

**INTERNATIONAL TRANSPORTATION  
SERVICE, INC. MARINE TERMINAL  
OPERATOR SCHEDULE  
No. 1  
REGULATIONS/PRACTICES/RATES**

**INTERNATIONAL TRANSPORTATION SERVICE, INC.  
1281 Pier G Way E  
Long Beach, CA 90802**

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## 1. SCHEDULE

Other than as provided in this Schedule, all rules and regulations set forth in the Port of Long Beach Tariff No. 4, or its successor, shall apply (referred to herein as the "Port of Long Beach Tariff").

In the event that an executed agreement with Rates does not exist between a CUSTOMER and OPERATOR, or for agreements that do not address specific rules, regulations, Rates, charges, and/or fees contained herein, the provisions of this Schedule shall apply.

Use of the Terminal, wharves, other facilities, or property or the receipt of Services under the jurisdiction of or provided by OPERATOR shall constitute a consent to and acceptance of the terms and conditions of this Schedule and evidences an agreement on the part of all vessels, their owners, charterers and agents, or other users or recipients of Services (including cargo and equipment) to pay all applicable charges and abide by all rules and regulations of OPERATOR and abide by the rules and regulations of this Schedule.

Except as otherwise provided in this Schedule, the applicable Rates, charges and fees shall be those in effect at the time Services are rendered, plus any interest or additional charges or fees.

Except as otherwise provided in this Schedule, the applicable rules and regulations shall be those in effect at the time the rule or regulation is applied and enforced.

OPERATOR reserves to itself the right to interpret and determine the applicability of any of the Rates, charges, or fees provided for in this Schedule and to assess charges or fees in accordance with any such interpretation and determination. OPERATOR reserves to itself the right to determine the applicability of any rule or regulation of this Schedule and to enforce any such rule or regulation in accordance with any such interpretation or determination.

This Schedule does not include an expiration date.

This Schedule is published and made available to the public pursuant to the United States Shipping Act of 1984, as amended, and shall at all times be legally enforceable as between CUSTOMER and OPERATOR. All references to a tariff, schedule, Service, etc. of OPERATOR shall be deemed to refer to this Schedule and the Rates, regulations and practices, and terms and conditions, set forth herein.

This Schedule may be changed by OPERATOR from time to time without notice.

## 2. SUBSCRIBING TERMINAL

INTERNATIONAL TRANSPORTATION SERVICE, INC.  
1281 Pier G Way  
Long Beach, CA 90802

### **3. DEFINITIONS**

“CUSTOMER” refers to any alliance, alliance member, vessel, vessel owner, carrier, agent, vessel operator, vehicle, conveyance, consignor, consignee, beneficial Cargo owner, person, Cargo, equipment, chassis, or any other person or entity, including but not limited to the agents, other providers, and other subcontractors (at any level) of any of the foregoing, who is provided with, benefits from, or receives any Services whatsoever, or person or business entity who owns or claims an interest in, right to, attachment, or lien regarding any vessel, vessel equipment, equipment, or Cargo.

“Goods” or “Cargo” refers to all cargo, goods, and other personal property items, including any equipment associated with or utilized by the foregoing, with respect to which OPERATOR is requested to and/or does perform any Services, and all packing, packaging, crates, cradles, pallets, tanks, platforms, flatbeds, trailers, containers, chassis, other equipment, and other items, materials, and supplies associated therewith, and any goods or cargo that benefits from Services at the Terminal or utilizes the Terminal. The capitalized and non-capitalized words “Goods” and “Cargo”, as well as both the singular and plural versions of each, shall have the same meaning as Goods and Cargo in this definition.

“OPERATOR” means International Transportation Service, Inc. as applicable to the Service(s) to be provided.

“Handling” means the Service of physically moving Goods at the Terminal.

“ITS” means International Transportation Service, Inc.

“Loading” and “Discharging” means the service of loading or unloading Goods between a place of rest at the Terminal and any vessel, rail car, trucks/motor vehicle, or other conveyance.

“POLB” or “Port” means Port of Long Beach.

“Port of Long Beach Tariff” or “Port Tariff” means The Port of Long Beach Tariff No. 4 or its successor.

“Rate” means a price OPERATOR will charge for providing a Service in or around the Terminal.

“Terminal” means a facility with one or more structures comprising a terminal unit owned and/or operated by OPERATOR, including, but not limited to, docks, wharves,

warehouses, covered and/or open storage spaces, cranes, buildings, other structures, property, and any equipment.

“Service” or “Services” includes checking Cargo, dockage, free time, Handling, rehandling, loading and unloading, Storage, terminal usage, wharfage, and wharf demurrage, as defined herein, as well as any other providing of, use of and/or access to a Terminal whatsoever, including any providing of, use of and/or access to personnel, labor, services, materials, supplies, tools, equipment, personal property and real property, water, electricity, and other service, supplies, or materials, and whether provided at such Terminal or elsewhere.

“Storage” means the service of providing warehouse or other terminal facilities for the storage of inbound or outbound Cargo including related equipment after the expiration of free time, if applicable, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage and refrigerated storage.

#### 4. OPERATOR’S RULES

##### 4.1 GENERAL

OPERATOR shall:

- A. Provide and perform at its respective Terminal the Services as hereinafter described for the CUSTOMER’S full and empty 20’, 40’ and 45’ sea freight containers Loaded to or Discharged from container vessels with fitted lashing equipment. Stevedoring Services for CUSTOMER’S full and empty 53’ or non-20’/40’ sea freight containers as well as non-containerized Cargo shall be subject to a surcharge and, if necessary, Extra Labor per the Schedule of Rates.
- B. Supply all necessary employees, labor, supervision, normal existing security watchman service, necessary electrical power supply system and necessary equipment based on I.S.O. standards and non-containerized stevedoring and Terminal Services.
- C. Perform stevedoring Services in accordance with the ILWU/PMA Collective Bargaining Agreement. Third shift work will be performed only if requested by CUSTOMER and accepted by OPERATOR, at CUSTOMER’S expense.
- D. Perform yard and gate Services 0800-1200 and 1300-1700, Monday through Friday (exclusive of weekends/holidays). Yard and gate Services outside these hours may be performed, if requested in writing by CUSTOMER and accepted by OPERATOR, at CUSTOMER’S expense.

- E. Maintain connectivity with the Automated Commercial Environment (ACE). OPERATOR and CUSTOMER mutually agree to participate in voluntary security “partnership” programs or other initiatives as developed by U.S. Customs, U.S. Coast Guard or other state or federal regulatory agencies.

#### 4.2 VESSEL STEVEDORING

OPERATOR shall:

- A. Plan Discharging and Loading sequences of containers, as well as non-containerized Cargo, in accordance with the inbound stowage plan and the pre-stow instructions of CUSTOMER.

All or part of CUSTOMER'S outbound containers may be mix-stowed with CUSTOMER'S, or any other containers, for the same discharging port.

Master or CUSTOMER'S agent shall approve the loading plan prior to commencement of Loading.

- B. Prepare and furnish to CUSTOMER appropriate outbound container stowage plan.
- C. Lash or unlash containers, as well as non-containerized Cargo, stowed on or under deck of vessels.
- D. Discharge inbound containers from vessels and deck them in the Terminal or keep them on wheels per OPERATOR'S operational requirements.

Inbound intermodal train containers may be decked or wheeled per OPERATOR'S discretion at an area in the Terminal designated by OPERATOR for special release.

- E. Dray outbound containers from a point of rest in the Terminal to the berth, load to and stow them onboard vessels.
- F. Discharge non-containerized Cargo from vessels or load to and stow non-containerized Cargo onboard vessels. Additional expenses related to such Service shall be billed per the Schedule of Rates.
- G. Shift containers from a cell to another cell or on-land containers and re-load them onboard vessels as per CUSTOMER'S instruction. A surcharge shall apply.

Change of discharging port, optional stowage, etc., shall be for CUSTOMER'S account. Expenses for shifting/rehandling i.e., set-asides of each related container shall be for CUSTOMER'S account.

- H. Plug or unplug electrical connections for reefer containers onboard vessels per throughput reefer move. A minimum of one (1) Plug (Export) or Unplug (Import) fee shall be billed per the Schedule of Rates.
- I. Check and record the movement of containers and non-containerized Cargo on and off vessels and shifted onboard vessels, taking damage exceptions where possible from visual inspections. When exceptions are noted, a report shall be promptly provided.

#### **4.3 GANG ORDERING AND BERTHING OF VESSELS**

- A. OPERATOR will assign a berth as available upon the arrival of CUSTOMER'S container vessel and, unless otherwise agreed between OPERATOR and CUSTOMER, start vessel's operation at the commencement of the next 1<sup>st</sup> or 2<sup>nd</sup> shift succeeding the vessel's arrival at the Terminal.
- B. OPERATOR shall, unless otherwise agreed, decide the number of gangs to order after consulting with CUSTOMER in advance.
- C. Labor gang(s) will be ordered by OPERATOR on the basis of the latest ETA given by CUSTOMER before closing time to file/cancel labor gang orders for the anticipated working shift.
- D. If requested by CUSTOMER, OPERATOR will order gangs for a vessel known to be arriving after beginning the work shift, provided that CUSTOMER is responsible for standby costs associated with a delayed arrival.
- E. OPERATOR will arrange gang(s) for 3<sup>rd</sup> shift upon request of CUSTOMER. Any labor standby, detentions (except those caused by OPERATOR or his equipment), and deadtime incurred on 3<sup>rd</sup> shifts shall be for the account of CUSTOMER.
- F. Extra labor will be for CUSTOMER'S account.
- G. OPERATOR shall not be responsible for shortage of or inability to obtain labor gang(s) or labor.

#### **4.4 CONTAINER YARD ACTIVITY**

- A. OPERATOR shall:

1. All full outbound and inbound containers, as well as empty containers, will be decked in the container yard except for those the OPERATOR chooses to be kept on wheels such as, but not limited to, hazardous Cargo, live reefers and over-dimensional Cargo, flat racks, and tanks, at OPERATOR'S discretion. However, OPERATOR may wheel certain containers to achieve or meet turn time goals provided chassis and space are available.
2. Deliver containers to be released to truckers and deck containers received from truckers, except those to be kept on wheels per OPERATOR'S operational requirements and described in Section 4.4 A. 1.
3. Plug and unplug (or the reverse) each reefer container entering (Export) or exiting (Import) the yard. A minimum of two (2) charges shall apply for each container. OPERATOR shall monitor temperatures and ventilation settings on the reefer units approximately every twelve (12) hours, and report to CUSTOMER any discrepancies found as soon as practicable. The documentation shall be kept by the OPERATOR and provided to the CUSTOMER upon request. Check temperatures of export (outbound) reefer containers received through the gate per the receiving procedure as mutually agreed upon.

**B. Release of Local Delivery Containers**

Containers will become available to pick-up at the start of the next working shift subsequent to 3:00 a.m. after each container has been discharged from the working vessel, provided all release criteria contained in the system of the OPERATOR have been met and import pick-up appointment has been secured.

**C. Release of Empty Containers**

Empty containers will be decked for delivery to truckers or for loading to vessels by container type and size. OPERATOR will not release empty containers by number for off-leasing or any other purpose.

In the event the release of specific empty containers is requested and granted by OPERATOR, CUSTOMER shall be accountable for all shifting/rehandling fees to/from for each related container to access target empty container(s).

**D. Live Reefer Containers, Hazardous Containers, Over-Dimension Containers, Late and Early Received Outbound Containers**

Live reefer containers, containers with certain classes of hazardous materials, over-dimension containers, outbound containers received after cut-off and outbound containers received for other than the immediate vessel will be kept on wheels on the Terminal per OPERATOR'S operational requirements.

If CUSTOMER'S reefers require halide testing per the by PMA/ILWU established reefer halide testing procedures, CUSTOMER shall be responsible for all costs. Daily Storage fees for failed halide test container shall be applicable and for the account of CUSTOMER. In the event halide testing delays and causes standby or rehandling in the yard and/or against the vessel, CUSTOMER shall be accountable and billed at the Extra Labor Rate, which is additional to the halide test and Storage fees, if any.

**E. Receiving of Outbound (Export) Containers**

In order for OPERATOR to receive an outbound loaded container prior to the free time for a scheduled vessel, CUSTOMER must consent to the applicable wharf demurrage charges. Free time allowed and wharf demurrage charges are set forth in the Port of Long Beach Tariff and may be changed from time to time at the discretion of the Port of Long Beach.

Bare chassis drayed out of the Terminal after the decking of an outbound full or empty container are subject to the normal gate processing, equipment interchange receipt ("EIR") issuing and fees, if applicable.

**F. In Yard Shifting/Rehandling**

If CUSTOMER request that a container be shifted or rehandled for whatever reason e.g., rolls, vessel change, return to shipper, the applicable Rate shall be applied to the target container and each non-target container move to/from its location.

**G. In-Yard Drayage of Container**

OPERATOR will perform in-yard drayage of containers per CUSTOMER'S request, per the requirement of any government agency, or per maintenance and repair needs, at CUSTOMER'S expense. Charges for additional drayage regarding the same equipment shall be for the account of CUSTOMER.

**H. Chassis Switch/Flip**

OPERATOR will perform billable chassis switches for Terminal wheeled Cargo such as, but not limited to, out of gauge ("OOG"), hazardous, reefer, flat racks, tanks and trucker requested switches due to trucker owned chassis

or CUSTOMER owned/leased chassis, damaged chassis or shortage of genset chassis. OPERATOR will bill the CUSTOMER for all switches. CUSTOMER shall not be released of any chassis switch responsibility and fees due to the use of third party chassis pools. Any chassis switch caused by the negligence/fault of OPERATOR or Terminal convenience shall be for the account of OPERATOR.

**I. Storage of Containers and Chassis**

Inbound and outbound full containers will be stored in the Terminal subject to the Rates, rules, and regulations of wharf demurrage, wharf Storage and free time in the Port of Long Beach Tariff. If CUSTOMER requests OPERATOR to collect port demurrage, OPERATOR shall forward CUSTOMER'S demurrage fees less the Port Tariff fees and less 10% of CUSTOMER'S total demurrage collected. If CUSTOMER waives/guarantees/extends demurrage, CUSTOMER remains responsible and will be invoiced the Port Tariff fee.

CUSTOMER will work with OPERATOR to minimize empty container Storage at the Terminal. In the event that storage exceeds the allowance, OPERATOR shall invoice CUSTOMER per the Schedule of Rates. Once the allowance is exceeded, OPERATOR may ask the CUSTOMER to redirect empty containers to other facilities. OPERATOR will have the right to cut-off empty returns if the allowance is exceeded after prior notification to CUSTOMER. In special circumstances i.e., construction, crane moves, when empty container volume is negatively impacting operation, OPERATOR may require CUSTOMERS to mitigate empty container returns to the Terminal or redirect empty containers to other facilities.

CUSTOMER shall ensure that the third-party chassis provider will have the necessary quantity of chassis available for CUSTOMER Cargo and Cargo which is required to be on wheels such as, but no limited to, reefers, hazardous, non-containerized Cargo, flat racks, and tanks. In the event that the chassis provider does not supply the chassis and CUSTOMER Cargo is mounted on another chassis provider's equipment, CUSTOMER shall be subject to any applicable daily fees. CUSTOMER will also be responsible for switching to the correct chassis as soon as possible and at CUSTOMER'S expense. In no case shall OPERATOR be responsible for chassis usage fees.

Any unidentified chassis remaining on the Terminal and linked to CUSTOMER by yard and gate transaction history shall be the responsibility of CUSTOMER regardless of chassis ownership.

**J. Government / Carrier Inspections**

CUSTOMER shall be accountable for expenses related to inspections conducted by OPERATOR, including but not limited to, Customs and Border Patrol (“CBP”) inspection guidelines and any inspections that CUSTOMER requests.

CUSTOMER guarantees all inspection fees as stated in the Schedule of Rates and will be invoiced directly by OPERATOR.

OPERATOR will make reasonable commercial efforts to notify the CUSTOMER of pre-notified CBP inspections, but whether notified or not, CUSTOMER shall remain accountable for these inspection fees.

Government fees are based on straight time (ST). Any additional costs i.e., CBP overtime differentials, additional manning, materials, equipment required to complete the inspection to move CUSTOMER cargo shall be for the account of the CUSTOMER.

#### **4.5 GATE ACTIVITY**

OPERATOR shall:

- A. Receive full or empty containers on chassis, as well as bare chassis at in-gates per CUSTOMER'S instructions. No physical inspection of chassis will be performed at in-gates. OPERATOR shall make a cursory remote visual inspection of appearance of the containers and chassis and shall take exception notations for obvious damages or defects (found through such cursory visual inspection) on the interchange receipt with the following criteria:

In case of containers, if such damage or defects affects:

1. Basic structural integrity.
2. Normal Handling and transportation due to a decrease in structural strength or a deformation in excess of ISO external dimension tolerances.
3. Substantial decrease of the inside cubic volume due to a deformation.

In case of chassis:

4. Major structural damage.

Whether noted or not, OPERATOR will not be responsible for damages or defects to containers or chassis.

- B. In case of gate receipt OOG containers, OPERATOR shall report any discrepancies noted to the CUSTOMER-provided booking information, including:
  - 1. Any over-height, over-width and over-length information not included in the booking information.
  - 2. Any obstacles obstructing the safe loading of the OOG containers such as corner castings not accessible, no cell-guide clearance, etc.
  - 3. Any loose lashing or shifting of the Cargo.
  - 4. Any other requirements for the safe loading of OOG containers.
- C. OPERATOR shall comply additionally with the following regarding OOG containers:
  - 1. Advise CUSTOMER of above discrepancies to prevent delays in loading to vessel.
  - 2. Provide vessel with prestow information indicating vessel load locations of OOG containers.
  - 3. Measure (to the best of OPERATOR'S ability) the oversize (over-height, over-width and over-length) dimensions after receipt of each OOG container and list the same on the Exception List and departure Baplie File (attachments to the bay plans).
- D. OPERATOR, however, will not receive the following containers:
  - 1. Overweight containers exceeding the max-gross weight of the container as marked on the container.
  - 2. Hazardous containers with the presence or release (including a threatened release) of hazardous substances inside and/or outside of the container in violation of any laws, statutes, ordinances, regulations, rules or other governmental requirements.
  - 3. Hazardous containers without accompanying proper documentation mutually agreed upon.
  - 4. Hazardous containers without proper placards, unless OPERATOR is authorized to affix placards at CUSTOMER'S expense.
  - 5. Flat rack or open-side containers with the Cargo not properly stowed and/or secured for trans-Pacific carriage.

6. Empty containers having placards for hazardous material remaining on the container, unless OPERATOR is authorized to remove placards for hazardous materials at CUSTOMER'S expense.

All outbound containers shall be received prior to the cut-off time, which is the end of the first shift on the weekday (Mondays through Fridays, exclusive of holidays) prior to the commencement of vessel operations or an alternative schedule that is mutually agreed upon between OPERATOR and CUSTOMER. If, in its sole discretion, OPERATOR accepts a container past the cut-off time, the late receiving charge as specified in the Schedule of Rates of this Schedule will apply.

- E. Release full or empty containers at out-gates per CUSTOMER'S instructions.

Import (inbound) containers will only be released upon receipt of electronic release authorization from CUSTOMER or its agent.

Empty containers to cover export bookings may be released from the Terminal.

Dray carriers are responsible to take exceptions upon leaving the Terminal for damages or defects found to CUSTOMER'S equipment, which OPERATOR will note on the interchange receipt.

OPERATOR shall provide an EIR, request seal numbers from dray carriers, and record seal numbers on loaded containers. OPERATOR will affix seals on containers where a seal is noted to be missing or damaged and will keep records of seal numbers for containers inbound and outbound in that category. OPERATOR will notify CUSTOMER immediately of any broken or missing seals.

- F. Record seal numbers on loaded containers.
- G. Weigh all outbound full containers received through Gate.
- H. Receive and deliver non-containerized Cargo at an area in the Terminal designated by OPERATOR. Charges shall be billed as Extra Labor to the CUSTOMER.
- I. Require full payment of the wharf demurrage/Storage for each inbound container (or outbound, if applicable) prior to container's release from the Terminal.

- J. Offer voluntarily roadability. In the event that roadability is regulated or mandated, OPERATOR shall promptly advise CUSTOMER of such changes and the rates applicable shall, as a consequence, be established and assessed by OPERATOR of which payment shall not be unreasonably withheld by CUSTOMER. CUSTOMER'S truck turn times will be impacted by these repairs. OPERATOR shall not be held responsible for any costs related to the cargo delays resulting from roadability repairs.
- K. Identify all 3<sup>rd</sup> gate moves or non-vessel related gate moves such as, empty repositioning, gate to train, train to gate, gate in/out without vessel move. Such moves shall be for the account of the CUSTOMER and invoiced periodically per the Schedule of Rates.

#### **4.6 MAINTENANCE AND REPAIR OF CUSTOMER'S EQUIPMENT**

At OPERATOR'S discretion, OPERATOR may provide minimal and essential maintenance and repair services at the Terminal for CUSTOMER'S equipment.

- A. CUSTOMER will pre-authorize OPERATOR an automatic repair limit of \$500 per container. Repairs exceeding \$500 shall require authorization from the CUSTOMER excluding reefer live loads.
- B. When CUSTOMER requests and OPERATOR agrees to perform maintenance and repair services in excess of Section 4.6.A. above, CUSTOMER shall make decisions on the repair status of containers within 48 hours after CUSTOMER receipt of estimate. If authorization to repair is not received during this time, CUSTOMER must immediately dray off dock the damaged container(s) at CUSTOMER'S expense. Notwithstanding the aforementioned, any heavily damaged container exceeding 7 days within the Terminal shall be drayed off-dock immediately by and at the expense of CUSTOMER. OPERATOR shall not charge for estimates and drayage if CUSTOMER authorizes work. If estimated work is not authorized to be performed by OPERATOR, per above conditions, OPERATOR shall charge CUSTOMER for the cost of estimates, any photos and drayage incurred per container.
- C. If trucker utilizes roadability, an 8-point inspection shall be completed on the chassis and billed to the chassis provider unless CUSTOMER owns/leases the chassis and is legally responsible for repairs. Ownership shall be determined by the Pool of Pool equipment master list and, when necessary, the responsible party listed on Global Intermodal Equipment

Registry (GIER). Any container repairs shall be for the account of the CUSTOMER.

- D. Due to the significance and value of reefer live loads, such repairs shall be completed automatically regardless of automatic repair limits per Section 4.6.A.
- E. When required by PMA/ILWU, halide testing shall be performed and billed to CUSTOMER per the Schedule of Rates. In the event halide testing delays and causes standby in the yard and/or against the vessel, such costs and delay shall be for the account of CUSTOMER.
- F. Any loading/unloading of CUSTOMER'S equipment to and from flatbeds shall be billable to the CUSTOMER.
- G. Mechanic hourly rate is based on 1<sup>st</sup>/2<sup>nd</sup>/1<sup>st</sup>&2<sup>nd</sup> OT shifts excluding Shorepower or Cold Ironing hourly rates. Repairs completed on third shift shall be billed per the Schedule of Rates.
- H. All other maintenance or repairs not mentioned above or on the M&R Schedule of Rates shall be billed at Man Hour rates + materials + equipment + 20%.

#### 4.7 ON-DOCK DST (DOUBLE STACK TRAIN)

OPERATOR, if requested by CUSTOMER, may provide on-dock train loading and discharging services for CUSTOMER'S dedicated on-dock train service of which terms and conditions shall be set forth in this Schedule at Section 32.

#### 4.8 SPECIAL CONTAINER SERVICE

Charges for Special Container Service shall be issued in accordance with those categories listed within the Schedule of Rates, inclusive of additional Services, e.g., inspections of containers and Cargo, except as otherwise provided, at Rates per the Schedule of Rates. The receiving and delivery of breakbulk Cargo, not directly discharged from a truck to the vessels or loaded directly to the vessel from a truck shall be charged to CUSTOMER per the Schedule of Rates.

### 5. **CUSTOMER'S OBLIGATIONS**

5.1 CUSTOMER shall provide OPERATOR with all necessary information and instructions to allow OPERATOR to provide efficient Services, such as:

A. Inbound (Import)

1. Stowage Plan and Special Instructions.
2. Reefer and Dangerous Cargo Manifests.
3. Awkward Cargo List, including details of awkward containers and non-containerized Cargoes.
4. A list of landbridge or near-dock double stack train (“DST”) containers and particulars of truckers, destination, scheduling, etc. as agreed between CUSTOMER and OPERATOR.

CUSTOMER shall transmit all U.S. import stowage plan data along with all container and U.S. import Cargo manifest data via an EDI format acceptable to OPERATOR. Such transmission of data shall be received by OPERATOR no less than 72 hours prior to the ETA of each applicable arriving vessel.

B. Outbound (Export)

1. Booking information regularly updated, inclusive of written instructions for dangerous Cargoes. CUSTOMER and OPERATOR shall close-out all booking information on a weekday (Mondays through Fridays, exclusive of holidays) at the time mutually agreed upon. OPERATOR shall follow the agreed upon close-out times and will be advised of such by CUSTOMER.
2. Details of dangerous Cargo, awkward containers and non-containerized Cargo.
3. One (1) copy of the trucker’s Container Load Plan, if applicable.
4. Outbound pre-stow plan as soon as available and at least eight (8) hours prior to the commencement of vessel loading operations.
5. A list of all landbridge containers and requirements, if applicable.
6. CUSTOMER warrants that it is authorized by its shipper(s) as shipper’s agent to use and verify OPERATOR scale weights as SOLAS compliant verified gross mass (“VGM”) weights. CUSTOMER authorizes OPERATOR to use these

weights and CUSTOMER hereby verifies such weights in the absence of a separately provided VGM.

C. General

1. CUSTOMER shall advise OPERATOR of vessel schedules and ETAs in advance and shall notify OPERATOR of any changes as they occur in sufficient time in order that OPERATOR can properly plan the yard and berthing space.
2. CUSTOMER shall coordinate with OPERATOR regarding information on delivery and receiving schedules in advance and shall maintain cut-off times in order to allow for the OPERATOR'S preparation for container Handling.
3. CUSTOMER shall provide OPERATOR, reasonably in advance, with any other special instructions for yard and/or gate operations to enable OPERATOR to prepare its operation plan to comply with such instructions.
4. CUSTOMER shall provide OPERATOR, via EDI fleet file transmission of its owned and leased containers and chassis to be handled on the Terminal specifying numbers, types and sizes of equipment.
5. CUSTOMER shall provide OPERATOR, by confidential means, advanced written notification of the following:
  1. Bullion or precious metal objects
  2. Precious stones or precious jewelry
  3. Bank notes or coins
  4. Bonds or negotiable instruments or securities of any type
  5. Valuable works of art
  6. Bloodstocks
6. CUSTOMER shall submit all port required Cargo data to the applicable Port of Long Beach department for wharfage analysis.
7. CUSTOMER shall agree to the Port of Long Beach's Environmental Tariff and/or the Terminal's environmental requirements as set forth by the Port, City, State or Federal agencies.
8. CUSTOMER shall advise OPERATOR of its intentions to plug CUSTOMER shorepower equipped vessel to wharf side Terminal Shorepower Outlets (SPO) of which terms and conditions shall be set forth under separate agreement.

9. If CUSTOMER chooses an alternative strategy to Shorepower connection, CUSTOMER agrees to notify OPERATOR in advance to properly coordinate alternative operation with Terminal. If CUSTOMER'S alternative strategy requires Terminal to provide space, labor, equipment and management, costs shall be for the account of the CUSTOMER and billed under Extra Labor unless otherwise agreed.

## **5.2 CUSTOMER CHASSIS**

CUSTOMER shall arrange for sufficient chassis to be provided. OPERATOR shall not be held responsible for any costs incurred by CUSTOMER caused by inadequate chassis supply or OPERATOR'S use of chassis on the Terminal.

CUSTOMER will be responsible and accountable for certain chassis related Services provided by the OPERATOR., including:

- A. Chassis switches/flips per Section 4.4 H. shall be for account of CUSTOMER.
- B. Any request by CUSTOMER to OPERATOR shall be at CUSTOMER'S expense. Such requests include, but are not limited to, bare chassis terminal drayage, bare chassis out gate release, and bare chassis holds.

## **5.3 ELECTRONIC DATA INTERCHANGE (EDI)**

CUSTOMER shall establish EDI access to OPERATOR'S computer system for transmitting Outbound booking information and releases of inbound containers, as well as receiving gate activity data. The parties agree to transmit activity messages, principally terminal operations activity messages, within two (2) hours of the occurrence of the event. The requirement is to be met throughout the week including weekends and public holidays.

Computer services beyond normal terminal operator's functions may be provided by OPERATOR at CUSTOMER'S expense.

CUSTOMER shall maintain its ship, gear, and equipment in a safe condition in full compliance with all the requirements of Pacific Coast Marine Safety Code (PCMSC), United States Public Law 85-742 and O.S.H.A. regulations.

## **5.4 GOVERNMENT REGULATIONS/REQUIREMENTS/PROGRAMS**

CUSTOMER shall satisfy, abide and follow the various ocean vessel or container ship related regulations, requirements and programs implemented by the port, as well as city,

state, and federal regulatory agencies. Unless otherwise stated, such costs shall be the sole burden of the CUSTOMER.

CUSTOMER shall also be responsible for any additional government costs assessed to the Terminal to clear the Cargo for out gate. Additional to inspections and exams, such costs could be for additional manning, government equipment leasing costs, overtime, etc. If billed to OPERATOR, OPERATOR shall pass through the costs to CUSTOMER unless special administrative steps are required. In this case, invoicing shall be completed on an Extra Labor basis.

#### **5.5 HAZARDOUS SUBSTANCES**

Hazardous substances, as used herein, shall mean any hazardous, toxic, dangerous, or extremely dangerous substance, material or waste which is or becomes regulated by the United States government, the State of California, or any local governmental authority. The term includes, without limitation, any substances containing constituents regulated as specified above.

CUSTOMER shall notify OPERATOR of any container with Cargo containing any hazardous substances and CUSTOMER shall be fully responsible for the proper and lawful transportation of the Cargo.

In the case of outbound containers, OPERATOR will make commercially reasonable efforts to detect and reject receiving such containers with the presence or release (including the threatened release) of hazardous substance in violation of any laws, statutes, ordinances, regulations, rules and other governmental requirements.

#### **5.6 HAZARDOUS AND NON-HAZARDOUS MATERIAL RESPONSE**

CUSTOMER shall have the full and sole responsibility, at its expense, to manage and prepare all arrangements for the immediate remediation and removal of leaking, damaged or exposed hazardous or non-hazardous Cargo from the Terminal and for damaged (including leaking) non-hazardous Cargo remediation, transloading or removal from the Terminal. Such arrangements shall include but not be limited to: discussions with shippers, consignees or other responsible parties; contracting with all required vendors to complete the process described above; providing consistent status updates to OPERATOR; providing all applicable and/or required documentation of container and compensation to OPERATOR for all labor, equipment rental and materials provided during OPERATOR'S assistance with remediation efforts as may be agreed by and at the sole discretion of OPERATOR.

While responsibility always remains with CUSTOMER, if and when OPERATOR detects and/or determines that: (1) there is a leak or spill of a hazardous or non-hazardous chemical or substance; (2) a container is giving off an odor; or (3) a container has significant damage or has been involved in an incident that poses a risk or threat to the Terminal, environment, or employees, OPERATOR shall notify CUSTOMER and promptly take such action as is

necessary and possible by OPERATOR to mitigate and correct the violation. These actions will be at CUSTOMER'S sole expense.

CUSTOMER shall be fully responsible for the treatment, Handling and disposal of such hazardous and non-hazardous containers and shall indemnify and hold OPERATOR harmless from and against all liabilities, expenses, governmental agency fines, citations and/or violations, losses or claims resulting from the release and/or disposal of hazardous substances, except in any case whereby OPERATOR, or its employees, agents or sub-contractors, is deemed negligent by competent independent authority.

#### **5.7 Quality / Hazardous Materials Procedures / Requirements**

- A. OPERATOR may require CUSTOMER (including its subcontractors and agents) to confirm and describe in writing how they will comply with assigned responsibility as set forth in government safety-related codes or standards as they specifically apply to CUSTOMER.
- B. CUSTOMER agrees, with respect to shipments of hazardous materials / dangerous Goods which are being transported pursuant to CUSTOMER'S bill of lading, that CUSTOMER will review booking information supplied by CUSTOMER'S individual customers for compliance with current applicable IMDG Code / 49 CFR parts 100 to 199 provisions.

#### **6. EXTRA WORK/LABOR**

When requested by CUSTOMER, OPERATOR may perform extra work not mentioned within this Schedule at terms and conditions acceptable to OPERATOR and in accordance with applicable union collective bargaining agreements, the ILWU/PMA rules and governing regulations including the Port of Long Beach Tariff. Extra Work or Extra Labor will be billed at total man-hour billing Rates plus equipment rental Rates plus cost of materials plus 20%.

#### **7. TRAFFIC MITIGATION FEE**

Each piece of Equipment that enters or leaves the Terminal shall be subject to all of the Schedules published from time to time by West Coast MTO Agreement on behalf of its marine terminal operator members under authority of Federal Maritime Commission Agreement No. 201143. SEE: <https://www.pierpass-tmf.org/>, including but not limited to the assessment as applicable of a traffic mitigation fee (the "TMF") as per the attached Schedule of Rates. For purposes of this Section 7, "Equipment" means: a container, laden or unladen, including dry cargo, ventilated, insulated, and refrigerated; flat racks; vehicle racks; liquid tanks; open top containers without chassis; vans; and any bare chassis.

#### **8. LABOR STANDBY, DETENTIONS AND DEADTIME**

Any labor standby, detention, and deadtime in vessel stevedoring shall be for the account of CUSTOMER unless caused by specific fault or negligence of OPERATOR or separately agreed per the Schedule of Rates.

## **9. COMPENSATION**

CUSTOMER shall compensate OPERATOR for the performance of the Services described herein in accordance with this Schedule and the Schedule(s) of Rates attached hereto and will reimburse OPERATOR for documented charges paid on its behalf. CUSTOMER shall compensate OPERATOR for all chargeable stevedoring labor delays, deadtime, extra labor, and Services. Payments shall be made in U.S. funds via wire transfer with advance notice of invoice details, not later than thirty (30) days after receiving the undisputed invoice. Invoices shall be forwarded to CUSTOMER via electronic mail. If CUSTOMER disputes any invoices, then CUSTOMER shall notify, in writing, OPERATOR within 15 days after receiving such invoices. While disputed item is under review, CUSTOMER shall continue to pay the undisputed balance within the 30-day terms. In the event that payment against any undisputed invoice occurs after 30 days, CUSTOMER agrees to pay interest of outstanding sums at prevailing bank prime interest rates. Port of Long Beach Tariff items; such as, Wharf Storage and demurrage, are to be settled per Port of Long Beach Tariff rules and regulations.

OPERATOR at its own discretion, may temporarily discontinue or cut-off certain services including withholding demurrage refunds or collections to the CUSTOMER based on the age of unpaid invoices. OPERATOR shall be forced to exercise these options if OPERATOR has forwarded multiple invoice copies to the appropriate CUSTOMER personnel or CUSTOMER has not disputed invoices in writing with specific details or balance remains over 30 days for three (3) consecutive months. Further, OPERATOR shall have the right to take or set-off any or all sums held on CUSTOMER'S behalf for direct, indirect and acquired obligations including debts that CUSTOMER owes to OPERATOR regardless of the source of funds held by OPERATOR on CUSTOMER'S behalf. OPERATOR shall not be required to provide CUSTOMER with any prior notice to exercise this right of set-off.

### **9.1 RATES**

- A.** The Rates specified in the Schedule of Rates shall, unless otherwise provided, cover all costs of the following items:
  - 1.** Shoreside container gantry cranes for Handling of containers within capacity of cranes, as well as other equipment required for normal vessel's operation and terminal work for Handling of containers.
  - 2.** The cost of longshore, clerk, mechanic labor, and supervision in the yard and at the gate (except for maintenance and repair of CUSTOMER'S equipment). Such cost to include Worker's Compensation, insurance and taxes, all Pacific Maritime Association ("PMA") man-hour assessments, car fares, as well as time contractually or customarily guaranteed to personnel on a

normal shift. Any Services outside of the regular working hours on day shifts (Mondays through Fridays, exclusive of holidays), upon request of CUSTOMER and acceptance of OPERATOR, shall be performed subject to shift differentials in the Schedule of Rates.

3. All Services performed for containers in connection with a normal vessel's operation during the first, second and third shifts, including Saturday, Sunday and holidays. Such costs to include Worker's Compensation, insurance and taxes, all PMA man-hour assessments, car fares, as well as time contractually or customarily guaranteed to personnel on a normal shift.

B. The following items are expressly understood to be EXCLUDED from the Rate listed in the Schedule of Rates:

1. Wharf Storage and demurrage charges to be billed CUSTOMER according to the Port of Long Beach Tariff.
2. Dockage.
3. PMA tonnage assessments, for which CUSTOMER shall be fully responsible and pay assessments directly to the PMA.
4. OPERATOR'S computer services beyond normal terminal functions.
5. Cargo penalties and fees as assessed.

9.2 All charges contained herein shall be invoiced only to CUSTOMER, shall be the sole responsibility of CUSTOMER and shall not be subject to pro ration or assignment, neither all or in part, to any other party. Invoices shall be paid in full under the conditions set forth herein only by CUSTOMER.

## **10. LIEN PROVISIONS AND SECURITY INTEREST**

10.1 CUSTOMER grants OPERATOR a lien on the Cargo while in the possession of OPERATOR and a lien against any vessel, container, chassis, Cargo, and any Equipment, as the term is defined in Section 7, (individually and collectively, "Available Security") to provide security for the payment of amounts due OPERATOR hereunder. As additional security for said amounts due OPERATOR, CUSTOMER grants OPERATOR a consensual lien on all Available Security of CUSTOMER concurrently or subsequently in OPERATOR'S possession. OPERATOR may assert its lien rights at any time, and in furtherance thereof may hold and/or store such Available Security until payment is received and/or sell such Available Security publicly or privately; in the event of sale, proceeds shall first be applied to sale costs, then to amounts due OPERATOR, with the balance, if any, to be remitted to CUSTOMER.

## 10.2 STORAGE AND WAREHOUSING

The following terms and conditions shall apply with respect to any storage or warehousing terminal services:

- A. Access/Use: All CUSTOMER access to and/or use of OPERATOR'S facility or services, for purposes of storage/warehousing or otherwise, shall be subject to the provisions of this Schedule:
- B. Rates and Charges: CUSTOMER shall pay for storage and/or warehousing services upon the rates and charges on OPERATOR'S written quotation, Schedule of Rates, Port of Long Beach Tariff, or other document that is approved by OPERATOR'S senior management in writing (collectively, "Applicable Rate"), which Applicable Rate from OPERATOR shall be deemed accepted by CUSTOMER upon commencement of any performance by either party. Upon any such acceptance, OPERATOR'S Applicable Rate shall be deemed fully incorporated herein and binding upon the parties. If no rate or charge was quoted or otherwise identified to OPERATOR for a particular terminal service, the rate/charge to be applied shall be OPERATOR'S rates and charges specified herein.
- C. Warranties: CUSTOMER warrants that it is the owner and/or has lawful possession of the Cargo and that it has sole legal right to store and thereafter direct the release and/or delivery of the Cargo. CUSTOMER agrees to indemnify, defend, and hold harmless, including attorney's fees, OPERATOR of and from any claim by others relating to the ownership, storage and release of the Available Security, and/or any other services provided by OPERATOR.
- D. Lien: OPERATOR shall have a lien on all Available Security in its possession for any charges for services rendered, storage, demurrage and any other charges due, including all costs and legal fees associated with collection of amounts due and enforcing this lien, or any other sums whatsoever payable by or chargeable to or for the account of Available Security under any bailment, receipt or other document issued by OPERATOR, and any contract preliminary hereto and any sums owed to OPERATOR by the person responsible for the account of Available Security or any affiliates thereof on prior accounts or shipments, and the cost and expenses of recovering the same (for purposes of this Section 10, all such charges, fees and costs collectively the "Charges and Costs"), and may hold any or all of the Available Security until all such Charges and Costs are fully settled.

If the Charges and Costs are not fully settled by the time of the Cargo release, or if the Available Security is otherwise unclaimed, after a reasonable time not to exceed thirty (30) days after arrival at the Terminal, or the time set forth in any Applicable Rate provision, OPERATOR may sell the Available Security privately or by public auction, or otherwise dispose of such Available Security, ten (10)

days after sending the owner of record notice, via letter (U.S. Mail, postage prepaid, return receipt requested) or by actual notice by any appropriate means, of the amount of Charges and Costs owed, the date of sale and a statement informing the registered owner that if the Charges and Costs are not fully settled by the date of sale any or all of the Available Security will be sold and the proceeds of such sale will be used to settle the Charges and Costs owed plus the costs of the sale. If the owner of record does not fully settle the outstanding Charges and Costs within ten (10) days of the mailing of the notice letter or giving actual notice, the sale will proceed as described in the notice. If the sale proceeds fail to cover the outstanding Charges and Costs, OPERATOR may recover the deficit from the party responsible for such Charges and Costs, or its affiliates owing any unsatisfied portion thereof. Sale proceeds beyond the Charges and Costs owed will be returned to the registered owner if claimed within one (1) year of the mailed notice.

- E. Security: In addition, CUSTOMER grants a security interest to OPERATOR in the Available Security and all proceeds derived from the Available Security for all charges and expenses (including money advanced and interest), whether incurred before or after delivery, and CUSTOMER agrees to execute and deliver all such documents as may be required to perfect such security interest. If Available Security is transferred from one party to another, and should the charges relating to such Available Security not be paid in full on the date of such transfer, the lien for such charges shall attach to the Available Security retained by the transferor and to Available Security transferred to the transferee. In the event a proceeding is brought by one party against the other to enforce any provisions herein, the prevailing party shall be entitled to legal fees and costs.
- F. Removal: OPERATOR may, upon thirty (30) days' notice to CUSTOMER, with or without cause, require removal of the Available Security or any portion thereof and payment of all charges, whether or not there has been default. If the Available Security is not removed, OPERATOR may sell the Available Security and exercise any other rights it may have by law. Without limiting the foregoing, OPERATOR may require the removal of the Available Security or any portion thereof upon ten (10) days' notice if, in its opinion, the Available Security has or may have deteriorated in value to less than the amount of OPERATOR'S lien on such Available Security.
- G. Liability: Liability for loss or damage to Cargo resulting from our failure to exercise due and proper care in performing the services provided for herein, incurred during the handling, loading, unloading, receipt, delivery, or storage of such Cargo on the terminal at any time, including applicable free time, shall not exceed \$500.00 (US) per package or customary freight unit, unless the value of the Cargo has been declared and other arrangements made with OPERATOR prior to its taking custody of, or assuming responsibility for the Cargo.

No provision contained in this schedule shall relieve OPERATOR from liability for its own negligence nor require any user to indemnify or hold harmless OPERATOR for liability for its own negligence.

OPERATOR shall be liable only for damage resulting from its failure to exercise due and proper care in performing the services provided for herein. In no case shall OPERATOR be liable for a sum in excess of \$500.00 per package or per customary freight unit unless the trucker, shipper, Cargo owner or consignee or their representatives, prior to the commencement of such services, declares in writing a higher value and OPERATOR has agreed to accept such increased limits prior to OPERATOR taking custody of, or assuming responsibility for the Cargo, or other arrangements are made in writing with OPERATOR prior to its taking custody of or assuming responsibility for the Cargo.

In no event shall CUSTOMER be entitled to receive any special, incidental or consequential damages of any type or nature.

- H. Insurance: Stored Available Security is not and shall not at any time be insured by OPERATOR. Charges do not include any insurance coverage for Available Security stored or warehoused at the terminal facility.
- I. Application: In the event of any inconsistency between the foregoing provisions and any Applicable Rate provision, the foregoing provisions shall govern and apply in full.

## 11. INDEMNITY

- 11.1 CUSTOMER specifically understands, acknowledges and agrees that any and all providing of, access to and/or use of the Terminal and/or Services of OPERATOR by or on behalf of CUSTOMER shall be at CUSTOMER'S sole risk and expense. Aside from loss/damage to the Cargo itself, as addressed in Section 18 and elsewhere herein, CUSTOMER assumes sole responsibility for, and agrees to indemnify, defend, and hold OPERATOR, the Port and City of Long Beach, and each of their respective successors, assigns, parent companies, members, managers, officials, directors, officers, employees, agents, representatives, commissioners and other persons or entities acting for or on behalf of OPERATOR, the Port and/or the City of Long Beach harmless from and against all other loss, damage, expense, claim, liability, suit, fine and/or penalty of any type or nature whatsoever which in any way arises out of and/or relates to any providing of, access to and/or use of the Services, including attorney's fees and legal costs of OPERATOR incurred by or on behalf of CUSTOMER, including, without limitation, those respecting any loss/damage to the property of OPERATOR, CUSTOMER or any other person or entity, including other CUSTOMERS of OPERATOR, as well as those respecting the personal injury, illness and/or death claims of any person, including without limitation of any agent, employee, representative, guest, invitee, vendor and/or

subcontractor of OPERATOR, CUSTOMER or any other person, including other CUSTOMERS of OPERATOR, howsoever caused and even if resulting in whole or part from the negligence (active or passive) or fault of OPERATOR. The foregoing indemnification shall be deemed to include any claim or suit by any employee (present or former) of CUSTOMER, and in furtherance of the foregoing, CUSTOMER shall waive any immunity from suit, exclusivity of remedy and limitation upon liability which would have otherwise been afforded pursuant to any workers compensation act or similar law.

- 11.2 CUSTOMER shall notify OPERATOR immediately of any bodily and/or personal injury, illness and/or death, or of any property damage, related in any way to its access to or use of the Services. CUSTOMER shall promptly provide OPERATOR with written accident reports and shall cooperate fully with OPERATOR with respect to any investigation, including allowing inspection of personal property and access to personnel.
- 11.3 CUSTOMER shall incorporate in any bills of lading evidencing transportation agreements entered into for the transportation of Cargo for which OPERATOR'S Services under this Schedule are employed, a provision extending to independent servant's, agents and subcontractors of CUSTOMER (including OPERATOR and each of its subcontractors), the benefits and limitations upon liability of CUSTOMER thereunder, which shall include, but not be limited to, the provisions of the U. S. Carriage of Goods by Sea Act ("COGSA"), incorporated and extended to apply throughout the time during which OPERATOR performs Services under this Schedule. Any waiver by CUSTOMER of such limitation of liability provisions shall not be effective against OPERATOR. It is expressly agreed by the CUSTOMER that should such bill of lading provisions not extend the application of the COGSA defenses to the OPERATOR, the CUSTOMER will indemnify OPERATOR for those sums that it is liable for over and above the COGSA limitation of liability defenses. When CUSTOMER accepts Cargo on an ad valorem basis (also see Section 5.1 C. 5. above), the OPERATOR shall not be responsible for increased liability unless CUSTOMER gives written notice in advance to the OPERATOR in sufficient time for the OPERATOR to provide special Handling and/or supervision; and extra charges therefore shall be agreed upon between the parties at the time such notice is given. Such confidential notice shall include a description of the quantity, nature and location of the Goods.
- 11.4 In order for CUSTOMER to bring a cause of action against OPERATOR arising out of Cargo loss or damage caused by OPERATOR, CUSTOMER must: (1) have given written notice to OPERATOR of any damage or loss within one year after the CUSTOMER first receives notice, written or otherwise, of the damage or loss; and (2) file suit within one year of the date of settlement by CUSTOMER of any claim for such Cargo loss or damage or the date a judgment is entered against CUSTOMER in any action for such Cargo loss or damage. Moreover, any unilateral waiver of rights or extension of obligations by CUSTOMER, including COGSA,

shall result in the discharge of any obligation of OPERATOR to CUSTOMER to the extent of such waiver or extension.

11.5 OPERATOR will not accept any liability for concealed damage or loss or the condition of the contents of containers received in damaged condition from vessel or inland carrier.

## 12. INSURANCE

12.1 OPERATOR does not provide any insurance whatsoever for the benefit of CUSTOMER, nor any insurance whatsoever covering CUSTOMER'S Cargo, property or personnel.

12.2 In addition to any legally mandated insurance, CUSTOMER will carry the following minimum insurance:

A. Comprehensive General Liability Insurance with limits of Ten Million USD (\$10,000,000) per accident, including contractual liability coverage for CUSTOMER'S liabilities and obligations as set forth herein. Such insurance shall name OPERATOR, the Port and City of Long Beach, and each of their respective successors, assigns, parent companies, members, managers, officials, directors, officers, employees, agents, representatives, commissioners and other persons or entities acting for or on behalf of OPERATOR, the Port and/or The City of Long Beach as an additional insured and be endorsed to waive subrogation against OPERATOR, the Port and City of Long Beach and to be primary to any insurance of OPERATOR. CUSTOMER shall evidence this insurance by providing OPERATOR with a certificate of insurance prior to any access to or use of the Services. However, failure to provide the certificate of insurance will not waive the obligation to obtain the insurance; and

B. Auto Liability Insurance with limits of Ten Million USD (\$10,000,000) per accident

C. Carrier Insurance: Carrier CUSTOMERS shall secure and maintain customary marine insurances in respect of its operations and vessels, including, without limitation, protection and indemnity placed with the International Group of P&I Clubs, hull and machinery, and wreck removal insurances, and such other insurances as may be reasonably required by OPERATOR from time to time, if any. In addition, to the extent that the carrier CUSTOMER maintains an office and/or personnel and/or shore-side operations at the Terminal, the carrier CUSTOMER shall further secure and maintain the following insurances while receiving services at the terminal facility:

- (i) Workers' Compensation Insurance as required by applicable federal and state laws;
- (ii) Comprehensive General Liability Insurance with limits of Ten Million USD (\$10,000,000) per accident; and
- (iii) Auto Liability Insurance with limits of Ten Million USD (\$10,000,000) per accident

D. Heavy Lift Insurance: Any CUSTOMER receiving heavy lift services at the Terminal shall secure and maintain the following insurances in effect while such heavy lift services are being provided:

- (i) first party property/cargo or cargo legal liability upon the item(s) being lifted to its/their full actual market value plus freight and insurance, with such policy to be specifically endorsed to provide a waiver of subrogation in favor of OPERATOR;
- (ii) public liability/marine general liability insuring against bodily injury and property damage and including contractual liability coverage for CUSTOMER'S obligations hereunder, with minimum limits of \$10,000,000 and waiver of subrogation in favor of OPERATOR; and
- (iii) workers compensation and employers liability insurance upon its employees and the employees of its subcontractors, if any.

E. CUSTOMER shall indemnify, defend and hold OPERATOR harmless (including legal fees and costs) from and against any loss, damage, expense, claim, liability and/or suit resulting from CUSTOMER'S failure to provide an insurance as required and/or resulting from the failure of any such insurance, including without limitation exposure to loss, damage, expense, claim, liability and/or suit which would have been covered had insurances been procured and maintained as required.

### **13. INDEPENDENT CONTRACTOR**

It is hereby understood that OPERATOR shall be an independent contractor and not an agent or employee of the CUSTOMER and all employees or laborers employed in the performance of Services under this Schedule shall be employees of the OPERATOR, or its subcontractors at all times and not of CUSTOMER.

### **14. APPLICABLE LAW**

It is agreed by the parties to this Schedule that this Schedule shall be governed by the general maritime law of the United States, or in the event no United States general maritime rule of law applies, governed by the laws of the State of California as applied to contracts that are executed and performed entirely in California and that the Federal and State Courts located in the State of California shall have jurisdiction over all claims, disputes and actions arising under this Schedule. Nothing herein contained shall be construed to deprive any party of any rights which each party may have against the other or its property in law, in admiralty or in equity as a result of any breach of the respective obligations hereunder.

## **15. FORCE MAJEURE**

Should unusual conditions occur, including without limitation, damage or destruction to premises or facilities (including vessels or containers) by fire, flood, riot, earthquakes, tidal wave, heavy rains, high wind or windstorm, severe storm or other weather conditions or circumstances creating unsafe work conditions, explosion, force majeure, acts of God, the public enemy or other casualty, or should the operation by OPERATOR be suspended, abated, prevented or impaired by reason of war, war-like operations, seizure, marine casualty, governmental decree or regulation, stoppage of public power supply, curtailment of fuel supply, strikes, picketing, slow-downs or other labor disputes or negotiations, lockout or other work stoppage, or by reasons of any other conditions or occurrences beyond the control of the OPERATOR (such condition, a "Force Majeure Event"), including any such condition that may render the Terminal wholly or partially untenable, unsafe, or unfit for use, or so as to make it impractical for OPERATOR to make reasonable or full use thereof, then OPERATOR may be excused for its obligations without responsibility for any claim by another party to this Schedule arising out of such excused obligation, to the extent and duration of such Force Majeure Event.

## **16. ATTORNEY'S FEES AND COSTS**

If any action at law or in equity is necessary to enforce or interpret the terms of this Schedule, OPERATOR shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which it may be entitled.

## **17. PARTIAL INVALIDITY**

If any provision of this Schedule is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in force without being impaired or invalidated in any way.

## **18. LOSS/DAMAGE TO GOODS (CLAUSE PARAMOUNT)**

COGSA (46 U.S.C. §1300 et seq.) is fully incorporated into this Schedule and shall be applicable at all times the Goods are, or are deemed, in the care, custody and/or control of OPERATOR. OPERATOR shall not be liable for any loss/damage to or in connection with the Goods in an amount exceeding \$500 U.S. per package, or in the event of Goods not in such packages per

customary freight unit, unless a higher value for the Goods has been declared in writing to OPERATOR prior to the commencement of any Services whatsoever and CUSTOMER has paid the increased Rates/charges resulting from such declaration of higher value. OPERATOR shall not be responsible in any event for any loss/damage to or in connection with the Goods if the nature or value thereof has been misstated. OPERATOR shall not be liable to CUSTOMER or any other respecting the Goods except as set forth in this Section, whether for loss, damage, delay, shortage, misdelivery, failure to deliver or otherwise, and/or in tort, contract or any other theory.

In the event any damage or loss could have occurred during some other mode of transportation or while in the care, custody, or control of any other provider, including the CUSTOMER, such loss or damage shall be deemed to have occurred while in the care, custody, or control of the other provider or CUSTOMER.

## **19. UNCONTROLLABLE CAUSES OF LOSS/DAMAGE**

OPERATOR shall not be liable for any loss/damage to or in connection with the Goods which arises and/or results from any of the following: unseaworthiness, unless caused by want of due diligence; act, neglect or default of master, mariner or pilot in the navigation or management of a vessel; fire, unless caused by the actual fault and privity of OPERATOR; perils, dangers and accidents of the sea or other navigable waters; act of God; act of war; act of public enemies (including terrorism); arrest or restraint of princes, rulers or people, or seizure under legal process; quarantine restrictions; act or omission of CUSTOMER, its agent or representative; strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general; riots and civil commotions; saving or attempting to save life or property at sea; wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the Goods; insufficiency of packing; insufficiency or inadequacy of marks; latent defects not discoverable by due diligence; and any other cause arising without the actual fault and privity of OPERATOR.

## **20. NO CONSEQUENTIAL DAMAGES**

OPERATOR shall not under any circumstances be liable to CUSTOMER or any other for any indirect, consequential, exemplary, or special damages of any type or nature whatsoever, including, without limitation, any damages consisting of lost profits, lost income, lost business, lost business opportunity, interruption of business, loss or use and/or loss of ability to use undamaged component or system parts, regardless of whether such damages may have been foreseeable.

## **21. LOSS/DAMAGE CLAIMS**

The following are agreed to be conditions precedent to any recovery from CUSTOMER for loss/damage to or in connection with the Goods.

- A. There shall be no right to recover until all amounts due OPERATOR have been paid in full.

- B. The Goods must be carefully inspected by CUSTOMER immediately upon completion of the Services and delivery from OPERATOR, and any loss/damage evident at such time must be identified to OPERATOR in writing and with particularity, including photographs of the damages.
- C. Unless written notice of loss/damage and the general nature thereof is given to OPERATOR upon completion of the Services and delivery of the Goods from OPERATOR, or within three (3) days thereafter if the loss/damage is not apparent at such time, delivery of Goods from OPERATOR shall be *prima facie* evidence of delivery from OPERATOR in good order, count and condition.
- D. In the event of Goods which have been delayed, lost or otherwise not delivered by OPERATOR as contemplated, OPERATOR must be given written notice of such delay, loss or non-delivery within fifteen (15) days from the date upon which the Goods should have been so delivered.
- E. OPERATOR shall have a reasonable opportunity to inspect the Goods, including their packing, packaging, etc., in the same condition as upon completion of the Services and before any repair, alteration, salvage, or destruction.

In any event, OPERATOR shall be forever discharged from liability for any loss/damage to or in connection with the Goods unless suit is filed in the forum identified in Section 14 within one (1) year after the date of delivery from OPERATOR or the date on which the Goods should have been so delivered.

OPERATOR shall be entitled to set-off any amounts owed or due by CUSTOMER or Goods against any claim.

## **22. CLAIM DOCUMENTATION**

CUSTOMER'S written notice of loss/damage to or in connection with the Goods must include and attach copies of the following, as applicable: all bill(s) of lading, transportation agreement(s), receipt(s) and other document(s) identifying the Goods, consignor, consignee, vessel, voyage, shipping date, etc.; all manifests, packing lists, stow plans, loading/discharge reports, tally/count sheets, Cargo receipts, etc.; all agreements, invoices and receipts respecting any sale of the Goods; all correspondence respecting the Goods and/or their transportation; all inspections, surveys, photographs, claim bills, invoices and statement of losses respecting the Goods and/or the loss/damage being claimed, including documents supportive of any mitigation, salvage, market analysis and disposition efforts; and all other documents, instruments, records, data, drawings, photographs and information of any kind or nature whatsoever which may be pertinent or helpful to an understanding of the nature of the Goods, the particulars of their transportation and/or the loss/damage being claimed.

## **23. DUTY TO ACCEPT GOODS**

CUSTOMER shall be responsible for accepting the Goods, or having the Goods accepted, from OPERATOR upon completion of Services and any inspection thereof requested by OPERATOR, even if such Goods are claimed to have suffered loss/damage. CUSTOMER shall not abandon any Goods at the Terminal or otherwise with OPERATOR for any purpose or under any circumstances whatsoever.

## **24. REFUSED/ABANDONED GOODS**

OPERATOR reserves the right to hold, lien, store, warehouse, sell (publicly or privately) and/or dispose of any Goods which are abandoned and/or refused by CUSTOMER or any shippers, carriers, consignees, etc., after due notice has been sent to relevant persons known to OPERATOR and time for pick-up has passed, without further notice, at OPERATOR'S discretion and CUSTOMER'S sole risk and expense.

## **25. ACCESS AND USE**

Any access to and/or use of the Terminal and/or the Services of OPERATOR whatsoever by or on behalf of CUSTOMER shall be deemed CUSTOMER'S express agreement with the provisions set forth in this Schedule, including without limitation the security provisions contained herein, and the access and use provisions of this Section. OPERATOR may request that CUSTOMER sign a separate, written Access Agreement, prior to such access/use or otherwise, in which event the signed, written agreement shall be deemed incorporated herein and applicable concurrently with this Schedule, with the provisions of the signed, written agreement to supersede the provisions of this Schedule to the extent of any direct conflict but no further.

- A. Non-Exclusive: All access to and/or use of the Terminal and/or the Services of OPERATOR by or on behalf of CUSTOMER is agreed to be non-exclusive and for the limited purpose requested by CUSTOMER and agreed by OPERATOR. CUSTOMER understands and acknowledges that activities by OPERATOR and others will be on-going at the Terminal, and that such activities may be dangerous to those participating and others. CUSTOMER, including its employees, subcontractors, agents and invitees, agrees to not interfere with any operations being conducted at the Terminal and to not create any danger or safety hazard whatsoever at the Terminal. Unless otherwise specifically agreed by OPERATOR in advance, all access and use of the Terminal shall be restricted to normal working hours.
- B. Inspection: OPERATOR makes no warranties whatsoever with respect to the Terminal or CUSTOMER'S access or use thereof. Prior to access, on at least a daily basis, CUSTOMER shall conduct a thorough inspection of the Terminal and the areas which it intends to access or use, including areas adjacent thereto, for the purpose of determining their safety and suitability for CUSTOMER'S intended access and use. If CUSTOMER believes there is any problem as to safety or suitability, and/or if any such problem

develops during CUSTOMER'S access or use, CUSTOMER shall immediately cease all of its operations and notify OPERATOR. If the condition cannot be changed by mutual agreement so as to assure safety and suitability to CUSTOMER'S satisfaction, CUSTOMER shall promptly withdraw its materials, supplies, tools, equipment, personal property, employees and subcontractors and its requested access/use shall be deemed voluntarily terminated. Once CUSTOMER begins any access or use of the Terminal whatsoever, or continues to conduct operations at the Terminal, it shall be irrevocably presumed that the Terminal was inspected and accepted by CUSTOMER as both safe and suitable for its operations.

- C. Compliance: CUSTOMER, including its employees, subcontractors and invitees, shall conform with all local, port, municipal, county, state and federal laws and regulations applicable to CUSTOMER'S operations, including without limitation those promulgated by the EPA, OSHA, WISHA, DOT, FMCSA, DHS and/or USCG, and shall be responsible for any violation of the same.
- D. Safety and Other Rules: CUSTOMER shall be responsible for assuring that all of its employees, subcontractors and invitees learn and obey OPERATOR'S safety and other rules, whether posted, given in writing, set forth herein and/or advised verbally, and that all such persons otherwise wear hard hats, safety vests and other personal protective equipment as required by OPERATOR.
- E. Clean-up: CUSTOMER shall remove all of its materials, supplies, tools, equipment, personal property, employees and subcontractors from the Terminal daily, and shall otherwise keep all areas used by CUSTOMER clean and free of debris.
- F. No Security: OPERATOR does not provide any security for the materials, supplies, tools, equipment or personal property of CUSTOMER or any others at the Terminal. CUSTOMER shall be solely responsible for the security of all such items, including those of its employees, subcontractors, agents and invitees, and is cautioned to watch the same carefully and remove all such items on at least a daily basis and store them safely elsewhere.
- G. Damage to Property: CUSTOMER shall be responsible for, and shall indemnify and hold OPERATOR harmless (including legal fees and costs) from and against, all loss/damage to CUSTOMER'S owned/leased equipment and personal property, including all of its owned/leased materials, supplies, tools, equipment, tractors, trucks, motor vehicles, trailers, containers, chassis, flatbeds and other equipment and/or personal property (but not the "Goods" the loss/damage of which Goods is addressed

herein), howsoever caused and even if resulting in whole or part from the negligence (active or passive) or other fault of OPERATOR. In addition, CUSTOMER shall be responsible for, and shall indemnify and hold OPERATOR harmless (including legal fees and costs) from and against, any loss/damage to the personal property of others at the Terminal, including the personal property of OPERATOR, which in any way arises out of and/or relates to CUSTOMER'S access and/or use of the Terminal or terminal Services. CUSTOMER agrees that in the event such loss/damage to the property of OPERATOR or others occurs, it shall immediately notify OPERATOR and, after obtaining OPERATOR'S consent to proceed, repair/restore the damaged property to its pre-existing condition with no reduction for depreciation. If CUSTOMER fails to do so, OPERATOR may, in which event CUSTOMER shall pay/reimburse actual costs to accomplish this plus fifteen percent (15%).

- H. Personal Injury: CUSTOMER assumes responsibility for any bodily/personal injury, illness and/or death of its employees (including those of its subcontractors), and agrees to indemnify and hold OPERATOR harmless (including legal fees and costs) of and from the same. In addition, CUSTOMER assumes responsibility for, and agrees to indemnify and hold OPERATOR harmless (including legal fees and costs) of and from, any bodily/personal injury, illness and/or death of any other person at the facility which arises out of or is in any way connected with CUSTOMER'S access and/or use of the Terminal or the Services. The foregoing indemnification shall be deemed to include any claim or suit by any employee (present or former) of CUSTOMER, and in furtherance thereof CUSTOMER waives any immunity from suit, exclusivity of remedy and limitation of liability under any workers compensation act or similar law.
- I. Notification: CUSTOMER shall notify OPERATOR immediately of any bodily and/or personal injury, illness and/or death, or of any property damage, related in any way to its access to or use of the Terminal or the Services. CUSTOMER shall promptly provide OPERATOR with written accident reports and shall cooperate fully with OPERATOR with respect to any investigation, including allowing inspection of personal property and access to personnel.
- J. Workers Compensation Insurance: CUSTOMER shall be responsible for maintaining workers compensation insurance, including coverage under the Longshore Act, on all of its employees (including those of its subcontractors and upon himself or herself if CUSTOMER is an individual), but neither CUSTOMER nor its workers compensation insurer shall have any right of action against Operator for subrogation or reimbursement of any payments made pursuant to that policy (including within any policy deductible).

K. Public Liability Insurance: CUSTOMER shall also be responsible for procuring and maintaining public liability insurance for personal injuries and property damage with respect to CUSTOMER'S access to or use of the Terminal and/or the Services, including contractual liability coverage for CUSTOMER'S liabilities and obligations as set forth above. Such insurance must have limits of at least \$10,000,000 per occurrence, shall name OPERATOR, the Port and City of Long Beach, and each of their respective successors, assigns, parent companies, members, managers, officials, directors, officers, employees, agents, representatives, commissioners and other persons or entities acting for or on behalf of OPERATOR, the Port and/or The City of Long Beach as an additional insured and be endorsed to waive subrogation against OPERATOR, the Port and City of Long Beach and to be primary to any insurance of OPERATOR. CUSTOMER shall evidence this insurance by providing Operator with a certificate of insurance prior to any access to or use of the Terminal and/or the Services.

L. Waiver of Sovereign Immunity: CUSTOMER, in partial consideration for the Services being performed, agrees to waive any right to claim and/or defense of sovereign immunity with respect to any monetary amount, loss, damage, expense, claim, liability, suit, fine and/or penalty due from CUSTOMER to OPERATOR hereunder.

## **26. EOC COMPLIANCE AND NON-DISCRIMINATION**

OPERATOR does not discriminate based upon race, color, religion, sex, age, national origin or any sensory, mental or physical disability, or upon any other basis prohibited by applicable law.

## **27. ELECTRONIC DATA INTERCHANGE**

OPERATOR and CUSTOMER agree to cooperate and use their best efforts to utilize electronic data, documentation and interchange to the extent feasible and allowable under law.

## **28. CONSTRUCTION AND INTEGRATION**

This Schedule shall be construed neutrally, and for the mutual benefit of the parties, rather than for or against a party. If any provision of this Schedule is found to be legally unenforceable, it is agreed that such provision shall be deemed deleted from this Schedule as if never made a part hereof, with the remaining provisions of this Schedule to not be effected thereby and to remain in full force and effect.

Any failure of OPERATOR to enforce a provision of this Schedule shall not be deemed to waive such provision or any other provision in this Schedule.

OPERATOR may request that CUSTOMER sign a separate, written agreement for any one or more Services, in which event the signed, written agreement shall be deemed incorporated herein and applicable concurrently with this Schedule, with the provisions of the signed, written

agreement to supersede the provisions of this Schedule to the extent of any direct conflict but no further.

This Schedule, together with OPERATOR'S written quotation and any separate, written agreements between OPERATOR and CUSTOMER as identified directly above, represents the entire agreement between OPERATOR and CUSTOMER and supersedes all prior and contemporaneous agreements, written or oral.

## **29. STEVEDORE/YARD/GATE SCHEDULE OF RATES**

<b>A. STEVEDORE OPERATIONS</b>				
1.	Throughput Rate per Full/Empty container		\$425.00	per move
2.	Transshipment (discharged and loaded at Terminal)		\$350.00	per move
3.	Shift Differentials (additional):	Weekday	3rd Shift	\$110.00 per move
		Weekend/Holiday	3rd Shift	\$140.00 per move
4.	Each Container Restowed (Full or Empty):			
	A) Cell to Cell		\$155.00	per move
	B) Cell/Dock/Cell		\$310.00	per move
5.	Non Cellular Surcharge (additional)		\$80.00	per move
6.	OOG with regular spreader+attachment		\$600.00	per move
7.	OOG with e-gear:		Extra Labor	
8.	Services not listed:		Extra Labor	
9.	Extra Labor:	Detention or Extra Labor Gang Hour plus materials plus equipment plus 20%		
10.	STANDBY & DETENTION			
	Monday – Friday 1st Shift		\$4,210.00	pr/gang hr
	Monday – Friday 2nd Shift		\$4,655.00	pr/gang hr
	Weekend/Holidays 1st/2nd		\$5,595.00	pr/gang hr
	Monday – Friday 3rd Shift		\$5,780.00	pr/gang hr
	Weekend/Holidays 3rd Shift		\$6,225.00	pr/gang hr
11.	EXTRA LABOR			

	Monday – Friday 1st Shift	\$4,440.00	pr/gang hr
	Monday – Friday 2nd Shift	\$5,150.00	pr/gang hr
	Weekend/Holidays 1st/2nd	\$5,570.00	pr/gang hr
	Monday – Friday 3rd Shift	\$6,190.00	pr/gang hr
	Weekend/Holidays 3rd Shift	\$6,610.00	pr/gang hr

**B. TERMINAL OPERATION**

1.	In-Yard Shifting/Rehandling/Genset or Chassis Handling	\$75.00	per mv
2.	Handling Non Containerized Cargo/Cargo with special handling/Bundling Flat Racks	Extra Labor	
3.	Change of vessel / rolled container (each cntr set-aside shall be billed 2x plus target cntr)	\$150.00	per cntr mv
4.	Premount	\$250.00	per cntr
5.	In Yard Drayage of containers/chassis/damaged equip (1 way)	\$105.00	per dray
6.	Chassis Switch (Haz, Rfrs, OOG, FR, Tanks, trucker req, etc.)	\$105.00	per switch
7.	Affixing/Removing placards:	\$75.00	1 placard
		\$135.00	2 or more
8.	Gate moves in excess of 1.0 x Vessel Moves for the current month per container. (Gate moves must be associated with a Vessel T/P lift and excludes Non Vessel Gate Moves)	\$75.00	gate mv
9.	Late Gate Fees	\$75.00	per gate move
10.	Failure to appear for scheduled appointment	\$75.00	per event
11.	Non Vessel Gate Moves  (Full or Empty container gate move that is not associated with a vessel move. Examples: W/B train cargo that gates-out for delivery, empty dray out for export, but loads at another Terminal, etc. These are not included in the Gate Move allowance per Item 8 herein.)	\$75.00	per move
12.	Government / Third Party (CUSTOMER) Inspections	\$350.00	per cntr/insp
13.	CUSTOMER must utilize trucker owned chassis or terminal chassis provider.	\$21.00	per day
	Miscellaneous chassis left at Terminal and tied to CUSTOMER shall be charged a daily fee:		

14.	Refrigerated Container (additional)(see attached Schedule of Rates):				
	A)	Plug/Unplug in the yard (min 2 events)		\$75.00	per event
		Plug/unplug on the vessel (min 1 event)		\$75.00	per event
	B)	Monitoring and Electricity		\$85.00	per day
	C)	Genset Fueling		Extra Labor	
15.	Storage				
	A)	Empty Container Allowance:	Daily allowance billed monthly is 1.0 x the FULL discharge/load per previous 3 months.		
		Daily penalty for excess TEU empty containers:		\$5.00	per TEU day
	B)	Genset allowance:	10 gensets per Carrier per day		
		Daily penalty for excess gensets:		\$25.00	per day
	C)	Bundled Chassis			\$25.00 per day
	D)	Transhipment daily Storage:			Port Tariff
	E)	Import/Export daily Storage:			Port Tariff
	F)	Good order chassis			\$5.00
	G)	Bad order chassis			\$10.00
	H)	Damage equipment (after 14 days of notification)			\$10.00 per day
16.	Services not listed:			Extra Labor	
17.	Extra Labor:		Actual mn-hrs at mn-hr rates + equip. rental rates + materials + 20%		

C. MAN-HOUR RATES:		
1 <sup>st</sup> Shift	\$180.00	per hour
2 <sup>nd</sup> Shift	\$207.00	per hour
3 <sup>rd</sup> Shift	\$270.00	per hour
1 <sup>st</sup> /2 <sup>nd</sup> Shift OT	\$234.00	per hour
3 <sup>rd</sup> Shift OT	\$297.00	per hour

<b>D. EQUIPMENT RENTAL RATES (EXTRA LABOR ITEMS ONLY)</b>		
Yard hustler (Tractor)	\$45.00	per hour
Tophandler	\$220.00	per hour
Forklift (capacity over > 15,000)	\$150.00	per hour
Forklift (capacity up to < 15,000)	\$100.00	per hour
Transtainer/Rubber-Tire Gantry Crane	\$300.00	per hour
Yard Chassis (Bomb Cart)	\$15.00	per hour
Gantry Crane (STS)	Port Tariff	

<b>E. RECAP OF ITEMS INCLUDED AND NOT INCLUDED IN THE CONTAINER THROUGH-PUT RATE</b>		
<b>STEVEDORING OPERATIONS</b>		Included
<b><u>STEVEDORING COSTS:</u></b>		
	Longshore and Clerks Straight Time Labor	Yes
	Man Hour Assessments	Yes
	Insurance and Taxes	Yes
	Lap Hours	Yes
	Equipment Including Gantry Cranes	Yes
	Supervision	Yes
	Fuel and Electricity (Terminal Equipment Only, excl Shorepower/AMP)	Yes
Overtime Differentials:		
	2nd Shift	Yes
	1st/2nd Shift OT	Yes
	3rd Shift / 3rd Shift OT	No
	Standby/Detention/Deadtime	No
	Minimum Time (No work provided - NWP)	No

	PMA Tonnage Assessments (CUSTOMER pays PMA direct)	No
<b><u>STEVEDORING ACTIVITIES:</u></b>		
	Handling of ISO Containers	Yes
	Lashing and Unlashing Containers	Yes
	Initial Covering and Uncovering	Yes
	Stacking in Container Yard	Yes
	Boom Up/Down	Yes (1)
	Transport to/from Vessel	Yes
	Handling OH/OW cntrs providing cntrs can be lifted with fitted extension	No
	Line Handling	No
	Handling Damaged Cargo	No
	Handling Breakbulk Cargo	No
<b><u>OTHER STEVEDORING COSTS:</u></b>		
	Wharfage	Yes (2)
	Dockage	No (3)
	M&R related repairs	No
	Traffic Mitigation Fee (TMF)	No (12)
<b>RECAP OF ITEMS INCLUDED AND NOT INCLUDED IN THE CONTAINER THROUGH-PUT RATE</b>		
<b>TERMINAL OPERATIONS</b>		Included
<b><u>TERMINAL COSTS:</u></b>		
	Longshore and Clerks Straight Time Labor	Yes
	Man Hour Assessments	Yes
	Insurance and Taxes	Yes
	Lap Hours	Yes
	Equipment (Terminal)	Yes

	Vanning and Devanning	No
	Reefer Services, Maintenance & Repairs	No
	Mechanics Inspection of Equipment	No
	Receiving and Delivery of Non-Containerized Cargo	No
	Maintenance and Repair Services	No (4)
	Overtime Receiving and Delivery	No
	Terminal Utilities Excluding Reefer / Shorepower Electricity	Yes
<b><u>TERMINAL ACTIVITIES:</u></b>		
	Receive & Deliver	Yes (6)
	Gate Move Allowance: 1.0 x vessel mvs per current month, billed monthly	Yes (13)
	Mounting/Dismounting from Road Transport (excl OOG, non cntr, damaged)	Yes
	Stacking in Container Yard	Yes
	Rehandling in Yard	No
	Container grounding/mounting requests	No (7)
	Flips/Switches	No (8)
	Chassis Storage	No (9)
	Security	Yes
	Equipment Storage	Yes (9)
	Roadability	No
	Computer Services Including:	Yes
		Inventory Reporting
		Interchange Documentation as agreed between lines and the contractor
		EDI Interchange of Booking,
		ACE, Stowage and Equipment Information

<u>OTHER CHARGES:</u>		
	Demurrage / Storage	No (9)(10)
	Government / CUSTOMER Inspections	No (11)
	Storage (import/export, empty, gensets, damage equipment, etc.)	No(4)(9)
	Train (see attached contract and rate schedule)	No (4)(5)
	Shorepower (see attached contract and rate schedule)	No (4)(5)
<b>RECAP OF ITEMS INCLUDED AND NOT INCLUDED IN THE CONTAINER THROUGH-PUT RATE (Notes)</b>		
<u>NOTES:</u>		
(1)	Subject to maximum of 2 up/down per shift, per crane.	
(2)	Wharfage for breakbulk Cargo/ non containerized Cargo is not included in the throughput. Cargo/Wharfage data submitted by Carrier to Port.	
(3)	Dockage charged per the Port Tariff.	
(4)	Per separate Schedule of Rates	
(5)	Per separate Contract	
(6)	Receiving and delivery gates will be in operation from 0800 to 1200 and from 1300 to 1700 (1800 if Terminal gates are extended to 1800 at OPERATOR'S option) on first shift Monday through Friday. Cost of overtime gate billed at Extra Labor to be shared by participating CUSTOMERS based on percentage of gate moves handled during overtime gate.	
(7)	Container grounding or mounting at the request of the Carrier are billable items.	
(8)	Flips –Flip charges for wheeled Cargo i.e., OOG, Haz Mat, Reefer, Flat Racks, Tanks and Trucker requested switches i.e., flip on to Carrier leased chassis or trucker owned chassis are billable. Terminal operator will distinguish invoices for the flips performed. Flips that occur due to Terminal operator convenience shall not be billable.	
(9)	Regardless of booking status, all empties are included in the empty storage allowance formula.	
	OPERATOR will invoice each individual carrier for excess Storage days used above the allowance on a monthly basis at the end of each calendar month.	
	Good order chassis, excess Gensets, damaged Containers and damaged Carrier owned/leased chassis subject to Storage fees. Damaged equipment remaining on Terminal in excess of 14 days after Carrier notified shall be charged per	
(10)	Demurrage shall be collected by OPERATOR. OPERATOR shall forward CUSTOMER'S demurrage fees less the Wharf demurrage fees, pursuant to the Port of Long Beach Tariff, less	

		10% of the CUSTOMER'S demurrage fees. If CUSTOMER waives/extends/guarantees Free Time, CUSTOMER still owes Port demurrage.
		Rail demurrage is applicable and shall be billed per the Port Tariff.
	(11)	All Government inspection fees are based on straight time (ST). Any additional Government costs i.e., Overtime or additional manning due to non ST hours including any equipment/material fees, billed to OPERATOR shall be for the account of the CUSTOMER. If Government inspected container drays out prior to Customs notifying the OPERATOR, CUSTOMER remains responsible for Government Inspection fees.
	(12)	PierPass Schedule: Marine Terminal Schedule No. 1 NAMING CERTAIN RULES, REGULATIONS AND RATES ON CARGO MOVING IN CONTAINERS issued by the West Coast MTO Agreement on behalf of its marine terminal operator members under authority of Federal Maritime Commission Agreement No. 201143. SEE: <a href="https://www.pierpass-tmf.org/">https://www.pierpass-tmf.org/</a>
	(13)	Gate Move Allowance must be associated with a vessel T/P lift. Allowance excludes Non Vessel Gate move.

### 30. REPAIR AND MAINTENANCE OF EQUIPMENT

<b>1.</b>	<b>Hourly Labor Rates</b>							
	a.	1st Shift + 2nd Shift + 1st/2nd OT (Hr)						\$ 175.00
			.25 Hr					\$ 43.75
			.50 Hr					\$ 87.50
			.75 Hr					\$ 131.25
	b.	3rd Shift		1.67	Basis			\$ 292.25
	c.	3rd Shift OT		1.88	Basis			\$ 329.00
<b>2.</b>	<b>Roadability Fee (additional)</b>							\$ 26.25
<b>3.</b>	<b>Chassis Flat Rates (Carrier Owned/Leased/Legally responsible)</b>							
	a.	Chassis / B.I.T.		(Annual Maint. Insp. - 1 Hr)				\$ 175.00
	b.	Chassis / B.I.T.		(Ea. 90 days incl. monitoring adjustments)				\$ 131.25
<b>4.</b>	<b>Tire Flat Rates</b>							
	a.	Pre-mounted tires and rims - outer		.25 Hr				\$ 43.75
	b.	Pre-mounted tires and rims - inner		.50 Hr				\$ 87.50
<b>5.</b>	<b>Container Flat Rates</b>							
	a.	Sweep out only		.25 Hr				\$ 43.75
	b.	Wash out, water only		.50 Hr				\$ 87.50
	c.	Wash out w/ soap and chemicals		.75 Hr	+ materials:	\$ 30.00		\$ 161.25

	d.	Steam clean with chemicals		1 Hr	+ materials:	\$ 45.00	\$ 220.00
	e.	Removal of dangerous cargo placards		.50 Hr			\$ 87.50
	f.	Survey Charge					Extra Labor
<b>6.</b>	<b>Reefer Flat Rates</b>						
	a.	Reefer Pre-Trip		1.5 Hr			\$ 262.50
	b.	Reefer Digital Downloads		.75 Hr			\$ 131.25
	c.	Pre Cool (per request from LINE)		.75 Hr			\$ 131.25
	d.	Genset mount/dismount clip on		.75 Hr			\$ 131.25
	e.	Genset mount/dismount to/from chassis		.75 Hr			\$ 131.25
	f.	Genset bellymount hook-up and start		.75 Hr			\$ 131.25
	g.	Genset bellymount disconnect & roll up cable		.50 Hr			\$ 87.50
	h.	Halide Testing	Pass				\$ 360.00
			No Pass				\$ 864.00
			Daily storage for 'No Pass' reefers				\$ 15.00
	i.	Diesel cost (fueling gensets)		.25 Hr	plus		Fuel Mkt Value + 14%
<b>7.</b>	<b>Estimates rejected and/or no work completed</b>			.50 Hr	per request		\$ 87.50
<b>8.</b>	<b>Photos (by written request, max 2 photos)</b>			.50 Hr	per request		\$ 87.50
	<b>NOTE: 1</b>		Flat rate jobs during overtime hours will be invoice at the overtime rate.				
	<b>NOTE 2:</b>		CUSTOMER authorizes CONTRACTOR to automatically repair Reefer live loads to ensure Vessel loading and/or to avoid compromising cargo. Photos are not required.				
	<b>NOTE: 2</b>						
	<b>NOTE 3:</b>		CUSTOMER authorizes CONTRACTOR to automatically repair damages up to \$400.00 per incident. Excluding Note 2 above, damages above and beyond \$400.00 shall require authorization from CUSTOMER.				

### 31. CONTAINER STACK TRAIN SERVICE

#### 1.0 OPERATOR'S SERVICES AND OBLIGATIONS

##### 1.1 GENERAL

OPERATOR shall:

- A. Provide and perform rail services and related terminal services, for dedicated trains operated or controlled by CUSTOMERS, at the Terminal located in the Port of Long Beach for I.S.O. standard containers. The number of trains, the number of railcars per train and the standard weekly

schedule for the trains of CUSTOMERS shall be subject to mutual agreement between CUSTOMERS and OPERATOR of which the handling volumes shall be directly applicable to CUSTOMERS' cargo calling at the Terminal.

- B. Perform its services in an efficient, economical, and workmanlike manner.
- C. Provide rail tracks and adequate yard space, as mutually agreed, for efficient rail and directly-related terminal operations.
- D. Provide all necessary employees, labor, supervision, normal existing security watchman services, and necessary container handling equipment based on I.S.O. standard containers.
- E. Maintain the Terminal facility and equipment in sound and operational condition.
- F. Perform rail and directly-associated services on 1st and 2nd shifts in accordance with the ILWU/PMA Collective Bargaining Agreement, with the customs and practices of the Port.

Rail services on 3<sup>rd</sup> shifts will be considered only on an emergency basis and shall be subject to provision at the sole discretion of OPERATOR. 3<sup>rd</sup> Shift work shall be billed as Extra Labor per the Schedule of Rates.

## 1.2 RAIL SERVICES

OPERATOR will:

- A. Assign rail tracks within the Terminal, as available, for rail cars that are owned, leased or otherwise controlled by CUSTOMER or CUSTOMERS' third party intermodal vendor.
- B. Provide train stowage planning and the discharging/loading sequencing of containers from/to railcars in accordance with westbound car plans and in accordance with any special pre-stow instructions, as furnished by CUSTOMERS, for eastbound car plans.
  - 1. OPERATOR will advise CUSTOMERS of containers deemed not likely to load the train by virtue of either vessel stowage position or loading sequence, if applicable.
  - 2. OPERATOR will provide CUSTOMERS with a copy of the train pre-stow no later than one (1) hour after the commencement of TRAIN loading operations.

3. OPERATOR will provide CUSTOMERS with all "FINAL" train car plans no later than one (1) hour prior to the completion of train operations.
- C. Coordinate with railroad or third party intermodal vendor the movement, scheduling and disposition of E/B and W/B DST cars, as well as car inspections and Bad Order disposition of cars, subject to instruction received from CUSTOMER regarding the requirements of CUSTOMER with each such regard.
- D. Dray full or empty containers within the Terminal and load them onto rail cars per the pre-stowed eastbound car plans.

Discharge full or empty containers from rail cars and dray them directly to pre-designated areas or rows within the Terminal.
- E. Fit inter-box connectors ("IBC") where required and collect IBC's into gear boxes, as provided on rail cars, when required.
- F. Check and tally the movement of containers on and off rail cars and note damages, where possible, based upon visual inspections.
- G. Check seals on full train containers when loading onto or discharging from rail cars (without affecting production) to ensure that the seal is intact. OPERATOR shall not be responsible solely on the basis of missing or breached seals that are not detected at the time of discharge from or loading on rail cars. Seal numbers will not be recorded, but notations as noticed will be made if seals are not intact. In such cases, new standard seals will be applied and the new seal numbers will be recorded.
- H. Make its best effort to complete loading or discharging operations within the standard schedule or time frame.
- I. Check the labeling on dangerous or hazardous cargo containers against the documentation provided by CUSTOMERS, if applicable.
- J. Copies of the records of all rail cars handled, containers/chassis received or delivered, of cursory visual inspections for damages, of "seal intact" status exceptions and hazardous or dangerous cargo container labeling exceptions shall be supplied to CUSTOMER immediately upon completion of each shift of train operations.

### 1.3 LABOR ASSIGNMENT

- A. OPERATOR shall decide the number of labor units or personnel to use in the most economical manner to meet CUSTOMER'S train schedule, subject

to and considerate of conditions set forth within Section 31, Article 1.1.A. herein above.

B. Given Section 31, Article 1.3.A. above, OPERATOR will arrange labor for the next 1<sup>st</sup> or 2<sup>nd</sup> shift succeeding the train's ETA at Terminal and any time lost by labor not working the train by reason of its failure to arrive at the ETA shall be for the account of CUSTOMERS. Deadtime or guarantee time at the end of scheduled 1<sup>st</sup> or 2<sup>nd</sup> shifts shall be for account of CUSTOMERS.

CUSTOMERS agree to remove empty cars unloaded at the Terminal and full cars loaded at the Terminal, such that subsequent car movements for other trains may promptly occur, whether or not CUSTOMERS' normally-contracted railroad is available for such movement.

C. If requested by CUSTOMERS, and if agreeable with OPERATOR, OPERATOR will order labor for the train pre-determined to arrive after the beginning of the applicable work shift, providing CUSTOMERS are responsible for labor standby time and deadtime after completion of rail services, if completed either on the original working shift, on an extension of that shift or on a subsequent working shift.

D. OPERATOR shall not be responsible for the shortage of (or delays caused by the shortage of) labor or the inability to obtain labor through reasonable efforts.

#### 1.4 RECEIVING AND RELEASE OF THE TRAIN

A. OPERATOR will receive rail cars from CUSTOMERS upon completion of the switching-in and spotting at Terminal by CUSTOMERS' contracted railroad.

The initial switching-in of rail cars shall be made by CUSTOMERS' contracted railroad and such rail cars shall be spotted per the requirements of OPERATOR. Operational delays resulting from failure of railroad to properly spot cars shall be for the account of CUSTOMER, provided the special conditions set forth within Section 31, Article 1.3.B. and 1.3.C. are not achieved.

1. Additional switching and spotting within the Terminal, as required for setting-up proper hubbing orders for eastbound movements, shall be made by the OPERATOR at its operational convenience.
2. OPERATOR will separate known or identified bad order railcars from the hubbing arrangement for immediate removal from Terminal by CUSTOMER or its contracted railroad. Any Port Tariff demurrage shall be for account of CUSTOMER.

- B. Rail cars will be released to CUSTOMER as spotted at the Terminal (upon completion of loading or discharging) for the making-up of the train and switching-out by CUSTOMERS' contracted railroad.
- C. CUSTOMER shall be responsible to coordinate all train communications and movements with its contracted railroad, the PHL and the OPERATOR. OPERATOR may assist with coordination of certain activities directly with the contracted railroad given proper instruction and authorization to do so from CUSTOMER.
  - 1. Any rail car inspections or maintenance required by CUSTOMER or its contracted railroad shall be accomplished by CUSTOMER without affecting train operations or productivity of OPERATOR. Any operational delays of OPERATOR, as generated by rail car inspections or repairs, shall be for the account of CUSTOMER, again provided the special conditions set forth within Section 31, Article 1.3.B. and 1.3.C. are not achieved.
  - 2. CUSTOMER shall make arrangements to remove any bad order cars not available for use during the immediate on-going train operation.
  - 3. All costs resulting from any delays in the movement of CUSTOMER'S trains (at the times specified and required by OPERATOR) by CUSTOMER'S contracted railroad, causing labor standby at the Terminal or causing delays to other trains handled by OPERATOR at the Terminal, shall be for the account of CUSTOMER.
- D. OPERATOR shall not be responsible for delays in the completion of CUSTOMER'S trains later than each train's mutually-agreed weekly completion schedule, if such delays were caused or contributed by late vessel arrival, delay in the departure of a preceding train, lack of availability of empty cars for CUSTOMER'S train, late arrival of CUSTOMER'S train or empty cars, late availability of containers for loading to CUSTOMER'S train, compliance with governmental or regulatory inspections, late availability of labor, no labor available, health and safety of personnel at the Terminal, concerted labor efforts or activities, civil commotion, natural disasters or inclement weather.

## 1.5 DOCUMENTATION

OPERATOR will prepare and process those documents required by CUSTOMERS (in a form agreed upon between CUSTOMER and OPERATOR) and furnish them to CUSTOMERS.

## 1.6 STORAGE OF CONTAINERS AND CHASSIS

Any storage of containers and chassis designated for the train shall be subject to the conditions set forth in the Container Stevedoring and Service Agreement between CUSTOMERS and OPERATOR.

## **2.0 CUSTOMER'S OBLIGATIONS**

**2.1** CUSTOMERS shall provide OPERATOR with all necessary information and instructions (to allow OPERATOR to provide efficient services) such as:

**A. GENERAL:**

1. CUSTOMERS shall advise OPERATOR of its train schedules and ETA well in advance and notify OPERATOR of any changes as they occur in sufficient time in order that OPERATOR can properly plan yard and track assignments, as well as labor arrangements.

CUSTOMERS shall notify OPERATOR of each container candidate to be discharged from each applicable vessel calling the Terminal at least 48 hours prior to commencement of vessel's discharge operations.

Any containers on governmental hold or not released for loading to trains on-dock shall be pre-advised by CUSTOMERS to OPERATOR, of which such containers may be separated upon discharge from the vessel into a pending DST decking bay or remain wheeled, at the sole discretion of the OPERATOR.

CUSTOMERS, and no other designated party, shall notify OPERATOR of the "released" status of any such containers originally discharged as "hold" or "not released" for loading.

CUSTOMERS shall have the responsibility of authorizing and authority to authorize OPERATOR to cut or eliminate containers from planned train loading operations at the Terminal.

2. In the event that CUSTOMERS have specifically-designated containers and/or chassis for use with its container stack train service only, CUSTOMERS shall provide OPERATOR, in writing, with a list of numbers, types and sizes of those containers and chassis.
  - a. CUSTOMERS shall supply all chassis in sufficient quantities by size for the on-dock train loading and discharging operations.

- b. Chassis supplied by CUSTOMERS shall be in good order and shall be made available for use by OPERATOR. Any bad order chassis shall be subject to terminal fees as described in Section 31, Article 1.6 herein and CUSTOMERS are responsible for immediately draying bad order containers/chassis off dock.
  - c. CUSTOMERS shall be responsible for all costs regardless of equipment ownership related to designated train containers and/or chassis for use with its container stack train. Such cost will include, but not limited to, container/chassis flips, storage fees, yard costs and gate charges.
3. CUSTOMERS shall notify OPERATOR in sufficient time, and in writing, whenever extra labor is required such that labor may be properly arranged per normal ILWU-PMA labor ordering windows.
4. CUSTOMERS shall notify OPERATOR of CUSTOMERS' policies on train car loading, hubbing or weight distributions, if different from standard handling practice or from registry information on car capacities and limitations.
5. CUSTOMERS shall supply sufficient IBC's for the efficient operations of loading trains.

B. WESTBOUND DATA

1. Railcar numbers and types.
2. Car plans for each train and hubbed order on arrival.
3. Container data by:
  - a. Number, size, type, height, seal number, and gross weight.
  - b. Export vessel and destination.
  - c. Hazardous information.
  - d. Special handling instructions.
  - e. Details of awkward containers.
4. Data contained within Items #1 through #3 above, shall be transmitted by CUSTOMERS to OPERATOR (or provided on

diskette with format to be agreed) no later than 24 hours prior to the applicable labor shift start time for each train operation.

5. CUSTOMERS shall follow the International Convention for the Safety of Life at Sea (“SOLAS”) Ch VI/2 VGM regulations that require shippers to provide via EDI a signed VGM document to the Terminal. OPERATOR shall assume CUSTOMERS and Shipper have made arrangements for the shipper to provide a shipper-signed VGM for each container delivered to the Terminal facility for loading. In no event will cargo arriving by rail without a SOLAS compliant VGM be received by the Terminal or loaded to a vessel.

**C. EASTBOUND DATA**

1. Container Data By:
  - a. Number, size, type, height, seal number and gross weight.
  - b. Train loading hub or destination per container.
  - c. Hazardous and reefer information.
  - d. Special handling instructions.
  - e. Details of awkward containers.
2. Data contained in Section 31, Article 2.1.C.1 shall be transmitted by CUSTOMERS to OPERATOR (or provided on diskette with format to be agreed) no later than 24 hours prior to the applicable labor shift start time for each train operation.

**3.0 EXTRA WORK AND OVERTIME WORK**

Additional expenses incurred for performing any extra work and overtime ordered by CUSTOMER shall be paid by CUSTOMER on the basis of extra labor rates plus rental of equipment and cost of material used and markup, unless otherwise stipulated in this Schedule including its Schedule of Rates or unless mutually agreed upon by both parties.

Extra labor charges shall be determined by the applicable labor unit (either gang unit or individual labor basis) cost per hour (as noted in the Schedule of Rates) per applicable working shift plus 20% plus cost of equipment rental and cost of materials, if applicable.

**4.0 COMPENSATION**

**4.1. PAYMENT**

CUSTOMERS shall compensate OPERATOR for the performance of the services described herein in accordance with this Schedule and the Schedule(s) of Rates attached hereto and will reimburse OPERATOR for charges paid on their behalf.

Payment shall be made in U.S. funds, via wire transfer with advance notice of invoice details, not later than thirty (30) days after receiving the undisputed invoice. Invoices shall be forwarded to CUSTOMERS via electronic mail. If a CUSTOMER disputes any invoices, then CUSTOMER shall notify, in writing, OPERATOR within 15 days after receiving such invoices. While disputed item is under review, CUSTOMER shall continue to pay the undisputed balance within the 30 day terms. In the event that any payment against any undisputed invoice occurs after 30 days, CUSTOMERS agree to pay interest of outstanding sums at prevailing bank prime interest rates. Port of Long Beach Tariff items, if applicable, are the responsibility of and are to be settled by CUSTOMER upon presentation of invoices by OPERATOR.

OPERATOR, at its own discretion, may temporarily discontinue or cut-off certain services including withholding demurrage refunds to the CUSTOMER based on the age of unpaid invoices. OPERATOR shall be forced to exercise these options if OPERATOR has forwarded multiple invoice copies to the appropriate CUSTOMER personnel or CUSTOMER has not disputed invoices in writing with specific details or balance remains over 30 days for three (3) consecutive months.

#### 4.2. RATES

- A. The lift charges specified in the Schedule of Rates shall, unless otherwise provided, cover:
  1. The cost of labor, supervision, and equipment for normal rail services during 1<sup>st</sup>, 2<sup>nd</sup>, and 1<sup>st</sup>/2<sup>nd</sup> OT shifts, seven days (7) days a week (exclusive of overtime, holidays and weekends) in accordance with the ILWU/PMA collective bargaining agreement.
  2. Detentions caused by specific actions or fault of OPERATOR.
- B. The following items are not included within the Lift Charges in the Schedule of Rates:
  1. Any delays to OPERATOR'S operations generated by late vessel arrivals, late spotting of empty railcars, late train arrivals or late train departures, failure of CUSTOMERS to advise OPERATOR for timely labor cancellation of labor ordered, unavailability of containers for loading to the train, compliance with governmental or regulatory inspections, concerted labor efforts or inclement weather are subject to standby and/or overtime charges and are for CUSTOMERS' account.

2. Train services performed on 3<sup>rd</sup> shifts.
3. Handling damaged containers requiring jury rigging, as well as non-containerized cargo to be billed as per Section 31, Article 3.0.
4. Rehandling of containers due to CUSTOMERS' change of instruction:
  - a. Containers once loaded, but discharged for rolling over to the next train, to another railcar on the same train, or for local delivery etc. to count as two (2) moves.
  - b. Containers once loaded, but shifted to another spot on the same rail car to count as two (2) moves.
5. Any additional charges assessed as cargo penalties to be billed at actual cost.
6. Extra work, not otherwise mentioned herein, to be billed as per Section 31, Article 3.0.
7. Labor standby and deadtime or guarantee time, if caused through no specific action or fault of OPERATOR.
8. Materials, if furnished, such as lumber, shoring materials, IBC's, etc. for rail services, to be invoiced to the CUSTOMERS at actual cost.
9. Port of Long Beach fees, wharfage or demurrage applicable to containers, as handled to/from railcars at the Terminal.

#### 4.3. REVISION OF RATES

All rates for services specified are based on and subject to the employment of longshore and other labor under the provisions of the agreements currently in effect with the unions involved and other labor and non-labor cost factors. In the event of an increase or decrease in wage scale, inclusive of PMA assessments or changes affecting working contracts or conditions, OPERATOR shall promptly advise CUSTOMERS of such changes and the rates applicable shall, as a consequence, be revised from time to time by mutual agreement taking into consideration not only such changes, but also changes in non-labor cost factors. However, such revision shall not be unreasonably withheld.

## 5.0 SAFETY

- 5.1 Prior to commencing, during and until the completion of its work, OPERATOR shall be allowed to inspect and determine the safety of all work areas and of all gear and equipment which will be utilized by OPERATOR'S operators.

5.2 CUSTOMERS shall immediately notify OPERATOR and OPERATOR shall immediately notify CUSTOMERS of any property damaged and of any illness, injury or death of any person which occurs during OPERATOR'S and/or CUSTOMERS' operations and each shall cooperate fully with the other in developing full and complete information about the facts and circumstances of the occurrence and the nature and extent of the damages or injuries which resulted therefrom.

## **32. SHORE POWER SERVICES**

### **1.0 OPERATOR'S SERVICES AND OBLIGATIONS**

#### **1.1 GENERAL**

OPERATOR shall:

- A. Provide and perform Shore Power Services as described below in Section 32, Article 1.2 (hereinafter “SPS”) and other related terminal services as needed, for vessels operated or controlled by CUSTOMER at Terminal.
- B. Perform its SPS in an efficient, economical, and workmanlike manner.
- C. Provide access to Shore Power Outlets (“SPOs”) and electrical power as made available and as supplied by the local utility provider, as mutually agreed between the parties hereto from time to time, for efficient terminal operations.
- D. Provide all necessary employees and/or labor, supervision, and land-based equipment to the best of OPERATOR'S ability to assist CUSTOMER in its use of land-based SPOs and Vessel Circuit Breakers (“VCBs”).
- E. Maintain the Terminal's SPOs and VCBs in sound and operational condition.
- F. Be available to perform SPS 24 hours per day and 7 days per week in accordance with the IAM Collective Bargaining Agreement and, if applicable, the ILWU/PMA Collective Bargaining Agreement within the customs and practices of the Port at rates set forth in the Schedule of Rates.
- G. If CUSTOMER requires and OPERATOR agrees in a separate writing, provide adequate space to store CUSTOMER'S owned/leased mobile Shore Power container that houses the necessary CUSTOMER owned and maintained transformer and cable management system (“SPC”) and the Carrier owned/dedicated SPC roadworthy chassis at rates set forth in the Schedule of Rates.
- H. Comply with vessel commissioning requirements as set forth and required from time to time by the Port, Air Quality Management District (“AQMD”) and California Air Resources Board (“CARB”) and any other authority having jurisdiction therefor as applicable.

#### **1.2 SHORE POWER SERVICES**

Shore Power Services that OPERATOR shall perform may include, but not be limited to, the following:

- A. When required, dray SPC on Carrier owned/dedicated roadworthy chassis and load SPC to vessel dedicated position utilizing necessary shoreside labor and equipment.
- B. Prior to connection and/or activation.
  - 1. Confirm that the circuit breakers VCB are open.
  - 2. Confirm that either end of single ship side cable is disconnected.
  - 3. Confirm Shore Power is receiving Panel No Alarm.
  - 4. Confirm Earthing switch is closed.
  - 5. Lash & secure vessel side cables to designated points.
  - 6. Completion of the multi-step Kirk Key process to connect two (2) vessel side cables to receptacles at land side SPO.
  - 7. Communicate and confirm that the auto tension function of cable reel is activated.
  - 8. Open E-Stop device.
  - 9. Rack-in circuit breaker at SPO.
  - 10. Close E-Stop device.
  - 11. Confirm loop switch is Single or Double.
  - 12. Communicate and confirm with crew that the ship is ready to receive electrical power.
  - 13. Open Earthing Switch at the SPO.
  - 14. Read and record the SOP POWER LOGIC meter (GWh).
  - 15. Close the circuit breakers at substation than SPO.
  - 16. Record the time when breaker is closed.
  - 17. Record the voltage of SOP POWER LOGIC.
  - 18. Confirm Phase sequence is clockwise.

19. Confirm Ship side VCB is closed.

C. Prior to deactivation and/or disconnection:

1. Communicate and confirm with vessel crew that the ship is ready to de-energize Shore Power.
2. Confirm “VCB” is open and report to substation.
3. Open the circuit breaker at SPO.
4. Record time when breaker is opened.
5. Confirm breaker is opened Green Lump.
6. Read and record SOP Power Logic meter (GWh).
7. Open circuit breaker.
8. Rack-out circuit breaker at SPO.
9. Open lid on SPO Box;
10. Close the Earthing switch at SPO;
11. Confirm ship side Earth switch is closed;
12. Communicate and confirm that the auto tension function of cable reel is de-activated at vessel side;
13. Confirm that either end of single ship side cable is disconnected;
14. Disconnect the two (2) shore side cables from berth receptacles;
15. Unlash the vessel side cables from designated points; and
16. Close the two (2) covers of berth receptacles and lock at the SPO.

D. If required, utilize necessary shoreside labor and equipment to discharge SPC to CUSTOMER owned/dedicated roadworthy chassis for storage on Terminal.

E. If stored SPC requires plugging/unplugging, OPERATOR shall connect SPC to existing reefer connection to maintain on-going power to SPC. CUSTOMER shall be responsible for plugging/unplugging and daily power and preparation fees per the Schedule of Rates.

### 1.3 OBLIGATIONS

OPERATOR shall:

- A. Comply with CARB terminal requirements imposed upon terminal operators within the state regulations for and 'Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port' pursuant to section 93118.3, title 17, chapter 1, subchapter 7.5, California Code of Regulations (CCR), as amended, or other regulations promulgated from time to time by CARB or any other governmental authority having jurisdiction over the subject matter hereof.
- B. Observe and record the date, time and reading of the Shore Power utility meter located within the substation at the Terminal.
- C. Notify CUSTOMER when:
  1. Any items listed in Section 32, Articles 1.2.A. thru 1.2.D. are malfunctioning or cannot be completed.
  2. There is any apparent malfunction of the utility equipment which feeds the Shore Power infrastructure.
- D. Comply with Port Tariff regarding the billing of electricity and associated fees to CUSTOMER.
- E. Have ultimate authority to initiate SPS upon vessel arrival.

### 1.4 LABOR ASSIGNMENT

Unless otherwise agreed, OPERATOR shall decide the number of personnel to use in the most economical manner to meet CUSTOMER'S Shore Power requirements.

### 1.5 DOCUMENTATION

- A. OPERATOR will prepare documents and reports associated with the regulations described within Section 32, Article 1.3.A. herein above.
- B. OPERATOR shall provide necessary documentation as required by CUSTOMER to settle associated Shore Power expenses.

## 2.0 **CUSTOMER'S OBLIGATIONS**

2.1. CUSTOMER shall:

- A. Comply with CARB vessel reporting requirements, schedules, targets, etc. as described within the state regulations for and 'Airborne Toxic Control

Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port' pursuant to section 93118.3, title 17, chapter 1, subchapter 7.5, CCR, as amended, or other regulations promulgated from time to time by CARB or any other governmental authority having jurisdiction over the subject matter hereof .

- B. Make every effort to coordinate the necessary CUSTOMER employees, crew members, agents, vendors, etc. to comply with Section 32, Article 2.1.A. herein.
- C. Be responsible for lining up vessel along berth and in line with the SPO marker. Any delays or costs associated with CUSTOMER'S inability to properly line up vessel with the SPO shall be for the account of the CUSTOMER.
- D. Maintain a dedicated SPC position on vessel that must be void of any cargo or container prior to berth arrival.
- E. Regularly train ship's crew on CUSTOMER'S Shore Power procedures and obligations.
- F. Provide SPC a dedicated roadworthy chassis. Both of which shall be stored on Terminal per OPERATOR'S discretion and subject to fees on the Schedule of Rates.
- G. In the event the SPC requires power during storage, configure SPC plug to meet Terminal's refrigerated (reefer) outlet standards. CUSTOMER shall be responsible for daily fees.
- H. Upon loading of SPC,
  - 1. Provide to OPERATOR shore side personnel de-energized vessel Shore Power cables upon completion of vessel mooring.
  - 2. Supply sufficient cable length to allow vessel Shore Power cables to be safely connected by OPERATOR and remain connected to land-side SPO for the duration of the visit.
  - 3. Allow OPERATOR to board each vessel in order to properly complete conditions set forth within Section 32, Articles 1.2.B. and 1.2.C. herein above.
  - 4. Assure that energizing and/or de-energizing of Shore Power is coordinated with OPERATOR in order to maintain the safety of all persons and equipment involved.

- I. Assume financial responsibility for and reimburse OPERATOR on demand for any costs attributable to any operational delays resulting from failure of vessel personnel, employees, agents, vendors, subcontractors and/or vessel equipment to act or to provide service when required and any fines, penalties or assessments howsoever imposed upon OPERATOR for any such delays.
- J. Comply with vessel commissioning requirements as set forth and required from time to time by the Port, AQMD and CARB and any other authority having jurisdiction therefor.
- K. Advise OPERATOR of vessel ETA well in advance of vessel arrival and notify OPERATOR of any changes within sufficient time such that OPERATOR can properly arrange for labor and prepare wharf-side Shore Power equipment.
- L. Notify OPERATOR of CUSTOMER'S Shore Power procedures and requirements, if different from the standard handling practices described in Appendix "A".
- M. Designate as an Emergency Event, as defined in subsection (c)(14)(B) or (c)(14)(C) of 93118.3, title 17, chapter 1, subchapter 7.5, CCR, as amended, within CUSTOMER'S log book, any instance whereby SPS are not feasible due to inclement weather or the like. If CARB determines such event does not qualify as an "Emergency Event", then any fines and/or penalties derived from such event will be for the account of CUSTOMER.
- N. Have the ultimate authority to terminate SPS in order to secure the safety of the vessel crew and its assets.

## 2.2. DOCUMENTATION

CUSTOMER will prepare documents and reports required by CARB as applicable to the regulation described within Section 32, Article 2.1.A herein above.

## 2.3. EXCEPTIONS

Any and all exceptions to limits on hours of operation shall apply and are incorporated herein to this Schedule as referenced in section 93118.3, title 17, chapter 1, subchapter 7.5., CCR, as amended, or other regulations promulgated from time to time by CARB or any other governmental authority having jurisdiction over the subject matter hereof shall also apply and relieve OPERATOR from any obligation hereunder to connect such Shore Power.

## **3.0 MAINTENANCE AND REPAIR OF SHORE POWER CONTAINER**

CUSTOMER shall be solely responsible for the maintenance and repair (“M&R”) of the CUSTOMER SPC housed at Terminal. CUSTOMER shall dray the SPC off dock for all M&R related activities related thereto. OPERATOR assumes no responsibility for the condition, loss or damage of and safekeeping of the Shore Power container, chassis or SPC beyond providing storage space therefor. CUSTOMER shall be solely responsible for any action such as fines and/or penalties by the Port, CARB, AQMD, etc. imposed upon CUSTOMER or OPERATOR in the event that M&R work prevents CUSTOMER Shore Power qualified ships from connecting to Shore Power at the Terminal and/or meeting any targets.

#### **4.0 EXTRA WORK AND OVERTIME WORK**

Additional expenses incurred for performing any extra work and overtime otherwise required or ordered by CUSTOMER shall be paid by CUSTOMER on the basis of extra labor rates plus rental of equipment and cost of material used and mark up, unless otherwise stipulated in this Schedule inclusive of its Schedule of Rates or unless mutually agreed upon by both Parties.

Extra labor charges shall be determined by the applicable Man-Hour Billing Rates (as noted in the Schedule of Rates) per applicable working shift plus cost of equipment rental, cost of materials, if applicable, and mark up.

#### **5.0 COMPENSATION**

##### **5.1 PAYMENT**

CUSTOMERS shall compensate OPERATOR for the performance of the services described herein in accordance with this Schedule and the Schedule(s) of Rates attached hereto and will reimburse OPERATOR for charges paid on their behalf.

Payment shall be made in U.S. funds, via wire transfer with advance notice of invoice details, not later than thirty (30) days after receiving the undisputed invoice. Invoices shall be forwarded to CUSTOMERS via electronic mail. If a CUSTOMER disputes any invoices, then CUSTOMER shall notify, in writing, OPERATOR within 15 days after receiving such invoices. While disputed item is under review, CUSTOMER shall continue to pay the undisputed balance within the 30 day terms. In the event that any payment against any undisputed invoice occurs after 30 days, CUSTOMERS agree to pay interest of outstanding sums at prevailing bank prime interest rates. Port Tariff items, if applicable, are the responsibility of and are to be settled by CUSTOMER upon presentation of invoices by OPERATOR.

OPERATOR, at its own discretion, may temporarily discontinue or cut-off certain services including withholding demurrage refunds to the CUSTOMER based on the age of unpaid invoices. OPERATOR shall be forced to exercise these options if OPERATOR has forwarded multiple invoice copies to the appropriate CUSTOMER personnel or CUSTOMER has not disputed invoices in writing with specific details or balance remains over 30 days for three (3) consecutive months.

CUSTOMER expressly acknowledges that the SPS rendered under this Schedule, including any services provided by any subcontractor of OPERATOR, are provided upon the credit of the vessels served and OPERATOR specifically reserves the right to claim and assert a maritime lien or other liens that may exist under law (or which are set forth elsewhere in the Port Tariff) and/or that may be applied against any vessel owned, chartered or sub-chartered or managed by CUSTOMER and any component of such vessel (including cargo containers) or cargo for all SPS provided under this Schedule for or on behalf of CUSTOMER or its customers and/or vendors.

## 5.2 RATES

- A. The Loading/Connect Fee and Disconnect/Discharge Fee rates specified in the Schedule of Rates shall, unless otherwise provided, be inclusive of:
  1. The cost of stevedoring labor, mechanic labor, supervision, equipment rental and mechanic certifications for normal services performed to load, connect, disconnect and discharge/unload SPC.
  2. Detentions caused by specific actions or fault of OPERATOR.
- B. The following items are not included within the Loading/Connect Fee and Disconnect/Discharge Fee specified in the Schedule of Rates:
  1. The cost of supplying electrical power to CUSTOMER'S vessels including, but not limited to: delivery charges, generation charges, city and state taxes, and added facility fees as invoiced to OPERATOR by the local utility company, the Port of Long Beach, City of Long Beach or other municipal entity or its vendor(s) shall be for the account of CUSTOMER or CUSTOMERS as applicable, as reasonably determined by OPERATOR.

The total monthly cost of electricity and all associated fees, taxes and charges of any kind as invoiced to OPERATOR by the local utility company shall be for the account of CUSTOMER or CUSTOMERS as applicable, as reasonably determined by OPERATOR.

2. Any delays to OPERATOR'S operations generated by late vessel arrivals, delays caused by the CUSTOMER'S SPC/cable management system or vessel's inability to line up to the SPO marker, failure of CUSTOMER to advise OPERATOR for timely cancellation of labor ordered, and CUSTOMER'S compliance with governmental or regulatory inspections are for the account of CUSTOMER or CUSTOMERS as applicable, as reasonably determined by OPERATOR. Labor disputes caused through the

actions or fault of CUSTOMER are subject to Extra Labor charges and are for CUSTOMER'S account as applicable, as reasonably determined by OPERATOR..

3. Extra work, not otherwise mentioned herein, to be billed to CUSTOMER, as applicable, as reasonably determined by OPERATOR, as per the Schedule of Rates.
4. Materials, if furnished, such as lumber, shoring materials, etc. for SPS to be invoiced to the CUSTOMER or CUSTOMERS as applicable, as reasonably determined by OPERATOR, at actual cost.

### 5.3 REVISION OF RATES

All rates for SPS specified are based on and subject to the employment of IAM mechanic labor and other labor under the provisions of the agreements currently in effect with the Unions involved, as well as other labor and non-labor cost factors. In the event of an increase or decrease in wage scale, inclusive of IAM and PMA/ILWU assessments or changes affecting working contracts or conditions, OPERATOR shall promptly advise CUSTOMER of such changes and the rates applicable shall, as a consequence, be revised from time to time by mutual agreement taking into consideration not only such changes, but also changes in non-labor cost factors. However, approval by CUSTOMER of such revision shall not be unreasonably withheld.

## 6.0 SAFETY

- 6.1 Prior to commencing, during and until the completion of its work, OPERATOR shall be allowed to inspect and determine the safety of all work areas and of all gear and equipment which will be utilized by OPERATOR'S operators.
- 6.2 CUSTOMER shall immediately notify OPERATOR and OPERATOR shall immediately notify CUSTOMER of any property damaged and of any illness, injury or death of any person which occurs during OPERATOR'S and/or CUSTOMER'S operations and each shall cooperate fully with the other in developing full and complete information about the facts and circumstances of the occurrence and the nature and extent of the damages or injuries which resulted therefrom.

1	SPC Loading/Connect/Disconnect/Discharge Fee (SPC stored at Terminal)				
		(includes ILWU/ IAM/ Mgmt labor and Equipment)	\$ 4,800.00	per call	

2	SPC Connect/Disconnect (Cable reel or SPC permanently on vessel)							
		(includes IAM/ Mgmt labor and Equipment)			\$ 4,000.00	per call		
3	SPC Temporary Power Disconnect/Re-connect (by request only)							
		(Cables remain connected, but power shutdown)			\$ 1,000.00	per event		
4	SPC Storage (SPC & Chassis)				\$ 24.00	per day		
	a.	Plugging/unplugging of stored SPC			\$ 75.00	per event		
	b.	SPC Container Power and Preparation Fee			\$ 80.00	per day		
		i.	Daily power usage while SPC is stored at Terminal					
		ii.	Availability and maintenance of reefer receptacle					
		iii.	Coiling/Uncoiling of reefer cable					
		iv.	Locking/Unlocking of chassis Kingpin					
5	Electricity Pass Thru Fees (per Port of Long Beach Tariff)				Electricity fees plus all other related shorepower fees			
6	Maintenance and Repair of Shorepower Container shall be the responsibility of CUSTOMER and all repairs must be drayed off dock on CUSTOMER owned/dedicated road worthy SPC chassis.							
7	Lining up vessel at berth arrival to OPERATOR'S SPO marker (Carrier's request)							
					\$ 325.00	per arrival		
8	Extra Labor:				Actual time used at total Man-Hour Billing Rates plus equipment rental rates and cost of materials plus 20%			
	a.	Shorepower Mechanic Man-Hour Billing Rates (including overhead cost):						
				<u>1st/2<sup>nd</sup> Shift</u>	<u>1st/2<sup>nd</sup> Shift OT</u>	<u>3<sup>rd</sup> Shift</u>		
			Shorepower Mechanic	\$ 175.00	\$ 175.00	\$ 292.25		
						\$ 329.00		

b.		ILWU Man-Hour Billing Rates				
	1 <sup>st</sup> Shift				\$ 180.00	per hour
	2 <sup>nd</sup> Shift				\$ 207.00	per hour
	3 <sup>rd</sup> Shift				\$ 270.00	per hour
	1 <sup>st</sup> /2 <sup>nd</sup> Shift OT				\$ 234.00	per hour
	3 <sup>rd</sup> Shift OT				\$ 297.00	per hour
9	Equipment Rental Rates:					
	Yard hustler (Tractor)				\$ 45.00	per hour
	Tophandler				\$ 220.00	per hour
	Forklift (cap over > 15,000)				\$ 150.00	per hour
	Forklift (cap up to < 15,000)				\$ 100.00	per hour
	Transtainer (RTG)				\$ 300.00	per hour
	Yard Chassis (Bomb Cart)				\$ 15.00	per hour
	Gantry Crane (STS)				Port Tariff	