

TITLE PAGE



# **Federal Marine Terminals**

**A Division of Fednav Limited**

**MTO SCHEDULE FOR**

**The Port of Hamilton, Ontario  
and  
The Port of Thorold, Ontario**

Issued by:

Fednav Limited  
Corporate Head Office  
Suite 3500, 1000 de La Gauchetière Street West  
Montreal, Quebec  
Canada, H3B 4W5

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# SCOPE, ABBREVIATIONS & DEFINITIONS

## ***ITEM 1: PURPOSE AND SCOPE***

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### **PURPOSE:**

The Port of Hamilton, Ontario and the Port of Thorold, Ontario both fall under Canadian jurisdiction.

### **SCOPE:**

The rules, regulations, conditions, commodity rates and/or charges set forth in this schedule apply to or from the following Marine Terminal.

### **CORPORATE OFFICE**

**Federal Marine Terminals, Inc.**  
**a Division of Fednav Limited**  
1000 de la Gauchetière Street West, Suite 3500  
Montreal, QC H3B 4W5

### **MARINE TERMINAL**

**Federal Marine Terminals (Hamilton)**  
**a Division of Fednav Limited**  
At the Port of Hamilton, Ontario  
208 Hillyard Street  
Hamilton, ON L8L 6B6

Tel: 905.528.8741  
Fax: 905.528.9332

And

**Federal Marine Terminals (Thorold)**  
**a Division of Fednav Limited**  
At the Port of Thorold, Ontario  
1281 Old Thorold Stone Road  
P.O. Box 98  
Thorold, ON L2V 3Y7

Tel: 905.227.1884  
Fax: 905.227.5760

## ***ITEM 2: ABBREVIATIONS***

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<b>\$</b>	<b>Currency</b>	<b>%</b>	<b>Percent</b>
Cont'd	Continued	CBM	Cubic Meter
CWT	Hundredweight or Per One Hundred Pounds	MT	Metric Ton (2204.6 lbs.)
		GRT	Gross Registered Ton
ISO	International Standards Organization	LBS	Pounds
NOS	Not Otherwise Specified	LOA	Length Overall
<	Less Than	>	More Than
CFR	Code of Federal Regulations	O/T	Other Than
B/L	Bill of Lading	TTC	Terminal Transfer Charge

## ***ITEM 3: DEFINITIONS***

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The following words may be used in the ensuing Schedule. These definitions are published by Federal Marine Terminals for clarification of this schedule.

### ***BULK CARGO:***

Means cargo that is loaded and carried in bulk without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and is, therefore, subject to the requirement of this part.

### ***CHECKING:***

Means the service of counting and checking cargo against appropriate documents for the account of the cargo or the vessel, or other person requesting same.

### ***DOCKAGE:***

Means the charge assessed against vessel for berthing at a wharf, pier, bulkhead structure, or bank or for mooring to a vessel so berthed.

### ***EFFECTIVE DATE:***

Means the date a schedule or an element of a schedule becomes effective. Where there are multiple publications on the same day, the last schedule or element of a schedule published with the same effective date is the one effective for that day.

***EXPIRATION DATE:***

Means the last day, after which the entire schedule or single element of the schedule, is no longer effective.

***FOREST PRODUCTS:***

Means forest products including, but not limited to, lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp on rolls, wood pulp in unitized bales, paper and paper board in rolls or in pallet or skid-sized sheets, liquid or granular by-products derived from pulping and papermaking and engineered wood products.

***FREE TIME:***

Means the period specified in the terminal schedule during which cargo may occupy space assigned to it on terminal property, including off-dock facilities, free of wharf demurrage or terminal storage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel.

***HANDLING:***

Means the service of physically moving cargo between point of rest and any place on the terminal facility, other than the end of ships tackle.

***HEAVY LIFT:***

Means the service of providing heavy lift cranes and equipment for lifting cargo.

***LOADING/UNLOADING:***

Means the service of loading or unloading cargo between any place on the terminal and railroad cars, trucks, vessels, lighters or barges or any other means of conveyance to or from the terminal facility.

***MARINE TERMINAL OPERATOR (MTO):***

Means a person engaged in the business of furnishing warehouse or other terminal facility services in connection with a common carrier and a water carrier. Marine Terminal Operator may include, without limitation, terminals owned or operated by Provinces and their political subdivisions; railroads who perform port terminal services not covered by their liner haul rates; common carriers who perform port terminal services; and warehousemen who operate port terminal facilities. For the purposes of this part, marine terminal operator includes conferences of marine terminal operators.

***PERSON:***

Includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

***RATE:***

Means a price quoted in a schedule for providing a specified level of marine terminal service or facility use for a stated cargo quantity, on or after a stated effective date or within a defined time frame.

***SCHEDULE:***

Means a document containing the actual rates, charges, services, classification, regulations and practices of a MTO. The term "practices" refers to those usages, customs or modes of operation which in any way affect, determine or change the rates, charges or services provided by a MTO.

***TERMINAL FACILITIES:***

Means one or more structures constituting a terminal unit, including, without limitation, warehouses, covered and/or open storage spaces, cranes, and/or bulk cargo loading and/or structures, landings, and receiving stations, used for the transmission, care and conveyance of cargo in the interchange of same between land and water carriers or between two water carriers.

***TERMINAL SERVICES:***

Include checking, dockage, free time, handling, heavy lift, loading and unloading, terminal storage and usage, as defined in this section. The definition of terminal services set forth in this section shall be set forth in the terminal schedule, except that other definitions of terminal services may be used if they are correlated by footnote, or other appropriate method, to the definitions set forth herein. Any additional services, which are offered, shall be listed and charges therefore shall be shown in the terminal schedule.

***TERMINAL STORAGE:***

Means the service of providing warehouse or other terminal facilities for the storage of inbound cargo after the expiration of free time, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage and refrigerated storage.

***USAGE:***

Means the use of the terminal facility by any rail carrier, lighter operator, trucker, party requesting the MTO services or consignee, its agents, servants, and/or employees, when it performs its own car, lighter or truck loading or unloading, or the use of said facilities for any other gainful purpose for which a charge is not otherwise specified.

#### ***ITEM 4: ADDITIONAL DEFINITIONS***

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##### ***PARTY RECEIVING THE MTO SERVICES:***

Party receiving the MTO services shall include the party ordering the MTO services from FMT, the owner of the cargo, the shipper, the consignor, the consignee, the ocean carrier, including owners and charterers of the vessel, and any other party having any interest in the cargo and/or receiving, directly or indirectly, any benefit from the services rendered.

## MTO SCHEDULE DETAILS

### ***ITEM 1: TERMINAL HANDLING SERVICES***

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- A. Unless stevedoring services are provided, (see ITEM 2), terminal handling services shall end upon placement under ship's tackle (in the case of outbound shipments) or commence at the end of ship's tackle (in the case of inbound shipments). The normal terminal handling services performed by the MTO shall be considered to mean:
  - 1. The delivery of cargo by bills of lading as described in the ship's manifest.
  - 2. The custody of all cargo before loading and/or after discharge.
- B. For the foregoing services, a Terminal Transfer Charge (TTC) is assessed. All other services, which are performed by the MTO, are subject to special services charges.
- C. The MTO may negotiate TTC for volume lots of cargo.
- D. Charges for the performance of special services will be for the account of the party receiving the MTO services.
- E. Nothing contained herein shall be construed as requiring the MTO to perform without charges any service not specifically provided for herein. The charge for any such service shall be mutually agreed upon.
- F. The MTO has no temperature or humidity control under cover in sheds. Goods which are subject to damage through temperature or humidity conditions or changes, climatological causes of any nature whatsoever, or other causes incidental to storage will be received solely at the risk of the party receiving MTO services without any liability whatsoever to the MTO for any damages, howsoever caused, including due to the MTO's negligence.
- G. The MTO cannot store cargo greater than the dimensions of the warehouse doors inside a warehouse. Special arrangements must be made with the MTO to protect weather sensitive cargo exceeding these dimensions. In order for these arrangements to be effective, they must be confirmed in writing and in advance by the MTO. The MTO is not responsible for any damage caused by the weather if this written confirmation is not issued by the MTO.



## **ITEM 2: SHIP AND STEVEDORING SERVICES**

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- A. Stevedoring services provided by the MTO shall be considered to mean:
1. Loading of cargo from place of rest in the terminal and stowing into the vessel as directed by the vessel's Master and/or party receiving the MTO services. Special stowing not included.
  2. Unloading cargo from the vessel and delivering to an agreed place of rest in the terminal in bill of lading lots to be readily available for delivery.
- B. Labour And Equipment: In performing the Work, the MTO will provide:
1. All normal gear and equipment deemed necessary by the MTO
  2. Sufficient labour, and such supervision necessary for the due execution of the work in accordance with prevailing Collective Bargaining Agreement, but always contingent upon labour being available to the MTO thereunder.
  3. Dunnage board placement as required during loading, for proper stowage of cargo, except where full platforms must be laid on cargo for the carriage of general cargo or where dunnage is carried as cargo.
  4. Such number of gangs as practicable in consideration of safety, efficiency, and customary practice at terminal location.
  5. The MTO does not provide any handling of ship's lines and gangways and shall not be liable or responsible for any claims, demands or suits whatsoever relating to such services, which may be provided by third parties.
- C. For the foregoing services, a Stevedoring Commodity Rate (SCR) is assessed. All other stevedoring services that are performed by the MTO are subject to special service charges.
1. Any SCR provided applies only to cargo vessels suitable to the type of cargo being handled by the MTO.
  2. Rates for stevedoring services are available upon request.
  3. All SCR's apply to the specific job quoted unless otherwise stated.
- D. Extra labour, material and equipment services (referred to above as "special service charges"). When required to supply extra labour, material and equipment, the MTO will render its charges therefore at cost including fringe benefits plus a service charge. Special charges shall include, without limitation:
1. The removing and replacing of hatch covers and beams and the rigging necessary to work cargo in each respective hatch when such work is performed by the MTO.
  2. Discharging dunnage or debris and disposing of such.

3. Loading or discharging ship's stores, dunnage, material or equipment other than vessel's cargo.
4. Carpenter or coopering work of any nature.
5. Handling or placing flooring timbers for heavy lifts or for use by carpenters.
6. Bolting and unbolting tank lids.
7. Battening down hatches when called upon to do so upon completion of the vessel.
8. Rigging and unrigging heavy lift booms and hatch tents.
9. Lashing And Securing: Unless otherwise agreed between the Parties, where the party receiving the MTO Services requires lashing or securing of cargo on board the vessel, on deck or elsewhere, all labour and materials shall be for the account of the party receiving the MTO services. The services shall be performed under the direction, control and supervision of the vessel's Master and/or other authorized personnel who shall have ultimate responsibility for the sufficiency of such lashing and securing. The party receiving the MTO services expressly agrees to hold the MTO harmless from and indemnify them against any claims, demands or suits whatsoever relating to insufficiency or alleged insufficiency of such lashing and/or securing of cargo, whether made by any cargo interests or the vessel interest.
10. Supplying extra labour for any other services when authorized.
11. If the condition of the cargo or packages is other than in customary good order, thereby delaying prompt handling, special arrangements shall be agreed upon in lieu of the SCR.
12. When material (i.e. Dunnage, Banding, Lashing Chains, other Port's Cargo, etc.) becomes an obstacle during cargo operations, said material will be moved/removed at the MTO's discretion. Costs for the aforementioned service will be charged at the prevailing "Stand-by" rate and standard disposal costs and will be for the account of the party receiving the MTO services.

E. Rehandling, sorting, and shifting of cargo:

1. A SCR applies to one handling of cargo. When rehandling, sorting, or shifting of cargo is necessary through no fault of the MTO, the time required for such work will be charged for by the MTO at cost including fringe benefits plus a service charge, for the following described services.

F. Detention, stand-by time, lay time:

1. Whenever work is interrupted after starting and detentions not over 15 minutes duration occur, the MTO will make no charge for reimbursement thereof. Should detention time exceed 15 minutes duration, the MTO will charge for the full detention time at cost including fringes. When men are employed and unable to work through causes beyond the MTO's control, or when men are to be paid for a minimum working period in accordance with the labour agreement or as is the

custom of the MTO, the cost of such waiting or idle time will be charged by the MTO at cost including fringes.

G. Damaged cargo:

1. When handling cargo damaged by fire, water, oil, etc. and where such damage causes distress or obnoxious conditions, or in all cases where the men are called upon to handle cargo under distress conditions, the MTO's charges can be based on the cost in accordance with the Labour Agreement, including fringe benefits, plus a service charge, plus the SCR, together with the cost of the gear destroyed and the cost of the equipment for the protection of the men as may be required.

H. Sorting cargo:

1. Extra sorting other than bill of lading lots, separations to fill individual orders, or any service beyond the normal delivery by bill of lading lots shall be for the account of the party receiving the MTO services and so arranged between the MTO and the person ordering the sorting (\$95.00 per man per hour for sorting cargo).

I. Vessel requirements:

1. Unless otherwise agreed, the party receiving the MTO services shall ensure that the vessel will supply booms hoisted in position and automatic hatches opened and ready to work; adequate winches and/or ships cranes with sufficient steam or current for their efficient operation; blocks, guys, preventers and wire or rope in good condition and of sufficient strength for falls; dunnage, hatch tents and gantlines; adequate lighting for night work; tugs; derricks or cranes and slings for any cargo which cannot safely be handled by vessel's gear, or when vessel's gear is not adequate to handle cargo in a normal and safe manner according to the custom of the port; all materials required for dunnaging, bracing, recoopering, shoring, lashing, protection or bulkheading of cargo. All vessels shall provide the MTO with gear certifications when applicable.

J. Safety and health regulations:

1. The party receiving the MTO services warrants that each of its vessels and all equipment is maintained in such condition as to comply with all applicable Transport Canada Safety and Health Regulations, and all WSIB regulations. The party receiving the MTO Services agrees to reimburse the MTO for any and all fines assessed to the MTO pursuant to citation, warrant, or order from any federal, provincial, or local court, tribunal, or agency where such fines are the result of the party receiving the MTO services failing to comply with the applicable act, regulations, statutes, or orders immediately upon notification thereof in writing by the MTO.

K. Stowage plans:

1. Inbound stowage plan and manifest must be in the MTO's possession forty-eight (48) hours (business days) prior to arrival of vessel, and provisional stowage plan for outbound cargo must be in the office of MTO superintendent forty-eight (48) hours (business days) prior to start of loading operations (ref Item 17: Extra services A. page 24).
2. Where practical, the party receiving the MTO services will advise in writing the MTO prior to the beginning of each year the expected quantities and proposed schedule for shipment and receipt of materials. This schedule is to be used for planning purposes only. It is subject to change and therefore is not a commitment on party receiving the MTO services to meet said schedule. The party receiving the MTO services will endeavor to advise as soon as known, tonnages and vessel laydays for each shipment through the MTO. Normally, at least one months advance notice will be given.

L. Merchandise information and manifest:

1. Merchandise of any kind arriving at MTO's docks must be adequately marked and the MTO's office must previously have been advised of such cargo; otherwise, it need not be accepted at the dock.
2. The party receiving MTO services, in all cases is to furnish the MTO with cargo manifest showing weights and measurements of cargo.
3. Sorting within Bills of Lading will only be performed by special agreement, and only when complete packing list information is provided and where cargo is adequately marked to match packing list data.
4. Manifest on outbound cargo must be in the MTO's possession within seven (7) days after completion of vessel. In the event a manifest is not received within that time, the MTO will invoice by dock receipt information.
5. Manifests for all inbound as well as outbound cargo must clearly indicate whether said cargo was freighted on either a weight or measurement basis and, if not, the MTO will invoice on whichever basis will give the highest return.

M. Railroad, truck, barge or ship demurrage for delays beyond its physical capacity or control:

1. The MTO shall not be liable for railroad car, truck, barge or ship demurrage resulting from strikes, weather conditions, Act of God, or for delays beyond its control, including failure of the railroad to spot or remove equipment in a timely manner. When cargo does not lend itself to being unloaded from railroad equipment or trucks to dock or shed awaiting arrival of ship, the MTO shall not be liable for such demurrage.

N. Consignments:

1. Outbound shipments must be consigned to the appropriate person and/or vessel c/o Federal Marine Terminals, a Division of Fednav Limited.

O. Vessel Berthing (Ship and Barges):

1. The Port Authority shall have the exclusive right to assign berths at Hamilton port.
2. Vessels may be required to move or shift at MTO's/Port Authority's discretion, in order to load/unload other ships, for efficient use of MTO facilities, or for other good cause.
3. All vessels assigned to berths shall be responsible and liable for any damage to such property by reason of such occupancy or use.

P. Valuable or Special Cargo:

1. In the event the party receiving the MTO services delivers or authorizes delivery of valuable or special cargo to the MTO for terminal services and such cargo requires particular security or special handling, the party receiving the MTO services must notify the MTO expressly of the cargo's valuable or special nature in advance, in default of which the MTO will have no responsibility whatsoever in the event of loss or damage to the cargo, howsoever caused.
2. Unusual cargo - perishable, bulk, loose lumber, unpackaged goods, obnoxious and other unusual cargo will be handled by special arrangement and special rates.
3. Ammunition and explosives and dangerous cargo are not included in this schedule

Q. Work to be done by MTO:

1. All stevedoring and terminal services required by the vessels of the party receiving the MTO services shall be done by or arranged through the MTO, when working at the MTO facilities.
2. Any penalty or compensation payment arising due to vessel's crew's actions in contravention of prevailing Collective Bargaining Agreement shall be for the account of the party receiving the MTO services.

***ITEM 3: WHARFAGE***

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1. A wharfage charge will be assessed against all cargo passing or conveyed over or onto wharves or between vessels when berthed at a wharf or when moored in a slip adjacent to a wharf.

#### ***ITEM 4: HAZARDOUS MATERIALS***

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1. Shipments of regulated hazardous materials via the MTO must be documented, marked, labeled and/or placarded according to Transportation regulations.

#### ***ITEM 5: OVERTIME CHARGES***

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1. Overtime work (work performed outside the normal working hours specifically set forth in the Collective Bargaining Agreement) will be charged at the prevailing man-hour differential and will be for the account of the party requesting the overtime work.

#### ***ITEM 6: COLLECTION FOR SERVICES RENDERED***

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- A. Except as otherwise stated herein, charges are for the account of the party receiving the MTO services. Payment must be assured prior to release of the goods through any one of the following methods deemed satisfactory to the MTO.
  1. Payment in full at the time of delivery, in cash, unless and until proper credit has been established with the MTO.
  2. Charges may be advanced by the inland carrier picking up or delivering the cargo at the terminal.
  3. Payment Charged to the account of the party receiving the MTO services, when proper credit has been established and prior arrangements have been made with the MTO.
- B. All charges for any services, including stevedoring, rendered by the MTO for which credit is granted shall be due and payable upon receipt of invoice, without any setoff, compensation or counterclaim. A one and one-half percent per month service charge (18% per annum) will be made against any invoice, which, has not been paid in accordance with the terms previously set forth.
- C. In addition to any other liens, remedies or rights provided at law, the MTO reserves the right to withhold the delivery of goods and detain same until all accrued stevedoring charges, terminal charges, overtime charges, special service charges, or storage charges against said cargo have been paid in full, or acceptable guarantee of payment has been arranged.
- D. The vessel, her owners, charterers and agents, Grantees of Berth Privilege, party receiving the MTO services, or in instances of outside operators functioning as set forth in this Schedule, shall permit MTO access to all cargo documents including but not limited to cargo manifests, delivery tickets, dray receipts, hatch lists, or invoices for services and furnish to MTO such other documentation, reports or information as it may require, for purpose of audit so as to secure necessary data to permit correct billing for

charges incurred under this Schedule. Failure to provide such information upon request will constitute cause for denial of use of MTO's facility.

- E. Advances made by, and/or liabilities incurred by, the MTO are permitted for storage, stevedoring, transportation, terminal charges, insurance, labour, charges present and future in relation to the cargo, as well as expenses necessary for preservation of the cargo, whether or not such advances are required or permitted by this schedule, and such expenses reasonably incurred in the judicial sale of cargo pursuant to law. The MTO has a lien on all of the depositor's property (including the cargo) for such charges, including those reasonably incurred in enforcing such lien (including without limitation attorneys' fees and expenses).
- F. In addition to any other liens, rights or remedies provided at law, the MTO shall have a lien on all cargo entrusted to it, for any charges against any other goods entrusted with the MTO, at any given time, by the party entitled to take delivery of said cargo, the shipper, consignor or consignee of the said cargo or the party having required the MTO services.

### ***ITEM 7: INSURANCE***

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- A. All rates quoted include workmen's compensation, liability insurance and employment insurance (E.I.).
- B. The MTO carries property damage insurance covering liability for damage to property arising out of the MTO's negligence and public liability insurance in respect to injuries arising from the MTO's operations, including stevedoring.
- C. Inland carriers may be required to furnish the MTO with certificate of insurance.

### ***ITEM 8: RELEASE OF CARGO***

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- A. Proper documentation proving ownership must be presented to the MTO prior to the delivery of any and all cargo.
- B. Copies of pick-up/delivery orders must be presented to the MTO at least seventy-two (72) hours prior to the arrival of a vessel and must include the following:
  - 1. Name of inland carrier.
  - 2. Description of cargo enumerating vessel, bill of lading, all identifying marks and numbers, quantity and weights per bill of lading.
  - 3. Notation indicating party responsible for payment of terminal transfer charges and wharf demurrage, if applicable. The notation of inland carrier and/or parties not on current credit list will not be acceptable as being responsible for these charges.
  - 4. The exclusion of the aforementioned will constitute an improperly constructed pick-up/delivery order and will be rejected by the MTO. Failure to comply with these documentation requirements could result in delays and extra costs to process cargo for delivery and the MTO shall not be responsible.

- C. Any shipping variations from the original pick-up/delivery order received subsequent to the seventy-two (72) hour requirement may necessitate additional handling charges. These charges will be for the account of the party receiving the MTO services.
- D. The MTO will not be responsible for mis-deliveries of individual packages within a bill of lading unless a packing list is provided a minimum seventy-two (72) hours prior to the vessel's arrival.
- E. The MTO will not be responsible for mis-deliveries if cargo is insufficiently marked.

### ***ITEM 9: DAMAGE TO TERMINAL EQUIPMENT OR FACILITIES***

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- A. The party responsible for damage to sheds, warehouses, structures or other equipment is responsible for payment for such damage. The MTO must be reimbursed for the total cost of restoration, repair or replacement in the event damage is beyond repair. In the event the party responsible fails or refuses to pay for such damage, and the MTO files suit to recover the damage, then the party responsible shall, in addition to its liability for the damage, be liable to the MTO for the MTO's attorneys' fees and costs incurred in recovering the damage and prejudgment interest from the date of the damage. The prejudgment interest rate shall be the prime rate, compounded annually.

### ***ITEM 10: TRUCK PICK-UP/DELIVERY***

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- A. The MTO reserves the right to require the party designating a trucker to be responsible for insuring that every driver has available on each and every pick-up/delivery the following document(s):
  - 1. Truck pick-up order describing cargo, enumerating vessel, bill of lading, identifying marks and numbers, driver's name and commercial driver's license number, legal load limit, as well as tractor and trailer license numbers.
  - 2. For loads requiring a special permit(s), copies of such permits(s) (covering entire route) must be presented prior to being loaded.
- B. The loading or unloading of cargo on trucks shall be under the supervision and responsibility of the driver of the truck.
- C. Prior to entering the terminal facilities, each truck must be properly equipped.
- D. Failure to comply with the aforementioned requirements may result in loading/unloading delays for which the MTO shall not be responsible.
- E. The MTO will not assume any responsibility for dispatching of trucks.
- F. Policy of truck loading sequence:
  - 1. Where practicable, all trucks are loaded on a "first come first serve basis." However, it must be understood that daily operations dictate a truck loading sequence to best service all customers in a productive manner. A diligent effort is always made by our supervisory personnel to avoid congestion, provide continuity, and best utilize manpower and equipment to maximize efficiency.



2. The dispatcher must notify the terminal by 3:15 p.m., one day in advance, for truck loading. The amount of loads will be entered on a truck list, and any trucks not on the list will be turned away if we cannot accommodate extra trucks.
  3. The truck driver must pick-up a cargo pass from the traffic department and will then be instructed by the traffic department as to the location of their cargo. Note: Only the written instructions given on that occasion by the traffic department shall be considered as valid instructions regarding the location of the cargo to be picked-up.
  4. Proper information is a must. The driver should know the ship name, Bill of Lading marks, customer name, and release number if applicable.
  5. A commercial driver's license must be produced if requested by the MTO.
  6. Only one cargo pass will be given to a driver unless the loading of his truck requires otherwise.
  7. Once a cargo pass is completed by a checker, the driver responsible for the load must return to the traffic department with the pass and a valid driver's license in order to sign for a dock tally.
  8. Each driver must have wood for blocking. Drivers may not remove any wood from the MTO's facility. The MTO does not supply dunnage, chains, coil racks, or binders.
  9. Drivers may not use the driveways beside the vessel when a ship is in port. The roads are reserved for cranes and lift trucks used for the unloading of the vessel.
  10. Drivers may not congregate in warehouse doorways or block forklift access to storage areas.
  11. It is the responsibility of the truck driver to properly secure cargo before moving his/her truck.
- G. The party receiving the MTO services and any party that instructs a truck driver to enter the terminal for the purpose of pick-up or delivery of cargo at the terminal shall ensure that the truck driver has knowledge of and abides by all rules of the terminal, as well as any applicable HRDC regulations and any local, provincial or federal rules, regulations or laws governing the operation of motor vehicles. Any party receiving the MTO services and any party that instructs a truck driver to enter the terminal for the purpose of pick-up or delivery of cargo at the terminal, that fails to ensure that the truck driver has knowledge of and abides by all rules of the terminal shall indemnify and hold harmless the MTO for any and all claims, including, but not limited to, claims for personal injury, including claims by the truck driver, claims for property damage, and all other liabilities, including attorneys fees, arising from or related to the failure of the truck driver to abide by said rules.
- H. For their own safety, truck drivers must obey the following truck loading rules:
1. All truck drivers must remain not less than twenty (20) feet away from any truck, trailer and/or chassis while the truck, trailer and/or chassis is being loaded or unloaded.

2. All truck drivers must stay a safe distance (not less than twenty (20) feet) away from any area where loads are being suspended overhead.
- I. The party receiving the MTO services and any party that instructs a truck driver to enter the terminal for the purpose of pick-up or delivery of cargo at the terminal shall be liable for any losses arising from the failure by the truck driver to comply with the above-described sequence or rules. Such parties further expressly agree to hold the MTO harmless from and indemnify it against any claims, demands or suits whatsoever, contributed in whole or in part by the failure to comply with the above sequence or rules, or that could have been avoided, had such sequence or rules been followed.

### ***ITEM 11: COMMENTS/COMPLAINTS***

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- A. Complaints regarding rules, rates and regulations in this schedule must be presented in writing with supporting documents to the parties of this schedule.
- B. Deposition of all matters so presented will be given in writing.

### ***ITEM 12: LIMITATION OF LIABILITY STATEMENT***

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- A. The MTO shall not be liable for any expenses, losses, or claims whatsoever caused by or resulting from: failure or delay in performance of services including stevedoring; bursting of pipes, an act of God; fire; flood; storm; frost; heat; leakage; evaporation; sweat; moisture; failure or collapse of building; theft; rodents; elements; strikes; walkouts; picketing; labour disputes; shortages of labour; wars; riots; insurrections; terrorism; the order of any governmental authority; necessities of war or disaster; or any cause beyond the MTO's control or instructions given by un-authorized personnel. The MTO is not responsible for any delay in delivery of cargo to or receipt of cargo from carriers.
- B. Iron and steel rates are based on open-pier, uncovered handling and storage. The MTO will not be liable for any loss, expense, or damage, including rusting, pitting, etc., whatsoever, caused or contributed to by cargo being partially or wholly unprotected during handling or storage. Acceptance for use of an open-pier by a party receiving the MTO services, or receiver of goods, is a recognition that cargo landed on such dock is at the risk and expense of the party receiving the MTO services.
- C. The MTO shall not, in any event, be or become liable for any loss or damage to goods in an amount exceeding CDN\$500.00 per package or unit (if goods not packed or crated) or in case of goods shipped in bulk, CDN\$2.00, per ton, unless the party receiving the MTO services, prior to the commencement of such services, declares a higher value to the MTO and pays to the MTO a premium computed at 1% of the declared value of each package (or unit or ton) in addition to the other charges for such services as herein set forth. The declaration of a higher value by the party receiving the MTO services shall be only prima facie evidence of the true value of the cargo. In the event the actual value of the cargo is greater than the declared value, the

liability of the MTO shall not exceed the declared value. In the event the actual value of the cargo is less than or equal to the declared value of the cargo, the liability of the MTO shall not exceed the actual value. [for the purpose of this limitation, an intermodal shipping container will be considered a package and the contents therein will not be considered separate packages.]

- D. The MTO will not be liable for damage in the loading, off-loading or unloading of cargo not packed to meet import/export packaging standards, nor for concealed damages and/or concealed shortage, and all receipts issued are subject to these provisions. Perishable merchandise or merchandise susceptible to damage through temperature changes or other causes incidental to either handling or general storage, will be accepted only at the party receiving the MTO services' risk for such damage as might result from either general storage or handling.
- E. In addition to any other defences the MTO may have, the MTO shall also have all of the defences available to the ocean carrier under its bill of lading or other document of transport (and the MTO shall be considered a "carrier or agent of the carrier" for purposes of asserting the available to carriers under its bill of lading or other document of transport). In the event that the additional defences available to the ocean carrier under its bill of lading or other document of transport conflict with other defences available to the MTO, the MTO shall have sole discretion to choose which defences it will assert. In particular, whenever a bill of lading or document of transport excludes the carrier's liability for damages caused before loading or after discharge, then the MTO shall be absolutely excused from any liability for any damages caused during such time, howsoever caused, including negligence.
- F. With respect to cargo carried by truck the loading or unloading of cargo shall be under the supervision and responsibility of the driver of the truck. It shall be a primary duty of the trucking company and/or its drivers to take delivery of the cargo for which the trucking company entered the operator's premises. The MTO shall not be responsible for any trucking costs resulting from the trucker taking other than their intended cargo from the MTO's premises.
- G. Under no circumstances will the MTO be liable for any type of truck demurrage, rail demurrage, barge demurrage, detention, or waiting time.
- H. Under no circumstance shall the MTO be liable for any infestation of cargo. Any costs incurred in eliminating the infestation, including but not limited to: stand by, extra labour costs, extermination costs, governmental penalties, fines or corrective actions, will be for the account of either the cargo owner, consignee of the cargo or party receiving the MTO services.
- I. Under no circumstance shall the MTO be liable for spoilage of cargo within a reefer container which is in the care, custody or control of the MTO, caused by an electrical shortage/outage or failure or malfunctioning or defect of the reefer container itself or its refrigeration systems, as well as any failure of the electrical plug located at the MTO's facility.

- J. In any event, the MTO shall be discharged from all liability in respect of loss or damage to cargo howsoever caused unless suit is brought within eight (8) months after delivery of the cargo to MTO, or in case of outbound shipments, within eight (8) months of loading on board the vessel. Provided however, that in all cases, as a condition precedent to the institution of any lawsuit against the MTO, written notice specifying the identifying mark of the particular item claimed, the nature of the damage or loss complained of and the address of the place where the item may be inspected shall be given to the MTO within five (5) days of the date of delivery and, or in case of outbound shipment, notice shall be given as soon as possible after discovering the nature of the loss or damage and, in any event, within five (5) days of the date of delivery of the cargo at the destination or of the date said cargoes should have been delivered at destination. Failure to give the five (5) day notice of claim herein, will constitute conclusive evidence of good order delivery from the MTO in both number and condition as when received by the MTO, whether or not the damage is concealed by packaging or is of a progressive or deteriorating nature.

***ITEM 13: LIMITATION OF LIABILITY TO VESSELS AND INDEMNITY FROM VESSELS AND CARGO INTERESTS***

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For purposes of this Item, “vessel(s)” shall mean ships, boats, barges or water craft of any kind or description. All vessels delivered to the MTO for loading and/or unloading are subject to the following terms and conditions. Delivery of a vessel to the MTO constitutes acceptance of these terms and conditions by the owner, charterer and/or operator of the vessel, the party delivering the vessel, the party ordering its delivery and/or the party ordering its loading/unloading by the MTO.

A. Limitation of Liability as to all Vessels and Indemnity from Cargo Interests for Damages Caused by Insufficiency of Packing

1. In no event shall the MTO be liable for any damage to vessels in the loading, off-loading and/or unloading of cargo and all handling incident thereto that is caused directly, or indirectly, in whole or in part, by insufficiency in packing of the cargo and/or failure to supply proper handling instructions for the cargo. The shipper, consignor, consignee and cargo owner shall defend, indemnify and hold harmless the MTO, its officers, agents and employees and all related entities and their officers, agents and employees from and against any and all claims, demands, actions, losses, and damages, including, but not limited to, claims for personal injury or death, claims for loss of or damage to vessels, and claims for property loss or damage of any kind or description, including, but not limited to, pollution or environmental damage, and all expenses, including attorney’s fees and costs, arising from or in any matter related to any such claims, demands, actions, losses, and damages caused by or related to insufficiency of packing of the goods for loading, off-loading and/or unloading and all handling incident

thereto and failure to supply proper handling instructions for the cargo.

2. The MTO shall not, in any event, be or become liable for any loss or damage to vessels in an amount exceeding the lesser of the amount charged by the MTO for the stevedoring services or the actual costs of repairs to the vessel. In no event shall the MTO be liable for any damage to vessels howsoever caused, including negligence.
3. The MTO shall not in any event be responsible for special or consequential damages, including without limitation damages for or arising from delay, extra expense, loss of sale(s), loss of contract(s), loss of charter, loss of hire, loss of profits, loss of market value, and loss of use whether resulting from negligence, breach of this Contract by the MTO, failure to discharge cargo, delay in discharge of cargo, damage to vessels, and any other cause, and even if the possibility of such special or consequential damages or damages from delay were foreseeable to the MTO or were made known to the MTO. Under no circumstances will the MTO be liable for any type of vessel demurrage, or waiting time.
4. In any event, the MTO shall be discharged from all liability in respect of loss or damage to vessels unless suit is brought within eight (8) months of the date of loading or discharge of the vessel, and only if written notice describing the general nature of the loss or damage has been given to the MTO within five (5) days of the date of loading or discharge of the vessel. Written notice as provided for herein shall be a condition precedent to the institution of any lawsuit against the MTO.

#### B. Indemnity from Vessels for Damages Caused by the Negligence of the Vessel

1. The vessel and her owner(s), charterer(s) and/or operator(s) shall defend, indemnify and hold harmless the MTO, its officers, agents and employees and all related entities and their officers, agents and employees from and against any and all claims, demands, actions, losses, and damages, including, but not limited to, claims for personal injury or death, claims for loss of or damage to cargo, and claims for property loss or damage of any kind or description, including, but not limited to, pollution and/or environmental damage and damage to property of the MTO, and all expenses, including attorney's fees and costs, arising from or in any manner related to the negligence of the vessel and/or her crew and/or the failure of the equipment, machinery and appurtenances of the vessel.

#### C. Additional Limitations of Liability Applicable to Barges

The limitations of liability contained within this Item are in addition to those limitations of liability for barges that are set forth in Item 13A above. All barges delivered to the MTO for loading and/or unloading are subject to the following terms and conditions. Delivery of a barge to the MTO constitutes acceptance of these terms and conditions by the party delivering the barge, the party ordering its delivery and/or the party ordering its loading/unloading by the MTO (collectively referred to as the "barge owner")

1. It is the responsibility of the barge owner to monitor the prevailing and expected weather conditions in and around the MTO facility at all times when its barge is present at the MTO's facilities, and to take all action necessary to safeguard, reposition or otherwise protect the barge at any time when the weather may pose a danger to barges. The MTO will not be responsible for any damages of whatsoever nature arising due to the barge owner failing to take such preventive action.
2. All barges delivered to the MTO shall be moored at a location designated by the MTO. The barge owner is responsible for ensuring that the barge is properly moored at the designated location. Proper mooring includes, but is not limited to, ensuring that the barge is moored with sufficient lines in number and strength to withstand any reasonably anticipated or forecasted weather conditions that might arise at any time the barge is moored at the MTO's facilities.
3. In the event a condition develops that has the potential to jeopardize the safety of loaded barges or their cargo at the terminal, the MTO may in its sole discretion, and without prior consultation with the party receiving the MTO services, exercise any means necessary to unload any such barge and, in the event the MTO incurs additional expenses, including overtime, in unloading any such barge, the party receiving the MTO services shall be liable for all such additional expenses. Any party that delivers a loaded barge to the MTO for unloading does thereby consent to this provision and to the imposition of any such additional expenses. Nothing herein shall be construed as imposing upon the MTO any duty to take any additional measures to unload barges.
4. The MTO will provide notice to the barge owner of the time when loading or unloading of the barge has been completed. Notice by fax or email will be deemed proper notice and the fax or email transmittal form or confirmation shall be conclusive evidence of the receipt of the notice by the party(ies) to whom it is addressed. The barge owner shall pick up the barge and remove it from the terminal within two (2) business days from receipt of such notice.
5. At the conclusion of the two-day notice period stipulated in paragraph 4 above:
  - a. All duties or responsibilities of the MTO with respect to the barge or its cargo whether as wharfinger or bailee or otherwise shall terminate, and bailment shall be deemed to have ceased. The MTO will have no further duty or responsibility to monitor the condition of the barge or its mooring lines, to ensure that the barge is adequately moored or to take any action whatsoever to prevent the barge from breaking away from its moorings.
  - b. The barge owner shall have sole and exclusive responsibility for the barge, including, but not limited to, the duty to monitor the condition of the barge and its mooring lines, to ensure that the barge is adequately moored and to take all action necessary to prevent the barge from breaking away from its moorings.

- c. The MTO shall have no liability for any losses, expenses, damages or claims whatsoever related to the barge or its cargo or caused thereby, including but not limited to damage to vessels, to other barges or cargo or to any other property of any kind or description, pollution or environmental damage, personal injury or death. The barge owner shall defend, indemnify and hold harmless the MTO, its officers and employees and all related entities and their officers, agents and employees from and against any and all claims, demands, actions, losses, damages, including, but not limited to, claims for personal injury or death and claims for property loss or damage of any kind or description including pollution or environmental damage and all expenses, including attorney's fees and costs, arising from or in any matter related to the presence of the barge at the terminal or its breaking away from its moorings after the conclusion of the two-day notice period.

#### ***ITEM 14: FREE TIME POLICY***

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- A. Free time is allowed for a person ordering MTO services to assemble his/her cargo on the pier prior to export and to schedule delivery of import cargo to inland carrier.
- B. The minimum amount of free time allowed is ten (10) calendar days. For import cargo, free time commences upon vessel departure. For export cargo, free time commences, for the full manifested quantity, upon receipt of cargo at terminal facilities and is prorated based on the date of arrival of individual pieces.
- C. An extended amount of free time, as may be required for volume lots, or in special circumstance, may be requested by the party receiving the MTO services and may be granted by the MTO at its discretion when assembly of export cargo and delivery of import cargo is taking place. Any agreement to extend free time will be confirmed in writing by the MTO to the party receiving the MTO services.
- D. Any cargo remaining on terminal facilities beyond the expiry of free time may be subject to a "transfer to storage" charge as per the storage rate schedule herein or, where applicable, a Port Authority's published wharf demurrage charges.
- E. No extended free time shall in any event be allowed on cargo remaining in storage for a period greater than 4 months, counted from the commencement of free time.

#### ***ITEM 15: LIMIT ON USE OF FACILITIES AND ABANDONED CARGO POLICY***

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- A. All cargo received in a given calendar year must be removed from the MTO within (six) 6 months from the date the cargo arrived at the MTO's facility. The MTO will give written notice to the person ordering MTO services of any cargo that is subject to this provision and that has not been removed within such date.
- B. Unless the cargo has been picked-up or special arrangements are made with the MTO within two (2) weeks of the issue of the notice in the preceding paragraph A., the MTO shall have the right to deem the subject cargo abandoned. The MTO reserves the right

to dispose of any such abandoned cargo, in any manner whatsoever, including transfer of the cargo, without regard to laws affecting property, without any further notice being given to the party receiving the MTO services.

- C. In no event shall the MTO be held responsible for any loss or damage to cargo once it has been deemed abandoned in accordance with the preceding paragraph B.
- D. The MTO shall not be liable for any expenses, losses, or claims whatsoever caused by or resulting from disposal of abandoned cargo. The party receiving the MTO services agrees to indemnify and hold harmless the MTO in respect of any claims, actions or costs, including but not limited to attorneys' fees and defense costs, to which the MTO may become exposed or for which the MTO may become responsible, arising in connection with a loss, damage or disposal of abandoned cargo.

### ***ITEM 16: PORT SECURITY***

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- A. Entering the MTO facility is deemed valid consent to screening or inspection of your personal effects and/or vehicle. Failure to consent to screening procedures will result in denial of entry.
- B. While any person is on the facility, we ask that he/she remain vigilant, and immediately report any suspicious activity to the Facility Security Officer, or to the Assistant Facility Security Officer.
- C. All additional costs or services provided by the MTO, beyond the ones specified in this schedule, due to Port security, will be for the account of the party receiving the MTO services. This includes, but is not limited to, costs associated with mandatory inspections, collecting samples for authorities and workforce delays and stand/by.
- D. The party receiving the MTO services certifies that the cargo has been inspected and contains no security risks. If the cargo is found to be in violation of the Marine Transportation Act as well as Marine Transportation Security Regulations, and/or Transport Canada regulations, the party receiving the MTO services will be responsible for all associated costs/fines.
- E. The MTO reserves the right to levy a Port Security charge to vessels and/or cargo after providing sufficient notice, a minimum of 2 months, of the forthcoming charges.

### ***ITEM 17: EXTRA SERVICES***

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- A. Late Documents / Wrong Format:  
FMT strives to provide the highest level of service to our customers and to achieve our goal of providing accurate and proper handling of your cargo, it is important that all documentation be received in correct format and in a timely fashion prior to vessel arrival. Late documents create difficulties to the service you receive and can jeopardize commencement of discharge.  
FMT will now require documents to be received 48 business hours prior to vessel arrival in correct excel or delineated format. If documentation is received between 24 – 48



hours there will be a \$500 per B/L late documents charge, if documents are received less than 24 hours the late documents charge will be \$750 per B/L.

If documents are received in the incorrect format there will be a fee of \$250 per B/L. Late or incorrect documentation can also lead to sorting charges if applicable.

B. Re-banding:

Re-banding services to be billed at \$50 per unit of cargo.

C. Rain Cancellation Fee:

A rain cancellation fee will be assessed of \$300.00 per gang per hour for gang supervisors (supervisors for stevedoring and/or warehouse labor) during their guarantee time. This charge will only apply for the time gang supervisors are hired and the gang has not been ordered or if the gang was knocked off prior to supervisors filling their minimum hourly guarantees.

D. Sorting:

\$95.00 per man per hour for sorting cargo

E. Photos / Additional Reporting:

If additional reporting or paperwork is required beyond the issued dock tally a fee of \$25.00 will be applied for the additional paperwork.

If photos of cargo are required there will be a charge of \$2.00/photo with a minimum amount of \$10 to apply.

## AVAILABILITY

### ***ITEM 1: AVAILABILITY TO THE PUBLIC***

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This schedule is published as a convenience by FMT in order to make available to FMT's customers and/or all users of FMT's facilities and services, the policies and procedures of FMT at the Port of Hamilton, Ont and at the Port of Thorold, Ont.

## FMT QUALITY POLICY

### ***ITEM 1: FMT QUALITY POLICY***

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It is the goal and objective of Federal Marine Terminals, a Division of Fednav Limited to provide services which consistently conform to the Principals' needs and expectations.

In order to achieve this objective, Federal Marine Terminals, a Division of Fednav Limited has established and operates an effective quality management system. The involvement and participation of all staff in the operation of this system is a requirement of the approach to quality.

These requirements are communicated to all members of the staff.

The aim of every employee is to perform to the highest standards at all times, bearing in mind that the ultimate objectives must be to get things right the first time and to strive for continuous improvement.

Bernie Mailloux  
General Manager