

HARBOR INDUSTRIAL SERVICES CORPORATION, DBA OREGON CONTAINER  
TERMINAL SERVICES

PORT OF PORTLAND TERMINAL 6

MARINE TERMINAL OPERATOR SCHEDULE

RULES/REGULATIONS/RATES



This marine terminal operator rate schedule (“**Schedule**” or “**Tariff**”) is issued by HARBOR INDUSTRIAL SERVICES CORPORATION, DBA OREGON CONTAINER TERMINAL SERVICES, in accordance with the Shipping Act of 1984, as amended (hereinafter, the “**Shipping Act**”), general rate and tariff requirements, and the regulations of the Federal Maritime Commission (Marine Terminal Operator Schedules).

The “**Effective Date**” of this Schedule unless otherwise indicated herein is January 1, 2026. There is no expiration date.

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## TERMINAL 6, TARIFF NO. 1

EFFECTIVE JANUARY 1, 2026

### 1. SCHEDULE.

**1.1 Application of OCT Tariff.** This Tariff applies to all rates, rules, regulations, charges, services or fees for use, entry or business with the Oregon Container Terminal, Terminal 6 at the Port of Portland, Oregon (the “OCT Terminal”), operated by Harbor Industrial Services Corporation, doing business as a Oregon Container Terminal Services. In the event there is a separate written agreement signed by OCT with a customer or other user of the OCT Terminal, this Tariff applies for all rules, regulations, charges, services or fees that are not specifically addressed in such separate written agreement.

**1.2 Use of the OCT Terminal deemed acceptance of this Tariff.** Entry on the OCT Terminal, or use of OCT’s facilities or services is deemed acceptance of this Tariff and the terms and conditions contained herein. It is incumbent upon any persons, organizations, or companies using OCT’s facilities to fully comply with provisions of applicable rules and federal, state, local laws or regulations. The Port of Portland (“PoP” or the “Port”) is a third-party beneficiary of this Tariff, and of all the terms and conditions stated herein. This Tariff is published and filed as required by law and provides notice to the public and all Facility Users (defined below) that the rates, rules, and charges stated herein apply without specific notice, quotation to, or arrangement with Facility Users.

**1.3 Public Notice.** This Tariff is published and filed as required by law pursuant to the Shipping Act, as amended, and 46 C.F.R 525.2, and shall at all times be legally enforceable as between Facility Users and OCT. This Tariff is notice to the public and Facility Users that the provisions of this Tariff, including, the rates, charges, rules, and regulations contained in the Tariff, apply to all Facility Users that use or are present on the OCT Terminal or any OCT related services, and are enforceable by an appropriate court as an implied contract without proof of a Facility User's actual knowledge of the provisions contained in the Tariff, and without specific notice, quotations to, or arrangement with Facility Users. Each Facility User shall be liable for noncompliance with the terms of this Tariff by such Facility User's partners, officers, directors, agents, employees, invitees, licensees, contractors and subcontractors. All vessels, their owners, charterers and agents, or other users or recipients of services - including but not limited to Beneficial Cargo Owners (BCOs), Non-Vessel-Operating Common Carriers (NVOCCs), Rail Carriers, Intermodal Equipment Providers (IEPs), Truckers, and Vendors - agree to pay all applicable charges and follow all rules and regulations of OCT and to abide by the rules and regulations of this Schedule. Except as otherwise provided, the applicable Rates, charges and fees shall be those in this schedule and in effect at the time Services are rendered. OCT reserves the right to furnish all equipment, supplies, and materials and to perform all services in connection with the operation of OCT’s facilities under the rates and rules contained herein. OCT may change, amend, or revise this Tariff and schedules of rates from time to time without advance notice.

**1.4 Port of Portland Tariff.** The Port is the owner of the OCT Terminal 6. The Port is a third-party beneficiary of this Tariff, and of all the terms and conditions stated herein. The Port maintains a Marine terminal tariff adopted under 46 C.F.R 525.2 referred to as the Port of

Portland Marine Terminal Tariff No. 17 (the “**Port Tariff**”, including all subsequent amendments and revisions). This Tariff applies to any Facility User using, or present on the OCT Terminal. While OCT is operating the OCT Terminal under the OCT Tariff, the following provisions of the Port Tariff remain applicable to and enforceable against Facility Users of the OCT Terminal: rail facility fees for Containers charged to railroads; piling and fendering system damage repair and replacement fees charged to vessels and remedies against Facility Users for damage to the marine facility the Port is obligated to maintain (Port Tariff 17 Part 1, Section I, Paragraph 3); standard maritime Law protections from liability to Facility Users (“**Third Parties**”) (Port Tariff 17 Part 1, Section I, Paragraph 3); security fees charged to all vessels on a per-dockage-day basis (Port Tariff 17 Part 1, Section I., Paragraph 13); (Port Tariff 17 Part 1, Section I., Paragraph 17 (Insurance); Port Tariff Part 1, Section I, Paragraphs 10 and 11 (legal compliance)); Port Tariff Part 1, Section I., Paragraphs 2, 19, 20, 21, 22, 23, and 24 (Application of Tariff; Indemnification; Reimbursement for Damage, Application of Carrier Bills of Lading; Excess Cargo Value, Limits of Liability and Waiver of Consequential Damages, Governing Law and Venue, Waiver of Sovereign Immunity); and remedies to enforce all of the above. Use of the OCT Terminal by a Facility User shall be deemed an acceptance of the Port Tariff as applicable to the OCT Terminal.

**1.5 Reservation of right to enter into separate contract.** OCT reserves the right to enter into a separate contract with a Facility User that contacts OCT in advance of entering or using the OCT Terminal, concerning rates, services, regulations and practices that govern their transaction when, in the sole discretion of OCT, the facts or assumptions underpinning the rates, services, regulations and practices in this Tariff are inappropriate in the particular circumstances of the contemplated transaction, provided such contract is consistent with existing local, state and federal law. If OCT’s last offer has not been unconditionally accepted by the time a Facility User makes use of, or is present at, the OCT Terminal, such use or presence is deemed acceptance of OCT’s last offer supplemented by such terms of this Tariff as are consistent with such last offer.

## **2. DEFINITIONS.**

**2.1 “Best Management Practices”** means: (a) standards established by regulatory agencies; (b) environmental or operational standards or guidelines that establish common and accepted practices appropriate for a Facility User’s operations on the Marine Terminal Facilities; and (c) standards or guidelines as stated by pertinent trade associations or professional associations.

**2.2 “Bunkers”** means those petroleum products which are utilized by a vessel as fuel for its own power.

**2.3 “Cargo” or “Goods”** means all cargo, goods, and other items, 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.

**2.4 “Cargo Units”** mean, a package containing merchandise or the method of waterborne conveyance of such merchandise and are defined as follows:

(a) **“Package”** is defined as the producer’s or manufacturer’s type of packaging containing merchandise. The package may include a carton, bag, barrel, drum, crate, bale, box, bundle, pail, flask, or basket. Merchandise may be conveyed in its Package or Packages in a “Unitized Load” or “Container” as defined below.

(b) **“Unitized Loads”** are defined as merchandise which is secured to pallets or skids by banding or otherwise being securely held together to form a single shipping unit to permit handling by mechanical equipment.

(c) **“Container”** is a single, rigid, intermodal, non-disposable dry” cargo, insulated, refrigerated, flat rack, liquid tank or open top container, demountable, without wheels or chassis attached, furnished or approved by the vessel for transportation of containerized cargo aboard its vessels not less than 20’ and not more than 53’.

**2.5 “Checking Cargo”** The service of counting and checking cargo against appropriate documents for the account of the cargo or the vessel, or other person requesting the same.

**2.6 “City”** means the City of Portland.

**2.7 “Container Freight Station (CFS)”** means a location designated by the water carrier for receiving and delivery of merchandise in connection with the stuffing and unstuffing of containers.

**2.8 “Customer”** means any alliance, alliance member, vessel, vessel owner, carrier, agent, vessel operator, vehicle, conveyance, consignor, consignee, beneficial Cargo owner, freight forwarder, NVOCC, 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.

**2.9 “Demurrage”** A charge assessed against cargo remaining in or on terminal facilities after the expiration of free time, unless arrangements have been made for storage.

**2.10 “Dockage”** Dockage is the charge assessed against ocean and river vessels and barges for berthing at a wharf, piling structure, pier, bulkhead structure, bank, or for mooring to a vessel so berthed. This definition of dockage takes precedence over and is a departure from the definition in 46 CFR 525.1.c.

**2.11 “Environmental Costs”** mean damages, fines, costs and fees arising from: (a) any violation of or noncompliance with applicable Environmental Law; or (b) any violation of the environmental provisions of this Tariff. Environmental Costs include the costs of: (i) immediate response, complete remediation, and restoration actions; (ii) natural resources damage; (iv) oversight and participation of governmental agencies, including natural resource trustees; (v) reasonable and documented fees of project managers, attorneys, legal assistants, engineers, consultants, accountants, and experts, whether or not employees of the damaged party and whether or not taxable as costs, incurred prior to, at, or after any administrative or judicial

proceeding, including appeals and other forms of judicial review; and (vi) diminution in value of, loss or restriction on use of, the OCT Terminal including costs resulting from dealing with residual Hazardous Substances. With respect to invasive species, recoverable Environmental Costs specifically include costs associated with quarantine, fumigation, pesticide or herbicide application, and actions taken at the request of state or federal authorities with authority over invasive species control.

**2.12 “Environmental Law”** means any and all federal, State of Oregon, regional and local laws, regulations, rules, permit terms, codes, ordinances, and legally enforceable guidance documents, now or in future in effect, as amended from time to time, and applicable decisional law, which govern materials, substances, regulated wastes, emissions, pollutants, water, storm water, groundwater, wellfield and wellhead protection, cultural resources protection, animals or plants, noise, or products and relate to the protection of health, safety or the environment, or natural resources including land, sediments, water, storm water, and ground water.

**2.13 “Facility User”** means any cargo interest, shipper, consignor, consignee, vessel, vessel owner, operator or charterer, inland carrier, ocean carrier (whether vessel operating or non-vessel operating), stevedore, freight forwarder, broker, motor carrier, rail carrier, or any other person or entity that enters, is present on, uses, or benefits from use of, the OCT Terminal or any of its related facilities or services. Facility User includes Facility User and Facility User's respective partners, officers, directors, agents, employees, invitees, licensees, contractors, and subcontractors. All vessels, their owners, charterers and agents, or other users or recipients of Services, including but not limited to Beneficial Cargo Owners (BCOs), Non-Vessel-Operating Common Carriers (NVOCCs), Rail Carriers, Intermodal Equipment Providers (IEPs), truckers, and vendors agree to pay all applicable charges and follow all rules and regulations of OCT and to abide by the rules and regulations of this Tariff.

**2.14 “Free Time”** The period during which cargo may occupy space assigned to it on terminal property, free of demurrage or terminal storage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel.

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

**2.16 “Hazardous Substances”** means any hazardous, toxic, dangerous, or extremely dangerous substance, material or waste which is or becomes regulated by the United States government, the State of Oregon, or any local governmental authority. The term includes, without limitation, any substances containing constituents regulated as specified above.

**2.17 “Lay Status”** is a condition of dockage defined as:

- (a) A vessel in non-working status waiting to load or discharge cargo;
- (b) A vessel that has completed cargo operations and has not sailed; or
- (c) Other circumstances as determined by OCT.

**2.18** “**Loading**” or “**Discharging**” means the service performed in loading cargo on or into ocean going vessels, railroad cars, trucks, or barges, and unloading cargo from ocean going vessels, railroad cars, trucks, or barges. Loading and unloading charges are assessed against the cargo when not absorbed by carriers. This definition of loading/unloading takes precedence over and is a departure from the definition in 46 CFR 525.1.c.

**2.19** “**Merchandise**” means and includes but is not limited to commodities, goods, wares, freight, liquids, articles and materials of every kind whatsoever, including bulk materials, cargo containers when empty, live animals, vessel’s stores and supplies.

**2.20** “**N.O.S.**” means Not Otherwise Specified. The entry in a Tariff that can apply to commodities not covered under a specific Item or sub-Item in the applicable Tariff.

**2.21** “**OCT**” means Harbor Industrial Services Corporation, a California corporation doing business as Oregon Container Terminal Services.

**2.22** “**OCT Parties**” means Harbor Industrial Services Corporation, a California corporation doing business as Oregon Container Terminal Services, together with its affiliated entities, officers, directors, employees, servants, agents, or independent contractors.

**2.23** “**Operator**” means Harbor Industrial Services Corporation, a California corporation doing business as Oregon Container Terminal Services, as applicable to the Service(s) provided. Harbor Industrial Services Corporation is a “Marine Terminal Operator” as defined by FMC Regulation, 46 C.F.R. § 525.1(13).

**2.24** “**Person**” means individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

**2.25** “**Point Or Place Of Rest**” means an area assigned by OCT for the placement of import or export cargo.

**2.26** “**Port**” means Port of Portland.

**2.27** “**Port of Portland Tariff**” or “**Port Tariff**” means The Port of Portland Terminal Tariff No. 17 and all revisions, amendments and successor tariffs issued by the Port.

**2.28** “**Private Premises**” means and includes all premises, wharves, docks, or areas other than municipal.

**2.29** “**Rate**” means a price that Operator will charge for providing a Service in or around the Terminal.

**2.30** “**Re-Handling**” Re-handling is the extra sorting of cargo, extra stacking or un- stacking, or extra movements into or out of holding areas, including movements required for CBP scanning. The charge for re-handling applies each time cargo is subject to additional movements.

**2.31** “**Terminal**” means one or more structures comprising a terminal unit, which include, but are not limited to, wharves, warehouses, covered and/or open storage spaces, cranes, and/or bulk cargo loading and/or unloading structures, landings, and receiving stations, used for the movement, care and convenience of cargo and/or passengers in the interchange of same between land and water carriers or between two water carriers.

**2.32** “**Vessel**” means all waterborne craft.

**2.33** “**Service**” or “**Services**” including checking, dockage, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, and demurrage, as provided under this Tariff. Any additional services which are offered, listed, and charges therefore are shown in the terminal schedule or agreed in advance.

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

**2.35** “**Wharf**” means and includes any wharf, pier, quay, or other structure to which a vessel may make fast or which may be utilized in the transit or handling of goods and merchandise, and shall also include all of the area between pier head and bulkhead lines; excepting, however, such locations as may be designated and set apart as public landings or for private use.

**2.36** “**Wharfage**” means charge assessed against all cargo passing or conveyed over, into, or under wharves or between vessels (to or from barge, lighter or water), when berthed at wharf, piling structure, pier, bulkhead structure or bank or when moored in slip adjacent to wharf.

Wharfage is solely the charge for use of the wharf and does not include charges for any other service. This definition of wharfage takes precedence over and is a departure from the definition in 46 CFR 525.1.c.

### **3. DAMAGE TO PORT PILINGS, PROPERTY AND THE ENVIRONMENT.**

**3.1 Piling and fendering system damage repair and replacement.** Vessels, including their owners, operators, and charterers, shall be liable and charged for the replacement or repairs of any pilings or fendering system damaged during berthing or unberthing a vessel or the occupancy of an OCT Terminal berth. Damage identified during a vessel's berthing, occupancy of a berth or after a vessel's departure shall be deemed to have occurred during the vessel's presence at a OCT Terminal berth unless the OCT is notified by the vessel's agent in writing prior to tie-up of any pre-existing damage to the pilings and fendering system.

**3.2 Liability for environmental damage and costs.** Each Facility User shall be liable for all Environmental Costs associated with investigation, response to, or abatement of any Hazardous Substance Release at or in the vicinity of the OCT Terminal , or on adjacent property, that emanate from, are related to, or are caused by, the Facility User's vessel, equipment, activities, or operations. If such Facility User does not immediately commence corrective action,

OCT may, in its sole discretion, undertake corrective action, and such Facility User must reimburse OCT for all such costs within thirty (30) days of written demand by OCT.

**3.3 Other property damage.** Each Facility User shall be liable for any damage arising out of, related to, or caused by the activities or operations of the Facility User at or in the vicinity of the OCT Terminal, either by act or omission, to OCT property, Port Property, property of any OCT tenant, or other user, and must reimburse OCT, the Port or other damaged party for any such damage within thirty (30) calendar days of written demand.

#### **4. OPERATOR'S RULES/OBLIGATIONS – STEVEDORING.**

##### **4.1 General.** Operator shall:

(a) Provide all necessary services for the loading and discharging of Customer's full and empty 20', 40', and 45' standard ocean freight containers. Services for 53' or other non-standard containers and non-containerized cargo are available but are subject to a surcharge and/or Extra Labor charges as specified in the Schedule of Rates.

(b) Supply all required personnel, labor, supervision, and equipment needed to perform stevedoring and terminal services.

(c) Perform Stevedoring Services that will adhere to the ILWU/PMA Collective Bargaining Agreement.

(d) Third shift work is conditional upon Customer request and Operator acceptance, and all associated costs are Customer's responsibility.

(e) Perform Standard yard and gate services Monday through Friday, from 0700-1200 and 1300-1700, excluding weekends and holidays. Services requested outside of these standard hours require Customer's written request and Operator's acceptance and will be billed to Customer.

##### **4.2 Vessel Stevedoring.** Operator shall:

(a) Plan all loading and discharging sequences for containers and non-containerized cargo based on Customer's inbound stowage plan and pre-stow instructions. Note that Operator may stow a Customer's outbound containers with others destined for the same port.

(b) Set the export gate cut-off time as the earliest of either 24 hours before vessel arrival or the last 1st shift worked prior to arrival.

(c) Ensure the Master or Customer's agent approves the loading plan before commencing loading.

(d) Provide Customer with the completed outbound container stowage plan.

(e) Perform lashing and unlapping of all containers and non-containerized cargo stowed on or under the vessel's deck.

(f) Discharge inbound containers and either deck them in the Terminal or keep them on wheels as operationally required. Inbound intermodal train containers will be decked or wheeled at Operator's discretion in a designated area.

(g) Dray outbound containers from their point of rest to the berth, then load and stow them onboard the vessel.

(h) Load and stow or discharge non-containerized cargo to/from vessels. All related additional expenses will be billed to Customer as per the Schedule of Rates.

(i) Perform container shifts between cells or restow containers onto the vessel as instructed by Customer. All associated expenses, including surcharges, set-asides, shifting, and rehandling activities such as changing discharging ports or optional stowage, will be charged to Customer.

(j) Monitor and record all cargo movements (containers and non-containerized cargo) on, off, and shifted onboard the vessels. Note any apparent damage exceptions and promptly notify Customer.

#### **4.3 Gang Ordering and Berthing of Vessels.**

(a) Upon the container vessel's arrival, Operator will assign an available berth and generally begin operations at the start of the next 1st or 2nd shift, unless otherwise mutually agreed.

(b) Operator determines the deployed number of labor gangs after prior consultation with Customer, unless a different agreement is in place.

(c) Operator will place labor gang orders for a shift based on the latest Estimated Time of Arrival (ETA) provided by Customer before the established labor-order filing/cancellation deadline.

(d) Operator can order gangs for vessels expected to arrive after the start of a work shift upon Customer request; however, Customer will be responsible for any resulting labor standby costs.

(e) Customer may request third-shift gangs, which Operator can accept or refuse at its discretion. Customer is responsible for all associated costs incurred during the 3rd shift, including labor standby, detentions (unless caused by Operator), and deadtime.

(f) All charges for extra labor will be billed to Customer.

(g) Operator assumes no responsibility for any labor shortages or the inability to secure necessary labor gangs.

**4.4 Container Yard Activity.** Operator shall:

(a) Full (inbound/outbound) and empty containers will be decked, *except* for certain cargo (e.g., hazardous materials, live reefers, over-dimensional containers, flat racks, and tanks) which Operator may, at its sole discretion, keep on chassis.

(b) Operator will deliver containers to be picked up by truckers and stack containers received from truckers, unless operational requirements necessitate keeping them on wheels.

(c) Operator will connect and disconnect power for reefer containers entering and exiting the yard.

(d) Operator will also monitor temperatures and ventilation settings roughly every 12 hours and report discrepancies to Customer promptly. Reefer receiving temperature checks at the gate will follow the mutually agreed-upon procedure with Customer, and documentation will be provided upon request.

(e) Containers for local delivery will be available for pickup at the start of the next working shift following 3:00 a.m. after discharge, provided all Operator release criteria are met and an import pickup appointment has been secured.

(f) Empty containers will be stacked for release to truckers or for vessel loading based on type and size. Operator will not release empty containers by specific number for off-leasing or other non-standard purposes. If Operator agrees to release a specific empty container, Customer is responsible for all shifting and rehandling fees required to access that unit.

(g) Specific types of containers, including live reefers, hazardous materials, over-dimensional containers, and outbound containers received late (after cut-off) or early (for a future vessel), may be kept on wheels in the Terminal at Operator's operational discretion.

(h) If Customer requires early export receiving, before the scheduled free time, Customer must consent to and accept the applicable demurrage charges.

(i) Bare chassis leaving the Terminal after a full or empty container is decked are subject to standard gate processing, including the issuance of an Equipment Interchange Receipt (EIR) and any applicable fees.

(j) If Customer requests a container to be shifted or rehandled (e.g., for vessel change, rolls, or return to shipper), the applicable Rate will be charged for the requested container and for every non-requested container that must be moved to access it.

(k) Operator will perform internal yard drayage of containers when requested by Customer, a government agency, or for maintenance/repair. All charges for this drayage are Customer's expense, including fees for additional movements of the same equipment.

(l) Operator will perform billable chassis switches (flips) for wheeled cargo (e.g., Out of Gauge, hazardous, reefer, tanks) and for trucker-requested flips (e.g., due to chassis ownership, damage, or genset shortage). Customer will be billed for all flips, and their use of a third-party chassis pool does not waive this responsibility. However, Operator is responsible for the cost of any flip caused by its own negligence or for its Terminal convenience.

#### **4.5 Storage of Containers and Chassis.**

(a) **Container Storage.** Full containers are subject to the Terminal's wharf demurrage, wharf storage, and free time rules. If Customer asks Operator to collect port demurrage on their behalf, Operator will forward the amount collected minus the Tariff fee and a 15% administrative fee. Customer is responsible for the Tariff fee if they waive, guarantee, or extend demurrage. To minimize costs, Customer must work in good faith to reduce empty container storage. If the agreed-upon empty storage allowance is exceeded, Operator will invoice Customer and may require them to mitigate or redirect empty container returns after prior notification.

(b) **Chassis Storage.** Customer must ensure their third-party chassis provider supplies enough chassis for their wheeled cargo requirements (e.g., reefers, hazardous, flat racks). If the chassis provider fails to do so and Customer's cargo uses another provider's chassis, Customer will incur applicable daily fees and is responsible for the cost of switching to the correct chassis as soon as possible. Operator is not responsible for any chassis usage fees. Customer is also responsible for all unidentified chassis on the Terminal linked to them by transaction history. *Unless a separate hosting agreement exists*, Operator will manage chassis by: gating in/out; maintaining a daily inventory (size count, no specific numbers) based on OCR reads (no manual corrections); storing and stacking in the yard; providing limited M&R services per the Schedule of Rates; and potentially limiting inventory to 1.3 times the three-week average throughput. Operator will not provide inspection services unless required by a third-party IEP, government regulation, or union jurisdiction, which would result in additional fees.

(c) **M&R Abandonment.** Damaged chassis that have a repair estimate but no repair authorization will be considered abandoned and may be removed from the Terminal at Customer's expense after 90 days if not repaired or removed.

(d) **Government / Carrier Inspections.** Customer is responsible for all costs related to inspections conducted by Operator, including CBP guidelines and any Customer-requested inspections. Customer guarantees and will be directly invoiced by Operator for all stated inspection fees. While Operator will attempt to notify Customer of pre-notified CBP inspections, Customer remains responsible for these fees. All additional inspection costs, such as CBP overtime and equipment/labor differentials, are also Customer's responsibility.

#### **4.6 Gate Activity.**

(a) Operator will receive full/empty containers on chassis and bare chassis per Customer instructions. No physical inspection will be performed. Operator will conduct a cursory remote visual inspection and notes only obvious damages that affect a container's structural integrity, normal handling/transportation (due to excessive deformation),

substantial loss of internal volume, or a chassis' major structural damage. Operator remains not responsible for any damages or defects, whether noted or not.

(b) For OOG containers, Operator will report discrepancies with Customer's booking, such as unlisted over-dimensions, obstructions to safe loading, or unsecured cargo. Operator will also: notify Customer of issues to prevent loading delays; provide the vessel with pre-stow location information; and attempt to measure and list the over-dimensions on the Exception List and departure Baplie File.

(c) Operator will not receive containers that are overweight (exceeding the max-gross weight), hazardous materials in violation of regulations (e.g., leaking, improper documentation, missing placards—unless authorized to affix them at Customer expense), improperly stowed/secured flat racks/open-sides, or empty containers with hazardous placards (unless authorized to remove them at Customer expense).

(d) Operator releases full or empty containers from the out-gate as instructed by Customer. Import containers require electronic release authorization. Empty containers for export bookings may be released. Truckers are responsible for noting exceptions for equipment damage upon leaving, which Operator will record on the interchange receipt.

(e) An Electronic Equipment Interchange Receipt (EIR) will be provided for all gate moves.

(f) Export Weighing: All full export containers received through the Gate will be weighed by Operator. This weight is not to be used for the VGM.

(g) Operator will receive and deliver non-containerized cargo in a designated Terminal area, with the charges for this service billed to Customer as Extra Labor.

(h) Full payment of all applicable wharf demurrage/Storage charges is required before Operator will release any inbound or outbound container from the Terminal.

(i) Operator offers roadability services voluntarily. If roadability becomes mandated, Operator will inform Customer and establish new rates, which Customer must pay without unreasonable delay. Operator is not responsible for any costs or cargo delays resulting from roadability repairs, which will impact Customer's truck turn times.

(j) Third-Party/Non-Vessel Moves: Operator tracks and identifies all third-party or non-vessel related gate moves (e.g., bare chassis repositioning, gate-to-train, etc.). These moves are for Customer's account and will be invoiced periodically per the Schedule of Rates.

#### **4.7 Maintenance and Repair of Customer's Equipment.**

At Operator's discretion, Operator may provide maintenance and repair services at the Terminal for Customer's equipment, in accordance with the below:

(a) Customer pre-authorizes Operator to perform repairs up to a \$500 limit for each Container, Chassis, or Genset (“**Equipment**”). Specific authorization is required for repairs exceeding \$500, with the exception of reefer live loads, which are automatically repaired.

(b) If repair costs exceed the pre-authorized limit, Customer must approve the repair estimate within 48 hours of receipt. If authorization is not received within this period, Customer must immediately dray the damaged equipment off-dock at their expense. This off-dock requirement also applies to any heavily damaged container or chassis remaining in the Terminal for more than 7 days. If Customer authorizes the work, Operator will not charge for estimates and drayage. If the work is not authorized, Customer will be charged for the estimate cost, any photos, and incurred drayage.

(c) If Customer utilizes roadability, an 8-point chassis inspection will be completed and billed to Customer. All container repairs will also be Customer's responsibility.

(d) To protect the high value of reefer live loads, all necessary repairs for these units will be completed automatically by Operator, regardless of the standard \$500 repair limit.

(e) All loading and unloading of Customer's equipment to and from flatbeds will be billed to Customer.

(f) Mechanic hourly rates are based on the 1st, 2nd, and combined 1st/2nd overtime shifts. Repairs completed on the third shift will be billed according to the Schedule of Rates.

(g) Any maintenance or repairs not explicitly covered in this section or the M&R Schedule of Rates will be billed to Customer at Extra Man Hour rates plus scheduled equipment rates and material costs plus 30%.

**4.8 Special Cargo Services.** Charges for Special Container Service shall be issued in accordance with those categories listed within the Schedule of Rates, inclusive of additional Services, including but not limited to 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 as extra labor.

## **5. CUSTOMER'S OBLIGATIONS - STEVEDORING OPERATIONS.**

**5.1** Customer shall provide Operator with all information and instructions necessary to allow Operator to provide efficient Services, including but not limited to:

(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 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 to Operator via an EDI format acceptable to Operator. Such transmission of data shall be received by Operator no later than 72 hours prior to the ETA of each applicable arriving vessel.

(b) Outbound (Export)

(1) Booking information regularly updated, including written instructions for dangerous Cargoes. Customer and Operator shall reconcile all booking information on a weekday (Mondays through Fridays, exclusive of holidays) at the time mutually agreed to by Operator and Customer. Operator shall follow the agreed upon reconciliation times and will be advised of such by Customer.

(2) Details of dangerous Cargo, awkward containers and non-containerized Cargo.

(3) Outbound pre-stow plan as soon as available and at least twenty-four (24) hours prior to vessel arrival.

(4) A list of all DST containers and requirements, if applicable.

(c) General

(1) Customer shall advise Operator of vessel schedules and ETAs and shall notify Operator of any changes to said schedules and/or ETAs, as they occur and with sufficient time 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 to allow for Operator’s preparation for container Handling

(3) Customer shall provide Operator, 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 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 regulations, and any other applicable laws and regulations.

Upon reasonable request by OCT and without prejudice to Customer's ordinary course of business, Customer agrees to provide for OCT's inspection, upon request and prior to the commencement of cargo operations, valid registers and certificates applicable to all gear and as required under applicable laws or regulations. In accordance with such laws and applicable regulations.

(6) Customer certifies that all Containers which are being transported pursuant to a Vessel's Bill of Lading shall at all times be properly documented with shipper-declared weights and shall be, in the case of house-to-house moves, tendered for transport in the manner provided for under US law. Customer warrants that all Containers under its control and to be handled under the terms of this Agreement shall at all times be in conformance with the Convention for Safe Container (CSC).

(7) Customer shall adhere to all local, state and federal Environmental Regulations and/or the Terminal's environmental requirements as set forth by the Port, City, State or Federal agencies, including but not limited to full compliance with the following:

- i. CERCLA and its implementing regulations;
- ii. RCRA and its implementing regulations;
- iii. The federal Clean Water Act (33 U.S.C. §§ 1251-1376, *et seq.*) and its implementing regulations;
- iv. The federal Clean Air Act (42 U.S.C. §§ 7401-7601) and its implementing regulations;
- v. The National Environmental Policy Act; and
- vi. Any other applicable federal, state, or local law, regulation, ordinance or requirement (including consent decrees and administrative orders imposing liability or standards of conduct) now or hereinafter in effect which concerns hazardous materials;

**5.2 Chassis.** A Vessel Operating Customer is required to ensure an adequate supply of chassis for their cargo that requires them. Operator will not be liable for any costs to Vessel Operators resulting from an insufficient chassis supply or Operator's utilization of chassis within the Terminal. In the event Customer supplies its own chassis, Customer agrees such chassis shall at all times be maintained in good working order to accommodate Customer's containers and meet all licensing and safety standards as promulgated by state, local or federal governments or agencies thereof.

Customer is responsible and accountable for the following chassis-related services provided by Operator:

- (a) Chassis switches and flips.

- (b) Chassis repositioning and control services, including the movement of bare chassis within the terminal (drayage), bare chassis releases from the gate, and placing bare chassis on hold.
- (c) Storage of chassis within the terminal premises.
- (d) The provision of bare chassis to truckers for containers that are grounded (not on a chassis).

**5.3 Electronic Data Interchange (EDI) For VOCCs.** Each Vessel Operating Common Carrier Customer (“VOCC 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. Operator and VOCC Customer agree to transmit activity messages, principally terminal operations activity messages, within two (2) hours of the occurrence of the event. This two-hour requirement is to be met by Operator and VOCC Customer throughout the week including weekends and public holidays. Computer services beyond normal terminal operator’s functions may be provided by Operator at VOCC Customer’s expense.

**5.4 Government Regulations/Requirements/Programs.** Customer shall satisfy, abide and follow all applicable ocean vessel and/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 Customer.

Customer shall also be responsible for any additional government costs assessed to the Terminal to clear the Cargo for out gate. In addition 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 which case, invoicing shall be completed on an Extra Labor basis.

#### **5.5 Hazardous Substances.**

(a) 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 said Cargo. Customer shall be responsible for misdeclarations of any cargo containing Hazardous Substances, and will be subject to a Mis-declared hazardous charge, as set forth in Schedule of Rates.

(b) Container Labeling. Customer agrees that, with respect to its containers laden with labeled and/or hazardous cargoes, which are being transported pursuant to Customer’s or Vessel’s bill(s) of lading, Customer shall ensure that such shipments are documented, labeled, and secured in accordance with current International Maritime Organization (IMO) requirements appearing in the International Maritime Dangerous Goods Code and, when such Containers are to be offered for transport within the transportation infrastructure of the United States, in accordance with current regulations promulgated under any governmental authority with jurisdiction over same.

(c) Rejecting Hazardous Cargo. Notwithstanding any other provision of this Agreement, Operator shall have the right, to refuse to accept for discharge, loading, or

handling of any Container laden with Hazardous Cargo of a type and quantity for which a Transportation Security Plan is required under 49 C.F.R. 172.800(b) (“**Hazardous Container**”).

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

(e) Unusual cargoes. At OCT’s sole discretion, and subject to federal, state and local regulatory agency regulations, OCT may exclude or require special arrangements to process explosive, nuclear materials, invasive species, hazardous substances or inflammable commodities or materials at the OCT Terminal.

## **5.6 Hazardous and Non-Hazardous Material Response.**

(a) Customer shall have the full and sole responsibility, at Customer’s 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 and/or removal from the Terminal. Such arrangements shall include but are not 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; and 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 to by and at the sole discretion of Operator.

(b) 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 a suspect or potentially problematic 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. Customer shall be solely responsible for the cost of these actions, plus 30% for Operator’s administration.

(c) Customer shall be fully responsible for the treatment, Handling and disposal of such hazardous and non-hazardous containers and shall indemnify and hold Operator and the Port 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 Customer will comply with assigned responsibility as set forth in government safety-related codes or standards as they specifically apply to Customer and/or its Cargo.

(b) Customer agrees, with respect to shipments of hazardous materials and/or dangerous Goods 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, including work at its CFS, 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. Extra Work or Extra Labor will be billed at Extra Man Hour rates + equipment at scheduled rate and other materials at cost, plus 30%.

**7. 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 to between Operator and Customer, per the Schedule of Rates.

**8. CONTAINER STACK TRAIN SERVICE - OPERATOR RESPONSIBILITIES.**

**8.1 General.**

(a) Operator will provide rail services and related terminal services for Customer's dedicated trains, specifically for I.S.O. standard containers. The number of trains, railcars, and the standard weekly schedule, along with the applicable handling volumes related to Customer's cargo calling at the Terminal, must be mutually agreed upon by Customer and Operator.

(b) Operator shall supply rail tracks and sufficient yard space, as mutually agreed, to ensure efficient rail and directly related terminal operations.

(c) Operator will provide all necessary staff, labor, supervision, and container handling equipment required for I.S.O. standard containers.

(d) Rail and directly associated services will be performed during the 1st and 2nd shifts in compliance with the ILWU/PMA Collective Bargaining Agreement.

**8.2 Rail Services - Operator's Responsibilities.** Operator shall perform the following:

(a) Operator will assign available rail tracks within the Terminal for rail cars used by Customer or their third-party intermodal vendors.

(b) Operator is responsible for planning train stowage and sequencing the loading and discharging of containers, following the westbound car plans and Customer's special pre-stow instructions for eastbound car plans.

(c) Operator will notify Customer if any containers are unlikely to be loaded onto the train due to their vessel stowage position or the planned loading sequence.

(1) All "FINAL" train car plans will be provided to Customer within one hour after the completion of train operations.

(d) Operator will coordinate the movement, scheduling, and disposition (including car inspections and 'Bad Order' status) of eastbound (E/B) and westbound (W/B) Double Stack Train (DST) cars with the railroad or third-party vendor, as directed by Customer.

(e) Operator will dray (move) full or empty containers within the Terminal and load them onto rail cars according to the pre-stowed eastbound car plans.

(f) Operator will discharge (unload) full or empty containers from rail cars and dray them directly to their assigned storage areas within the Terminal.

(g) Inter-Box Connectors (IBCs): Operator will install IBCs where necessary and collect them into the designated gear boxes on the rail cars after use.

(h) Operator will check and tally all container movements (on and off rail cars) and document any visible damage.

(i) Operator will check the integrity of seals on all full train containers during loading and discharging without disrupting workflow. Operator is not solely responsible for seals that are found missing or breached after the fact. Seal numbers are not recorded; however, if a seal is found not intact, a notation will be made, a new standard seal will be applied, and the new seal number will be recorded at the scheduled rate.

(j) Upon the completion of each train operation shift, Operator will provide Customer with records for all handled rail cars, containers/chassis received or delivered, notes from cursory visual inspections for damage, and exceptions related to the "seal intact" status.

### **8.3 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.

(b) Operator shall arrange labor for the next 1st or 2nd shift after the train's ETA at Terminal. 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 Customer. Deadtime or guarantee time at the end of scheduled 1st or 2nd shifts shall be for the account of Customer.

(c) Customer shall 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 Customer's normally contracted railroad is available for such movement.

(d) Customer shall have 24 hours to remove empty cars unloaded at the Terminal and full cars loaded at the Terminal. Should the time extend beyond 24 hours, Customer shall be responsible for a railcar storage fee, as set out in the Schedule of Rates.

(e) If requested by Customer, and if agreeable with Operator, Operator will order labor for the train pre-determined to arrive after the beginning of the applicable work shift, provided Customer is 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.

(f) 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.

#### **8.4 Receiving and Release of the Train.**

(a) Operator shall receive rail cars from Customer upon completion of the spotting at Terminal by Customer's contracted railroad.

(b) For exports received via rail, all containers must arrive within Operator's working yard 24 hours prior to vessel arrival.

(c) Switching-in of rail cars shall be made by Customer's contracted railroad and such rail cars shall be spotted per the requirements of Operator.

(d) 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 Customer's contracted railroad.

(e) Customer shall be responsible for coordinating all train communications and movements with their contracted railroad and 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.

(2) Customer shall arrange to remove any bad order cars not available for use during the immediate on-going train operation.

(3) All costs resulting from 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.

(4) Should a railroad or third-party vendor fail to pull train within 24 hours of scheduled release, railcar storage shall apply per the Schedule of Rates.

(f) 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.

## 9. RAIL SERVICES - CUSTOMER'S OBLIGATIONS.

**9.1 General.** Customer shall provide Operator with all necessary information and instructions, to allow Operator to provide efficient services, as set forth below.

(a) General:

(1) Customer 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.

(2) Customer 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 discharge operations.

(3) Any containers on governmental hold or not released for loading to trains on-dock shall be pre-advised by Customer 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 Operator.

(4) Customer, 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.

(5) Customer shall have the responsibility and authority to authorize Operator to cut or eliminate containers from planned train loading operations at the Terminal at scheduled fee.

(6) Customer 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.

(7) Customer shall notify Operator of Customer's policies on train car loading, hubbing or weight distributions, if different from standard handling practice or from registry information on car capacities and limitations.

(8) Customer shall supply sufficient IBCs 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:

i. Number, size, type, height, seal number, and gross weight.

ii. Export vessel and destination.

iii. Hazardous information.

iv. Special handling instructions.

v. Details of awkward containers.

(4) Data shall be EDI transmitted by Customer to Operator no later than 24 hours prior to the applicable labor shift start time for each train operation.

(5) Customer shall follow the International Convention for the Safety of Life at Sea (“**SOLAS**”) VGM regulations. Operator shall assume that Customer and shipper have made arrangements for the shipper to provide a shipper-signed VGM for each container delivered.

(c) Eastbound Data

(1) Container Data By:

i. Number, size, type, height, seal number and gross weight.

ii. Train loading hub or destination per container.

iii. Hazardous and reefer information.

iv. Special handling instructions.

v. Details of awkward containers.

(2) Data shall be EDI transmitted by Customer to Operator no later than 24 hours prior to commencement of vessel operations.

**9.2 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 at applicable markup, unless otherwise stipulated in this Schedule including the Schedule of Rates.

## **10. SAFETY - ALL OPERATIONS.**

**10.1 Operator's Rights.** 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 and refuse to use unsafe gear or equipment.

**10.2 Customer's Obligations.** 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. 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 damage or injuries which resulted therefrom.

## **11. COMPLIANCE WITH SAFETY, ENVIRONMENTAL, AND OTHER LAWS.**

**11.1 Safety.** All Facility Users must comply with all applicable health and safety laws, rules, or regulations enacted or promulgated by federal, state, or local regulatory agencies, and by OCT or the Port.

### **11.2 Additional Definitions.**

(a) **“Hazardous Substance”** means any and all substances, contaminants, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any applicable Environmental Law. Hazardous Substances includes invasive species, fuels, petroleum and petroleum derived products.

(b) **“Hazardous Substance Release”** means the threatened or actual spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking, placing, migrating, leaching, and seeping of any Hazardous Substance into the air or into or on any land, sediment, or waters (including groundwater).

(c) **“Natural Resources Damage”** means the injury to, destruction of, or loss of natural resources resulting from a Hazardous Substance Release. The measure of damage is: (1) the cost of restoring injured natural resources to their baseline condition; (2) the compensation for the interim loss of injured natural resources pending recovery; and (3) the reasonable cost of a damage assessment. Natural Resources include land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any state, an Indian tribe, or a local government.

### **11.3 Compliance Obligations.**

(a) All Facility Users must manage and conduct all of their activities on or relating to the Marine Terminal Facilities: (1) in compliance with all applicable Environmental Law; (2) in cooperation with OCT in OCT's efforts to comply with Environmental Law; and (3) in adherence with Best Management Practices. Without limiting the generality of the foregoing, all Facility Users must comply with OCT's municipal separate storm sewer system permit and stormwater pollution control plan, and any other applicable stormwater permit and stormwater

pollution control plan associated with the Marine Terminal Facilities they are present on, use, occupy or operate.

(b) Upon request from OCT, a Facility User must promptly provide OCT with any permits, plans or submittals required by any regulatory agencies related to such Facility User's use, occupation or operation on the Marine Terminal Facilities. In the event of a violation of Environmental Law, a violation of an environmental provision of this Tariff, a Hazardous Substance Release, a threat of or reasonable suspicion of a Hazardous Substance Release, or other environmental incident that occurs on one of OCT Marine Terminal Facilities, Facility Users must promptly notify OCT. If notice to OCT must be given on the weekend or after 5:00 p.m. on any day, Facility Users must notify OCT by calling OCT's emergency telephone number at (503) 240-2230.

**11.4 Other Laws.** In addition to any laws, rules, or regulations specifically referenced in this Tariff, all Facility Users must comply with any other applicable laws, rules, or regulations enacted or promulgated by federal, state, or local regulatory agencies and by OCT, including marine security laws.

## **12. UNITED STATES COAST GUARD COMPLIANCE.**

**12.1** All ocean-going vessels using or scheduled to use a Port Berth must comply with the United States Coast Guard ("USCG") rules and regulations. If at any time, while at Berth, a vessel is determined by USCG to be in noncompliance or substandard, or if the cargo operation is interrupted or ordered to stop by the USCG authorities or Captain of OCT, the vessel, its owner(s), operator(s) or charterer(s) shall be liable for all consequential delays, damages, and costs; and OCT shall have the right to order the vessel to vacate the Berth if the cargo operation has not resumed within one hour from the time the cargo operation stopped.

**12.2** If at any time, prior to the vessel's berthing, it is determined by the USCG that the vessel is deficient, the vessel's agent, master, owner(s), operator(s), or charterer(s) must immediately notify OCT indicating the nature of the deficiency so determined. Depending on the deficiency's potential impact on the cargo operation, OCT may, in its sole discretion, reject or void the vessel's Application for Vessel Berth Reservation or Layberth Space Request until the deficiency is corrected and acceptable to the USCG.

## **13. THIRD PARTY FEES.**

**13.1 The Maritime Fire and Safety Association.** The Maritime Fire and Safety Association ("MFSA") increases vessel safety and casualty response effectiveness through its comprehensive MFSA Vessel Response Plan that covers the Columbia River from its mouth (at river mile 0) extending three miles into the Pacific Ocean, up to the Glenn Jackson Bridge at I-205 (river mile 113) and the Willamette River from its confluence with the Columbia River up to Willamette Falls. In addition, the MFSA enters into contracts with the participating local fire districts and other safety organizations along these river systems through which they: (a) facilitate ongoing training and education of member fire agencies in the response to vessel emergencies and (b) allow for purchase (and reimbursement) of specialized marine firefighting equipment to combat marine fires. The MFSA levies a charge per oceangoing or deep-draft

vessel for each initial arrival within the Columbia River. Each vessel is responsible for registering with MFSA and paying any charges or fees due to MFSA.

**13.2 PMA Tonnage Assessments.** PMA tonnage assessments are fees collected from shipping companies by the Pacific Maritime Association (“PMA”) to fund ILWU-PMA employee benefit plans (pensions, welfare, etc.) on the U.S. West Coast, ensuring financial stability for worker benefits even when hours fluctuate. These fees are based on cargo volume or weight. Customer is responsible to pay any PMA tonnage assessments directly to the PMA.

#### **14. SECURITY FEES**

**14.1** Each vessel must pay the Port security fees at the OCT Terminal for which the Port provides security, including the T6 Container Facility. In order to fulfill its responsibilities for security, including, responsibilities mandated under the maritime transportation security laws and regulations comprising the Maritime Transportation Security Act of 2002 and 33 C.F.R. part 105, the Port will assess against and collect from vessels, their owners, operators, or charterers for the use of Marine Terminal Facilities working areas the Port security fee stated in Part 2, Section I. The Port will assess and charge fees against the vessel for each Dockage Day (as defined in Part 1, Section II, Paragraph 3), and irrespective of whether Dockage is charged or chargeable. Such security fee is in addition to all other fees and charges due under the Tariff.

**14.2** At the Port’s or OCT’s sole discretion, charges may be assessed to cargo and vessels for additional security costs associated with an increase in MARSEC level mandated by the U.S. Department of Homeland Security.

#### **15. ELECTRICAL CURRENT.**

**15.1** The charge for electric service includes electric power at either Portland General Electric’s or Pacific Power’s current tariff rate, use of the power distribution system at the applicable terminal, which includes use of portable transformers as available or necessary, common area lighting as well as related administration, services, and equipment. These charges are in addition to the charges for other services and equipment listed elsewhere in this Tariff.

**15.2** The Port will exercise reasonable care to provide adequate and continuous electric service, but does not guarantee adequate and continuous service. The Port shall not be liable for injury, loss, or damage resulting from any failure or curtailment of electric service not occasioned by its tortious conduct or that of its agents or employees.

**15.3** Labor Services performed will be billed at Tariff labor rates.

**16. DISPOSAL OF VESSEL'S OILY WASTE AND GARBAGE.** Vessels requiring discharge of oily waste or garbage, as defined in Annex V of MARPOL 73/78, at OCT shall obtain the services of an oily waste or garbage hauler that meets all USCG and other government laws and regulations in effect at the time of the haul. The oily waste or garbage hauler is not an agent or employee of OCT, nor shall OCT be liable for any act, omission, or negligence of any such oily waste or garbage hauler.

**17. MATERIALS AND SUPPLIES.** Materials and supplies furnished by OCT shall be billed at cost, plus 25%.

**18. CHARGES AND PAYMENT.**

**18.1 Collection and Guaranty of Charges.**

(a) OCT shall assess Wharfage, loading and unloading, and miscellaneous charges to the owner of the cargo when they are not absorbed by the ocean or inland carriers.

(b) OCT shall bill charges for Wharfage, loading and unloading, and other Port charges for services performed on cargo transshipped by ocean carriers to, and their payment shall be guaranteed jointly and severally by, the vessel, its owner(s), operator(s), and charterer(s).

**18.2 Satisfactory assurance for payment and when payment due.** Use of Marine Terminal Facilities or service(s) by a Facility User is conditioned upon satisfactory assurance from such Facility User to OCT that all charges shall be paid when due. Charges are due and payable as they accrue or on completion of service or use.

**18.3 Payment Requirements.**

(a) When applicable under this Tariff, OCT shall bill charges, including Dockage, Port security fee, and Wharfage, to the vessel, its owners, operators, charterers, or agents, and the vessel, its owners, operators, charterers, and agents jointly and severally guarantee payment.

(b) OCT may require payment in advance for each of the following:

(1) Berth Assignment. Before a vessel is assigned a Berth and commences its loading or unloading operations.

(2) Cargo Custody and Control. Before cargo leaves the custody and control of the Marine Terminal Facilities for inbound shipments and before outbound cargo is released from the custody and control of the Marine Terminal Facility. These charges are the joint and several liability of these Facility Users: the cargo owner, shipper, and consignee.

(3) Perishable, Doubtful Value, Household Goods. For all services provided on perishable cargo, cargo of doubtful value, and household goods.

**18.4 Payment Terms Are Cash Unless Port Has Consented To Extended Payment Terms.**

(a) Unless credit for its charges has been extended by OCT, all Port invoices for its charges pursuant to this Tariff or other agreement are due and payable in United States currency upon presentation to the vessel, its owner(s), operator(s), charterer(s), or agent(s). Facility Users, prior to the use of Marine Terminal Facilities or services, may receive extended

payment terms, provided they have established credit worthiness or have posted adequate security acceptable to OCT and OCT has relieved them of cash payment requirements in OCT's Application for Vessel Berth Reservation or Layberth Space Request. If payment is not made by the Facility User to whom credit has been extended by OCT according to the terms of such credit extension, then OCT may, in its sole discretion, following the failure to properly make payment, place such Facility User on a cash payment basis.

**18.5 Delay and/or failure to pay.** In the case of delay or failure to pay invoices by the responsible Facility User when due, OCT reserves the right to demand payment of charges in advance before performing further services or before delivery of cargo against which charges have accrued. Any pending or alleged claims against OCT are not allowed to be asserted as an offset against outstanding invoices or accrued charges.

(a) **Delinquent Invoices.** Invoices issued by OCT are due and payable no later than thirty (30) days from invoice date. Invoices not paid by the due date shall bear a delinquency charge of eighteen percent (18%) per annum or, if less, the maximum rate of interest allowed by law, from the date of delinquency until paid. OCT may, in its sole discretion, periodically change the delinquency charge on overdue amounts. OCT's failure to impose a delinquency charge shall not be a waiver of OCT's other rights and remedies for such delinquent payment, nor of OCT's right to later charge and collect a charge for such delinquency. Acceptance of any delinquency charge by OCT shall in no event prevent OCT from exercising any of the other rights and remedies granted under this Tariff or by law. Any and all services provided or performed pursuant to this Tariff shall give rise to a lien in favor of OCT against the vessel, Containers, chassis, cargo, or any other tangible property whatsoever.

(b) **Collection Expenses.** OCT may, in its sole discretion, also assess any and all additional collection expenses incurred, including attorney fees and costs necessary to effect collection on the responsible Facility User. Attorney fees apply only on collection actions or as otherwise provided in this Tariff for indemnity claims. Attorney's fees are not recoverable in claims related to cargo, container or chassis damage.

(c) **Furnishing Services to and Reliance on Credit of Vessel.** Unless otherwise expressly agreed in writing by OCT, all services provided to any Facility User shall be deemed to have been provided to the associated vessel, and any credit extended to a Facility User shall be conclusively presumed to have been extended on the credit of the associated vessel.

(d) **Remedies.** OCT reserves all rights to pursue any and all remedies available under applicable law or in equity in the event of delinquencies or other noncompliance with this Tariff.

## **19. INSURANCE; INDEMNIFICATION, LIMITATIONS ON LIABILITY**

**19.1 Insurance Coverages.** Rates named in this Tariff do not include insurance of any kind. Every Facility User must obtain and maintain insurance in the type applicable to cover bodily injury and property damage arising out of their activities at or upon the OCT Terminal. The following is the minimum insurance coverage that must be secured:

(a) **Workers' Compensation.** Workers' Compensation Insurance (including coverage for Longshoremen & Harbor Workers Act claims, if applicable). This coverage is required under federal and state statutes for all the party's employees performing its work. In addition, Employer's Liability and Maritime Employer's Liability (including Jones Act coverage for masters and members of crew), as applicable, in at least the minimum amount required by law but not less than one million dollars (\$1,000,000) per occurrence.

(b) **General; Marine.** Commercial General Liability and/or Comprehensive Marine General Liability, Stevedore's Liability, Protection and Indemnity, Charterer's Legal Liability, Sudden and Accidental Pollution Liability, and any other insurance required by state and federal law, as applicable, with separate limits of five million dollars (\$5,000,000) each coverage, per occurrence. Coverage must include liability assumed under contract; broad form property damage covering property in the insured's care, custody, and control; and coverage for claims for bodily injury, personal injury, death, or property damage occurring on, in, or about any vessels Facility User is having loaded or unloaded on Port premises and adjoining areas, including an endorsement deleting any exclusion for claims arising out of the ownership, maintenance, or use of watercraft by such Facility User.

(c) **Automobile Liability Insurance.** In the event that motor vehicles are used in connection with the Facility User's business or operations at the Marine Terminal Facilities, each Facility User must maintain an automobile liability policy or policies insuring against liability for bodily injury, death, or damage to property, including loss of use of property, and occurring in any way related to the use, loading or unloading of any of the Facility User's motor vehicles (including owned, hired and non-owned motor vehicles) on and around the OCT Terminal. Coverage shall be in an amount not less than one million dollars (\$1,000,000.00) each accident.

(d) **Employer's Liability.** Employer's Liability insurance is required in an amount not less than \$1,000,000.

## **19.2 Other Coverage Requirements.**

(a) All liability insurance coverages maintained by each Facility User, with the exception of workers' compensation insurance, must name as additional insureds, as their respective interests may appear. Notwithstanding the enumeration of coverages and minimum limits required to be maintained as stated above, OCT and the OCT Parties must be named as additional insureds with respect to each policy (excluding vessel protection and indemnity (P&I) coverage if Facility User demonstrates to OCT's satisfaction that such P&I coverage prohibits additional insureds) actually maintained by each Facility User, whether or not such coverage is required by this Tariff, and must also be named as additional insureds with respect to the full coverage limits available to each Facility User under such policies, even if greater than the minimum limits required by this Tariff.

(b) Each Facility User waives any right of action that it and its insurance carrier(s) might have against OCT or any of OCT Parties for any loss, cost, damage, or expense (collectively “**Loss**”) covered by any insurance policy or policies required to be maintained pursuant to this Tariff or otherwise maintained by such Facility User, including situations when such Facility User is a named or additional insured under an insurance policy maintained by a person with whom such Facility User is doing business. If any insurance policies maintained by a Facility User do not allow the insured to waive the insurer's rights of recovery prior to a Loss, such Facility User shall cause such policies to be endorsed to allow the waivers of subrogation required by this Tariff.

(c) All insurance coverages required of each Facility User shall be primary, and shall not seek contribution from any insurance coverage or self-insurance carried by OCT.

(d) Every Facility User must cause OCT to be named as a certificate holder and shall submit to OCT, upon request, certificate(s) of insurance as evidence of the required coverage. Failure of OCT to request the proof of insurance required by this Tariff or to notice discrepancies in the evidence submitted, shall not excuse a Facility User from the insurance requirements of this Tariff.

**19.3 Indemnity.** Facility User(s) will defend (using legal counsel acceptable to OCT), indemnify, and hold harmless OCT, the OCT Parties and the Port from and against, and reimburse OCT for, any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, and/or penalties (collectively “**Costs**”) which are imposed upon or claimed against or incurred by OCT and which, in whole or in part, directly or indirectly, arise from or are in any way connected with any of the following:

- (a) any act, omission or negligence of the Facility User;
- (b) any use, occupation, management, or control of the marine terminal facility by a Facility User, whether or not due to the Facility User's own act or omission and whether or not occurring on the marine terminal facility;
- (c) any breach, violation, or nonperformance of the regulations, rules, and terms of this Tariff; or
- (d) any damage caused by the Facility User on or to the OCT Terminal. For purposes of this indemnity provision, “Facility User” includes Facility User and Facility User's respective partners, officers, directors, agents, employees, invitees and/or contractors and subcontractors.

**19.4 Himalaya Clause.** The protections and limitations of liability provided by the Himalaya Clause, apply to all cargo and merchandise that has been loaded from, discharged to or located on OCT's facilities.

It is hereby expressly agreed between OCT and each ocean carrier, inland water carrier, and inland land carrier (including rail and truck) (collectively “carriers”) using OCT's facilities

that as a condition and in consideration of using those facilities, OCT, as well as any and all of its employees, servants, agents, or independent contractors used or employed in connection with the performance of any of the carriers' obligations under their various bills of lading are to be treated as and are express beneficiaries of those bills of lading. As such, OCT and OCT Parties have the benefit of all rights, defenses, exemptions from or limitations on liability and immunities of whatsoever nature to which the carrier(s) are or may be entitled under the provision of any bill of lading or by applicable rule or law so that OCT Parties are not, under any circumstance, liable in either contract or tort to any extent greater than that of the carrier(s) themselves. Each carrier must indemnify OCT, the OCT Parties and the Port from and against, and reimburse OCT, the OCT Parties and the Port for, any liability, damage and claim (and all expenses connected therewith, including without limitation reasonable attorneys' fees and costs) arising out of loss or damage of cargo if such carrier fails to incorporate in its bill of lading, or through contract or otherwise fails to apply to the cargo, such rights, defenses, exemptions and immunities and as a result OCT and any OCT Parties are unable to take advantage of any such rights, defenses, exemptions and immunities that would otherwise be available to OCT, the OCT Parties and the Port. In the event of conflict between the protections afforded by bills of lading issued by ocean and inland carriers, OCT may elect to rely upon the bill of lading affording the limitations of liability more favorable to OCT.

**19.5 Excess Cargo Value.** Carrier will indemnify OCT, the OCT Parties and the Port from and against, and reimburse OCT for, any liability, damage, or claim (and all expenses connected therewith, including without limitation attorneys' fees and costs) arising out of cargo loss or damage occurring at the OCT Terminal or as a consequence of services provided by OCT at such facilities in excess of \$500 per package (i.e., container) or customary freight unit lawful money of the United States, if the shipper has declared a value in excess of \$500 per container or customary freight unit and paid to carrier a higher freight rate based on such excess value declaration.

**19.6 Other Cargo or Merchandise.** OCT has no liability for and each Facility User will indemnify OCT, the OCT Parties and the Port from and against, and reimburse OCT for, any liability, damage, and claim (and all expenses connected therewith, including without limitation attorneys' fees and costs) arising out of loss or damage to cargo or merchandise that is not moving as cargo by ocean or inland marine carrier (such as specialty crane service or truck to truck or truck to rail movements) occurring at OCT's facilities or as a consequence of services provided by OCT at such facilities, in excess of \$500 per package (i.e., container) or customary freight unit lawful money of the United States.

**19.7 Limits of Liability.** Except as to specific exclusions from and limitations of liability stated in this Tariff, OCT's liability for its own negligence is limited to the extent of the direct damages caused by such negligence. Further, OCT is not responsible or liable for any indirect, Notwithstanding any other provision of this Tariff, the OCT and OCT Parties shall only be liable to a Facility User for direct damages and in no event shall the OCT or any OCT Parties be liable to a Facility User for any consequential, incidental, special or punitive damages of any kind whatsoever including, without limitation claims for loss of profit, loss of markets, loss of use of property, delay, and damages consequential upon loss of use, whether the same results from negligence, breach of this Agreement or otherwise, and even if the possibility of such may have been foreseeable. In all cases OCT's liability is limited as stated in this Tariff.

## **20. CONDITIONS OF SERVICES OR CONDUCT OF OPERATIONS.**

Facility Users providing services, labor, material, supplies, or equipment at OCT's facilities or who are using or receiving the services of OCT do so subject to the following conditions:

**20.1 Independent Contractors.** In any service relationship with OCT, Facility Users are independent contractors, each to the other, and they are not agents or employees, one for the other or for OCT, for any purpose.

**20.2 Use of facilities deemed acceptance of tariff and conditions.** Uses of the terminal facilities is deemed an acceptance of this Tariff along with all the specified terms and conditions contained herein and the condition of the OCT Terminal. OCT reserves the right to set work and safety rules, conditions for use, and operations procedures applicable to specific locations or operations within OCT's facilities, in addition to any commercial rules stated in this Tariff. All parties using OCT's facilities and equipment agree to do so entirely at their own risk on an "as-is" basis, regardless of conditions, and are obligated to notify OCT immediately upon discovery of any conditions, equipment, or facilities deemed to be unsafe. It is the responsibility of Facility Users to be aware of the physical characteristics of the facilities, the terms of this Tariff, and all rules or conditions applicable for activities at the have OCT Terminal and related facilities.

**20.3 Compliance with law; workmanlike performance.** As a condition to the right to conduct business or operate at the OCT Terminal, Facility Users warrant that all their operations, including operations conducted by their employees, agents, contractors, or subcontractors, will be conducted at all times in compliance with applicable rules and federal and state laws or regulations and with necessary labor and equipment under competent supervision, with all proper dispatch and in good and workmanlike manner. The conduct of such business or operations at OCT's facilities is deemed to be an offer of such warranty, and its acceptance by OCT. If any breach of these warranties causes or subjects OCT to any losses, suits, claims, damages, expenses, or liabilities, such Facility User must defend, indemnify and save harmless, and reimburse OCT, the OCT Parties and the Port for and against any related losses, suits, claims, damages, or liabilities (including without limitation attorneys' fees and related costs incurred by OCT).

(a) Customer shall observe all applicable national and international laws related to cargo and facility security, including but not limited to the International Ship and Port Facility ("ISPS") code. Customer shall cooperate with Operator in respect to reasonable security audits and on-site security validations. Customer shall assure that its employees, agents, and contractors observe Operator facility access policies.

(b) Operator and Customer shall comply with all governmental orders relating to Customer's cargo, and each party shall immediately communicate governmental hold or similar orders in writing to the other party where such orders pertain to cargo or containers being handled by Operator. Customer agrees it shall be responsible for charges and/or costs, including any civil fines, associated with non-compliance with the terms of this provision solely caused by Customer.

(c) Customer shall maintain effective anti-drug and alcohol policies for its vessel officers and crew, employees, agents, invitees and subcontractors, including policies

against the operation of vessels, vehicles, cranes or other equipment while under the influence of drugs or alcohol.

(d) Customer shall not engage in any actions or suffer the existence of conditions that could result in a conflict with Operator's best interests, and shall conduct its affairs in accordance with the highest legal and ethical business standards. Parties shall prohibit its employees and representatives from providing, offering, receiving or demanding gifts, entertainment, loans or other inducements (except for customary and usual business gifts of nominal value) to or from any individual for the purpose of influencing any act or decision related to the services provided hereunder or otherwise related to other party.

**20.4 Indemnity.** In addition to the indemnities provided above, each Facility User hereby indemnifies and holds harmless OCT and the OCT Parties, its employees themselves or persons in their employ and expenses (including attorneys' fees) for injury to or death of any person, (including OCT's employees), arising from or related to the operations of the Facility User, its employees, agents, contractors, or subcontractors, provided, however, this paragraph does not relieve OCT from liability for its negligence, or from the negligence of its employees or agents.

## **21. RESPONSIBILITY FOR LOSS, DAMAGE AND DELAY OF MERCHANDISE.**

**21.1 OCT's responsibility limited.** OCT is not responsible for any loss or damage to merchandise which may arise from any cause beyond OCT's direct authority and control, nor for any cause except for want of due diligence and subject always to the limitations of and exemptions from liability stated in this Tariff and otherwise provided by applicable law. OCT is not responsible for any damage however caused to cargo loaded at the facilities covered by this Tariff after cargo is transferred to the beyond carriers (whether inland or ocean going) and is removed from OCT's facilities. Further, except for want of due diligence, OCT is not liable for any personal injury, damage or loss (including without limitation to empty containers) which results from: (1) animals, insects, rodents or vermin; (2) decay, deterioration, evaporation, shrinkage, or loss of quality or value for inherent vice of any product or cargo; (3) interruptions in electrical power, fire, frost, leakage or discharge from fire protective systems, oxidation or rusting, collapse of buildings or structures, breakdown of plant or machinery or equipment, or by floats, logs or pilings required in breasting vessels away from wharf; nor is OCT responsible for any loss, damage or delay arising as a result of insufficient notification; (4) civil disorder, insurrection, riot, strike, slowdown or labor stoppage of persons in the service of OCT or others, nor from delay caused by shortage of qualified labor; or (5) wind, flood, earthquake, governmental action, war, acts of God, pandemic, or other causes of similar nature.

**21.2 Responsibility during free time period.** Except as limited by specific provisions in this Tariff, liability for loss, damage, or delay to merchandise during free time periods as specified in the Tariff is limited as set forth in the ocean carrier's receipt or bill of lading.

**21.3 Responsibility as warehousemen.** Except as limited by specific provisions, liability for loss, damage, or delay to merchandise while in OCT's care or control at any time other than the free time periods specified in this Tariff is that of a warehouseman only.

**21.4 Valuation of cargo or merchandise for claims purpose.** Any claims against OCT are based upon the actual cost of the merchandise plus freight, if paid. Claims for partial loss or damage of merchandise will be prorated based upon the weight of the lost or damaged portion versus the entire shipment.

**21.5 Privately owned vehicles.** Privately owned vehicles shipped through OCT's facilities are at owner's or shipper's sole risk. OCT will not assume any responsibility or liability for any claims, except to the extent that any of the aforesaid loss or damage results solely from negligent acts or omissions of OCT or its employees or agents, and subject to all limitations stated in this Tariff.

**21.6 Damage during detention.** OCT assumes no responsibility whatsoever for any vessel or rail detention or demurrage, except for physical damage caused solely by the OCT's own negligence. Any such liability will be computed on the actual down time during regular terminal working hours only and such down time constitutes the fullest extent and limit of OCT's liability. OCT is not responsible for other damages, including without limitation, loss of profits, loss of markets, or special or consequential damages.

## **22. CLAIMS.**

**22.1 Loss or damage claims.** Unless notice of loss of or damage to cargo or merchandise is given to OCT in writing at the time of removal of the goods from OCT's facility (or within three (3) days of removal if the loss or damage was not apparent at the time of removal) such removal is *prima facie* evidence of delivery of the goods in the same condition as received by or in OCT's facilities. OCT is discharged from all liability in respect of cargo or merchandise unless suit is brought within one (1) year of the occurrence of the alleged loss or damage to cargo or merchandise.

**22.2 Recovery of overcharge claims.** Claims for recovery of overcharges must be filed in writing with OCT within twelve (12) months following the date of the invoice against which the overcharge is claimed.

**23. LABOR RULES.** The rates named in this Tariff, including any additions and revisions or supplements thereto, are based upon ordinary traffic and labor conditions. If and when these conditions change because of demand of labor for increased wages, strikes, congestion or other causes not reasonably within OCT's control resulting in an increased cost of services, the rates are subject to change without notice or the charge for service may be assessed on the man-hour basis.

**24. SPECIFIC RATES PREVAIL.** Rates provided for specific commodities prevail over any general commodity or N.O.S. rate.

## **25. RESERVATION OF AGREEMENT RIGHTS.**

**25.1** OCT reserves the right to enter into agreements with common carriers, shippers and/or their agents concerning rates and services, provided such agreements are consistent with existing local, state, and national law governing the civil and business relations of all parties concerned.

**25.2** OCT reserves the right to enter into agreement for the use of specific storage space, tracks, or other terminal facilities at rates commensurate with their service rendered.

**26. APPLICABLE LAW, JURISDICTION AND VENUE.** This Tariff is to be governed by and construed in accordance with the federal statutory, regulatory and maritime laws of the United States, and to these that there is no applicable rule of federal law, the laws of the state of Oregon. All Facility Users submit to the jurisdiction of the state and/or federal courts for Multnomah County, Oregon.

Any litigation initiated by a Facility User against OCT, whether or not it arises out of or relates to this Tariff or the use OCT facilities under this Tariff, must be brought in the state or federal courts for Multnomah County, Oregon. Any suit, action, or proceeding arising out of or related to this Tariff or any services provided under this Tariff shall only be brought in a court of competent jurisdiction located in Multnomah County, Oregon, USA, which court's jurisdiction shall be exclusive. Notwithstanding the foregoing, disputes over payment and collection may be resolved, at OCT's option, in the above-named courts or in the courts of any jurisdiction where either the Facility User's vessel or an asset of the Facility User may be found. To the extent any suit, action, or proceeding is initiated in such courts and arises out of or is related to this Tariff or the services provided under this Tariff, then to the fullest extent permitted by law, each Facility User shall be deemed to have irrevocably waived any objections to personal jurisdiction, venue, and objections based on forum non conveniens or its foreign equivalent, and further irrevocably agrees to appear and submit to the jurisdiction of such courts. The Port shall be entitled to assert its right of lien or attachment or other rights, whether in law, in equity, or otherwise, in any jurisdiction where a Facility User's vessel or assets are located.

**27. 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, epidemic or pandemic and government restrictions relating thereto, governmental decree or regulation, stoppage of public power supply, curtailment of fuel supply, strikes, picketing, slowdowns or other labor disputes or negotiations, lockout or other work stoppage, or by reasons of any other conditions or occurrences beyond the control of Operator (such condition being 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

**28. PARTIAL INVALIDITY; SEVERABILITY.** 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.

**29. RIGHT TO REFUSE CARGO.** OCT reserves the right, in its sole discretion, (without liability for demurrage, other charges, loss, or damage) to refuse to accept, receive, or unload cargo, or to demand that cargo which has been unloaded be returned to the unloading vessel. In addition, OCT may refuse to allow vessels to discharge:

**29.1** Cargo, for which previous arrangements for space, receipt, unloading, or handling have not been made with OCT by the Facility User.

**29.2** Cargo deemed offensive, perishable, hazardous, or likely to contain invasive species.

**29.3** Cargo not in packages or containers suitable for ordinary handling incidental to its transportation.

**30. RIGHT TO REMOVE, REPACK OR RECONDITION, RE-PILE, AND TRANSFER CARGO.**

**30.1** At OCT's sole discretion, cargo remaining on one of the Marine Terminal Facilities after expiration of the free time and cargo shut out at clearance of the vessel may be piled or repiled to make space; transferred to other locations within the Marine Terminal Facilities; or relocated to public or private warehouses with all expense and risk of loss or damage for the account of the Facility User responsible for such cargo.

**30.2** At OCT's sole discretion, cargo considered hazardous, offensive, or by its nature liable to damage other cargo, may be either removed from the Marine Terminal Facilities, repacked, or the original packaging may be reconditioned. All expense and risk of loss or damage will be for the account of the Facility User responsible for such cargo. These expenses include, but are not limited to, surveying, recoopering, containment, government fines or assessments, and additional labor or equipment requirements.

**31. RIGHT TO SELL CARGO.** OCT may sell at public or private sale, any cargo on which the Facility User responsible for such cargo fails to, or refuses to, pay charges arising under this Tariff. The proceeds of the sale must be applied first to the cost and expense of sale and then to the charges. OCT may sell any such cargo of a perishable nature, or of a nature liable to damage other cargo or property, at public or private sale without advertising.

**32. RIGHT TO WITHHOLD DELIVERY.** OCT reserves the right to withhold delivery of any cargo until all charges accrued under the Tariff have been paid in full.

**33. DEMURRAGE.**

**FREE TIME PERIODS**

Import Containers ..... 4 days

Export Containers ..... 10 days

Export containers via Westbound rail.....7 days

Free Time starts the first 3 a.m. occurring after freight is received or unloaded onto wharf from car or truck; or, in case of freight received from Vessel, the first 3 a.m. occurring after container is discharged from a Vessel.

Saturdays, Sundays and Holidays will not be counted for freetime; however, will accrue demurrage once a container is past its free time.

When wharf demurrage commences at the expiration of Free Time, all days will be counted, including the day the container or chassis is removed from the premises.

Unit Size	20'	40'	45'
Day 1	\$19	\$34	\$41
Day 2	\$24	\$41	\$49
Day 3	\$30	\$49	\$59
Day 4	\$37	\$59	\$71
Day 5	\$46	\$71	\$85
Day 6	\$58	\$85	\$102
Day 7	\$72	\$102	\$122
Day 8	\$91	\$122	\$147
Day 9	\$113	\$146	\$176
Day 10 +	\$142	\$175	\$212

**34. DOCKAGE.** This section covers vessel operation conditions and rates.

**34.1 Dockage periods.** Dockage periods will be assessed for any period of time (per 24 hour period or any fraction thereof) when the first line is made fast to the wharf, pier, seawall, slip, or other mooring facilities, and continue until such vessel is completely free (last line free) from and has vacated such facility. For purposes of calculating the first and last line, OCT's records will be used.

**34.2 Grace period.** An additional dockage period will not be assessed when a vessel departs from OCT within the first sixty (60) minutes of a subsequent period, after the first full period.

**34.3 Basis for computing charges.**

(a) Dockage charges are based upon the vessel's length-over-all as published in "Lloyd's Register of Ships." If the length-over-all of the vessel does not appear in "Lloyd's Register of Ships" OCT may obtain the length-over-all from the "Vessel's Register" or measure the vessel.

(b) When a vessel is shifted directly from one wharf (berth) to another wharf (berth) operated by the same terminal company, the total time at such berths will be considered together in computing the dockage charge.

(c) Vessels on lay status may, at OCT's sole discretion, be permitted to moor at idle terminal berths when such berths are available. Lay status permission must be requested from OCT in advance. Dockage charges for vessels on lay status are assessed on the basis of 50 percent of the applicable dockage rates published in this Item.

(d) Vessels requesting lay status for 10 (ten) consecutive days or longer may request a negotiated rate when berths are available.

#### **34.4 Dockage rates.**

Length-Overall in Meters		Rate Per Dockage Period
Over	Not Over	
0	168	\$6,609
168	175	\$7,171
175	183	\$7,967
183	191	\$9,079
191	198	\$10,559
198	206	\$12,025
206	213	\$13,558
213	221	\$15,710
221	229	\$17,978
229	236	\$20,399
236	244	\$22,897
244	259	\$26,297

259	274	\$29,921
274	290	\$33,705
290	or more	\$37,537

### **34.5 Vessels required to move, vacate dock, etc.**

(a) Permission to dock vessels for purposes other than to load or discharge cargo may be granted only at OCT's option and conditional upon vessels shifting their position at wharf, vacating docks, or leaving the terminal at OCT's request.

(b) At its option OCT may affect the removal of a vessel from berth at the time period specified in the order to vacate with all risks, liability, and expense for the vessel's sole account. Any alternatives permitted OCT under this Tariff are choices solely for OCT's discretion.

### **35. WATER.**

Connection and supply of fresh water are billed as follows:

	Labor	Water – Per Cubic Foot
Straight Time	\$803.39	\$0.1065
Overtime	\$2,743.42	\$0.1065

Straight time includes regular working hours of 8 AM to 5 PM Monday through Friday excluding holidays; otherwise, overtime applies. Additional charges may apply for layberth vessels at Berths 13, 14, and 17. Requests for fresh water should be made by the vessel agent through the terminal manager or terminal superintendent.

Conversion Basis: 35.33 cubic feet per metric ton; 62.4 pounds per cubic foot.

### **36. CONTAINER STEVEDORING AND TERMINAL HANDLING RATES.**

Vessel Related Services	Day and Shift	Rate (USD)	Measure
Vessel Lift (LADEN)	Mon-Fri 1st & 2nd	\$595	per move
Vessel Lift (LADEN)	Sat-Sun & Holiday 1st & 2nd	\$740	per move

<b>Rail Services</b>	<b>Day and Shift</b>	<b>Rate (USD)</b>	<b>Measure</b>
Vessel Lift (EMPTY)	Mon-Fri 1st & 2nd	\$476	per move
Vessel Lift (EMPTY)	Sat-Sun & Holiday 1st & 2nd	\$592	per move
Barge Lift (Laden and Empty not incl VSL move)	Mon-Fri 1st & 2nd	\$350	per move
Barge Lift (Laden and Empty not incl VSL move)	Sat-Sun & Holiday 1st & 2nd	\$400	per move
Direct Discharge to Wheels (at request of customer in addition to lift rate)	All Shifts	\$355	per move
53' Handling Fee (in addition to the lift rate)	All Shifts	\$275	per move
Out of Gauge with Frame (additional to vessel lift rate)	All Shifts	\$350	per move
Wires and Breakbulk	All Shifts	Extra Labor Rates	per hr
Restow per request or required for safe operations Cell/Cell	All Shifts	\$298	per container
Restow per request or required for safe operations VSL/Dock/Cell	All Shifts	\$446	per container
Hatch Covers	All Shifts	\$750	per hatch cover
Marine Detention, Stand-by and Extra Labor	Mon-Fri 1st & 2nd	\$6,795	per hr
Marine Detention, Stand-by and Extra Labor	Sat-Sun & Holiday 1st & 2nd	\$8,493	per hr
Marine Detention, Stand-by and Extra Labor	3rd Shift	\$13,590	per hr

International On Dock Rail Lift (in addition to vessel lift)	Mon-Fri 1st & 2nd	\$225	per move
International On Dock Rail Lift (in addition to vessel lift)	Sat-Sun & Holiday 1st & 2nd	\$275	per move
Domestic On Dock Rail Lift (inclusive of gate move)	Mon-Fri 1st & 2nd	\$250	per move
Domestic On Dock Rail Lift (inclusive of gate move)	Sat-Sun & Holiday 1st & 2nd	\$325	per move
Use of OHF for On Dock Rail Lift (in addition of rail lift)	All Shifts	\$250	per move
Rail Diversion (change of destination after discharge)	All Shifts	\$200	per move
<b>Yard Services</b>	<b>Day and Shift</b>	<b>Rate (USD)</b>	<b>Measure</b>
Slot shift (relocation at request of customer)	All Shifts	\$152	per move
Extra Mounting or Dismounting	All Shifts	\$152	per move
Chassis Flip	All Shifts	\$163	per move
Inspection/Survey verify cargo/damage photograph	All Shifts	\$175	per container
Government Inspection (dry and without repositioning)	All Shifts	\$500	per container
Government Inspection (reefer and without repositioning)	All Shifts	\$650	per container
Unbundle Flat Racks / Tarp Open Tops	All Shifts	\$385	per container

<b>Gate Services</b>	<b>Day and Shift</b>	<b>Rate (USD)</b>	<b>Measure</b>
Gate Move above 1.0 to vessel throughput	All Shifts	\$150	per move
Gate Move Redelivery (no vessel or rail lift)	All Shifts	\$450	per move
Chassis Only Gate Move for Repositioning	All Shifts	\$35	per move
<b>Storage</b>	<b>Day and Shift</b>	<b>Rate (USD)</b>	<b>Measure</b>
Damaged Equipment (per container/chassis) Storage		\$55	per day
Storage of Customer Equipment (other than chassis/container)		\$45	per day
Chassis (regardless of length)		\$12	per day
Empty Container Past Free Allocation		\$10	Per TEU/per day
<b>Other Services</b>	<b>Day and Shift</b>	<b>Rate (USD)</b>	<b>Measure</b>
Placard Application	All Shifts	\$70	per placard
Placard Removal	All Shifts	\$95	per placard
Manual Change of Information in system upon request	All Shifts	\$150	per event
Seal Change	All Shifts	\$155	per event
Seal Verification	All Shifts	\$120	per event

Vessel Rolling (reallocation after container receipt)	All Shifts	\$325	per container
Reefer Rates			
Reefer Monitoring (per container)		\$120	per day
Reefer Unplug / Plug	All Shifts	\$85	per event
Genset Mount/Dismount	All Shifts	\$80	per event
Genset Delivery	All Shifts	\$95	per event
Genset Storage	All Shifts	\$50	per event
Genset Fueling Labor	All Shifts	\$70	per event
Genset Diesel Fuel		cost + 30%	per gallon
Repair Estimate		\$90	per event
Reefer PTI		\$225	per event
Reefer Wash		\$225	per event
Chassis Roadability	All Shifts	\$95	per event
	<b>1st Shift</b>	<b>2nd</b>	<b>1st/2nd</b>
<b>Extra Labor</b>	<b>Straight</b>	<b>Straight</b>	<b>OT</b>
Longshore Basic	\$163.00	\$189.78	\$204.68
Longshore Skill Cat 1	\$164.77	\$194.79	\$210.34
Longshore Skill Cat 2	\$167.34	\$199.57	\$215.68

Longshore Skill Cat 3	\$169.12	\$200.36	\$218.35
Clerk Basic	\$163.00	\$189.78	\$204.68
Clerk 15%	\$164.77	\$194.79	\$210.34
Clerk 25%	\$167.34	\$199.57	\$215.68
Clerk 30%	\$178.12	\$200.36	\$218.35
Crane Operator	\$178.12	\$200.36	\$218.35
Manager	\$210.13	\$318.00	\$254.06
Foreman	\$169.12	\$200.36	\$218.35
Mechanic	\$276.00	\$323.00	\$347.06
Mechanic Leadman	\$289.00	\$364.00	\$364.00