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## **Marine Terminal Schedule No. 2**

### **NAMING CERTAIN RULES, REGULATIONS AND RATES ON CARGO MOVING IN CONTAINERS**

This schedule is issued by the West Coast MTO Agreement (hereinafter “WCMTOA”) on behalf of its marine terminal operator members under authority of Federal Maritime Commission Agreement No. 201143.

This schedule is being established to implement various aspects of the Clean Air Action Plan published by the Port of Los Angeles and the Port of Long Beach. The ports direct their marine terminal operator tenants to implement a number of the provisions of their Clean Air Action Plan.

PUBLISHED BY:

**PORTCHECK LLC  
AS AGENT FOR THE  
MARINE TERMINAL OPERATOR MEMBERS OF THE WCMTOA**

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## SECTION A – GENERAL RULES AND REGULATIONS

### **RULE 1: MEMBERS AND STRUCTURE OF THE WCMTOA**

A. The members of the WCMTOA participating in this Schedule, and their addresses, are as follows:

APM TERMINALS PACIFIC LTD.  
2500 Navy Way  
Terminal Island, CA

EVERPORT CONTAINER SERVICES, INC.  
389 Terminal Way, Berth 228-233  
Terminal Island, CA 90731

FENIX MARINE SERVICES, LTD  
6263 N. Scottsdale Road  
Suite 320  
Scottsdale, AZ 85250

SSAT (Pier A), LLC  
c/o SSA MARINE  
1131 SW Klickitat Way  
Seattle, WA 98134

INTERNATIONAL TRANSPORTATION  
SERVICE,LLC.  
1281 Pier G Avenue  
Long Beach, CA 90802-6253

TOTAL TERMINALS  
INTERNATIONAL, L.L.C.  
301 Mediterranean Way  
Long Beach, CA 90802

LBCT LLC  
1171 Pier F Avenue  
Long Beach, CA 90802

TRAPAC, LLC  
630 West Harry Bridges Blvd.  
Wilmington, CA 90744-5230

PACIFIC MARITIME SERVICES, L.L.C.  
c/o SSA MARINE  
1131 SW Klickitat Way  
Seattle, WA 98134

YUSEN TERMINALS, LLC  
701 New Dock Street  
Terminal Island, CA 90731

SSA TERMINALS, LLC  
c/o SSA MARINE  
1131 SW Klickitat Way  
Seattle, WA 98134

WEST BASIN CONTAINER TERMINAL,  
L.L.C.  
111 W. Ocean Blvd., Suite 1610  
Long Beach, CA 90802

B. This Schedule is published pursuant to the authority contained in the WCMTOA. It is published by PortCheck LLC, on behalf of and in its capacity as agent for the members of the WCMTOA. PortCheck LLC is authorized to and shall act as agent for each of the members of the WCMTOA with respect to the application and enforcement of all or part of this Schedule.

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**RULE 2: DEFINITIONS**

A. 2014 DRAYAGE TRUCK means a Drayage Truck that is Model Year 2014 or newer Alternative Fuel Drayage Truck - Including, but not exclusive to, Natural Gas, Battery-Electric, or Hydrogen-Cell powered trucks.

B. AGENT means an entity acting on Beneficial Cargo Owner's behalf under contract for arrangement of all or part of the movement of cargo between a Terminal and points of origin and destination. An "Agent" can be a shipping line, a rail carrier, a Licensed Motor Carrier or other agents and intermediaries, but in no event shall include or result in any Drayage Truck Operator being responsible for payment of the Clean Truck Fund Rate.

C. ARB or CARB means the California Air Resources Board.

D. AUTHORIZED EMERGENCY VEHICLE means an authorized emergency vehicle as defined in Vehicle Code Section 165.

E. CARB DIESEL FUEL is Diesel Fuel certified by ARB as meeting the fuel specification standards set forth at Title 13, California Code of Regulations (CCR) Section 2280 et seq.

F. CARB DRAYAGE TRUCK RULE is the regulation published by ARB for In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks at Ports and Intermodal Rail Yard Facilities in California Code of Regulations (CCR) Section 2027.

<https://www.arb.ca.gov/msprog/onroad/porttrucV2027regfinal.pdf>

G. CARB TRUCK AND BUS RULE is the regulation published by ARB entitled "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles" in California Code of Regulations (CCR) Section 2025. <https://www2.arb.ca.gov/our-work/programs/truck-bus-regulation/truck-and-bus-regulation-regulation-advisorie>

H. CARGO OWNER means (i) any person, company or other entity that is named as shipper or consignee on the ocean common carrier bill of lading issued for Containerized Merchandise, or any person owning or entitled to the possession of the Containerized Merchandise or having a past or future interest in said cargo; (ii) in the case of negotiable bills of lading, any other person, company or other entity that is a bona fide holder of the bill of lading or who is entitled to receive delivery of Containerized Merchandise; and (iii) any other bailor of Containerized Merchandise.

I. CONCESSION means a concession granted by one or both of the Ports to a licensed motor carrier pursuant to a concession agreement provided for in the applicable Port's Schedule. Whether a motor carrier has a current concession with a Port will be determined by the information contained in the Drayage Truck Registry.

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J. CONTAINERIZED MERCHANDISE means cargo consisting of any commodity or commodities loaded inside a Container.

K. CONTAINER means a demountable and reusable freight-carrying unit designed to be transported by different modes of transportation and having construction, fittings, and fastenings able to withstand, without permanent distortion or additional exterior packaging or containment, the normal stresses that apply on continuous all-water and intermodal transportation. The term includes dry cargo, ventilated, insulated, refrigerated, flat rack, vehicle rack, liquid tank and open-top containers without chassis, but does not include crates, boxes or pallets.

L. DAY PASS means a right of access granted by the Port of Long Beach to a Licensed Motor Carrier for a limited period to allow Drayage Truck access on Port Property on terms and conditions specified by the Port.

M. DEDICATED USE VEHICLES means On-Road Vehicles that do not have a separate tractor and trailer, including auto transports, fuel delivery vehicles, concrete mixers, mobile cranes and construction equipment.

N. DIESEL FUEL means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or represented by the supplier as suitable for use in an internal combustion, compression-ignition engine.

O. DIESEL-FUELED means a compression-ignition engine fueled by diesel fuel, CARB diesel fuel, or alternative diesel fuel in whole or part.

P. DIESEL PARTICULATE MATTER or DPM means the particles emitted in the exhaust of Diesel-Fueled compression-ignition engines.

Q. DRAYAGE TRUCK means any in-use On-Road Vehicle with a Gross Vehicle Weight Rating greater than 14,000 pounds that pulls a trailer or chassis used for transporting cargo (such as containerized, bulk, or break-bulk goods), operating on or transiting through property owned by one or both of the Ports for the purpose of loading, unloading or transporting cargo, empty containers or chassis that originated from or is destined for the Port Property. Drayage Truck does not include Dedicated Use Vehicles, Authorized Emergency Vehicles, Military Tactical Support Vehicles, Yard Trucks, or trucks delivering goods manufactured on Port Property..

R. DRAYAGE TRUCK OWNER means the person registered as the owner of a Drayage Truck as shown by the Department of Motor Vehicles, or its equivalent in another state, province, country, or the International Registration Plan, or the lessee of a Drayage Truck indicated on the truck's registration pursuant to California Vehicle Code Section 4453.5.

S. DRAYAGE TRUCK OPERATOR means the driver of the vehicle or any person, party, or entity that controls the operation of a Drayage Truck.

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T. GROSS VEHICLE WEIGHT RATING is defined in Vehicle Code Section 350.

U.. DRAYAGE TRUCK REGISTRY or DTR (also referred to as PORT DRAYAGE TRUCK REGISTRY OR PDTR) – Means the database established and maintained by the Ports that contains information on trucks that conduct business on the property of the Ports, including: Owner's name, address, phone numbers, e-mail address, and fax number; Dispatching Licensed Motor Carrier(s); Concession numbers(s), Registration Agreement number(s), or Day Pass number(s); Drayage Truck and engine make, model, model year, and fuel source; Vehicle Identification Number (VIN), license number and state of issuance; VDECS equipment, and such other information as the Ports may require.

V. EXPORT CARGO means Containerized Merchandise received at any terminal facility operated by a member of the WCMTOA at the Port of Los Angeles/Long Beach as identified in Rule 3 hereof for loading onto a vessel for shipment to a foreign port or point.

W. IMPORT CARGO means Containerized Merchandise originating at a foreign port or point received at any terminal facility operated by a member of the WCMTOA at the Port of Los Angeles/Long Beach as identified in Rule 3 hereof from a vessel for loading to a domestic motor or rail carrier.

X. For purposes of the definitions of “Export Cargo” and “Import Cargo” set forth above, all commodities that are exempt from tariff/schedule publication requirements under FMC regulations, as well as commodities that are subject to tariff/schedule publication requirements, shall be considered as Import Cargo, if being imported in Containers, or Export Cargo, if being exported in Containers. The commodities included within the definitions of “Export Cargo” and “Import Cargo” shall include any and all commodities including, but not limited to, bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper and paper waste, as well as any other commodities currently or in the future determined by the Federal Maritime Commission to be exempt from tariff/schedule publication requirements.

Y. INTERMODAL EQUIPMENT means Containers, trailers, chassis, associated devices, and other equipment used for or with respect to the intermodal transport of cargo.

Z. INTERNATIONAL REGISTRATION PLAN means the registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.

AA. LEGACY LNG TRUCKS means, with respect to the Port of Long Beach only, Kenworth Model T-800 trucks equipped with Cummins ISX-G engines with emissions certified to 0.96 grams per brake horsepower hour (g/bhp-hr) for oxides of nitrogen (NO<sub>x</sub>) and 0.02 g/bhp-hr for particulate matter (PM), retrofitted with the Westport High-Pressure Direct Injection Liquefied Natural Gas (LNG) conversion kit, funded by the Ports of Los Angeles and Long Beach under Cost Sharing Agreement No. 2588 and Los Angeles contracts numbered 2589, 2590, 2596, 2597, 2598, 2600, 2683, 2684, and 2685, when operated on LNG.

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BB. LESSEE has the same meaning as in California Vehicle Code Section 371

CC. LICENSED MOTOR CARRIER means a licensed motor carrier in good standing and in compliance with the requirements of a valid license/permit under either (1) a California Motor Carrier Permit issued by the California Department of Motor Vehicles under the California Vehicle Code, or (2) a state motor carrier permit issued by any U.S. State, or (3) a Federal Motor Carrier License (USDOT Number) and Operating Authority (MC or MX Number) that contracts for and dispatches for pick-up and delivery of goods destined for or originated from a Port.

DD. LOW NO<sub>x</sub> TRUCK means a Drayage Truck with an engine that meets or exceeds the 0.020 g/bhp-hr NO<sub>x</sub> 2027 MY engine emission standard pursuant to Title 13, CCR, Section 1956.8, subdivision (a)(2)(D) or (c)(1)(c).

EE. MARINE CARGO SUPPORT YARD means a facility used for secondary staging of Containers, chassis storage, or other marine cargo activities supporting the Terminals.

FF. MILITARY TACTICAL SUPPORT VEHICLES means military tactical support vehicles as defined in Title 13, CCR, Section 1905.

GG. ON-ROAD VEHICLE means a vehicle that is designed to be driven on public highways and roadways and that is registered or is capable of being registered by the California Department of Motor Vehicles (DMV) under Vehicle Code sections 4000 et seq., or DMV's equivalent in another state, province, or country, or the International Registration Plan. A vehicle covered under ARB's In-Use Off-Road Regulation, title 13, CCR, section 2449 is not an on-road vehicle.

HH. OPTICAL CHARACTER RECOGNITION or OCR is a system designed to read and digitize existing On-Road vehicle identifiers, such as state license plates, which will enable the Terminal Operator to access the Drayage Truck's records in the PDTR.

II. OXIDES OF NITROGEN or NO<sub>x</sub> means compounds of nitrogen and oxygen, including nitric oxide and nitrogen dioxide.

JJ.. PORT or PORTS means the Port of Los Angeles and/or the Port of Long Beach as defined in the tariffs/schedules published by said ports.

KK.. PROGRAM FUNDS means monies disbursed by the Ports of Long Beach and Los Angeles through the Clean Truck Fund.

LL. RADIO FREQUENCY IDENTIFICATION DEVICE or RFID is an electronic device with a unique identification number, installed on a Drayage Truck which will enable the Terminal Operator to access the Drayage Truck's records in the PDTR.

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MM. SCHEDULE means a publication (either paper or electronic) containing the actual rates, charges, classifications, regulations and practices of one or more marine terminal operators. For purposes of this definition and this Schedule, the term “practices” refers to those usages, customs or modes of operation which in any way affect, determine or change the rates, charges or services provided by one or more marine terminal operators.

NN. TERMINAL FACILITY means one or more facilities comprising a terminal unit and including, but not limited to, wharves, warehouses, covered and/or open storage space, cold storage plants, grain elevators, and/or bulk cargo loading and/or unloading structures, landings, and receiving stations, used for the transmission, care and convenience of cargo, Containers or related intermodal equipment and/or the interchange of same between land and water carriers.

OO. TRANSSHIPMENT CARGO means cargo that arrives at a Port on one vessel and leaves on a second vessel without entering U.S. commerce.

PP. USE means loading or discharging activities to or from a vessel, rail car, truck or Intermodal Equipment with respect to Containerized Merchandise of Cargo Owner.

QQ. VERIFIED DIESEL EMISSION CONTROL STRATEGY or VDECS is an emission control strategy that has been verified pursuant to the "Verification Procedure, Warranty and In- Use Compliance Requirements for In Use Strategies to Control Emissions from Diesel Engines" in Title 13, California Code of Regulations, commencing with Section 2700, and incorporated by this reference.

RR. YARD TRUCK means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as utility tractor rig (UTR), yard tractor, yard goat, yard hostler, or prime mover.

SS. ZERO EMISSION TRUCK means an on-road Drayage Truck with a drivetrain that produced zero exhaust emission of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.

**RULE 3: APPLICATION OF SCHEDULE**

Notwithstanding anything to the contrary in any port tariff/schedule, individual marine terminal operator schedule, and/or a private agreement between a WCMTOA member and its customer entered into after the effective date of this Schedule, the charges, rates, rules and regulations published in this Schedule apply to all Containers of Containerized Merchandise moving through the Terminal Facilities of the members of the WCMTOA at the Ports listed below:

APM TERMINALS PACIFIC LTD.  
2500 Navy Way  
Terminal Island, CA

FENIX MARINE SERVICES, LTD.  
6263 N. Scottsdale Road, Suite 320  
Scottsdale, AZ 85250



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INTERNATIONAL TRANSPORTATION  
SERVICE,LLC.  
1281 Pier G Avenue  
Long Beach, CA 90802-6253

LBCT LLC  
1171 Pier F Avenue  
Long Beach, CA 90802

PACIFIC MARITIME SERVICES, L.L.C.  
c/o SSA MARINE  
1131 SW Klickitat Way  
Seattle, WA 98134  
SSA TERMINALS, LLC  
c/o SSA MARINE  
1131 SW Klickitat Way  
Seattle, WA 98134

SSAT (Pier A), LLC  
c/o SSA MARINE  
1131 SW Klickitat Way  
Seattle, WA 98134

TOTAL TERMINALS INTERNATIONAL,  
L.L.C.  
301 Mediterranean Way  
Long Beach, CA 90802

TRAPAC, LLC  
630 West Harry Bridges Blvd.  
Wilmington, CA 90744-5230

YUSEN TERMINALS, LLC  
701 New Dock Street  
Terminal Island, CA 90731

EVERPORT CONTAINER SERVICES, INC.  
389 Terminal Way, Berth 228-233  
Terminal Island, CA 90731

WEST BASIN CONTAINER TERMINAL,  
L.L.C.  
111 W. Ocean Blvd., Suite 1610  
Long Beach, CA 90802

In the event this Schedule is silent with respect to any aspect of the movement of such Containerized Cargo or the use of such Terminal Facilities, the movement of cargo and/or use of Terminal Facilities shall be governed by the relevant port tariff, individual marine terminal operator schedule, and/or the private agreement between the marine terminal operator and its customer. In the event of a conflict between the provisions of this Schedule and the Schedule published by any WCMTOA member, the provisions of this Schedule shall govern.

**RULE 4: CONSENT TO TERMS OF SCHEDULE AND DISCLOSURE OF INFORMATION**

A. Pursuant to 46 U.S.C. §40501(f), use of the Terminal Facilities of any WCMTOA member for the receipt, handling, loading, unloading or delivery of Containerized Merchandise of a Cargo Owner shall create a contract between such member of WCMTOA and such Cargo Owner

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and shall constitute consent by each such Cargo Owner to be bound by the rates, terms and conditions of this Schedule and shall also constitute conclusive evidence of an agreement on the part of any and all Cargo Owners with the WCMTOA member operating a Terminal Facility to pay all applicable charges and be governed by all rules and regulations published herein.

B. As provided for in 46 U.S.C. §41103(a), use of the Terminal Facilities of any WCMTOA member for the receipt, handling, loading, unloading or delivery of Containerized Merchandise of a Cargo Owner shall also constitute consent by the Cargo Owner, on behalf of itself and any of its agents, carriers, including ocean carriers, bailors, shipper(s), or consignee(s), to the disclosure or receipt of the Cargo Owner’s name and contact information, as well as information concerning the nature, kind, quantity, destination, consignee or routing of any cargo to any person (including but not limited to WCMTOA, WCMTOA members, PortCheck LLC, the Ports of Los Angeles/Long Beach or any of their contractors or agents) as WCMTOA or any member, or either of their agent(s) may, in its or their sole discretion, deem reasonably necessary to the application and enforcement of this Schedule.

C. Cargo Owners registered with PierPass Inc. and/or PierPass LLC (together “PierPASS”) for payment of the Traffic Mitigation Fee hereby consent to PierPASS sharing all information in its possession with respect to that Cargo Owner including, but not limited to, contact details, payment method, shipment details, credit card, and credit information and history, with PortCheck LLC, and vice-versa.

## **SECTION B – CLEAN TRUCK REGULATIONS**

### **RULE 5: TRUCK ACCESS TO TERMINALS**

A. Port of Los Angeles: In accordance with requirements established by the Ports in their respective Schedules, the WCMTOA members shall, per the provisions of the Ports’ Schedules, deny access to Terminal Facilities to any Drayage Truck which, according to the data in the Ports’ Drayage Truck Registry:

(1) does not comply with State emissions law requirements for Drayage Trucks under the CARBE Drayage Truck Rule and/or the CARB Truck and Bus Rule, as applicable; or

(2) is not a 2014 Drayage Truck registered into the PDTR in association with any Licensed Motor Carrier commencing on October 1, 2018; or

(3) cannot be verified as compliant with truck access requirements established by the Port in its Schedule; or

(4) is not registered under a Concession or Temporary Access Permit from the Port.

B. Port of Long Beach: In accordance with requirements established by the Port in its Schedule, the WCMTOA members shall, per the provisions of the Port’s Schedule, deny access to

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Terminal Facilities to any Drayage Truck which, according to the data in the Ports' Drayage Truck Registry:

(1) does not comply with state law requirements for Drayage Trucks under the CARB Drayage Truck Rule and/or the CARB Truck and Bus Rule, as applicable; or

(2) is not a 2014 Drayage Truck registered into the PDTR in association with any licensed Motor Carrier prior to October 1, 2018; or

(3) cannot be verified as compliant with truck access requirements established by the Port in its Schedule; or

(4) is not registered in the PDTR under a Registration Agreement or a Day Pass.

C. For purposes of determining the status of a Drayage Truck under the Ports' Drayage Truck Registry, the Drayage Truck shall be identified through its RFID tag.

#### **RULE 6: CLEAN TRUCK FUND RATE**

A. In accordance with requirements established by the Ports in their respective marine terminal operator schedules, the WCMTOA members shall, per the provisions of the Ports' Schedules, collect the following clean truck fund rate ("Clean Truck Fund Rate" or "Fee") on Containerized Merchandise entering or leaving the Terminal Facility of a WCMTOA member Terminal beginning at 8:00 a.m. Pacific Standard Time on April 1, 2022:

U.S.\$10.00 per Container with an outside length of 20 feet or less

U.S.\$20.00 per Container with an outside length of more than 20 feet

The Clean Truck Fund Rate shall sunset on December 31, 2034.

B. The Fee shall be assessed only once on Containerized Merchandise entering or leaving Terminal Facilities by Drayage Truck at the first point of entry to or departure from a Terminal.

C. The Clean Truck Fund Rate shall not be assessed on Containerized Merchandise entering or leaving a Terminal at the Ports that:

- (i) Full lifetime exemption: enters or leaves the Port by Zero Emission Truck servicing the Ports and registered in the PDTR by December 31, 2034;
- (ii) Exemption until December 31, 2027<sup>1</sup>: enters or leaves the Ports by Low NOx Truck servicing the Port and registered in the PDTR by December 31, 2022;

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<sup>1</sup> This exemption applies at the Port of Los Angeles until December 31, 2027, but until December 31, 2031 at the Port of Long Beach.

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- (iii) prototype or advanced technology demonstration Drayage Trucks under a Port contract, permit or license
- (iv) enters or leaves the Ports by use of port on-dock rail facilities without use of a Drayage Truck;
- (v) moves between two Terminals within the Ports;
- (vi) is shipped under contract to the United States Transportation Command, United States Military or Department of Defense

D. The Clean Truck Fund Rate shall be paid by the Cargo Owner or its authorized Agent, but no individual Drayage Truck Operator shall be required to pay the Fee.

E.. (1) All Cargo Owners shall be jointly and severally liable for the payment of the Clean Truck Fund Rate with respect to a shipment of Containerized Merchandise.

(2) Unless other arrangements are made, the Clean Truck Fund Rate on Import Cargo must be paid before the Container leaves the Terminal Facility.

(3) The booking number for a Container of Export Cargo arriving at a participating Terminal Facility must be claimed by being entered into the Cargo Owner's account on the PortCheck web site ([www.portcheck.org](http://www.portcheck.org)) prior to arrival of the Container at the Terminal Facility. Containers will not be permitted to enter the Terminal Facility if the booking number has not been entered and claimed by the Cargo Owner in this manner. For Export Cargo using direct pay methods (credit card, debit card, or electronic check), the Fee shall be paid no later than the day following entry on to the Terminal Facility. If the Cargo Owner has entered into a credit agreement pursuant to this Schedule, the payment terms set forth in the credit agreement shall apply to the Cargo Owner's Export Cargo. Cargo Owners will not be permitted to deliver Containers of Export Cargo to a Terminal Facility if payment on past Containers is not current in accordance with this Schedule.

F. The Fee shall be payable to PortCheck LLC, which is authorized to act on behalf of the members of the WCMTOA to implement the terms of this Schedule. The members of WCMTOA are collecting the Fee pursuant to the provisions of the Schedules of the Ports. Payment of the fee may be made to PortCheck LLC via credit card, debit card, or electronic check. Additional details regarding payment procedures are set forth in Supplemental Schedule A hereto. In accordance with the Ports' Schedules, payment of the Fee may be made by the Cargo Owner or its Agent. The Fee may not be waived, advanced or absorbed by the marine terminal operator. Waivers, absorptions or refunds of this fee by WCMTOA members are not permitted.

G. Cargo Owner may enter into a credit agreement substantially in the form set forth in Supplemental Schedule B hereto, in which case such Cargo Owner shall pay the Fee not later than indicated in such credit agreement. An agent or other authorized representative of a Cargo Owner may enter into a credit agreement, in which case the terms of such credit agreement shall be fully binding on the agent

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or other authorized representative and the Cargo Owner, who shall be jointly and severally liable for all duties and obligations thereunder. The members of WCMTOA reserve the right in their discretion to require additional collateral to secure payment by credit customers.

**RULE 7: REFUND OF CLEAN TRUCK FUND RATE**

In the event PortCheck LLC determines that a Cargo Owner has, for whatever reason, paid the Clean Truck Fund Rate described in Rule 6 hereof with respect to one or more Container(s) that were exempt from payment of the Fee pursuant to this Schedule, it shall credit the account of such Cargo Owner in the amount of the Fees paid on such exempt Container(s). Additionally, a Cargo Owner that has paid the Fee on one or more exempt Containers may request a refund of the Fee from PortCheck LLC. To the extent reasonably feasible, the refund will be made via the same means by which payment of the Fee for such Container was made. The request shall be made within 120 days of the date on which the Fee was paid, unless the Cargo Owners can demonstrate extenuating circumstances. If a claim is not made within the time period set forth herein, the Cargo Owner waives its right to said refund.

**RULE 8: NON-PAYMENT OF CLEAN TRUCK FUND RATE/SECURITY INTEREST**

A. In addition to all remedies set forth above or otherwise available under applicable law, the member of the WCMTOA which handles a Cargo Owner's Containerized Merchandise shall have a lien against a Cargo Owner's Containerized Merchandise for all sums payable under this Schedule. Such lien shall extend to all cargo then in the possession of the member and to all subsequent Containerized Merchandise that comes into the member's possession, irrespective of whether the amount due was attributable to such cargo. Members shall be entitled to exercise and enforce such lien to the full extent permitted under federal and California law and in addition thereto, subject to such instructions as it may issue from time to time, each member hereby delegates the authority to exercise and enforce such lien on its behalf to PortCheck LLC. Such lien is not exclusive, but is in addition to, and shall not supplant, any other liens or other remedies provided under federal, state, local, and common law. Unless expressly so stated, the grant of a contractual lien by a Cargo Owner in a credit agreement entered into with PortCheck LLC or the members of WCMTOA shall not be construed as a waiver of any liens or other remedies provided under federal, state, local, and common law.

B. Members, either directly or through WCMTOA or PortCheck LLC, shall have the right to refuse to provide services to Cargo Owners that are in arrears in paying the Clean Truck Fee.

C. Neither WCMTOA, its members, PortCheck LLC, nor any of their contractors or agents, shall be liable for any direct, indirect or consequential damages which may be suffered by a Cargo Owner as a result of the enforcement of any lien or a refusal to provide service pursuant to this Rule 8, or for any other claim relating to or arising out of the terms of this Schedule or created by contract. In the event a lien is enforced against any of Cargo Owner's Containerized Merchandise and/or a Cargo Owner is refused service hereunder and it is subsequently determined that the enforcement of such lien or refusal was mistaken, unlawful or otherwise improper, Cargo Owner's sole and exclusive remedy shall be the waiver of the Clean Truck Fee otherwise applicable to such cargo.

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**RULE 9: DISPUTE RESOLUTION/APPLICABLE LAW**

A. Cargo Owners, PortCheck LLC and the relevant WCTMOA member(s) shall attempt to resolve any disputes regarding payment of the Fee and/or the refund of same in an amicable manner. Cargo Owners disputing in good faith the application of the Fee to one or more shipments shall notify PortCheck LLC of the dispute in writing not later than the date on which payment on the shipment(s) is due. Such notice shall include all facts and supporting documents relevant to the dispute. Failure to notify PortCheck LLC of such dispute shall constitute a waiver of Cargo Owner’s position. Upon receipt of notice of a dispute, PortCheck LLC shall have fifteen (15) working days to respond to the Cargo Owner accepting or denying Cargo Owner’s position. Subject to Rule 9(B) below, the determination of PortCheck LLC shall be final and binding and payment of any applicable Fee shall be made within three (3) business days of such determination. Up until such time as PortCheck LLC has responded to Cargo Owner’s claim, the Fee in dispute shall not be considered due and payable. This provision shall not be considered to be a waiver of any rights to a lien created by this Schedule, a Credit Agreement, or under applicable statute, with respect to a Fee that is due and payable but has not been timely paid.

B. This Schedule shall be governed by the Shipping Act of 1984, as amended, to the extent applicable, any other federal law to the extent applicable, and otherwise by the laws of the State of California. In the event a dispute cannot be resolved amicably, all actions to collect unpaid Clean Truck Fund Rate and/or enforce liens with respect to same, or to obtain refunds of the Fee, shall be governed by California law and shall be brought in a federal or state court whose jurisdiction includes the Ports of Los Angeles/Long Beach. Cargo Owners hereby consent to the exclusive jurisdiction of such courts for the resolution of disputes unless otherwise agreed by Cargo Owner and PortCheck LLC. In a successful action to collect unpaid Fees, the applicable WCMTOA member(s) and PortCheck LLC shall be entitled to its/their expenses of collection, including reasonable costs and attorney’s fees. The monies obtained as a result of an enforcement of a lien by any member shall first be used to pay the Fees owed by the Cargo Owner against whom the lien was enforced, then any other amounts due and owing.

**RULE 10: AMENDMENTS TO SCHEDULE**

The members of WCMTOA may amend this Schedule at any time without prior notice to Cargo Owners, and any such amendments shall be effective upon publication herein.