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FEDERAL MARITIME COMMISSION

GULF SEAPORTS MARINE TERMINAL CONFERENCE AGREEMENT

FMC AGREEMENT NO. 200163 -003

A Cooperative Working Agreement

Among United States Public Ports

In the Gulf Range

Original Effective Date: December 4, 1988



**ORIGINAL**

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## GULF SEAPORTS MARINE TERMINAL CONFERENCE

### RECITALS:

Whereas, each of the parties hereto is a public agency or body politic of a State or states bordering on the Gulf Coast of the United States and owns, administers and/or operates public wharves and other terminal facilities within the limits of their respective ports or port districts, and carries on the business of developing and/or furnishing wharves, docks, warehouses, marine terminals or other terminal facilities in connection with ocean common carriers in U.S. foreign commerce; and

Whereas, the parties hereto desire to associate themselves in an association to promote fair and honorable business practices among those engaged in the marine terminal industry, promote education and training in the public port industry, provide wherever practicable for uniform positions on relevant legislative and regulatory matters, and to better serve the interest of the public; and

Whereas, the parties hereto have entered into this agreement for the purpose, among other things, of establishing minimum rates, charges, commodity descriptions, rules, regulations and practices applicable to and governing the use and operation of the public wharves and other terminal facilities at their respective ports.

Now therefore, it is agreed as follows:

### ARTICLE I Association

1.01 The parties hereto hereby associate themselves in an association to be known as the

“Gulf Seaports Marine Terminal Conference” hereinafter referred to as the “Conference.”

## ARTICLE II Membership

2.01 Any public and governmental department, board, commission, agency, authority, organization or body, whether incorporated or unincorporated, in the Gulf Range in the states bordering on the Gulf Coast or significant coastal inlets or estuaries between and including Texas and Florida, exercising either governmental or proprietary powers, jurisdiction or authority and are charged with duties with respect to the planning, development or operation of one or more ports or harbors or with respect to the construction and maintenance of, or carrying on the business of furnishing wharves, terminals or other port or harbor facilities or improvements used in connection with ocean common carriage may become a party to this agreement.

2.02 Current Members of this Conference are:

- Board of Commissioners of the Port of New Orleans
- Lake Charles Harbor and Terminal District
- Port of Greater Baton Rouge
- Orange County Navigation and Port District
- Mississippi State Port Authority
- Port of Beaumont Navigation District of Jefferson County, Texas
- Port of Houston Authority of Harris County, Texas
- Board of Trustees of the Galveston Wharves
- Alabama State Port Authority
- Port of South Louisiana
- Brownsville Navigation District
- Port of Port Arthur Navigation District of Jefferson County, Texas
- Tampa Port Authority

Port of Corpus Christi Authority of Nueces County, Texas

Panama City Port Authority

Port of Pensacola

Port Freeport

Jackson County Port Authority

Manatee Port Authority

St. Bernard Port, Harbor and Terminal District

Plaquemines Port, Harbor, and Terminal District

2.03 Any organization or agency meeting the criteria of Section 2.01 hereof may become a member of this Conference by indicating its desire to do so in writing addressed to the Chairman and setting forth a description of said organization or agency.

2.04 Such request for new membership shall be reviewed by the Executive Committee to determine whether the applicant meets the criteria of Section 2.01 hereof and thereafter such new membership shall be reflected in an amendment filed with the Federal Maritime Commission.

2.05 Any member may terminate its membership in the Conference by written notice to the Chairman of such termination. Termination shall be effective upon the filing of an amendment with the Federal Maritime Commission.

### ARTICLE III

#### Purposes

3.01 The parties shall, subject to the limitations in 4.02 hereof, consult with one another with relation to, and to establish port terminal rates and charges and rules and regulations for or in connection with services and facilities, including, but not limited to: wharfage (tollage), dockage, sheddage, free time, demurrage, usage, rents, storage, handling, loading and unloading, licenses, preferential assignments, and other privileges, charges, classifications,

rules, regulations and practices, it being expressly understood that the parties hereto may limit this agreement to the establishment of one rate, rule or regulation of a singular and particular character, as it may from time to time determine.

3.02 The parties acting by and through their representatives shall from time to time meet to confer, discuss, exchange information and make recommendations with respect to rates, charges, practices, legislation, regulations, port administration and on matters of concern to the public port industry.

3.03 The parties shall from time to time sponsor, discuss, prepare or support and join in any petition, testimony or other expression for presentation or submission to any judicial or legislative tribunal, governmental or public body, the media or other industry associations.

#### ARTICLE IV

##### Tariff Compliance

4.01 The parties agree to assess and collect all rates and/or charges for or in connection with traffic handled by them within the scope of this agreement, strictly in accordance with the rates, charges, classifications, rules, regulations and/or practices set forth in their respective applicable tariffs or the applicable tariffs in effect for their respective regional jurisdiction, and that they will not in any respect deviate from or violate any of the terms of said tariffs; and that no rates or charges assessed or collected pursuant to such tariffs shall be directly or indirectly, illegally or unlawfully refunded or rebated in whole or in part in any manner or by any device; provided, however, this agreement to assess and collect rates and/or charges set forth in their respective tariffs, specifically does not apply to special contractual arrangements involving leases, volume discounts, cost sharing, cost saving or other contractual obligations.

4.02 The parties agree to consult with one another with relation to and to establish minimum port terminal rates and charges for or in connection with services and facilities, including but not limited to, wharfage (tollage), dockage, sheddage, free time, demurrage, usage, storage,

handling, loading and unloading, licenses, preferential assignments, and other privileges, charges, classifications, rules, regulations and practices. Except as to contractual arrangements as set out in Section 4.01 above, it is expressly understood that rate setting authority pursuant to this agreement is limited to the establishment of minimum rates or charges and the parties hereto must publish in their individual terminal tariffs and assess to all users alike either the minimum rate established by the Conference or an exact rate above that established by the Conference.

4.03 The parties agree that each of them shall provide to all Conference members, on-line access to their tariffs, amendments, supplements or reissues thereof. Additionally, the parties agree that each of them shall notify all Conference members via mail, email, or fax of any tariff amendments, supplements, or reissues.

4.04 It is understood that notwithstanding the limitations set forth in 4.02 above, the parties may in the future by supplement to this agreement, subject to the approval of the Federal Maritime Commission, broaden the authority regarding, among other things, the establishment of rates and charges.

## ARTICLE V

### Officers

5.01 The officers of the Conference shall be the Chairman, the Vice Chairman, and the Secretary-Treasurer.

5.02 The Chairman shall call and preside at all meetings of the Conference and shall be responsible to call all meetings of the Conference as provided by this Agreement.

5.03 The Vice Chairman shall, in the absence or disability of the Chairman, perform all the duties of the Chairman and when so acting shall have all the powers of, and be subject to all the restrictions upon, the Chairman.

5.04 The Secretary-Treasurer shall keep an accurate record of the proceedings of the Conference and shall issue all calls and notices ordered by the Chairman. He shall have custody of all official papers and minutes of the Conference and shall furnish the Federal Maritime Commission and to each member of the Conference, a draft copy of the minutes of each meeting within twenty-one days after each meeting. An approved, official copy of the minutes shall be submitted to the FMC as soon as practicable. . The Secretary- Treasurer shall keep an accurate record of the receipts and disbursements of the Conference shall be responsible for the funds of the Conference and at the expiration of his term of office he shall turn over to his successor the funds of the Conference and the financial books and records.

5.05 The Chairman, Vice Chairman, two other members of the Conference elected by the membership and the Secretary-Treasurer appointed by the Chairman shall constitute the Executive Committee of which the Chairman shall be Chairman. It shall carry on the customary routine executive duties of the Conference subject at all times to the directions and orders of the Conference.

5.06 The Executive Committee shall convene in advance of each regular meeting to review the members participation in Conference actions, specifically those in Article IV hereof.

## ARTICLE VI Election of Officers

6.01 The Officers shall be elected from among the members of the Conference by the members at a regular annual meeting to be held during a meeting of the Gulf Ports Association of the Americas. The officers so elected shall take office as of January 1 of the following year.

6.02 The officers shall be elected by the members by a majority vote and shall serve without compensation for two years or until their successors have been duly elected and installed in office. The voting shall be conducted as provided in Article X hereof.



6.03 Upon the vacation of any office the Chairman may, with the consent of the parties, fill the vacant office, in which case the officer appointed shall serve until January 1 next following the date of appointment.

## ARTICLE VII

### Committees

7.01 The Chairman shall appoint such committees as may from time to time be necessary and such committees may meet from time to time as may be necessary to accomplish their assignments. The Chairman may participate ex-officio in any meeting held by a committee.

7.02 The Chairman shall designate the Chairman of any committee appointed.

7.03 A record of the proceedings of each committee shall be kept and shall be promptly furnished to the Secretary, the Chairman and the Federal Maritime Commission as required by applicable laws and regulations.

## ARTICLE VIII

### Sub-conference Committees

8.01 Any group of the parties hereto, acting by and through their representatives, who, having mutual geographical, operational, non-operational or other interests of any kind, which are common to the group, but not necessarily common to all the parties hereto, may, if they choose to do so, also meet, as a committee, to confer, discuss, exchange information and make recommendations with respect to rates, charges, practices, legislation, regulations, port administration and other matters of concern and common interest to that group. Similarly, any group of the parties hereto, acting by and through their representatives, who, having mutual geographical, operational, non-operational or other interests of any kind, which are

common to the group, but not necessarily common to all the parties hereto, may, if they choose to do so, agree to consult, as a committee, with one another with relation to, and to establish minimum Port Terminal rates and charges for, or in connection with, services and facilities, including but not limited to, wharfage (tollage), dockage, sheddage, free time, demurrage, usage, storage, handling, loading and unloading, licenses, preferential assignments, equipment rental, specific commodities, and other services, facilities and practices.

8.02 It is expressly understood that whether rate setting authority pursuant to this agreement is exercised by all parties to this agreement, or any committee of the Conference, such as limited to the establishment of minimum rates and the parties hereto, any member of the Conference or any member of a committee of the parties hereto, may in its individual discretion establish any rate or charge above that set pursuant to this agreement as a minimum.

8.03 Upon determining that a committee of members have one or more mutual interest, or interests, as set out above, making it desirable for them to confer with regard thereto, they shall give written notice to the Chairman of the Conference and to all other members of the Conference of the intent to form a committee to meet and discuss such mutual interest or interests and shall advise the membership of the time, date and place of the first meeting of such committee and shall invite all other members who share the same interests to join the committee. At the first meeting, the committee shall be formed, the initial membership thereof designated, and a Chairman shall be elected from among the group who shall notify the Conference chairman in writing of the formation and membership of the committee.

8.04 Each such committee shall keep accurate minutes of each meeting, whether in person or by telephone or video conference, recording each action taken. Minutes shall be filed within fourteen days with the Conference Chairman, who will furnish a copy to the Federal Maritime Commission within twenty-one days of said committee meeting. At each Conference meeting, each such committee shall make an oral report of subjects discussed and actions taken within the committee since the last Conference meeting.

8.05 Any committee formed under this article shall be entitled to have and exercise all the applicable rights, privileges and processes as set out in this agreement, and which are available to the members of the Gulf Seaports Marine Terminal Conference as a whole.

## ARTICLE IX

### Meetings

9.01 Regular meetings of the Conference shall be held at least two times a year, as scheduled by the Chairman.

9.02 Special meetings of the Conference may be called by the Chairman at his own discretion or upon written request of one third (1/3) of the members. The purpose of such special meeting shall be set forth in a notice which shall be sent by the secretary via mail, fax, or email to the members at least ten (10) days before the date of the meeting. Other matters within the scope of this agreement may be dealt with at such meeting provided that all members are present and unanimously agree to do so.

9.03 The-secretary shall give each member thirty (30) days prior written notice of a regular meeting with a written agenda of the matters to be considered.

9.04 Any member may recommend to the Chairman matters to be included on the agenda for each meeting but all matters on the agenda must be within the scope of this agreement.

9.05 The Chairman, at his discretion, when in his judgment time is of the essence, may call a meeting by telephone conference call or video teleconference, and fix the date and purpose thereof.

9.06 A quorum at any meeting of the Conference shall consist of a representation of not less

than one-half of the members.

9.07 For the purpose of transacting business at a meeting of any committee, a quorum shall consist of not less than two-thirds of the entire membership of said Committee.

9.08 The rules contained in the current edition of Robert's Rules of Order shall govern the Conference in all cases to which they are applicable and in which they are not inconsistent with this Agreement, or any special rules of order the Conference may adopt.

## ARTICLE X

### Voting

10.01 Except as otherwise provided, all actions shall be taken in behalf of the Conference by a two-thirds vote of the members.

10.02 Each member shall be entitled to one vote on any matter requiring such action and that vote shall be cast by the representative of each member who has been designated by the member at the beginning of the meeting or by the holder of a written proxy from such member.

10.03 No member of the Conference shall have the right to vote at any meeting, or to be represented on any committee or to participate in any other Conference activity, if delinquent in the payment of any assessment.

10.04 The Chairman may call for a vote on matters at times other than a called meeting, provided the matter for vote has been previously discussed during a called meeting. Voting methods shall be determined by the Chairman and may include phone, email, and/or fax voting. Upon conclusion of any such vote, the Chairman shall send a record of the vote, which shall include how each member voted and the outcome of the vote, to all members.

## ARTICLE XI

### Finances

11.01 Each member shall be responsible for the expenses of its own representatives attending any meeting held under the provisions of this agreement.

11.02 For the convenience of the members, the Chairman or his designee may arrange for the cost of the meeting to be billed to one member. That member, or the Secretary-Treasurer, may then assess each member his pro rata share of the meeting expense.

11.03 Members shall be considered delinquent if they fail to pay any assessment within 30 days of receipt of invoice.

## ARTICLE XII

### Amendments

12.01 This Agreement may be amended at any regular or special meeting of the membership of the Conference. Any proposal to amend this Agreement shall be submitted in writing to the membership 14 days in advance of the meeting at which it is to be considered. A two-thirds majority vote of all the parties hereto shall be required for adoption of any amendment.

12.02 The Chairman or his designee shall have the authority to file all amendments of the agreement on behalf of the membership.

12.03 Amendments to this Agreement shall become effective in accordance with the filing requirements and rules of the Federal Maritime Commission pursuant to the Shipping Act of 1984.

## ARTICLE XIII

### Shipper complaints

13.01 Any user of the services or facilities of the members of the conference or any other interested party desiring a hearing before the conference with regard to rates, charges, rules and regulations contained in the respective tariffs of the parties hereto which were adopted and filed pursuant to this agreement, may apply for and shall be granted a hearing thereon before appropriate representatives of the Conference.

13.02 Requests and complaints made pursuant to Section 13.01 above with respect to any such rates, charges, rules and regulations and/or practices, adopted pursuant to this agreement, may be made by filing a statement thereof with the Chairman or with the director of any one of the members of the Conference at the address published in the respective tariffs of said members.

13.03 The Conference Chairman shall promptly give notice by mail, fax, or email to such shipper or complainant of the docketing of the matter and of the date of the proposed meeting of the members of the conference at which the subject will be considered. If said shipper or complainant desires to be heard, he shall make a request therefore to the Chairman in advance of the meeting.

13.04 The parties hereto shall publish in their respective tariffs full instructions as to where and by what method Shippers may file such requests and complaints, as well as any and all changes made in such instructions.

13.05 The Secretary-treasurer shall maintain for a period of two years a complete record of requests and complaints filed by shippers or complainants.

13.06 Any action by the Conference pursuant to this article will not abridge the right of individual action under the provisions of Article XIV.

ARTICLE XIV  
Independent Action

14.01 With respect to any actions to be taken or procedures to be followed under this Agreement, any party hereto, after ten days' written notice to the other members of the Conference, may take action or follow procedures independent of those agreed upon by the Conference.

ARTICLE XV  
Effective Date

15.01 This Agreement shall remain in effect until terminated by unanimous agreement of the member parties hereto and notification to the Federal Maritime Commission pursuant to Section 5 of the Shipping Act of 1984.


ARTICLE XVI  
Miscellaneous


16.01 Any reference herein to a person of one gender shall be construed to refer to persons of either gender.

In Witness Whereof, the parties hereto have caused this Agreement to be amended, on the 13th day of November, 2008.

Attest:

Gulf Seaports Marine Terminal Conference

  
\_\_\_\_\_  
Hal Hudgins, Vice Chairman

  
\_\_\_\_\_  
Allen Moeller, Chairman