containers are safely packed, secured and clearly identified and labelled;
- (xii) ensure the packaging, identification, labelling and handling of Containers, and any documentation and instructions pertaining to a Container or the handling of the Container, are accurate and comply with all applicable Laws, regulations and standards; and
- (xiii) any temperature controlled will only be tendered in compliance with the Terminal Operating Procedure.

4.3 Customer forecasts

The Customer will provide Terminal Operations Co with a forecast of the estimated volume of containerised freight, measured in TEU, that it expects to drop-off or pick-up from the IMEX Terminal for each calendar month at least 7 days prior to the first day of that month.

5 Receipt and Delivery of Containers

5.1 Receive and discharge

- (a) Terminal Operations Co will, when providing the Services:
 - (i) manage the bookings for the arrival of Trucks to receive or deliver containers using the Vehicle Booking System (**VBS**) in accordance with Schedule 2 and any standard carrier terms and conditions published by Terminal Operations Co from time to time; and
 - (ii) manage and schedule the loading and unloading of Trains in accordance with the track utilisation plan prepared by the Operator and managed in accordance with the Terminal Operating Procedure.

5.2 Short Term Storage

- (a) The Customer must remove, or procure the removal of, its containers from the IMEX Terminal within 48 hours of discharge of the container from a Train (or such lesser time as may be required by an Authority).
- (b) If the Customer fails to remove a container within the time specified in clause 5.2(a), Terminal Operations Co will be entitled to:
 - (i) charge the Customer a short term storage fee in respect of storage of the Container;

- (ii) remove the Container to a storage facility; and
 - (iii) treat the Container as abandoned at the Customer's risk and expense, subject to providing notice as contemplated in clause 5.2(c).
- (c) The Customer must not in any circumstances abandon any container and Terminal Operations Co will be entitled, on 28 days' notice to the Customer, to dispose of an abandoned container or its contents at the Customer's risk and expense (including any costs of storage of the abandoned container or its contents prior to disposal) in any manner Terminal Operations Co deems reasonable and the Customer will not be entitled to any compensation in respect of the abandoned container or its contents and/or their disposal.
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6 Rail Access

6.1 Cancellation of Train Movements

The Customer must notify Terminal Operations Co in accordance with the Terminal Operating Procedure of any proposed temporary cancellation or modification of Train Movements.

6.2 Services for early and late Trains

- (a) Train Movements within the IMEX Terminal will be managed by Terminal Operations Co in accordance with the track utilisation plan developed in accordance with the Terminal Operating Procedures.
- (b) If a Train arrives at the IMEX Terminal outside the window specified for that Train in the track utilisation plan (an **Untimely Train**), Terminal Operations Co will use its best endeavours (excluding the payment of any money) to provide Services in respect of the Untimely Train. If Terminal Operations Co reasonably considers that the provision of such Services is likely have an adverse effect upon other Trains or Train Movements at the IMEX Terminal, the Services to be provided in respect of the Untimely Train will take a lower priority to other Trains and Train Movements.
- (c) If the Customer's Trains frequently arrive or depart outside the allocated window, Terminal Operations Co may give the Customer a notice requiring the Customer to ensure that its Trains arrive and depart the IMEX Terminal in accordance with the track utilisation plan.
- (d) If Terminal Operations Co gives the Customer a notice pursuant to clause 6.2(c), the Customer must prepare and submit to Terminal Operations Co a plan for improvement of the on-time running of its Trains and use best endeavours to run Trains in accordance with the Terminal Operating Procedure.
- (e) The Customer acknowledges that Terminal Operations Co may recover from the Customer all additional costs which Terminal Operations Co reasonably incurs in connection with the provision of Services accommodating Untimely Trains in accordance with this clause 6.2.

6.3 Allocation and variation of rail capacity and road service capacity

- (a) Without limitation to clause 8, Terminal Operations Co may allocate, vary, prioritise and withdraw any rail capacity associated with Train Movements and any road service capacity used or required by the Customer in accordance with the terms of the Terminal Access Protocol.

- (b) All access rights granted under this Agreement, including any take or pay capacity (if agreed), scheduled windows for Train Movements and slots booked for Trucks are non-transferable. The Customer (and any carrier retained by the Customer) may not pool or attempt to transfer or re-sell such rights to other rail operators or carriers.
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7 Variation and cancellation of Services

7.1 Temporary variation or suspension

- (a) Terminal Operations Co may vary its provision of the Services, including immediately suspending Services or any associated access to the IMEX Terminal by the Customer, where and to the extent reasonably required in order to:
 - (i) mitigate the risk of any actual or potential:
 - (A) Incident;
 - (B) material damage to the IMEX Terminal, property or Terminal Operations Co's infrastructure or equipment; or
 - (C) injury to any persons; and
 - (ii) otherwise to respond to any actual and material breach of this Agreement by the Customer.
- (b) Any such variation under this clause 7.1 may continue at Terminal Operations Co's discretion for so long as the risk specified in clause 7.1(a) continues.

7.2 Material Change

- (a) In the event a Material Change occurs, Terminal Operations Co must notify the Customer within 10 Business Days of becoming aware of the Material Change.
- (b) Within 10 Business Days after receipt by the Customer of a notice referred to in paragraph (a), Terminal Operations Co and the Customer must meet and negotiate in good faith with a view to addressing the effects of the Material Change, including:
 - (i) any variation to the Services or access rights or the terms of this Agreement that may be required to address the effects of the Material Change;
 - (ii) the date on which any variation referred to in paragraph (i) will commence; and
 - (iii) the duration of any variation of the type referred to in paragraph (i).
- (c) If following negotiations in accordance with paragraph (b):
 - (i) the Parties agree on any variation of the type referred to in paragraph (b)(i) and agree on the terms of that variation including as to the matters referred to in paragraphs (b)(ii) and (iii), the access rights and this Agreement will be varied in accordance with the variation as agreed in writing between the Parties; or
 - (ii) if the Parties are unable to agree on the terms of the variation within 20 Business Days of the negotiation referred to in paragraph (b), either Party may give a Dispute Notice to the other and the Dispute will be dealt with under clause 15 of the Terminal Access Protocol.

8 Repairs and maintenance

- (a) Where maintenance or repairs are required at the IMEX Terminal as a result of any act or omission by the Customer (including where this results from damage caused by the Customer or its contractors or agents), Terminal Operations Co will be entitled to recover the costs associated with such maintenance or repair works (other than maintenance costs that arise in connection with the normal wear and tear of the IMEX Terminal) from the Customer as a charge payable by the Customer to Terminal Operations Co.
- (b) The Operator will not be liable for any costs incurred by, or claims made by or against the Customer, as a result of the Operator conducting any repairs or maintenance of the IMEX Terminal and any delay caused (including to any Train Movements) as a result.

9 Security Deposit

9.1 Security Deposit

- (a) Terminal Operations Co may require the Customer to provide the Security Deposit to Terminal Operations Co. If so, the Customer must provide that Security Deposit within 10 Business Days of being notified by Terminal Operations Co of the requirement to do so.
- (b) If a Security Deposit is required, the Customer must deliver to Terminal Operations Co security in the amount of the Security Deposit for the performance of the Customer's obligations under this Agreement in the form of:
 - (i) an unconditional and irrevocable bank guarantee (or equivalent) issued by a bank holding a current Australian banking licence; or
 - (ii) any other security reasonably acceptable to Terminal Operations Co, containing terms and conditions reasonably acceptable to Terminal Operations Co.
- (c) If, at any time during the Term, the Security Deposit held by Terminal Operations Co is less than the amount specified in the definition of Security Deposit, the Customer must increase the Security Deposit by the amount determined by Terminal Operations Co to ensure that the amount of the Security Deposit accords with the amount specified in the definition of Security Deposit and deliver to Terminal Operations Co a new or replacement Security Deposit to reflect the change within 10 Business Days after receipt of notice to do so from Terminal Operations Co.
- (d) The provision and continuance of the Security Deposit (or of any new or replacement Security Deposit provided by the Customer in accordance with this clause 9.1) is a condition of the performance by Terminal Operations Co of its obligations under this Agreement.
- (e) At the end of the Term, Terminal Operations Co will (where applicable) return the Security Deposit to the Customer.

9.2 Exercise of Security Deposit

Notwithstanding any other rights Terminal Operations Co has under the Agreement, and without prejudice to them, if the Customer is in financial default, Terminal Operations Co may, within 10 days of becoming aware of the Customer's financial default (but only in respect of undisputed Services Charges unpaid), give notice to the Customer of such financial default and if the financial default is not rectified within 30 days from the date of the notice, Terminal Operations Co may, in addition to any other right it has under this Agreement and without notice to the

Customer, apply the whole or any part of the Security Deposit toward making good any loss sustained by Terminal Operations Co as a result of the financial default.

10 Customer complaints and dispute resolution

10.1 Customer complaints

Customers may submit a complaint in relation to Terminal Operations Co's operation of the IMEX Terminal under the Terminal Access Protocol.

10.2 Dispute resolution

If a dispute arises between Terminal Operations Co and the Customer in connection with this Agreement (**Dispute**), Terminal Operations Co and the Customer will comply with the dispute resolution mechanism contained in clause 15 of the Terminal Access Protocol.

11 Liability

11.1 General

- (a) To the extent permitted by Law and except as expressly set out in this Agreement, Terminal Operations Co makes no, and expressly excludes all, warranties and representations with respect to the Services.
- (b) Where the Customer has the benefit of a warranty or condition regarding the Services provided under this Agreement which cannot by Law be excluded, Terminal Operations Co's liability for breach of any such warranty or condition is limited to, at Terminal Operations Co's sole option, the re-supply of the Services or the payment of the costs of having those Services supplied again.
- (c) Each representation and warranty in this Agreement is to be construed independently of each other representation and warranty in, and each other provision of, this Agreement.

11.2 Terminal Operations Co's liability

- (a) Except to the extent caused or contributed to by a negligent act or omission of Terminal Operations Co or breach of this Agreement, Terminal Operations Co will not be liable in tort, contract, bailment or otherwise to the Customer for anything arising out of or relating to any:
 - (i) breach of this Agreement or negligence by the Customer or its Associates;
 - (ii) acts or omissions on the part of any third party;
 - (iii) any Incident, including (without limitation) any spill of a Contaminant;
 - (iv) damage to any Rolling Stock (including any locomotive or wagon), Truck or other equipment or vehicle; and
 - (v) damage to any container or its contents.
- (b) Terminal Operations Co's liability under this Agreement and at Law will be limited in all cases and howsoever arising to loss and damage resulting directly from and only to the extent caused or contributed to by Terminal Operations Co's negligence or default in accordance with the following limits;

- (i) for any loss or damage to a container, up to a maximum of \$5,000 for any one event or series of related events;
 - (ii) for any loss or damage to any contents of a container, up to a maximum of \$100,000 for any one event or series of related events;
 - (iii) for any loss or damage to transport equipment (including prime movers and trailing equipment), up to a maximum of \$150,00 for any one event or series of related events;
 - (iv) for any loss or damage to Rolling Stock, up to a maximum of \$5 million for any one event or series of related events; and
 - (v) for any other loss or damage, up to a maximum of \$100,000 for any one event or series of related events.
- (c) Subject to this clause 11, the Customer may only make a Claim against Terminal Operations Co:
- (i) in respect of any loss or damage to rollingstock – if the Claim exceeds \$20,000 for any one event or series of events;
 - (ii) in all other cases – if the Claim exceeds \$500 for any one event or series of related events.

11.3 Release of Terminal Operations Co

Without limitation to clause 11.2, the Customer agrees to access the Terminal, and use the Services, at its own risk. Terminal Operations Co is not liable to the Customer for any damage to any property of the Customer or to any other property of any description in the possession of the Customer or any Third Party Operator retained by the Customer, and releases Terminal Operations Co from any such Claims, except to the extent that such Claims arise directly from any negligent act or omission of Terminal Operations Co or breach by it of this Agreement. Without limitation, this clause 11.3 applies to any Claims which arise from actions of other customers or users of the Terminal, including rail operators.

11.4 Notification of Claim

- (a) Terminal Operations Co will not be liable for any Claim by the Customer unless notice of the Claim is given to Terminal Operations Co within 30 days of the Incident giving rise to the Claim.
- (b) Unless otherwise agreed, and subject to sub-clause (a), Terminal Operations Co will be discharged from all Liability for a Claim unless proceedings are commenced within one year of the date that notice of that Claim is given to Terminal Operations Co.

11.5 Customer Indemnities

The Customer must indemnify and keep indemnified Terminal Operations Co and its Associates against all losses and costs that any of them may sustain or incur as a result, directly or indirectly, of:

- (a) any breach of this Agreement by the Customer or its Associates;
- (b) any fraud or negligence of any employee, agent or subcontractor of the Customer in relation to this Agreement;

- (c) any breach of the Terminal Access Protocol (including the Capacity Allocation Protocol and the Terminal Operating Procedure); and
- (d) any Third Party Claim, except and to the extent that it directly results from an negligent act or omission of Terminal Operations Co or breach by it of this Agreement.

11.6 Exclusion of consequential loss

Despite any other provision of this Agreement, neither Party will be liable to the other for any consequential loss.

12 Insurance

12.1 Insurances required

During the Term, the Customer must effect and maintain with a reputable insurance company the following insurances which are required to note the interests of Terminal Operations Co on each policy:

- (a) public liability insurance to the amount of \$20,000,000.00;
- (b) insurance for an amount not less than \$20,000,000.00 in respect of:
 - (i) damage to real property and personal property; and
 - (ii) injury to or death of any person.

12.2 Disclosure of policies

The Customer must provide Terminal Operations Co with a copy of a certificate of currency of the insurances required by clause 12.1 of this Agreement as reasonably requested by Terminal Operations Co from time to time.

13 Force Majeure

13.1 Suspension of rights and obligations

- (a) If a Party is unable to perform an obligation (other than an obligation to pay money) under this Agreement by reason of a Force Majeure Event, that obligation is suspended for the minimum extent and duration of the Force Majeure Event provided that:
 - (i) the Party gives the other Party prompt notice of and reasonable details of the Force Majeure Event and an estimate of the extent and duration of its inability to perform; and
 - (ii) the Party takes all reasonable steps to avoid or limit the effects of the events or circumstances giving rise to the Force Majeure Event.

13.2 Consequences

- (a) If a Force Majeure Event continues more than one month after the notice given under clause 13.1, the Parties must meet to discuss in good faith a mutually satisfactory resolution to the problem.
- (b) If a Force Majeure Event continues for more than three months after the notice given under clause 13.1 and the Parties have not agreed on a mutually satisfactory resolution

to the problem, Terminal Operations Co may terminate this Agreement by giving the Customer 14 Business Days' written notice and this Agreement will terminate on expiry of that 14 Business Day notice period.

13.3 No release or discharge

No Force Majeure Event will release or discharge:

- (a) the Party affected by it from the obligation to perform the obligation which is so affected if the obligation still exists after the Force Majeure Event has occurred; or
- (b) any Party from any obligation to pay any sum of money pursuant to any obligation under this Agreement.

14 Default and Termination

14.1 Events of default

The Customer will be in default of this Agreement if the Customer:

- (a) fails to pay any amount payable to Terminal Operations Co under this Agreement within 14 Business Days' of the due date for payment;
- (b) fails to comply with any material obligation under this Agreement, and does not make good that default within 10 Business Days after receipt of written notice from the Terminal Operations Co;
- (c) goes into liquidation or provisional liquidation or an application is made for it to be wound up; or
- (d) is insolvent under the *Corporations Act 2001* (Cth) or stops payment of any of its debts.

14.2 Remedies

- (a) If any of the events contained in clause 14.1 occurs, subject to any applicable Law, in addition to any other rights it has under this Agreement, the Terminal Operations Co may do any one or more of the following:
 - (i) terminate this Agreement; or
 - (ii) do anything which is the liability or obligation of the Customer under this Agreement, but which liability or obligation the Customer had failed to discharge or undertake on time, and the Customer must reimburse Terminal Operations Co on demand any reasonable costs incurred by Terminal Operations Co in doing so.

14.3 Termination

This Agreement terminates on the earlier of:

- (a) the Expiry Date; or
- (b) the date either Party terminates this Agreement in accordance with the terms in this Agreement.

14.4 All rights preserved

Termination of this Agreement will be without prejudice to the accrued rights and obligations of Terminal Operations Co under this Agreement including:

- (a) the right of Terminal Operations Co to be paid all amounts that are outstanding under this Agreement; and
 - (b) the obligations of confidentiality under clause 17.12.
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15 GST

15.1 GST

- (a) If a Party is required under this Agreement to reimburse or pay to another Party an amount calculated by reference to a cost, expense, or an amount paid or incurred by that Party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that Party (or an entity on whose behalf the Party is acting) is entitled in respect of any acquisition relating to that cost, expense or other amount.
- (b) If GST is payable by an entity (**Supplier**) in relation to any supply that it makes under or in connection with this Agreement, the Parties agree that:
 - (i) any consideration (including the value of any non-monetary consideration) provided for that supply under or in connection with this Agreement other than under this clause 15.1 (**Agreed Amount**) is exclusive of GST;
 - (ii) an additional amount will be payable by the Party providing consideration for that supply (**Recipient**) equal to the amount of GST payable by the Supplier on that supply;
 - (iii) except to the extent that clause 15.1(b)(ii) is applicable, the additional amount is payable at the same time as any part of the Agreed Amount is to be first provided for that supply and the Supplier will provide a tax invoice to the Recipient in respect of that supply, no later than that time; and
 - (iv) where additional amounts are payable between Parties to this Agreement pursuant to clause 15.1(b)(ii), amounts so payable, to the extent they are equivalent in amount, shall be set off against each other as if paid and each Party shall be obliged only to give the other the tax invoice referred to in clause 15.1(b)(ii).
- (c) To the extent, if any, that any consideration (or part of any consideration) is specified in this Agreement to be inclusive of GST, that consideration (or the relevant part) shall be excluded from the Agreed Amount for the purposes of calculating the additional amount under clause 15.1(b)(ii).
- (d) If the Supplier determines on reasonable grounds, is advised by the Commissioner of Taxation or otherwise becomes aware that the GST payable on a supply is different from the additional amount paid by the Recipient to the Supplier in accordance with clause 15.1(b)(ii) in relation to that supply (if any) and as a result:
 - (i) the Supplier is required to pay an amount (or further amount) of GST in relation to that supply, the Recipient must pay the Supplier within 7 days after demand that amount or further amount; or

- (ii) the Supplier receives or becomes entitled to receive a refund or credit of the whole or any part of the GST paid by the Supplier in relation to that supply, the Supplier must refund or credit the Recipient with a corresponding amount.
 - (e) For the purpose of calculating further variations under this clause 15.1, any additional amount referred to in clause 15.1 is taken to be altered by the amount of any earlier variation made under this Agreement (if applicable).
 - (f) If any adjustment event occurs in relation to a supply, the Supplier must issue an adjustment note to the Recipient in relation to that supply within 14 days after becoming aware of the adjustment.
 - (g) This clause 15.1 survives the completion, rescission or termination of this Agreement.
 - (h) Any reference in this clause to GST payable by a Party includes any GST payable by the representative member of any GST group of which that Party is a member. Any reference in this clause to input tax credits to which a Party is entitled will include input tax credits to which the representative member of any GST group of which that Party is a member is entitled.
 - (i) If the GST Law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply will be attributable, such part of the supply will be treated as a separate supply for the purposes of this clause.
-

16 General Conditions

16.1 General conditions

- (a) The access rights granted to the Customer as part of the Services supplied under this Agreement are non-exclusive contractual rights of access.
 - (b) This Agreement and the Services:
 - (i) do not confer on the Customer any rights of access to any part of the IMEX Terminal or any other land other and strictly to the extent necessary for Terminal Operations Co to provide the Services to the Customer under this Agreement;
 - (ii) do not give rise to a relationship of landlord and tenant between the Customer and Terminal Operations Co and nothing done pursuant to this Agreement shall give rise to any such relationship; and
 - (iii) do not give the Customer any exclusive rights to be provided with any Services offered under this Agreement.
 - (c) Terminal Operations Co may grant other rights, entitlements and Services to other Customers including rights, entitlements and Services similar to those set out in this Agreement.
-

17 Miscellaneous

17.1 No variation

This Agreement may only be amended, varied, supplemented or replaced by another written document signed by the Parties.

17.2 Counterparts

This Agreement may be signed in any number of counterparts and exchanged via email PDF with the same effect as if the separate signatures or executions were on the same Agreement.

17.3 Further assurance

Each Party agrees, at its own cost and expense, upon the request of the other Parties, to do and execute or cause to be made done or executed all such acts, instruments, assurances and writings as may be reasonably necessary or desirable to perfect or give effect to the provisions of this Agreement and to use all reasonable endeavours to cause third parties to do likewise.

17.4 Severability

If any provision of this Agreement is determined to be illegal, invalid, void or voidable, the legality or validity of the remainder of this Agreement shall not be affected and the remainder of this Agreement shall continue in full force and effect.

17.5 No merger

None of the provisions of this Agreement will merge in or upon the execution of this or any other agreement, document, act, matter or thing and will continue to remain in full force and effect for so long as is necessary to give effect to the provisions of this Agreement.

17.6 Assignment of rights

The Customer must not assign its rights under this Agreement without the prior written consent of Terminal Operations Co.

17.7 Entire agreement

What is expressed in this Agreement is the entire agreement between the Parties as to its subject matter and in relation to that subject matter, supersedes any prior understanding or agreement between the Parties including any letter of intent or proposal.

17.8 Governing Law

This Agreement is governed by the Laws in force in the Jurisdiction and each Party submits to the exclusive Jurisdiction of the courts of the Jurisdiction and all courts competent to hear appeals from the courts of the Jurisdiction in respect of all proceedings arising in connection with this Agreement.

17.9 Costs

Each Party will bear its own costs and out of pocket expenses (including legal costs) incurred in relation to the negotiation and execution of this Agreement.

17.10 Legal relationship

Nothing contained in this Agreement shall be construed so as to constitute any Party to this Agreement a partner, agent or representative of the other or others or to create any trust or partnership with any person or company or commercial entity for any purpose whatsoever.

17.11 Consents and approvals

Where anything depends on the consent or approval of a Party then, unless this Agreement provides otherwise, that consent or approval may be given conditionally or unconditionally or withheld, in the absolute discretion of that Party.

17.12 Confidential information

Each Party must keep confidential all Confidential Information of the other Party and may only disclose such Confidential Information if allowed under the Disclosure of Confidentiality Rules.

PART 5: Schedules and Annexures

Schedule 1

1 Definitions and Interpretation

1.1 Definitions

In this Agreement unless the context otherwise requires:

Agreed Rate means 3% above the Reserve Bank of Australia's "Cash Rate Target" at the time the outstanding amount is to be paid.

Agreement means this agreement, inclusive of all schedules and annexures and subject to such modifications as may be agreed in writing by the Parties in accordance with clause 17.1.

Ancillary Services means the Services described in item 2 in Part 2 of this Agreement.

Associate means a Party's employees, officers, servants, agents and subcontractors and in the case of the Customer also includes any person who has an interest in the Goods and their employees, officers, servants, agents and subcontractors.

Authority means:

- (a) a government or government department, statutory authority or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who has responsibility and authority in relation to the management of the IMEX Terminal or the administration of a Law.

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

Capacity Allocation Protocol means Annexure 3 of the Terminal Access Protocol.

Change in Law means the introduction of or a change in the Law after the Contract Date.

Change in Tax means the occurrence of any of the following after the Contract Date:

- (a) a Tax which did not apply as at the Contract Date; or
- (b) the rate at which a Tax is levied as at the Contract Date.

Claim means a demand, claim, action or proceeding made or brought by or against a party, however arising and whether present, unascertained, immediate, future or contingent.

Commencement Date has the meaning given in Item 3 of the Reference Schedule.

Confidential Information means the following information in any form:

- (a) the negotiations leading up to, and the terms and conditions contained in, this Agreement (which is confidential information of each Party); and
- (b) information of a confidential nature, or which the Disclosing Party makes the Receiving Party aware that it is considered by the Disclosing Party to be confidential which is

communicated by or on behalf of the Disclosing Party to the Receiving Party, before or after the Contract Date including information relating to the financial or trading position of the Disclosing Party and practices, techniques, processes, trade secrets and know-how relating to the operation of the IMEX Terminal, truck or Train.

Contaminant means a Dangerous Good or noxious or hazardous substance which, having regard to the quantity and location of the substance and other substances in conjunction with which it is stored or used, is capable of causing material harm to the environment.

Contract Date means the date of this Agreement.

Commercial Document is defined in the *Customs Act 1901* (Cth).

Customer means the Party named in Item 2 of the Reference Schedule.

Customer Equipment means any equipment or software supplied by or for the Customer to Terminal Operations Co to enable Terminal Operations Co to supply the Services.

Dangerous Goods means dangerous cargo or Goods as defined in the Australian Dangerous Goods Code and any goods that may injure or harm people, property or the environment including but not limited to goods that are or may become dangerous, poisonous, corrosive, volatile, explosive, flammable or radioactive.

Disclosing Party means a Party disclosing Confidential Information to the Receiving Party.

Disclosure of Confidentiality Rules means:

- (a) in respect of PDC – in accordance with confidentiality obligations set out in the Terminal Access Protocol, from time to time; and
- (b) in respect of any other Party – that Party may disclose Confidential Information:
 - (i) if it is disclosed with the consent of PDC (which consent is not be unreasonably withheld);
 - (ii) if allowed or required by Law;
 - (iii) in connection with legal proceedings relating to this Agreement;
 - (iv) if the information is generally or publicly available;
 - (v) to any legal or financial advisor to enable them to advise in connection with this Agreement (including its administration and enforcement); or
 - (vi) to any financier or other capital provider for the purpose of procuring capital in connection with the IMEX Terminal.

Dispute has the meaning given to that term in clause 10.2.

Dispute Notice has the meaning given to that term in the Terminal Access Protocol.

Environmental Hazard means a state of danger to human beings or the environment whether imminent or otherwise resulting from the location, storage or handling of any substance having toxic, corrosive, flammable, explosive, infectious or otherwise dangerous characteristics.

Expiry Date means the date specified in Item 4 of the Reference Schedule.

Force Majeure Event means circumstances where Terminal Operations Co is delayed or unable, wholly or in part, to deliver any of the Services, or perform any obligation under this Agreement, due to any circumstances beyond its reasonable control including (without limitation): acts of God, severe weather events, fire, war, sabotage or terrorism, accident, explosion, embargo, epidemic or quarantine, labour dispute, civil commotion, port blockade or closure, restrictions imposed by an Authority.

Goods means:

- (a) the goods in relation to which Terminal Operations Co agrees to supply the Services;
- (b) any packaging, pallets or containers for those goods supplied by or for the Customer;
- (c) any merchandise or other property, whether or not in a container, in respect of which Terminal Operations Co provides the Services for the Customer; and
- (d) any other products or items that are supplied by the Customer to Terminal Operations Co.

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

GST has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

IMEX Terminal means the IMEX Terminal which is the area within the Moorebank intermodal terminal precinct leased to Terminal Operations Co for the dedicated purpose of establishing an intermodal terminal and permitting the transport of import / export containers. The IMEX Terminal does not include the land designated for the purpose of conducting warehousing operations.

Incident means a break down, accident or emergency at the IMEX Terminal or en route to or from the IMEX Terminal which involves Terminal Operations Co and/or the Customer and which causes or may reasonably be expected to pose a danger of causing any one or more of the following:

- (a) material damage to or interference with the IMEX Terminal;
- (b) material damage to infrastructure or equipment used in providing the Services;
- (c) material damage to property at the IMEX Terminal;
- (d) material personal injury to any person for which Terminal Operations Co is responsible;
- (e) an Environmental Hazard that may affect the IMEX Terminal, Terminal Operations Co or any person for which Terminal Operations Co is responsible; and
- (f) an incident which requires notification under any Law including any rail safety Laws or environmental Laws that may affect the IMEX Terminal, Terminal Operations Co or any person for which Terminal Operations Co is responsible.

Jurisdiction means the State or Territory where this Agreement is executed, or as otherwise agreed by the Parties.

Law means:

- (a) the common law and equity;

- (b) all present and future Acts of the Parliaments of the Commonwealth, States or Territories; and
- (c) all enforceable regulations, subsidiary legislation, codes, ordinances, local laws, by-laws, orders, judgements, licences, rules, permits, agreements and enforceable requirements of any Authority.

Material Change means any change to the Law, or a policy or direction from a Government Agency, outside the control of PDC and the Operator, provided that the event, taken alone or as a group with other events, materially and substantially affects either the rights or obligations of Terminal Operations Co or the Customer under this Agreement or the cost to Terminal Operations Co of performing its obligations under this Agreement.

Operator means the entity appointed by Terminal Operations Co and responsible for operation of the IMEX Terminal under the Terminal Access Protocol.

Other Services means all other services which are not Reference Services or Ancillary Services and are described in item 3 in Part 2 of this Agreement.

Party means a party to this Agreement and includes that party's successors, legal, personal representatives, and permitted assigns, novates and Parties shall have a corresponding meaning.

Payment Term means 30 days following the date of the relevant invoice provided by Terminal Operations Co to the Customer or as otherwise agreed between Terminal Operations Co and the Customer.

PDC means the Precinct Development Co as defined in the Terminal Access Protocol.

Personnel means, in relation to a Party, its officers, employees, servants or agents, contractors or sub-contractors.

Policies and Procedures means the management plan, safety regulations and any other of the Terminal Operations Co's rules and policies applicable at the IMEX Terminal, or as otherwise instigated by Terminal Operations Co and which relate to the Services.

Receiving Party means the Party receiving the Confidential Information.

Recipient has the meaning given to that term in clause 15.1(b)(ii).

Reference Services means the Services described in item 1 in Part 2 of this Agreement.

Rolling Stock means any vehicle that operates on or uses a railway track including a locomotive, light inspection vehicle, road/rail vehicle, trolley, carriage, diesel multiple unit and wagon (but does not include a vehicle designed to operate both on and off a railway track when the vehicle is not operating on a railway track).

Security Deposit means the amount reasonably determined by Terminal Operations Co.

Services mean Reference Services, Ancillary Services and Other Services (as applicable).

Services Charges means the prices referred to in Part 3 of this Agreement.

Supplier has the meaning given to that term in clause 15.1(b).

Taxes means, other than GST, all taxes, fees, levies, duties and charges imposed or assessed in respect of this Agreement by any Authority including income tax (including withholding for prescribed payments or group tax), payroll tax, statutory superannuation contributions and

workers' compensation payments and contributions, sales tax, customs duty, excise tax, and stamp duty.

Term means the period commencing on and after the Commencement Date and ending on the Expiry Date but, if applicable, includes any further period agreed by the Parties.

Terminal Access Protocol means the document published on the Operator's website and titled Moorebank IMEX Terminal Access Protocol as varied from time to time.

Terminal Operating Procedure means the document forming part of the Terminal Access Protocol and published on the Operator's website and titled Terminal Operating Procedure as varied from time to time.

Terminal Operations Co means the Party named in Item 1 of the Reference Schedule.

TEU means a Twenty Foot Equivalent Unit where a TEU equals a 6.1 metre container.

Third Party Claim means any claim by any third person for a loss to any person or property, or economic loss arising out of or relating to any or all of the Goods, the Customer Equipment, the Services, any delay or failure in supplying the Services, or this Agreement.

Train means several units of Rolling Stock coupled together to operate as a single unit and complying with the Terminal Operating Procedure.

Train Movements mean the operation of a Train on the rail track at a time scheduled in the timetable for the predominant purposes of conveying freight and includes the empty movement of such a Train.

Train Window for each of the Customer's Trains means the period of time at which the Customer's Trains are scheduled to arrive at and depart from the IMEX Terminal as set out in the timetable notified by Terminal Operations Co from time to time.

Untimely Train has the meaning given to that term in clause 6.2(b).

Vehicle Booking System or VBS means a vehicle booking system in use in respect of the Terminal.

1.2 Interpretation

In this Agreement the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation, trust or other body corporate;

- (ii) a thing (including but not limited to a chose in action or other right) includes a part of that thing;
- (iii) a party includes its agents, successors and permitted assigns;
- (iv) a document includes all amendments or supplements to that document;
- (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this Agreement;
- (vi) this Agreement includes all schedules and attachments to it;
- (vii) a Law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
- (viii) a statute includes any regulation, ordinance, by-law or other subordinate legislation under it;
- (ix) an agreement other than this Agreement includes an undertaking, or legally enforceable arrangement or understanding whether or not in writing; and
- (x) a monetary amount is in Australian dollars and all amounts payable under or in connection with this Agreement are payable in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and severally;
- (h) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it;
- (i) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (j) in determining the time of day where relevant to this Agreement, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
 - (ii) for any other purpose under this Agreement, the time of day in the place where the party required to perform an obligation is located;
- (k) a day is the period of time commencing at midnight and ending immediately before the next midnight is to occur; and
- (l) if a period of time is calculated from a particular day, act or event (such as the giving of a notice), unless otherwise stated in this Agreement it is to be calculated exclusive of that day, or the day of that act or event.

Schedule 2 Vehicle Booking Service

1 Background

- (a) Terminal Operations Co will publish, from time to time, standard carrier terms and conditions (**Carrier Access Terms**) that will govern access by Carriers to the IMEX Terminal.
- (b) Without limitation to the Carrier Access Terms, this Schedule sets out the terms and conditions on which Terminal Operations Co will manage access by Carriers to the IMEX Terminal through the use of the VBS.
- (c) The Customer must procure that any Carrier retained by the Customer complies with the Carrier Access Terms and the terms of this Schedule.

2 VBS

2.1 VBS registration

- (a) Carriers must be registered with Terminal Operations Co in order to access and use the VBS.
- (b) By registering with Terminal Operations Co, the Carrier warrants that it is a 'bona fide' Carrier.
- (c) In order to register as a VBS user, the Carrier must complete and submit a registration form to Terminal Operations Co and must pay to Terminal Operations Co a joining fee and an annual registration fee (which is charged on 1 July each year).
- (d) Upon registration being accepted by Terminal Operations Co, the Carrier will be issued with a carrier access code which must be used for the purpose of accessing and using the VBS. 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 Associates maintain and use no more than one Carrier Access Code to make bookings through the VBS. The Carrier must not use a Carrier Access Code issued to any other Carrier.

2.2 Booking slots

- (a) The Carrier may use the VBS 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 Carrier and Terminal Operations Co that commences when the booking is made and expires upon the completion by each Party of its respective obligations under the Carrier Access Terms.
- (c) Additional slots may be advertised from time to time on the VBS, in which case the relevant carriers will be notified by Terminal Operations Co. Such slots will be available on a first come, first served basis.
- (d) Except as otherwise provided in this Agreement or Carrier Access Terms, 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 VBS to view, edit or list existing Bookings and to apply for bulk runs.
- (f) The carrier must comply with all timing and other requirements relating to a booking as confirmed during the booking process. Access to the IMEX Terminal prior to or after the relevant window will be at the discretion of Terminal Operations Co (subject to any relevant regulatory requirements). A “no show” fee may also be applicable in certain circumstances.

2.3 Information requirements

The carrier must provide all information specified in the VBS by no later than ten minutes before the truck arrives at the IMEX Terminal. Such information may include, without limitation:

- (a) with respect to the truck and driver, the Truck Identification Number and the identity of the driver of the truck in respect of the booking at the IMEX Terminal (including MSIC details); and
- (b) with respect to the relevant container, details about the relevant Train, the container number, the container dimensions / specifications, door direction, the commodity group (including, where relevant, hazardous class), whether the container is full or empty, the PRA / EIDO (as applicable) and the verified gross mass of the container, together with any other information required to be provided in accordance with SOLAS Requirements or any other legal or regulatory requirements.

2.4 VBS fees

- (a) In consideration of allowing the carrier to use the VBS and/or access the IMEX Terminal in accordance with this Agreement, the carrier must pay to Terminal Operations Co the relevant fees specified in the Carrier Tariff Schedule.
- (b) The Carrier Tariff Schedule may be varied from time to time by Terminal Operations Co, on 30-days' notice to Carriers, and otherwise in accordance with the Carrier Access Terms.
- (c) The Carrier will not be able to manifest a container on the VBS 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 Terminal Operations Co.
- (d) PDC will charge a standard set of VBS fees to all carriers being provided like for like services in accordance with this Clause 2.4 and will apply in the same manner irrespective of whether a carrier is servicing an Associated Operator or a Third Party Operator.

EXECUTED as an agreement.

Signed, sealed and delivered by **Qube RE Services (No. 2) Pty Limited in its capacity as trustee of the Moorebank Industrial Terminals Operations Trust (ACN 605 751 782)** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Signed, sealed and delivered by [the **Customer**] ACN in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)