

# Schedule of Rates and Terms

## PACIFIC NORTHWEST AND PUGET SOUND

EFFECTIVE: 01 JANUARY 2018



450 ALASKAN WAY SOUTH #706  
SEATTLE, WA 98104

DISPATCH: (206) 281-3810  
TOLL FREE: (800) 562-2856  
FAX: (206) 281-3809

seadisp@foss.com  
www.foss.com

### ASSIST RATES PER TUG

LOCATION	RATE PER TUG
SEATTLE AND TACOMA – AREA 1	\$ 4,255
SEATTLE AND TACOMA – AREA 2 (ABOVE SPOKANE/11 <sup>TH</sup> ST.)	\$ 5,610
MANCHESTER/BREMERTON	\$ 5,205
POINT WELLS	\$ 5,550
EVERETT	\$ 6,925
OLYMPIA	\$ 8,475
PORT ANGELES	\$ 8,495
INDIAN ISLAND	\$ 8,440
ANACORTES/FERNDAL/CHERRY POINT/BELLINGHAM	\$ 10,030

### ESCORT RATES PER TUG

LOCATION	ESCORT WITH ASSIST	ESCORT ONLY
ANACORTES	\$ 26,085	\$ 20,175
FERNDAL/CHERRY POINT	\$ 28,400	\$ 23,750
TACOMA	\$ 29,710	\$ 24,690
SEATTLE/POINT WELLS	\$ 25,580	\$ 21,185
VENDOV/ ISLAND		\$ 23,650

### HOURLY RATES PER TUG

HORSEPOWER	CONVENTIONAL RATE	TRACTOR RATE
UP TO 2,999 HP	\$ 1,125	-
3,000 HP TO 7,899 HP	\$ 1,380	\$ 2,575
GREATER THAN 7,900 HP	-	\$ 3,115

### RATE PER LINE TUG

PERFORMED BY ASSIST TUG	\$ 960
NOT PERFORMED BY ASSIST TUG	\$ 2,580

### REGIONAL SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**ESCORT RATES FROM SEATTLE OR TACOMA:** to Anacortes or Ferndale, combine the Seattle or Tacoma rate with the applicable Anacortes or Ferndale rate.

**VESSELS TO OR FROM ANACORTES VIA VENDOV/ ISLAND:** and Saddle Bag Passage, add \$2,240 to the above rates.

**ESCORT RATES:** Escort rates are based on a minimum of 10 knots, at distances calculated by the Puget Sound Pilot's Association. Should conditions prohibit a minimum 10 knot speed; charges for excess tug time will be calculated at the applicable hourly rate.

**ENHANCED TRACTORS:** The tugs LINDSEY FOSS and GARTH FOSS (8,000 HP) are equipped to ABS FIFI Class I Firefighting Standards, including foam. If called upon to fight fires, the rate will be twice the hourly rate per tug. Foam replacement will be cost plus 20%. Rates for other services by the Enhanced Tractor Tug(s) are available upon request.

**RATES FOR SHIFTING SHIPS:** Shifting between berths, between anchor and berth, and end-for-ending in one continuous movement, will be charged 1.5 times applicable single assist rates.

**80 TON BOLLARD PULL:** If an 80 ton bollard pull assist tug is required and/or ordered by the pilot, a 50% surcharge will apply.

**FUEL SURCHARGE (PNW):** Fuel surcharge for Pacific Northwest ports is assessed based on \$0.70/gallon. A minimum fuel surcharge of 20% will apply.

**HOLIDAY RATES:** A "Holiday Surcharge" of an additional fifty percent (50%) beyond the normal charge for all services performed will be applied on the following holidays: New Year's Day (January 1), Martin Luther King Day (Third Monday in January), President's Day (Third Monday of February), Memorial Day (Last Monday of May), Independence Day (July 4), Labor Day (First Monday of September), Columbus Day (Second Monday of October), Veterans' Day (November 11), Thanksgiving Day (Fourth Thursday of November), Christmas Eve Day (December 24), and Christmas Day (December 25). If a job starts or ends within the 24 hour period of the holiday date, then the Holiday Surcharge will apply.

### GENERAL PROVISIONS

**SECURITY SURCHARGE:** Foss may assess a security surcharge of \$50 per tug per job for escort and assist services.

**DELAY TIME:** Delay time will be charged at the tug's applicable hourly rate, prorated to the next 1/2 hour.

**RATES:** Rates apply to tug services for docking and undocking vessels under their own power. Rates and terms and conditions for pushing or towing vessels not under their own power, for rescue towing, for assisting vessels aground, for salvage and for other services not specified in the Schedule will be provided upon request.

**ASSIGNMENT AND CANCELATION OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job. A minimum of six (6) hours of advanced notice is required. If the order is canceled after the tugs have been dispatched, the charge will be 50% of the normal charge, plus delay and running time of the tug at the applicable rate.

**PNW: ALL WORK IS SUBJECT TO THE TERMS AND CONDITIONS INCLUDED WITH SCHEDULE OF RATES**

**ADDITIONAL TUGS REQUIRED:** When conditions beyond the control of Foss, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in this Schedule. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, Foss agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, Foss will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**CONGESTION SURCHARGE:** Foss may assess a \$250 per tug Congestion Surcharge should terminal or labor operations contribute to the inefficient deployment of our tugs and service to our customers.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a tug.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which tug services by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.

# Schedule of Rates and Terms

## PACIFIC NORTHWEST LINE HANDLING SERVICE

EFFECTIVE: 01 JANUARY 2018



1151 FAIRVIEW AVE NORTH  
SEATTLE, WA 98109

PHONE: (206) 281-3810  
TOLL FREE (WA): (800) 562-2856  
TOLL FREE (OUTSIDE WA): (800) 426-2885  
FAX: (206) 281-3809

seadis@foss.com  
www.foss.com

### SEATTLE OR TACOMA HARBORS

#### TAKING OR LETTING GO OF LINES

PER LINEHANDLER, UP TO 2 HOURS	\$ 340
FOUR (4) LINEHANDLER TAKE OR LET GO (2 HOUR MINIMUM)	\$ 1,360
SIX (6) LINEHANDLER TAKE OR LET GO (2 HOUR MINIMUM)	\$ 2,040
EIGHT (8) LINEHANDLER TAKE OR LET GO (2 HOUR MINIMUM)	\$ 2,720
HOURLY RATE PER LINEHANDLER, BEYOND INITIAL 2 HOURS	\$ 170

**THIRD SHIFT DIFFERENTIAL:** Work performed weekdays or weekends between 02:00 and 08:00 will be assessed an additional charge of \$ 25.00 per hour beyond the regular rate, charged in half-hour increments.

**BENEFIT ASSESSMENT SURCHARGE:** Linehandling services in Seattle and Tacoma are subject to a Benefit Assessment Surcharge of \$32.00 per linehandler.

**HOLIDAY CHARGES:** The minimum call out for linehandling work on "No Work Holidays" is 4 hours. Additionally, a holiday surcharge of \$86.00 per linehandler will be charged for linehandling work performed on No Work Holidays.

New Year's Day	15:00 12/31 to 08:00 01/02
Bloody Thursday	08:00 07/05 to 08:00 07/06
Labor Day	08:00 Labor Day to 08:00 of the next day
Thanksgiving Day	08:00 Thanksgiving Day to 08:00 of the next day
Christmas	15:00 12/24 to 08:00 12/26

#### SERVICE SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**JOB DURATION:** The job shall commence one-half hour before the scheduled time of arrival or departure of the vessel. If Linehandlers have not been released by the end of the 2 hour period, standby charges will be charged at in half hour increments.

**MANNING REQUIREMENTS:** Manning requirements may vary depending on mooring configuration, type of line, dock layout and condition, weather conditions, safety considerations, and any other situations that may arise. Examples include: 1) Lines that are crossed with other vessels' lines; 2) Dock cranes or construction equipment in work area; and 3) Ice and snow.

**ORDERS:** Line orders for ship movements (even if tentative) should be given as far in advance as possible and confirmed later.

**CANCELATION:** Orders canceled or changed less than 2 hours prior to job time will be billed at full rate. Calls to cancel or change the time on a firm order must be made at least two hours before the time set for the arrival or departure to allow us to have sufficient time to cancel our order to the Lineman and thereby eliminating the cost of a minimum charge, or in some instances, standby charges.

**SPOTTING VESSELS:** Foss Lines Service is not responsible for spotting vessels.

#### GENERAL PROVISIONS

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which services by or caused to a vessel to which services are rendered hereunder, notice must be given this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The linehandlers, the company owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.

# Schedule of Rates and Terms

## COLUMBIA & WILLAMETTE RIVER PORTS AREAS

EFFECTIVE: 01 JANUARY 2018



9030 NW SAINT HELENS ROAD  
PORTLAND, OR 97231-1127  
(503) 286-0631

24 HOUR CUSTOMER SERVICE: (503) 285-0511  
TOLL FREE: (800) 882-4143  
OPS FAX: (503) 289-7385  
SALES FAX: (503) 286-1775

csrdisp@foss.com  
www.foss.com

### DOCKING AND UNDOCKING—RATES PER TUG BY HORSEPOWER (HP)

#### FROM/TO

#### PORTLAND, OREGON/VANCOUVER, WASHINGTON

AREA 1: STEEL BRIDGE TO THE ST. JOHN'S RAILROAD BRIDGE	Conventional Tug	\$ 4,225
AREA 2: ST. JOHN'S RAILROAD BRIDGE TO OREGON STEEL	HP 2001-3300	\$ 5,340
AREA 3: TERMINAL 6, COLUMBIA GRAIN, TERMINAL 5 INCLUDING PORTLAND BULK DOCK, PORTLAND, OREGON. ANCHORAGES AT HAYDEN AND SAUVIE ISLAND AND VANCOUVER, WASHINGTON.	Tractor Tug	\$ 6,075

#### KALAMA, WASHINGTON

AREA 4: ALL	Conventional Tug	\$ 4,960
	HP 2001-3300	\$ 5,700
	Tractor Tug	\$ 6,570

#### LONGVIEW, WASHINGTON

AREA 5: ALL	Conventional Tug	\$ 4,265
	HP 2001-3300	\$ 5,490
	Tractor Tug	\$ 6,130

#### PORT WESTWARD, OREGON

AREA 6: ALL	Conventional Tug	\$ 4,960
	HP 2001-3300	\$ 5,700
	Tractor Tug	\$ 6,570

#### TONGUE POINT & ASTORIA, OREGON

AREA 7: ALL	Conventional Tug	By Request
	HP 2001-3300	By Request
	Tractor Tug	By Request

#### HOURLY RATES

CONVENTIONAL TUG	\$ 1,360
TRACTOR TUG	\$ 1,530

#### LAUNCH SERVICE

PORTLAND/VANCOUVER	\$ 490 per hour, 3-hr minimum
KALAMA/LONGVIEW	\$ 575 per hour, 3-hr minimum

#### RUNNING OR LETTING GO LINES

BY ASSIST TUG	\$ 1,285
BY LINE TUG	\$ 950 per hour, 3-hr minimum

#### REGIONAL SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**ADVANCE NOTICE (COLUMBIA/WILLAMETTE RIVER):** A minimum of two (2) hours advance notice is required for all vessel departures and harbor moves in Areas 1 through 3, minimum of three (3) hours in Areas 4 through 5, minimum of four (4) hours in Area 6, and minimum ten (10) hours in Area 7.

**STANDBY AT ANCHORAGE:** When a tug is required to standby a vessel at anchorage, the standby rate is the applicable hourly rate.

**FUEL SURCHARGE (CSR):** Fuel surcharge for Columbia & Willamette River ports is assessed based on \$2.00/gallon and applies to all rate schedule items except Security Surcharge. A minimum fuel surcharge of 20% will apply.

**ESCORT RATES:** By Quote.

**80 TON BOLLARD PULL:** If an 80 ton bollard pull assist tug is required and/or ordered by the pilot, a 50% surcharge will apply.

**CSR: ALL WORK IS SUBJECT TO THE TERMS AND CONDITIONS INCLUDED WITH SCHEDULE OF RATES**

**ASSIGNMENT AND CANCELATION OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job. If a tug order is canceled after tugs have been dispatched there will be a minimum of two (2) hours charged in Areas 1-3, three (3) hours in Areas 4-5, four (4) hours in Area 6 and ten (10) hours in Area 7. If the tug(s) have arrived alongside the vessel, the full ship assist rate will apply.

**EMERGENCY RESPONSES:** When a vessel is in distress in the Columbia or Willamette Rivers, the hourly rate will be applied. Actual running time plus an assist charge will be levied. The hourly rate for tug(s) will be applied from departure Portland and continue until tug(s) returns to Portland. (Minimum eight (8) hours).

**FRACTION OF HOURS:** Fractions of hours will be assessed in 30-minute increments.

**INTRA-AREA RATES:** Ships assisted or shifted within the same area will be charged at one and three-quarter the assist rate if assisted out and in. A full assist will be charged on or off an anchor buoy.

**JOBS OUTSIDE AREAS 1-5:** For assists outside Areas 1-5, the hourly rate will be applied. Actual running time from, and back to the nearest established zone, plus an assist charge will be levied.

**HOLIDAY RATES:** A "Holiday Surcharge" of an additional \$500 per tug per assist beyond the normal charge for all services performed will be applied on the following holidays: New Year's Day (January 1), Memorial Day (Last Monday of May), Independence Day (July 4), Labor Day (First Monday of September), Veterans' Day (November 11), Thanksgiving Day (Fourth Thursday of November), Christmas Eve Day (December 24), and Christmas Day (December 25). When the above-mentioned holiday falls on a Sunday, the following Monday will be considered a holiday.

## GENERAL PROVISIONS

**SECURITY SURCHARGE:** Foss may assess a security surcharge of \$50 per tug per job for escort and assist services.

**DELAY TIME:** Delay time will be charged at the tug's applicable hourly rate, prorated to the next 1/2 hour.

**RATES:** Rates apply to tug services for docking and undocking vessels under their own power. Rates and terms and conditions for pushing or towing vessels not under their own power, for rescue towing, for assisting vessels aground, for salvage and for other services not specified in the Schedule will be provided upon request.

**ADDITIONAL TUGS REQUIRED:** When conditions beyond the control of Foss, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in this Schedule. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, Foss agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, Foss will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**CONGESTION SURCHARGE:** Foss may assess a \$250 per tug Congestion Surcharge should terminal or labor operations contribute to the inefficient deployment of our tugs and service to our customers.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a tug.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$250,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$250,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.

# Schedule of Rates and Terms

## SAN FRANCISCO BAY AND TRIBUTARIES

EFFECTIVE: 01 JANUARY 2018



1316 CANAL BOULEVARD  
RICHMOND, CA 94804

DISPATCH: (510) 307-7820  
FAX: (510) 307-7821

sfbay@foss.com  
www.foss.com

### ASSIST RATES PER TUG

FROM/TO	TUGS PROVIDING ESCORT	TUGS NOT PROVIDING ESCORT
SAN FRANCISCO	\$ 3,960	\$ 3,960
OAKLAND (OUTER)	\$ 3,960	\$ 3,960
OAKLAND (INNER)	\$ 4,325	\$ 4,325
RICHMOND	\$ 4,045	\$ 5,160
HERCULES / RODEO / SELBY	\$ 4,490	\$ 7,640
BENICIA / MARTINEZ	\$ 4,925	\$ 8,920
REDWOOD CITY	\$ 7,075	\$ 8,280
ANTIOCH / PITTSBURG	\$ 7,625	\$12,740

### ESCORT RATES PER TUG (ASSIST TUG NOT INCLUDED)

FROM/TO	ANCHORAGE 9	RICHMOND	SELBY / HERCULES	BENICIA / MARTINEZ
ZONE 1	\$ 12,105	\$ 12,215	\$ 14,100	\$ 14,840
SF ANCHORAGES		\$ 12,215	\$ 14,100	\$ 14,840
RICHMOND			\$ 10,225	\$ 11,210
HERCULES / RODEO / SELBY				\$ 6,345

### HOURLY RATE

PER TUG (PORTAL-TO-PORTAL) \$ 2,435

### REGIONAL SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**ASSIST RATES:** Assist rates are per assist tug. No running time will be charged related to this work. Delay time associated with the assist will be charged at the hourly rate, and will be calculated in 30-minute increments. Assist of dead ships will be charged at twice the applicable rate.

**ESCORT RATES:** No running time will be charged related to this work. Delay time associated with the escort will be charged at the hourly rate in 30-minute increments. Vessels requiring escort between 2 berths insight or within 1 nautical mile of each of other shall be charged an additional "tug not providing escort" assist charge for the tugs providing escort.

**ESCORT AREAS:** For the purpose of this rate sheet, "Zone 1" refers to the area west of the Golden Gate Bridge in which a regulated Tank Vessel is required to have a tug escort under the current State Law.

**RATES FOR SHIFTING SHIPS:** Shifting between berths, between anchor and berth, and end-for-ending in one continuous movement, will be charged 1.5 times applicable single assist rates.

**80 TON BOLLARD PULL:** If an 80 ton bollard pull assist tug is required and/or ordered by the pilot, a 50% surcharge will apply.

**FUEL SURCHARGE (SFB):** Fuel surcharge for San Francisco Bay & Tributaries is assessed based on \$0.75/gallon. A minimum fuel surcharge of 20% will apply.

**CANCELATION OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job. If the order is canceled within six (6) hours of the scheduled service or within two (2) hours of the time the tug must crew to provide the scheduled service, the charge will be 50% of the normal charge, plus standby and running time of the tug at the applicable rate.

**HOLIDAY RATES:** A "Holiday Surcharge" of an additional fifty percent (50%) beyond the normal charge for all services performed will be applied on the following holidays: New Year's Day (January 1), Martin Luther King Day (Third Monday in January), President's Day (Third Monday of February), Memorial Day (Last Monday of May), Independence Day (July 4), Labor Day (First Monday of September), Columbus Day (Second Monday of October), Veterans' Day (November 11), Thanksgiving Day (Fourth Thursday of November), Christmas Eve Day (December 24), and Christmas Day (December 25). If a job starts or ends within the 24 hour period of the holiday date, then the Holiday Surcharge will apply.

### GENERAL PROVISIONS

**SECURITY SURCHARGE:** Foss may assess a security surcharge of \$50 per tug per job for escort and assist services.

**ESCORT RATES:** All escort rates are exclusive of the assist tug rates.

**DELAY TIME:** Delay time will be charged at the tug's applicable hourly rate, prorated to the next 1/2 hour.

**RATES:** Rates apply to tug services for docking and undocking vessels under their own power. Rates and terms and conditions for pushing or towing vessels not under their own power, for rescue towing, for assisting vessels aground, for salvage and for other services not specified in the Schedule will be provided upon request.

**ASSIGNMENT OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job.

**SAN FRANCISCO: ALL WORK IS SUBJECT TO THE TERMS AND CONDITIONS INCLUDED WITH SCHEDULE OF RATES**

**ADDITIONAL TUGS REQUIRED:** When conditions beyond the control of Foss, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in this Schedule. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, Foss agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, Foss will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**CONGESTION SURCHARGE:** Foss may assess a \$250 per tug Congestion Surcharge should terminal or labor operations contribute to the inefficient deployment of our tugs and service to our customers.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a tug.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which tug services by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.



# Schedule of Rates and Terms

LOS ANGELES AND LONG BEACH HARBORS

EFFECTIVE: 01 JANUARY 2018



PIER D, BERTH 35  
LONG BEACH, CA 90802  
MAIL: PO BOX 1940  
LONG BEACH, CA 90801

DISPATCH: (562) 435-0171  
FAX: (562) 435-1190

pswdisp@foss.com  
www.foss.com

## TUG SERVICES

### ASSIST RATE PER TUG PER HOUR

HOURLY RATE (1 HOUR MINIMUM)

\$ 2,440

## REGIONAL SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**PARTIAL HOURS:** After the one hour minimum charge, time will be charged to the nearest half hour.

**FUEL SURCHARGE (LA/LB):** Fuel surcharge for the ports of Los Angeles and Long Beach is assessed based on \$0.55/gallon. A minimum fuel surcharge of 20% will apply.

**80 TON BOLLARD PULL:** If an 80 ton bollard pull assist tug is required and/or ordered by the pilot, a 50% surcharge will apply.

**RATES FOR SHIFTING SHIPS:** Shifting between berths and end-for-ending in one continuous movement, will be charged two (1) hour minimums for shift.

**CANCELATION OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job. If the order is canceled within four (4) hours of the scheduled service or within two (2) hours of the time the tug must crew to provide the scheduled service, the charge will be 50% of the normal charge, plus standby and running time of the tug at the applicable rate.

**HOLIDAY AND WEEKEND RATES:** The Holiday and Weekend Rate of an additional fifty percent (50%) beyond the normal charge for all services performed will be applied for Saturdays, Sundays and on the following holidays: New Year's Day (January 1), Martin Luther King Day (Third Monday in January), President's Day (Third Monday of February), Memorial Day (Last Monday of May), Independence Day (July 4), Labor Day (First Monday of September), Columbus Day (Second Monday of October), Veterans' Day (November 11), Thanksgiving Day (Fourth Thursday of November), Christmas Eve Day (December 24), and Christmas Day (December 25). If a job starts or ends within the 24 hour period of the holiday date, then the Holiday Surcharge will apply.

**PEAK HOURS SURCHARGE:** Foss may assess a 25% surcharge per tug on vessels scheduled to arrive/depart the Los Angeles/Long Beach Terminals between 0300-0800 and 1500-2000.

## GENERAL PROVISIONS

**SECURITY SURCHARGE:** Foss may assess a security surcharge of \$50 per tug per job for escort and assist services.

**DELAY TIME:** Delay time will be charged at the tug's applicable hourly rate, prorated to the next 1/2 hour.

**ADDITIONAL TUGS REQUIRED:** When conditions beyond the control of Foss, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in the most recent Schedule of Rates. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, Foss agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, Foss will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**ASSIGNMENT OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job.

**CONGESTION SURCHARGE:** Foss may assess a \$250 per tug Congestion Surcharge should terminal or labor operations contribute to the inefficient deployment of our tugs and service to our customers.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a tug.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which tug services by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.

# Schedule of Rates and Terms

## EL SEGUNDO TUG SERVICES

EFFECTIVE: 01 JUNE 2017



PIER D, BERTH 35 LONG BEACH, CA 90802  
MAIL: PO BOX 1940  
LONG BEACH, CA 90801

DISPATCH: (310) 372-9776  
FAX: (310) 372-1716

pswdisp@foss.com  
www.foss.com

### ASSIST AND STANDBY PER TUG

PRIMARY TUG ASSISTS IN/OUT INCLUDING STANDBY AS REQUIRED BY REGULATIONS	\$ 18,425
PRIMARY TUG ASSIST IN/OUT AND STANDBY (IF LESS THAN 6 HOURS OF TUG TIME)	\$ 7,675

If a second tug is required, the terms and conditions of the Los Angeles, Long Beach Rate sheet shall apply.

### REGIONAL SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**FUEL SURCHARGE:** Foss will access a fuel surcharge for the 1<sup>st</sup> Assist Tug based on the cost of fuel above \$2.00 per gallon. A minimum fuel surcharge of 20% will apply.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

### GENERAL PROVISIONS

**RATES:** Rates apply to tug services for docking and undocking vessels under their own power. Rates and terms and conditions for pushing or towing vessels not under their own power, for rescue towing, for assisting vessels aground, for salvage and for other services not specified in the Schedule will be provided upon request.

**ADDITIONAL TUGS REQUIRED:** When conditions beyond the control of Foss, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in this Schedule. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, Foss agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, Foss will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a tug.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which tug services by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.

**EL SEGUNDO: ALL WORK IS SUBJECT TO THE TERMS AND CONDITIONS INCLUDED WITH THIS SCHEDULE OF RATES**

# Schedule of Rates and Terms

## EL SEGUNDO LINE AND LAUNCH SERVICES

EFFECTIVE: 01 JUNE 2017



PIER D, BERTH 35 LONG BEACH, CA 90802  
MAIL: PO BOX 1940  
LONG BEACH, CA 90801

DISPATCH: (310) 372-9776  
FAX: (310) 372-1716

pswdisp@foss.com  
www.foss.com

### LINE AND LAUNCH PER VESSEL

MOORING MASTER RUNS (MAX 2 RUNS)	\$ 1,025
PEAK LAUNCH (0700 - 2259)	\$ 770
NON-PEAK LAUNCH (2300 - 0659) // ON SHORT NOTICE	\$ 970
LINE BOAT SERVICE (FIRST 24HRS)	\$ 10,745
LINE BOAT SERVICE (PER HR AFTER 24)	\$ 615
LINE BOAT SERVICE (LESS THAN 6 HOURS)	\$ 4,095

### REGIONAL SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**CHARGES:** Launch charges shall apply to each vessel serviced. Non-Peak service will be charged for jobs starting after 2300 and before 0700.

**ORDERING LAUNCH SERVICES:** To ensure launch service, 6 hours advance notice of order is required or Short Notice rate will apply.

**FUEL SURCHARGE:** Foss will access a fuel surcharge above a fuel basis of \$ 2.00/gallon based on the average price of low sulfur diesel taken in King Harbor and Marina Del Rey at the time services are provided. Rates will be increased or decreased by 0.1% for every \$ 0.05 cent of price differential between the actual price of fuel and the base rate of \$2.00 per gallon.

**CANCELLATIONS:** When passenger launch services are ordered and are cancelled within two hours of the scheduled launch time there will be a cancellation charge of %50. When Line Boat Services are ordered and cancelled within two hours of the scheduled time there will be a cancellation charge of \$2,045.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

### GENERAL PROVISIONS

**DELAY TIME:** Time waiting at a vessels greater than 15 minutes will be charged at \$360.00 per hour in 15 minute increments.

**RATES:** Rates apply to normal Line and Launch services and for other services not specified in the Schedule will be provided upon request.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any vessel, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a vessel.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which Foss services by or caused to a vessel to which Foss services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the vessels, their owners, charterers, operators, managers and agents, or to a vessel's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The vessels, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of vessels, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**EL SEGUNDO: ALL WORK IS SUBJECT TO THE TERMS AND CONDITIONS INCLUDED WITH THIS SCHEDULE OF RATES**

# Schedule of Rates and Terms

## HAWAII

EFFECTIVE: 01 JANUARY 2018



1331 N. NIMITZ HIGHWAY  
HONOLULU, HI 96817-4934

24 HOUR DISPATCH:  
FAX:

(808) 543-9325  
(808) 543-9477

hawaiibilling@foss.com  
www.foss.com

### TUG ASSIST & TOWING SERVICES

LOCATION	WEEKDAYS		WEEKEND/HOLIDAYS	
	Tractor	Conventional	Tractor	Conventional
HONOLULU HARBOR	\$ 1,710	\$ 1,520	\$ 2,040	\$ 1,760

Rates Per Hour for Shifting and/or Assisting a Vessel Inside Honolulu Harbor (subject to tug availability). The above rates apply from fifteen (15) minutes prior to the time the tug is scheduled for departure until the time it returns to Pier 21. There is a minimum one (1) hour charge. The current fuel surcharge will also apply.

#### OAHU (OUTER HARBORS)

There shall be a flat rate transit fee charged for all tugs providing services outside Honolulu Harbor. The assist rate shall be in accordance with Honolulu Harbor tug assist rates above and subject to State of Hawaii Harbor Entrance Fees.

	Transit Fee Per Tug
PEARL HARBOR	\$ 1,380 Each Way
BARBERS POINT HARBOR / BARBERS POINT MOORING	\$ 2,750 Each Way
KEEHI LAGOON	\$ 1,380 Each Way
KEWALO BASIN	\$ 1,100 Each Way

Please contact [hawaiibilling@foss.com](mailto:hawaiibilling@foss.com) or 808-543-9325 for any other Oahu Ports.

NEIGHBOR ISLAND PORTS	Rate
HILO	\$ 5,700 Per Job
KAWAIIHAE	\$ 5,700 Per Job*
NAWILIWILI	\$ 5,700 Per Job
PORT ALLEN	\$ 5,700 Per Job*
KAHULUI	\$ 5,700 Per Job
KAUMALAPAU	\$ 5,700 Per Job*
KAUNAKAKAI	\$ 5,700 Per Job*
KALAUAPAPA	\$ 5,700 Per Job*

\*There will be a transit fee charged for assists in Kawaihae (Hawaii), Kaumalapau (Lanai), Kaunakakai (Molokai), Kalaupapa (Molokai) and Port Allen (Kauai). Please contact [hawaiibilling@foss.com](mailto:hawaiibilling@foss.com) or 808-543-9325 for this rate.

### HAWAII REGION SPECIFIC TERMS AND CONDITIONS: (SUPERSEDES GENERAL PROVISIONS)

**OAHU ASSIST RATES:** Assist rates are per assist tug. Assist time begins 15 minutes before the tugs scheduled departure time from Pier 21 in Honolulu Harbor. Delay time associated with the assist will be charged at the hourly rate, and will be calculated in 15-minute increments after the first hour. Assist of dead ships will be charged at twice the applicable rate.

**NEIGHBOR ISLAND ASSIST RATES:** There is a maximum of two (2) hours of tug assist time included in the "Per Job" rate. After two (2) hours the "Per Job" rate will be invoiced as an hourly rate in fifteen (15) minute increments.

**RATES FOR SHIFTING SHIPS:** Shifting between berths, between anchor and berth, and end-for-ending in one continuous movement, will be charged 1.5 times applicable single assist rates. Where a vessel is shifted along a dock in a straight line and/or mooring lines are kept on dock, the single rates will apply.

**FUEL SURCHARGE (HI):** Fuel surcharge for Hawaii is assessed based on a fuel cost of \$1.00/gallon. See applicable Fuel Surcharge Chart.

**PLACING INTIAL ORDER:** If the initial order is placed ay six (6) hours or less of the intended service time an additional charge of one (1) hour of tug time per tug will apply.

**CHANGE OR CANCELATION OF TUGS:** If the order is changed within four (4) hours of the scheduled service, an additional charge of one (1) hour per tug will apply. If the order is canceled within six (6) hours of the scheduled service there will be a one (1) hour minimum per tug charge, plus standby and running time of the tug at the applicable rate will apply if applicable.

**HOLIDAY RATES:** A "Holiday Surcharge" of an additional fifty percent (50%) beyond the normal charge for all services performed will be applied on the following holidays: New Year's Day (January 1), Jack Hall Day (January 2), Presidents' Day (February 19), Harry Bridges Day (March 30), Memorial Day (May 28), King Kamehameha Day (June 11), Independence Day (July 4), Labor Day (September 3), Veterans' Day (November 11), Thanksgiving Day (November 22), Christmas Day (December 25). If a job starts or ends within the 24 hour period of the holiday date, then the Holiday Surcharge will apply.

**HAWAII: ALL WORK IS SUBJECT TO THE TERMS AND CONDITIONS INCLUDED WITH SCHEDULE OF RATES**

## GENERAL PROVISIONS

**DELAY TIME:** Delay time will be charged at the tug's applicable hourly rate, prorated to the next 15 minutes.

**RATES:** Rates apply to tug services for docking and undocking vessels under their own power. Rates and terms and conditions for pushing or towing vessels not under their own power, for rescue towing, for assisting vessels aground, for salvage and for other services not specified in the Schedule will be provided upon request.

**RATES FOR SHIFTING SHIPS:** Shifting between berths, between anchor and berth, and end-for-ending in one continuous movement, will be charged 1.5 times applicable single assist rates. Where a vessel is shifted along a dock in a straight line and/or mooring lines are kept on dock, the single rates will apply.

**ASSIGNMENT OF TUGS:** Foss will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, Foss will dispatch tugs without commitment of a specific tug for a particular job.

**ADDITIONAL TUGS REQUIRED:** When conditions beyond the control of Foss, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in this Schedule. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, Foss agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, Foss will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**CONGESTION SURCHARGE:** Foss may assess a \$300.00 per tug Congestion Surcharge should terminal or labor operations contribute to the inefficient deployment of our tugs and service to our customers.

**TAXES:** Foss is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, Foss will pay all taxes applicable to an owner of a tug. Hawaii State General Excise Tax does not apply to Tug Harbor Assist charges.

**PORT ENTRY FEES:** All applicable Port Entry Fee's assessed on the tug(s) by the State of Hawaii will be the responsibility of the customer.

**PILOTAGE:** No pilotage services are offered or supplied by Foss. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**WARRANTIES:** Foss warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, Foss makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**NOTICE OF DAMAGE CLAIM:** Should any damage or injury be suffered by or caused to a vessel to which tug services by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**LIMITATION OF LIABILITY:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that Foss, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall Foss, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, Foss, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**INDEMNITY:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of Foss, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by Foss pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless Foss, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**STRIKES, BREAKDOWNS, ETC.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**SUBCONTRACT:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided Foss and shall be considered an independent contractor and not an agent, servant or employee of Foss.

**PAYMENT TERMS:** Payment is due within 30 days of receipt of invoice. A service charge will be assessed on amount outstanding over 30 days at the rate of 18% per annum.

**CUSTOMER AUTHORITY:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, if any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.



Effective: January 1, 2018

24 HOUR DISPATCH # (907) 277-7611

### 2018 Ship Assist Rates

Anchorage Harbor Tractor Tug      Ship Assist      \$7,505 + 5% Fuel Surcharge Fee

### HOURLY RATE-Miscellaneous Light Boat Call-Outs/Pilot Runs/Standby

Tractor Tug      \$2,035 per hour + Fuel at Burn Rate

### (1/2 Day) CHARTER RATES

Tractor Tug      \$9,000 per 1/2 day + Fuel at Burn Rate

### 24 HOUR (Full Day) CHARTER RATES

Tractor Tug      \$12,295 per day + Fuel at Burn Rate

### REGIONAL SPECIFIC TERMS AND CONDITIONS (SUPERSEDES GENERAL PROVISIONS)

- 2 hour maximum for all ship assists. Assists in excess of 2 hours will be billed in 1/4 hour increments.
- FSC is assessed at 5%. Should the price of fuel exceed \$4.00/gallon, FSC will increase by 1% for every \$0.05/above \$4.00/gallon.
- Vessels are subject to availability and on a seasonal basis, March through November

### GENERAL PROVISIONS

**Security Surcharge:** Cook Inlet Tug & Barge (CITB) may assess a security surcharge of \$50 per tug per job for escort and assist services.

**Delay Time:** Delay time will be charged at the tug's applicable hourly rate, prorated to the next 1/4 hour.

**Rates:** Rates apply to tug services for docking and undocking vessels under their own power. Rates and terms and conditions for pushing or towing vessels not under their own power, for rescue towing, for assisting vessels aground, for salvage and for other services not specified in the Schedule will be provided upon request.

**Assignment and Cancellation of Tugs:** CITB will dispatch tug power promptly consistent with other commitments upon receipt of orders. While every effort will be made to honor requests for specific tugs, CITB will dispatch tugs without commitment of a specific tug for a particular job. Cancellations one (1) prior to the scheduled departure of the tug will incur a \$1,000 surcharge. Cancellations one hour after the tugs have been dispatched will incur the hourly rate with a one (1) hour minimum charge.

**Additional Tugs Required:** When conditions beyond the control of CITB, such as weather, tidal conditions, difficult berths, navigation congestion, requests by ship's Master, Pilot or Port Agent, or other factors, require that additional tugs be dispatched to a job, charges for services performed by these tugs will be in accord with rates as set forth in this Schedule. When additional tugs are to be dispatched and/or conditions are such that there will be probable delay to ship's schedule, CITB agrees to attempt to contact the ship's agent. If unable to contact the ship's agent, CITB will not be held liable for any penalties caused by ship delay due to the conditions contained herein.

**Taxes:** CITB is not responsible for any transportation, use, sales or any similar federal, state or local taxes due from the operation and use of any tug, and such taxes shall be for the customer's account, provided, however, CITB will pay all taxes applicable to an owner of a tug.

**Pilotage:** No pilotage services are offered or supplied by CITB. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**Warranties:** CITB warrants that it will exercise due diligence to furnish seaworthy tugs which are adequately equipped and manned for the work to be performed. Except as otherwise expressly set forth in this paragraph, CITB makes no express warranty of any kind and, to the extent permitted by law, disclaims all implied and statutory warranties of any nature whatsoever, including, but without limitation any warranty of workmanlike service.

**Notice of Damage Claim:** Should any damage or injury be suffered by or caused to a vessel to which tug services by or caused to a vessel to which tug services are rendered hereunder, notice must be given to this company within 72 hours, as well as a reasonable opportunity to inspect and survey any such damages before repairs are begun. Written notice of intent to make a claim as a result of such injury or damage must be made within 30 days of such occurrence. Any action brought as a result of such injury or damages must be brought within one year of the date of the occurrence. Failure to give any notice and opportunity to inspect, if applicable, under this clause constitutes waiver of the right to bring an action as a result of any such occurrence.

**Limitation of Liability:** The furnishing of any service, or anything done in connection therewith, shall not be construed to be, or give rise to, a personal contract and it is understood and agreed that CITB, the tugs, their owners, charterers, operators, managers and agents shall have the benefit of all exceptions from, and limitations of, liability to which an owner of a vessel is entitled under any limitation of liability statutes of the United States, including, but not limited to, limitation or immunity from liability under the Oil Pollution Act of 1990 ("OPA 90") and any applicable state law. In no event shall CITB, Customer, the tugs, or their owners, charterers, operators, managers and agents, be liable for any incidental or consequential damages of any nature whatsoever. Unless entitled to immunity as a responder or otherwise under OPA 90 or applicable state laws and subject to defenses to, exemptions from and limitations of liability provided herein, CITB, the tugs, their owners, charterers, operators, managers and agents shall be liable, to the extent required by law, up to and including the first \$100,000 for all claims, demands, causes of action, liabilities and costs (including attorneys' fees) arising out of or related to a single occurrence, or connected series of occurrences, in connection with any service rendered by CITB pursuant to this schedule. Customer understands and agrees that the Rates assume the limitation of liability afforded by this Limitation of Liability Clause and that this Clause shall not be limited, restricted or, in any way, affected by the amount of insurance carried by Customer.

**Indemnity:** All claims, demands, causes of action, liabilities and costs (including attorneys' fees) exceeding \$100,000 that are attributable to the acts or omissions (whether negligent or otherwise) of CITB, the tugs, their owners, charterers, operators, managers and agents, or to a tug's unseaworthiness and which arise out of, or relate to a single occurrence, or connected series of occurrences, in connection with any service rendered by CITB pursuant to this schedule shall be subject to the following indemnity: Customer agrees to indemnify, defend and hold harmless CITB, the tugs, their owners, charterers, operators, managers and agents from all claims, demands, causes of action, liabilities and costs (including attorneys' fees) of every type and character, whether in rem or in personam, which are asserted against them by any person (including, without limitation, Customer's employees) for personal injury, illness or death, or for loss or damage to property of any kind or type as well as oil pollution or the spill of any hazardous substance. The parties intend for this indemnity to apply to all incidents of whatsoever nature.

**Strikes, Breakdowns, etc.:** The tugs, their owners, operators, managers, agents and charterers shall not be responsible or liable for any expenses, losses, damages or claims whatsoever caused by or resulting from the failure or delay in the performance of services due to strikes, labor difficulties, breakdowns, shortage of tugs, priorities in service or any other causes of like or different character beyond their control or created by the operation of law.

**Subcontract:** All or part of any service requested may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitation of liability provided CITB and shall be considered an independent contractor and not an agent, servant or employee of CITB.

**Payment Terms:** Payment is due within 15 days of receipt of invoice. A service charge will be assessed on amount outstanding over 15 days at the rate of 18% per annum.

**Customer Authority:** The person or company ordering tug and/or piloting services warrants that it has the authority to bind the tow and its owners (and charterers, in any) to all the provisions of the preceding paragraphs and shall indemnify and hold harmless this company and its agents and servants and each tug and/or pilot utilized with respect to losses, damages or expenses that may be suffered or incurred in consequence of any lack of such authority.