

## **ADM GRAIN CO. ELEVATOR TARIFF No. 2**

### **Applicable at:**

#### **GALVESTON, TEXAS**

3100 Wharf Road  
Galveston, Texas 77550  
Telephone: 409-763-6443  
Fax: 409-763-8608

#### **CORPUS CHRISTI, TEXAS**

2122 Navigation  
Corpus Christi, Texas 78402  
Telephone: 361-882-1956  
Fax: 361-882-1998

**OPERATED BY ADM GRAIN CO.  
EFFECTIVE: OCTOBER 1, 2005  
ISSUED: SEPTEMBER 1, 2005  
AMENDED: JULY 1, 2006  
AMENDED: OCTOBER 1, 2010  
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AMENDED: JANUARY 1, 2018  
AMENDED: OCTOBER 15, 2018  
AMENDED: MARCH 9, 2020  
AMENDED: FEBRUARY 24, 2021  
AMENDED: DECEMBER 1, 2021  
AMENDED: DECEMBER 1, 2022**

### **GENERAL OFFICES:**

ADM GRAIN CO.  
8000 W. 110<sup>TH</sup> STREET, SUITE 220  
P.O. BOX 26570  
OVERLAND PARK, KANSAS 66225 - 6570

ARCHER DANIELS MIDLAND COMPANY  
4666 FARIES PARKWAY  
DECATUR, ILLINOIS 62526

### **MAILING ADDRESS:**

ARCHER DANIELS MIDLAND COMPANY  
P.O. BOX 1470  
DECATUR, ILLINOIS 62525

**THIS TARIFF SUPERCEDES AND CANCELS**

**TARIFF NO. 1 AND ALL AMENDMENTS**

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## SECTION I GENERAL RULES AND REGULATIONS

### A. NOTICE TO PUBLIC

This Tariff constitutes notice to the public, shippers, users, vessels, and other means of conveyance and/or equipment which utilize the ADM GRAIN CO. berth(s) and warehouse(s) that the provisions, rates, charges, rules, and regulations shall apply to all berth activities and related services provided in this tariff. Use of the berth and related services and/or application and approval of an Application for Berth and/or the berthing itself shall constitute consent to all tariff provisions, rates, charges, rules, and regulations, and shall be evidence of an agreement on the part of all Vessels to comply with all provisions and pay all tariff charges.

### B. NON-LIABILITY OF ADM GRAIN CO.

ADM GRAIN CO. shall not be liable for any loss of or damage to the barges, ships, or vessels moored or in the process of being moored at or adjacent to the elevator docks/ wharf or to any vessel or transfer rig, or to grain being transferred or loaded, whether caused by:

1. Acts of God;
2. Fire, frost, heat, flood, rain (including tropical storms, hurricanes, and like occurrences);
3. Adverse navigation conditions, including canal closures and obstructions;
4. Evaporation, natural shrinkage, rust, wastage or decay;
5. Insects, birds, rodents and/or other animals;
6. Floats, logs, and/or other pilings;
7. Strikes, labor shortage, work stoppage;
8. Riots, civil commotions, insurrection, war, embargoes;
9. Acts, failures to act, or orders of any governmental entity;
10. Environmental or remediation damages;
11. Terrorist acts and/or any consequences arising therefrom, including a transportation security incident, as defined in the Maritime Transportation Security Act of 2002, 46 U.S.C. §§ 70101 et seq., and implementing regulations, 33 C.F.R. §§ 101 et seq., effective July 1, 2004;
12. Concealed damage, leakage, variation in weights or losses in weight whether occurring while cargo is being handled;
13. Any causes beyond the warehouseman's control; or,
14. Any causes beyond ADM GRAIN CO.'s control.

The occurrence of any of the above causes shall not interrupt storage charges or other charges and will not create any liability for failure to load or unload railcars, trucks, or vessels, or to provide any other service set forth in this tariff that the elevator or elevator facilities has undertaken to furnish.

The warehouseman shall not be liable for any loss or damage to grain stored or handled, when such loss could not have been avoided by the exercise of that degree of care that a reasonable warehouseman would exercise under similar circumstances and conditions. Damage to grain stored or handled by the warehouse, due to its perishable nature or due to temperature or humidity changes or other causes incidental to general storage, shall be at depositor's sole risk and expense. The depositor agrees that in all circumstances where the warehouseman is held liable for loss or damage to grain stored or handled, depositor's damages shall be limited to the least of: (i) the fair market value of such grain as of the date of the loss or (ii) the original cost to depositor of such grain.

### C. DELAY DAMAGES

ADM GRAIN CO. will use its best efforts to receive, load, unload, handle or deliver grain, but does not undertake to do so within any particular time period except to the extent required by applicable statutes, rules and regulations. ADM GRAIN CO. shall not be liable for any

demurrage or other damages for delays incurred by any user, including standby time or loss of dispatch time or for any other delay damages incurred by any user, for any cause whatsoever, even if such delay is the fault of ADM GRAIN CO.

#### D. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

All users and/or vessels berthing at the ADM GRAIN CO. elevator and/or elevator facilities, specifically and without limitation, agree to hold harmless and indemnify ADM GRAIN CO., its parents, subsidiaries, divisions, affiliates and/or joint ventures, and their respective officers, directors, agents and employees and all persons, firms, or other entities which may manage, own, lease, control, or operate the elevator facilities, from and against any and all disputes, claims, liability (including but not limited to strict liability), causes of action, damages (including but not limited to punitive damages), or expense (including but not limited to court costs and reasonable attorneys' fees), in connection with any loss of life, bodily injury, impairment of health and/or damage to or loss of property, directly or indirectly arising out of, related to, and/or resulting from the user's operation at, or use of, the elevator facilities, even if caused by concurrent negligence of ADM GRAIN CO., the unseaworthiness of any vessel, and/or because of any preexisting deficiency or defect, hidden or otherwise, of the elevator facilities, unless such loss of life, bodily injury, impairment of health and/or damage to or loss of property is caused by the gross negligence or willful or wanton misconduct of ADM GRAIN CO. All users of the elevator facilities, specifically and without limitation, further agree to hold harmless and indemnify ADM GRAIN CO. from and against all claims or damages of any nature whatsoever, including but not limited to a transportation security incident, as defined in the Maritime Transportation Security Act of 2002, 46 U.S.C. §§ 70101 et seq., and implementing regulations, 33 C.F.R. §§ 101 et seq., effective July 1, 2004, terrorist act, or breach of security, whether or not directly or indirectly arising out of, related to, or resulting from, a crewmember's, stowaway's, asylum-seeker's, passenger's, vessel personnel's or other individual's detention onboard the vessel, escape or ingress or egress from the vessel, and/or negligent or intentional torts or criminal acts.

#### E. LAW AND JURISDICTION

**GALVESTON:** Any and all disputes and/or causes of action, directly or indirectly arising out of, related to, and/or resulting from the user's presence or operation at, or adjacent to, or use of, the elevator facilities located in Galveston, Texas, which cannot be resolved amicably, shall be subject to the exclusive jurisdiction of the United States District Court for the Southern District of Texas, Galveston Division. If that court lacks subject matter jurisdiction, then exclusive jurisdiction shall rest with the Galveston County District Courts (the 10<sup>th</sup>, 56<sup>th</sup>, 122<sup>nd</sup>, 212<sup>th</sup> and 405<sup>th</sup> District Courts) for the State of Texas. Said disputes and/or causes of action shall be resolved under the General Maritime Law of the United States, in the absence of which Texas state law shall apply. In the event that ADM GRAIN CO. must move to dismiss a lawsuit filed in violation of this provision, the reasonable attorneys' fees and costs incurred by ADM GRAIN CO. shall be paid by the plaintiff(s).

**CORPUS CHRISTI:** Any and all disputes and/or causes of action, directly or indirectly arising out of, related to, and/or resulting from the user's presence or operation at, or adjacent to, or use of, the elevator facilities located in Corpus Christi, Texas, which cannot be resolved amicably, shall be subject to the exclusive jurisdiction of the United States District Court for the Southern District of Texas, Corpus Christi Division. If that court lacks subject matter jurisdiction, then exclusive jurisdiction shall rest with the Nueces County District Courts (the 28<sup>th</sup>, 94<sup>th</sup>, 105<sup>th</sup>, 117<sup>th</sup>, 148<sup>th</sup>, 214<sup>th</sup>, 319<sup>th</sup>, and 347<sup>th</sup> District Courts) for the State of Texas. Said disputes and/or causes of action shall be resolved under the General Maritime Law of the United States, in the absence of which Texas state law shall apply. In the event that ADM GRAIN CO. must move to dismiss a lawsuit filed in violation of this provision, the reasonable attorneys' fees and costs incurred by ADM GRAIN CO. shall be paid by the plaintiff(s).

#### F. REMEDIES FOR ENFORCEMENT OF TARIFF

ADM GRAIN CO. shall have all remedies available to it at law, in equity and/or under maritime law to enforce this Tariff. ADM GRAIN CO. may cancel a vessel's filing or order a vessel to vacate the berth and pay charges, including liquidated or unliquidated damages for failure to do so. ADM GRAIN CO. shall have a maritime lien against the vessel, its cargo, freight and/or subfreight for providing services to the vessel, charges, liabilities or damages (including, without limitation, legal fees, costs, and expenses incurred in the prosecution or defense of any proceeding).

#### G. APPLICATION OF RATES

The provisions, rates, charges, rules, and regulations set forth in this tariff and any additions, revisions, or supplements thereto, shall apply to grain and/or vessels received at the ADM GRAIN CO. elevator and shall apply to grain on hand at the effective date of this tariff. The inclusion of provisions, rates, charges, rules, and regulations in this tariff is not to be interpreted as a guarantee that such services can or will be performed but only that such services may be performed at ADM GRAIN CO.'s discretion, as the facilities are equipped or prepared to perform such services.

#### H. AMENDMENTS

This Tariff may be amended from time to time with 30 days written notice and in accordance with applicable law.

#### I. INTERPRETATION

In all situations described in this Tariff in which ADM GRAIN CO. is empowered to make a determination or act within its discretion, the sole criterion as to the propriety of such action(s) and determination(s) shall be whether ADM GRAIN CO. acted in good faith.

#### J. INSURANCE

Notwithstanding anything to the contrary contained herein, the warehouseman will carry all-risk insurance, including flood and earthquake, on grain stored in the elevator silo(s) for the account of the depositor or owner of the warehouse receipt.

#### K. CONTRACTORS' INSURANCE

Stevedores, security guards, and other contractors and/or subcontractors shall be required to procure and maintain during the duration of its work at ADM GRAIN CO.'s elevator facilities the minimum insurance coverage as set forth below:

1. Worker's Compensation (including Longshore and Harbor Workers Compensation Act coverage) as required by state and federal laws, such policy to include voluntary compensation endorsement, Amended to Coverage B-Maritime and Employer's Liability Coverage (including crew coverage) with \$1,000,000.00 limits;
2. Comprehensive General Liability (CGL) insurance with the watercraft exclusion deleted, including automobile liability coverage and completed operations coverage with primary limits of \$1,000,000.00 per occurrence, with a deductible not to exceed \$50,000;
3. Excess following form CGL insurance with the watercraft exclusion deleted, with limits of not less than a minimum of \$5,000,000 per occurrence in excess of the amounts listed in Section I.K.2, above;
4. Where applicable, Stevedore's Legal Liability insurance with \$1,000,000 per occurrence, with a deductible not to exceed \$50,000;
5. In the event that a U.S. governmental entity mandates that armed security guards be assigned to a vessel prior to berthing or while it is berthed at any one of the ADM GRAIN

CO. elevator facilities, the vessel's agent shall provide to ADM GRAIN CO. a Certificate of Insurance evidencing CGL coverage for security guard liability with limits of not less than a minimum of \$1,000,000 per occurrence from the security firm contracted to provide security services to the assigned vessel.

6. The user and/or vessel shall procure insurance with a deductible not to exceed U.S. \$50,000 for acts of terrorism and malicious acts, specifically, but without limitation, wreck removal coverage and liabilities arising from a transportation security incident, as defined by the Maritime Transportation Security Act of 2002, 46 U.S.C. §§ 70101 et seq., and implementing regulations, 33 C.F.R. §§ 101 et seq., effective July 1, 2004.

ADM GRAIN CO. shall be named as an additional assured with a waiver of subrogation in each of the above policies, except for the policies specified in provision I.K.1, above. Each of the policies shall contain a provision that ADM GRAIN CO. will receive 30 days notice of material changes or cancellation. A current Certificate of Insurance evidencing the above coverages shall be furnished to ADM GRAIN CO. prior to the commencement of work at ADM GRAIN CO. elevator facilities and will be maintained on file at the ADM GRAIN CO. office.

#### L. SECURITY

At Galveston and Corpus Christi, in accordance with the Maritime Transportation Security Act of 2002, 46 U.S.C. §§ 70101 et seq., and implementing regulations, 33 C.F.R. §§ 101 et seq., effective July 1, 2004, ADM GRAIN CO., as applicable, promulgated certain restrictions, policies and procedures relative to maritime security with which all Users of ADM GRAIN CO. Elevator Facilities agree to comply.

#### M. STOWAWAYS

Prior to berthing or while berthed at ADM GRAIN CO.'s facilities, stowaways asylum seekers, and vessel detainees on board the vessel must be removed from the vessel into the custody of U.S. Immigration officials, pursuant to 8 USC §§1321, 1323. Vessels with stowaways, asylum seekers, and vessel detainees on board shall not be allowed to berth at ADM GRAIN CO. elevator facilities. If berthed, at ADM GRAIN CO.'s discretion, such vessel may be ordered to vacate the berth.

#### N. INSPECTION AND WEIGHING

All outbound (export) grain shall be officially graded and weighed when discharged from the elevator by Federal Grain Inspection Service personnel at published F.G.I.S. rates, but the expense of such certification will be borne by the depositor of the grain or the owner of the warehouse receipt. Other grain shall be graded by elevator employees licensed under the U.S. Warehouse Act. Interested parties may elect at their expense to have grain officially inspected and graded by Federal Grain Inspection Service personnel at published F.G.I.S. rates.

#### O. SOUND GRAIN ONLY

The SCHEDULE OF CHARGES covers sound grain only. The warehouseman shall not be required to store or handle grain that is, or will become, out of condition; if stored, the storage rate will be higher than the rate of storage provided hereinafter and the exact rate will depend upon the condition of the grain. The warehouseman may deal with grain, sound when received but going out of condition, in accordance with the regulations issued by the Secretary of Agriculture under and pursuant to the United States Warehouse Act.

Charges for services not specifically listed in the SCHEDULE OF CHARGES and for service(s) with respect to grain other than sound grain will be furnished upon application, and will be commensurate with the extent and nature of the work involved. All loss or shrinkage in handling will be for the account of the depositor or owner of the warehouse receipt.

P. FLAX

Flax shall be stored only upon a gross bushel basis and the warehouseman shall not be responsible for a decrease in the number of net bushels and an increase in dockage due to handling. Flax shall be stored on Identity Preserved basis only.

Q. MEAL AND PELLETS

Meals and Pellets ordinarily will be handled only for direct transfer to the vessel. Any loss or shrinkage incurred in handling will be for the account of the depositor or owner of the warehouse receipt.

R. PREFERENTIAL UNLOADING & LOADING

In the event of congestion of railcars, trucks, or vessels, the warehouseman reserves the right, without liability for loss, damage or demurrage, to unload or load those railcars, trucks, or vessels for which outward shipping space has been engaged and is available.

S. RIGHT TO REFUSE GRAIN

The warehouseman reserves the right, without any liability for loss, damage, or demurrage that may arise, to refuse any grain which is, in its opinion, unmerchantable or in unfit condition for storage, transfer or handling.

T. OWNERSHIP AND GRADE

Grain will be stored in bins containing the same kind and grade of grain, regardless of ownership. If the owner of the grain requires storage or loading out on an Identity Preserved basis, a special agreement must be requested from ADM GRAIN CO. for storage in special bins. The rates and charges for such a special agreement shall be agreed between the parties.

U. TYPE OF RAILCARS

Railcars (other than covered hopper-cars) will be loaded or unloaded by the warehouseman only by special agreement made prior to receipt of the rail car.

V. TRANSFERS

Grain will be transferred from bin to bin whenever, in the opinion of ADM GRAIN CO., such action is necessary to obtain the benefit of full storage capacity of the elevator.

W. STORAGE

Storage charges shall commence on the day after the deposit date of the grain (unless ADM GRAIN CO. otherwise agrees) and shall continue until, and inclusive of, the day on which all of the following have been done:

- a. The warehouse receipt or receipts have been surrendered and properly endorsed for cancellation, and accompanied by both a tender of all charges due and written instructions covering shipping and loading.
- b. Properly coopered empty railcars ordered by the owner of the warehouse receipt(s) have been delivered to the warehouse, vessel(s), or barge(s) chartered by the owner of the warehouse receipt(s), have been spotted at the dock of the warehouse.
- c. The grain represented by such warehouse receipt(s) has been loaded out of the warehouse by the warehouseman with due diligence. Notwithstanding performance of the acts set forth in provisions I.W.a and I.W.b, above, by the owner of the warehouse receipt(s), the warehouseman shall not be obligated to load out grain nor

shall storage charges terminate if, despite the exercise of due diligence, the warehouseman is prevented from loading grain by strikes, work stoppages, riots, civil commotion, war, floods, acts of God, acts of government, or causes beyond the control of the warehouseman. If the warehouseman fails to exercise due diligence in loading grain, storage charges shall accrue only until, and including the first business day upon which, all above requirements have been met by the owner of the warehouse receipt(s).

#### X. GRAIN BREAKAGE

The warehouseman will use every means possible to minimize grain breakage as a result of repeated handlings and will in no way assume any liability for excessive breakage other than that prescribed under provisions of the U.S. Warehouse Act and regulations thereunder.

#### Y. SALVAGED GRAIN

Unmerchantable or salvaged grain will be accepted for drying if, in the opinion of the warehouseman, such grain can be handled through the elevator. The actual condition of the grain will determine charges, which shall be fixed by the warehouseman. In all instances, the charge for elevation and actual loss in weight shall be charged against the owner of the grain.

#### Z. SHIPPING ORDER

A shipping order shall not be provided unless the properly-endorsed warehouse receipt(s) have been surrendered, stating an amount proportionate to or in excess of—but not less than—the quantity and quality of each different grade of grain needed for such shipment. Orders for shipments issued to the elevator, prior to issuance of warehouse receipts, must be accompanied by a release signed by the transportation company that carried the grain to the elevator. The release shall state that the original lading has been surrendered and all charges have been paid. The release must cover the total amount of each grade and identical class and color of grain ordered to be shipped out of the elevator.

#### AA. WAREHOUSE CHARGES

Storage and elevation charges shall become due and payable not later than upon surrender of the grain by the warehouseman. Charges for other services shall be due and payable upon performance of the service by the warehouseman. The warehouseman reserves the right to require prepayment of any charges specified in this tariff, when a warehouseman's lien is, or may be, ineffective.

#### BB. BASIS OF CHARGES

For charges imposed on grain received or unloaded into the warehouse, the gross in weight shall be used in assessing elevation, cleaning, and storage charges. The grain's gross outturn weight shall be the basis for assessing the handling and loading out charges.

#### CC. RIGHT TO CONTRACT WITH THE GOVERNMENT

ADM GRAIN CO. may enter into written contracts with the United States of America or any agency thereof to provide storage and service rates other than the rates as provided in this Tariff. Such written contracts shall be applicable only to grain, or a commodity defined in any such contract as grain, in which the United States of America or the agency thereof has an interest.

#### DD. LICENSED UNDER U.S. WAREHOUSE ACT

Warehouses are operated as public warehouses licensed under the United States Warehouse Act. This tariff is subject to the regulations of Grain Warehouseman promulgated by the Secretary of Agriculture. All grain received is considered as deposited for storage under the U.S.

Warehouse Act, and regulations thereunder, unless the grain owner or his agent requests otherwise prior to the time of receipt, subject to ADM GRAIN CO.'s agreement.

#### EE. FUMIGATION OF GRAIN

Grain fumigation is at the option of ADM GRAIN CO. and may be performed or contracted at the owner's, or grain consignee's, expense. ADM GRAIN CO. reserves the right to refuse to unload grain infested by weevils or other insects until the grain has been fumigated to the satisfaction of ADM GRAIN CO., and a gas-free certificate is issued.

#### FF. RIGHT TO TERMINATE STORAGE

ADM GRAIN CO. reserves the right to terminate storage and to order the removal of any grain upon notice which from its inherent nature or otherwise may, in the judgment of ADM GRAIN CO., cause damage to other grain or become offensive to the premises. ADM GRAIN CO. may remove at the owner's expense grain that is not removed within the time specified in the notice.

## SECTION II VESSELS AND FILING

#### A. SAFE ACCESS

All vessels berthed shall at all times furnish safe access to and from the vessel in accordance with U.S. Department of Labor and/or U.S. Coast Guard and/or Federal Grain Inspection Service or other governmental regulations. Any delay (including Federal Grain Inspection Service final inspection delays) caused by failing to furnish safe access will result in the vessel being charged U.S. \$5,000 per hour or fraction thereof until approved safe access is compliant with regulations.

#### B. ELEVATOR OVERTIME

All rates set forth in this Tariff for services involving labor are based upon payment at straight time wages. Overtime incurred in the loading of vessels shall be assessed to the vessel at the rates provided in this Tariff.

#### C. DUST EMISSIONS

It is the responsibility of vessels to take all reasonable steps to minimize dust emissions during loading operations, including the use of dust arresting tarpaulins.

#### D. COMMON CARRIERS

Common carriers by water (usually referred to as liners), as defined by the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act, shall not be allowed to load at any of ADM GRAIN CO.'s elevator facilities. According to section 3(6) of the Shipping Act, a common carrier is "a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country . . . except that the term does not include a common carrier engaged in ocean transportation by . . . ocean tramp . . ."

#### E. FILING APPLICATION FOR BERTH

Users, vessels, the vessel owners, and operators of the vessel intending to load at the respective ADM GRAIN CO. elevators in Galveston or Corpus Christi shall file an Application for Berth with ADM GRAIN CO. between the hours of 9:00 am and 4:00 p.m. on Monday thru Friday and the hours of 9:00 am and 12:00 noon on Saturday, all exclusive of any holiday defined herein, to the following locations:

At Galveston: 3100 Wharf Road, Galveston, Texas 77550

The signed Application for Berth, when received by the elevator, and/or the berthing of the vessel, shall constitute a contract between ADM GRAIN CO. and users, vessels, the vessel owners, and operators of the vessel to abide by the provisions, rates, charges, rules, and regulations set out in this Tariff. Users, vessels, the vessel owners, and operators of the vessel agree to be jointly and severally liable for charges of whatever kind or nature for any liabilities arising from this Tariff. All charges incurred by the vessel shall be the responsibility of, and payable specifically, but without limitation, by the vessel representative that files the berth application. By signing and delivering the berth application, users, vessels, the vessel owners, and operators of the vessel certify and represent that they have appropriate insurance to cover damages associated with or resulting from a transportation security incident, as defined in the Maritime Transportation Security Act of 2002, 46 U.S.C. §§ 70101 et seq., and implementing regulations, 33 C.F.R. §§ 101 et seq., effective July 1, 2004, and/or terrorist act.

The signed Application for Berth shall also constitute a certification by users, vessels, the vessel owners, and operators of the vessel that the vessel is not a common carrier, as that term is defined by the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act.

The following certificates, documents, and deposits must be presented in person to file the Application for Berth at the ADM GRAIN CO. administration office located at Galveston, Texas or Corpus Christi, Texas:

1. Original Application for Berth signed by the Master of the vessel, sealed with the vessel's seal, and signed by an authorized representative of the vessel owner.
2. Copy of Stowage Examination Certificate issued by the local U.S.D.A., Federal Grain Inspection Service certifying that all cargo compartments are free of insect infestation, objectionable odor, and clean, dry, and fit for the cargo. The Stowage Examination Certificate must not be dated more than 5 days prior to the filing and acknowledgement of the Application for Berth.
3. Copy of Certificate of Readiness as to all compartments, issued by a local representative of the National Cargo Bureau, Inc.
4. Copy of the Original Notice of Readiness signed by the Charterer or its agent showing when vessel has been accepted.
5. Master's proposed stowage plan, which includes grain cubics of the vessel.
6. All tankers and OBO class vessels must show a gas-free certificate showing the vessel is completely free of petroleum odor or any other objectionable odors.
7. If machine or spoon trimming is required, or requested, ADM GRAIN CO. must be notified in writing. Hand trimming is not permitted. In addition, if a vessel must trim, the vessel must furnish gear on board to hold the trimming machines. If the vessel is gearless, a floating derrick must be furnished at its expense to hold the trimming machine.
8. Copy of the vessel's International Tonnage Certificate or U.S. Customs Form 1301 showing the vessel's Gross Tonnage.
9. Deposit of funds, suitable to ADM GRAIN CO., covering all estimated charges that are anticipated to be incurred by the vessel.

No facsimile transmissions will be accepted for any documents, certificates, or deposits. The filing shall be acknowledged on the later of the expiration of buyer's written ten-day preadvise, or the first day of shipment specified in the contract. The vessel shall be available to berth when the Application for Berth is accepted

Except as otherwise provided in these regulations, vessels shall be assigned a berth in the order in which they file a signed Application for Berth, accompanied by the above-listed documents. ADM GRAIN CO., in its sole discretion, may alter the loading rotation of the vessels to be loaded when in the best interests of elevator operations.

After filing with the elevator office, the vessel must inform elevator management immediately if any event renders the vessel not ready for loading in all respects, or not able to come to the berth when called. Such events include, but are not limited to, bunkering, repairing, U.S. Coast Guard restriction, vessel class issues, etc.

**F. NO LIABILITY FOR FREIGHT**

Unless otherwise agreed in writing, filing of an Application for Berth shall constitute a waiver by the vessel of any and all claims against ADM GRAIN CO. for freight, dead freight, or other charges on the cargo shipped.

**G. REINSPECTION REQUIREMENT**

If a vessel waits for a loading berth at the elevator in excess of 5 days from the time the original U.S.D.A., Federal Grain Inspection Service pass is issued, the vessel must be re-inspected by the U.S.D.A., Federal Grain Inspection Service. The vessel will not be permitted to berth until in compliance with this regulation.

**H. REFILING**

If a vessel that has filed an approved Application for Berth is ordered to the berth but is unable or refuses to accept a loading berth for any reason, or otherwise fails to comply with this Tariff, ADM GRAIN CO. may, at its sole discretion, cancel the Application for Berth. If cancelled, the vessel must re-file the Application for Berth and may be assigned a rotation in the elevator line-up based upon the new filing time.

**I. CLOSEST AVAILABLE ANCHORAGE**

Vessels filing an Application for Berth at the ADM GRAIN CO. elevators in either Galveston or Corpus Christi will be required to remain within the commercial limits of the respective port, i.e. Galveston or Corpus Christi, Texas. If the vessel fails to comply with this requirement and another vessel(s), although having filed an Application for Berth later, is/are anchored closer to the elevator than the subject vessel, ADM GRAIN CO. may, at its discretion, by-pass the vessel failing to comply with this requirement if loss of berth time may be avoided thereby.

If any vessel fails to arrive within 2 hours of being ordered to a berth, due to circumstances or conditions within the control or due to the fault of the vessel, its owner(s), operator(s), charterer(s), agent(s) or employee(s), the vessel, its owner(s), operator(s), charterer(s), and/or agent(s) shall be jointly and severally liable for a dead berth charge of \$5,000 for each hour or fraction thereof until the vessel is moored in berth, regardless of intervening circumstances of any nature. Such charge shall be assessed as liquidated damages and shall be in addition to any other charges within this tariff.

**J. BERTHING PRIOR TO CERTIFICATION**

At ADM GRAIN CO.'s sole discretion, a vessel may tie up at the berth prior to having received all the required certificates to file with the elevator. A vessel failing to supply such certificates prior to loading must vacate the berth within 1 hour after arrival of the tugs, linesmen, and pilot (and no more than 4 hours after receipt of verbal notice to vacate by ADM GRAIN CO.), the vessel shall be subject to liquidated damages at a rate of \$5,000 for each hour or fraction thereof commencing 4 hours after receipt of the notice to vacate. The liquidated damage shall be imposed until the vessel vacates the berth, regardless of any intervening circumstances of any nature. Any vessel ordered to vacate the berth may return to berth after the vessel loading immediately thereafter, if any, completes loading or vacates the berth for other reasons, provided that the circumstances requiring the vessel ordered to vacate have been rectified.

## K. SHIPHOLD FUMIGATION

The owners/ operators of a vessel presenting Application for Berth to load at the ADM GRAIN CO. elevator authorize shiphold fumigation in accordance with applicable U.S. Coast Guard and Federal Grain Inspection Service regulations and instructions and shall insure that the vessel is fit for such fumigation. Should any vessel refuse to allow ship hold fumigation to be conducted in accordance with procedures set forth in the U.S. Coast Guard and Federal Grain Inspection Service or other governmental regulations, the vessel shall be responsible for any and all delays, resulting costs, damages, and expenses (including legal fees, costs, and expenses). Any crew member(s) or other personnel wishing to vacate the vessel while fumigation takes place may do so at the vessel's expense.

## SECTION III VESSEL LOADING

### A. OFFICERS AND CREW MEMBERS REQUIRED

Upon berthing, the vessel shall provide adequate lighting equipment and keep appropriate officers and crew on board to ensure that the vessel is properly secured at all times, ready to leave berth should adverse weather or navigation conditions warrant, and to permit reception of cargo at any time of the day or night, including Saturdays, Sundays and holidays.

### B. FINAL INSPECTIONS

All vessels loading grain at the ADM GRAIN CO. elevator are subject to U.S.D.A. regulations. The regulations require all vessels to be inspected pursuant to the U.S. Grain Standards Act just prior to loading alongside a wharf. If a vessel fails to pass for any reason at the time of final inspection alongside the wharf, such vessel must immediately vacate the berth on instructions from ADM GRAIN CO. If the vessel refuses or fails to vacate the berth within 4 hours of receipt of the notice to vacate, ADM GRAIN CO. shall be entitled to charge and recover as liquidated damages the sum of \$5,000 per hour or fraction thereof, commencing 4 hours after receipt of the notice to vacate, until the vessel vacates the berth.

If the cause for rejection is rectified and the vessel is re-inspected and passed within 24 hours from the time of rejection, the next available berth will be provided. If rectification and re-inspection takes more than 24 hours, the vessel must re-file with ADM GRAIN CO. and take a position in the elevator line-up based upon the new filing time.

### C. LINE HANDLING

The vessel's agent is fully responsible to make arrangements to moor vessels at the dock(s) and buoy(s) well in advance of the vessel's arrival at dockside. The vessel's agent should make direct contact with the company providing mooring service, who shall invoice the vessel's agent directly. It is the vessel's responsibility to ensure that the vessel is properly and adequately moored to the dock at all times.

### D. CONTINUOUS READINESS AND FAILURE TO VACATE

Assignment to a berth is predicated upon the vessel's continuous readiness to receive grain at a full normal rate throughout the entire time in berth. Should a berthed vessel fail to maintain continuous readiness, the vessel shall vacate the berth when ordered by ADM GRAIN CO. Whenever a vessel is unable or refuses to load, for any reason whatsoever, ADM GRAIN CO. may order the vessel to vacate the berth. The vessel must vacate the berth within 4 hours of being given notice to do so. If the vessel fails or refuses to vacate when so ordered, in addition to any other charges within this tariff, ADM GRAIN CO. shall be entitled to charge and recover as liquidated damages from the vessel, its Owner/s, Operator/s, Charterer/s, and/or Agents, who

shall be jointly and severally liable for same, the sum of \$5,000.00 per hour or fraction thereof, commencing 4 hours after receipt of the notice to vacate until the vessel leaves the berth regardless of any intervening circumstance.

**E. LOADING DELAYS**

If a vessel stops or delays loading operations for any reason, whether caused by the ship or otherwise, except for cases caused by the elevator's inability to load, a dockage charge of \$5,000 per hour or fraction thereof shall be assessed, as liquidated damages, against the vessel, its Owner(s), Operator(s), Charterer(s), and/or Agent(s), who shall be jointly and severally liable for same, in addition to any other charges within this Tariff.

**F. INABILITY TO RECEIVE GRAIN**

Should loading cease or be interrupted due to the objectionable odor emanating from the vessel compartments, or any other reason attributable to the condition of the vessel or its suitability to receive grain, the owner(s), operator(s), charterer(s), Master, and/or agent(s) shall immediately:

- a. Acknowledge receipt of the cargo received on board by signing an original official ship receipt.
- b. Remove the vessel from the loading berth at the owner's expense.

**G. VACATING BERTH UPON COMPLETION OF LOADING**

Vessel shall vacate the berth within 1 hour of the completion of loading. If the vessel refuses or fails to vacate the berth within 1 hour after loading is complete, in addition to any other charges within this tariff, ADM GRAIN CO. shall be entitled to charge and recover as liquidated damages, from the vessel, its Owner/s, Operator/s, Charterer/s, and/or Agents, who shall be jointly and severally liable for same, the sum of \$5000 per hour or fraction thereof, regardless of any intervening circumstance, until the vessel leaves the berth. If the vessel does not timely vacate the berth, the vessel's Owner(s), Operator(s), Charterer(s), and Agent(s) shall be jointly and severally liable for all costs and expenses (including attorneys' fees) incurred in moving the vessel, in addition to the liquidated damages described above. Any such movement of the vessel shall be at the risk of the vessel, its Owner(s), Operator(s), Charterer(s), and Agent(s).

**H. SEAWORTHY TRIM**

The owners/ operators of a vessel accepted for berth must insure that the vessel will be loaded so that she remains in safe and seaworthy trim throughout the loading operation to permit shifting out of berth, should it become necessary due to any reason.

**I. SPECIAL WEATHER CONDITIONS**

In the opinion of ADM GRAIN CO., if the weather or other navigation conditions warrant, any berthed vessel may be ordered at anytime, to vacate the berth and anchor in the approved anchorage area until weather conditions permit the vessel to return to berth.

**J. REQUESTING OVERTIME**

Requests originating from the vessel for overtime work must be made in writing to ADM GRAIN CO. prior to 1:00 p.m. of the straight time working day preceding the overtime period. Loading vessels on overtime will be performed only at the discretion of ADM GRAIN CO. and the charges shall be assessed against the party ordering the overtime work except as provided below.

**K. OVERTIME REQUIRED**

In order to expedite the movement of vessels and to secure the fullest possible use of the elevator's handling facilities, whenever there are more vessels in port awaiting loading than can

be accommodated at the elevator, or whenever the elevator is threatened with congestion, the vessel occupying the berth shall, within the sole discretion of ADM GRAIN CO., be required to work overtime at the vessel's expense. By filing an Application for Berth, the vessel and/or its owner(s), operator(s) and/or agent agrees either to work overtime if required by ADM GRAIN CO. or to vacate the berth if ordered to do so. Should any vessel refuse to work overtime when required, the vessel shall vacate the berth in favor of the next vessel willing to work overtime continuously (which may retain the berth so long as it is willing to work successive straight time and overtime periods until loading is completed). The vessel ordered to vacate shall forfeit its berth assignment but shall be entitled to the first available berth, subject to the same overtime provisions as set forth above if the circumstances requiring overtime work still exist in ADM GRAIN CO.'s opinion.

#### L. ALTER TURN

ADM GRAIN CO., in its sole discretion, may alter the turn of vessels to be loaded when, in its judgment, such actions are justified to avoid delays or to permit the best possible service for all users, or for other reasons considered sufficient in its judgment.

#### M. SHIFTING COSTS

Shifting costs for entering and leaving berth, or shifting while in berth, shall be at the expense of the vessel.

#### N. BAGGING, STRAPPING & BUNDLING

When bagging, strapping, or bundling is necessary, a vessel may, at the discretion of ADM GRAIN CO., be ordered to vacate the berth at the expense of the vessel.

#### O. BLOWING TUBES

Vessels shall not "blow out their tubes" in the vicinity of the elevator dock. A fine established by local ordinances shall be levied against any vessel and its owners/ operators violating this rule. In addition, the vessel and its owners/ operators agree to hold harmless, indemnify, and reimburse ADM GRAIN CO. for and against any claim, suit, or loss ADM GRAIN CO. may suffer as the result of such violation.

#### P. DISCHARGING BALLAST

Should a vessel loading grain at ADM GRAIN CO. find it necessary to discharge ballast or fresh water, such discharging MUST be planned sufficiently in advance so that the completion of loading will not be delayed. All vessels specifically, but without limitation, the vessel's Master, owners, managers, operators, charterers, persons in charge, and/or agents, shall ensure full compliance with all regulations in The Ballast Water Management (BWM) program, as set forth in 33 C.F.R. §§ 151 et seq. If any such loading delays resulting from discharge of ballast or fresh water occur, the vessel and/or its owner(s), operator(s), and/or agent(s) shall be charged \$5,000 for each hour of loading delay, or fraction thereof, which shall be charged as liquidated damages, in addition to any other charges within this tariff.

#### Q. DRAFT CHECKS

Each vessel loading at ADM GRAIN CO. will be allowed one (1) fifteen-minute period for the purpose of checking draft and stability calculations to determine the vessel's final cargo requirements and loading sequence. Any delay in excess of the one (1) fifteen-minute period shall be charged to the vessel at the rate of \$500 for each additional fifteen-minute period or fraction thereof.

**R. CONTINUOUS NATURE OF CHARGES**

Any time that a U.S. \$5000 per hour charge is assessed for the reasons mentioned in this Tariff, that charge shall be assessed continuously until the vessel vacates the berth, regardless of intervening circumstances. This charge represents reasonable liquidated damages.

**S. TUG ASSISTANCE**

Every vessel upon entering the berth (docking), leaving the berth (undocking), shifting while in berth (warping), or lying at the berth, shall be required to make use of a sufficient number of tugs at the vessel's risk and expense. The number of tugs used shall be at the discretion of the vessel and/or pilot. The vessel's agent is fully responsible for making these arrangements and should make direct contact with a tug company. The vessel's agent shall be invoiced directly by the company providing the tug services.

**T. REPAIRS IN BERTH**

There shall be no work or repairs to a vessel in berth involving welding, burning, scraping, or any "hot work," nor any work or repairs where there is a possibility of flame or sparks, unless prior express written approval is obtained from ADM GRAIN CO.

**U. BUNKERS**

Vessels will not be allowed to take on bunkers while in berth unless prior express written approval is obtained from ADM GRAIN CO.

**V. ABUSIVE USE OF EQUIPMENT**

Abusive use of elevator-owned dock equipment, including but not limited to trimming machines, spouts, spout extensions, lines, and winches will not be tolerated. A fine commensurate with the extent and nature of the damage will be levied against the vessel and its owners/ operators for such abusive use of equipment.

**SECTION IV  
SCHEDULE OF CHARGES**

ADM GRAIN CO. specifically reserves the right to demand payment of charges in advance or to require posting of a bond to secure payment of charges. There shall be deposited with ADM GRAIN CO., contemporaneous with the filing of a berth application, a sum determined by ADM GRAIN CO. to approximate estimated charges in accordance with the terms of this tariff. If such prior deposit is not made, ADM GRAIN CO. reserves the right to refuse berthing of the vessel and to suspend running of laytime until such time as deposit is made.

**A. RECEIVING**

**PER BUSHEL**

**At Corpus:**

- |  |                     |
|--|---------------------|
| 1. All grain by hopper rail car                      | \$ .09              |
| 2. All meals and pellets and flax by hopper rail car | by arrangement only |
| 3. All grain by truck                                | \$ .09              |
| 4. All meals and pellets and flax by truck           | by arrangement only |

**At Galveston:**

- |  |                     |
|--|---------------------|
| 1. All grain by hopper rail car                      | \$ .09              |
| 2. All meals and pellets and flax by hopper rail car | by arrangement only |
| 3. All grain by truck                                | by arrangement only |
| 4. All meals and pellets and flax by truck           | by arrangement only |

An additional inbound weighing charge will be assessed to the shipper as follows at supervising agency-established rates:

Rail Cars: Batch weighed \$22.50 per car in units of 10 or more cars  
Rail Cars: Single weights \$25.00 per car on single cars and units under 10 cars

#### B. SHIPPING

1. Wheat, Sorghum, Barley, and Oats	—to rail hopper car or truck	\$.04/bushel
	—to barge or motor vessels	\$.07/bushel
2. Corn and Soybeans	—to rail hopper car or truck	\$.05/bushel
	—to barge or motor vessels	\$.08/bushel
3. All meal and pellets and flax		by arrangement only

As to all grain loaded out of the warehouse into barges or waterborne vessels, there shall be additional charges, payable by the vessel, for stevedoring services at the rates set forth in this tariff.

#### C. STORAGE

1. All grain (on inventory as of 7:00 a.m.)	\$.0015/per bushel/per day
2. All meals, pellets and flax	by arrangement only
3. Preserving identity by storing in special bins	by arrangement only

#### D. VOLUME RATES

Volume rates may be quoted upon request. Such volume contracts will be based on equal rates for equal volumes for all exporters.

#### E. SPECIAL SERVICES (Conditioning)

Cost for cleaning, screening, cooling, running, turning, treating and drying will be quoted upon request. All loss or shrinkage resulting from any conditioning listed above will be for the account of the depositor or owner of the warehouse receipt.

#### F. SHRINKAGE

A shrinkage assessment of 1/4 of 1% (.00250) against incoming weight will be made on all grain received. Corn received with over 15.5% moisture will be assessed an additional shrinkage of .001125 per each 1/10% of moisture above 15.5%.

#### G. DOCKAGE

Dockage will be assessed at the following rates per gross registered ton of vessel for each 24 hours or fractional part thereof beginning when the first line is on the dock and ending when the last line is off the dock, whether working or not. Any fraction of a 24-hour period will be considered a whole 24-hour period. This charge is assessed against and is to be payable by all vessels.

1. Bulk Carrier Vessels	\$0.60
2. Tanker, Tweendecker and Container Carrier Vessels used for bulk carriage	\$0.70

Irrespective of this rate, the minimum dockage charge is \$25,000 for each berthing, except that shallow draft barges will be assessed \$50 per 24 hour period or fraction thereof. The gross registered tonnage of vessels used for calculation of the dockage charges will be

based on the INTERNATIONAL TONNAGE CERTIFICATE. If this certificate is not available, CUSTOMS FORM 1301 will be required. A copy of the INTERNATIONAL TONNAGE CERTIFICATE or CUSTOMS FORM 1301 will be required when presenting the berth application.

A minimum contingency fee of \$20,000.00 will be assessed against all vessels to cover additional charges that ADM GRAIN CO. may incur, including but not limited to, charges for shifting, extra tug's or other miscellaneous matters. If not used, this contingency fee, or any remaining balance, will be refunded by the elevator.

**H. POTABLE WATER - GALVESTON**

All arrangements for potable water must be made through the Port of Galveston. In any event, ADM GRAIN CO. assumes no liability for the quality of the water.

**I. POTABLE WATER – CORPUS CHRISTI**

Water will be supplied when available from dockside connections at the Master's request by prior arrangement only. Charges will be assessed at \$3 per short ton with a minimum of \$500. The elevator or elevator facilities will supply water to the valves on the wharf. Lines to carry water from the valve to the vessel must be supplied by the vessel. In any event, ADM GRAIN CO. assumes no liability for the quality of the water.

**J. ELEVATOR OVERTIME**

Loading vessels on overtime will be performed only at the discretion of ADM GRAIN CO., at the following rates:

- 1. Monday through Friday before 0800 and after 1700 ..... \$1,200 per hour
- 2. All day on Saturday ..... \$1,200 per hour
- 3. All day on Sunday, Holidays, and all Meal Hours ..... \$1,300 per hour

(Meal Hour periods are 2400 to 0100, 0600 to 0700, 1200 to 1300, and 1800 to 1900)

Overtime ordered as a continuation of a scheduled shift will be charged at actual hours worked in one quarter (1/4) hour increments. Overtime ordered as a call-out will be charged at a minimum four (4) hours and thereafter at actual hours worked in one quarter (1/4) increments.

**K. STEVEDORING**

ADM GRAIN CO. does not perform stevedoring services. A list of stevedoring firms qualified to perform such services at the respective Galveston and Corpus Christi elevators will be made available by contacting the respective ADM GRAIN CO. office in Galveston or Corpus Christi.

**L. FACILITY CHARGES**

Facility charges are assessed to the stevedore loading the vessel and are based per metric ton (2204.6 pounds).

	Heavy Grain	Meal/Pellets
1. Bulk Carrier Vessels	\$.27	\$.35
2. Tanker, Tweendecker and Container Carrier Vessels used for bulk carriage	\$.47	\$.50

Light grain by special arrangement only.

M. CLEAN UP CHARGES

Each vessel will be charged \$300 for clean up on wharf.

Hopper cars tendered for loading found not suitable for loading by the Federal Grain Inspection Service, or other independent agencies, will be cleaned by the Elevator upon request of the customer. The charge for cleaning will be actual cost, but not less than \$25 per car. The charge for railcar cleaning is in addition to the charges named in other rail car charges stated within the tariff.

N. DUST ARRESTING TARPULINS

Must be provided by the vessel at the vessel's risk and expense.

O. TRIMMING

Machine Trimming: \$1,200 per hour, or fraction thereof, for the duration of trimming operation including spout relocation and standby plus above facility charge plus overtime assessed to stevedore loading the vessel.

Spoon Trimming: \$900 per hour, or fraction thereof, for the duration of trimming operation including spout relocation and standby plus above facility charge plus overtime assessed to stevedore loading the vessel.

Butterworths, Bleeders and Wing Tank Trimming: \$1,600 per hour, or fraction thereof, including spout relocation and standby plus above facility charge plus overtime assessed to the stevedore loading the vessel.

P. PONTOON HATCH COVERS

Any vessel having pontoon hatch covers shall be assessed .25 cents per metric ton of cargo loaded. This charge shall be in addition to any and all other charges contained in this tariff.

Q. SECURITY FEE

Due to costs and expenses associated with the implementation of and compliance with the Maritime Transportation Security Act of 2002, 46 U.S.C. §§ 70101 et seq., and implementing regulations, 33 C.F.R. §§ 101 et seq., effective July 1, 2004, ADM GRAIN CO. may assess a charge, to be announced in an amendment to this tariff.

GALVESTON: \$0.054 PER SHORT TON LOADED

CORPUS CHRISTI: 10% OF WHARFAGE IN ADDITION TO \$500.00 PER 24 HOUR PERIOD OR FRACTION THEREOF.

R. PAYMENT OF INVOICES

All invoices for charges at the respective Galveston or Corpus Christi elevators are due and payable at the respective ADM GRAIN CO. administrative office in Galveston, Texas or Corpus Christi, Texas, upon presentation. Failure to pay when presented shall cause the name of the user to be placed on a delinquency list. At the discretion of ADM GRAIN CO., the user appearing on the delinquency list of the respective elevator may be denied further use of the facility.

Any payment received may be applied in whole or in part against the oldest invoices rendered to the user. Invoices not paid within 30 days net due period will be assessed a 1.5 percent service charge per 30 day period or fraction thereof.

**S. WHARFAGE FEE**

ADM GRAIN COMPANY will collect a WHARFAGE FEE assessed by the PORT OF CORPUS CHRISTI for all bulk grains loaded on a vessel. The charge allows the right of access to the CORPUS CHRISTI SHIP CHANNEL and it will be assessed at a rate of \$.35 per ton. This fee is in accordance to the PORT OF CORPUS CHRISTI TARIFF ITEM # 526.

**T. GANGWAY FEE**

All vessels using a gangway provided by ADM GRAIN CO. shall be charged for use of each gangway at the rate of \$2,500 flat, per vessel, per gangway, for each call at the berth; provided, however that the vessel which obtains use of the berth hereby assumes full responsibility for inspection of the gangway prior to each use, and for any loss or damage to the gangway which occurs during the term of the call at the berth, regardless of the cause of the damage, including high water, passing vessels, heavy weather or other marine perils, and vessel agrees to pay all costs to replace and/or repair such gangway regardless of the cause of the loss or damage. The vessel shall promptly pay/reimburse ADM GRAIN CO. for the actual costs of repair/replacement. The vessel agrees to indemnify ADM GRAIN CO. (including legal fees and costs) from and against any loss, damage, expense, claim, liability and/or suit including claims for personal injury, wrongful death, or compensation which in any way relates to and/or arises out of any use of the gangway during the period of the vessel's call at the berth, regardless of the sole or concurrent fault of ADM GRAIN CO. and its affiliated companies and regardless of whether such casualty arose in whole or in part out of water, heavy weather, or other marine perils. Vessel agrees to provide insurance to cover any user claims against ADM GRAIN CO. and its affiliated companies for injuries to persons who use the gangway including as invitees, agents, repairman, crew, surveyors, and others; this provision being used to trigger the blanket additional insured status by the vessel insurance carriers in favor of ADM GRAIN CO. and its affiliates, to the extent of the risks assumed above.

**U. VESSEL BERTHING CHARGES – PORT OF GALVESTON**

The Port of Galveston has implemented the following charges for vessels coming to berth that are charges to the elevator and will be passed on to the vessel:

Harbor Maintenance Fee (per vessel)	<b>\$734.87/vessel</b> For all vessels 250 feet and over <b>\$367.44</b> for all vessels 249 feet & under								
Harbormaster Fee (per vessel)	<table border="0"> <tr> <td><u>GRT</u></td> <td><u>FEE</u></td> </tr> <tr> <td>0-500</td> <td>\$139.46</td> </tr> <tr> <td>501-2000</td> <td>\$232.40</td> </tr> <tr> <td>2001 &amp; over</td> <td>\$325.37</td> </tr> </table>	<u>GRT</u>	<u>FEE</u>	0-500	\$139.46	501-2000	\$232.40	2001 & over	\$325.37
<u>GRT</u>	<u>FEE</u>								
0-500	\$139.46								
501-2000	\$232.40								
2001 & over	\$325.37								

**SECTION V  
ADDITIONAL PROVISIONS**

**A. SEVERABILITY**

If any term(s) or provision(s) contained herein shall for any reason be held invalid, illegal, or unenforceable in any respect, under any present or future law, such invalidity, illegality, or unenforceability shall not affect any other provision of this Tariff, but this Tariff shall be

construed as if such invalid, illegal, or unenforceable provision had not been contained therein.

**B. TIME OF THE ESSENCE**

Time is of the essence in the performance of each and every obligation or provision under this Tariff.

**C. WAIVERS**

No waiver of any breach, term, or condition of this Tariff by ADM GRAIN CO. shall constitute a subsequent or continuing waiver of that breach, term, or condition. No failure or delay in exercising any right, power, or privilege in this Tariff shall operate as a waiver. Any waiver provided is effective only as the specific breach, term, condition, right, power, or privilege being waived, and no other.

**D. CAPTIONS**

All captions and headings in this Tariff are for reference and convenience only and shall not modify or affect the provisions of this tariff in any manner.

**SECTION VI  
DEFINITIONS**

**THE FOLLOWING TERMS USED IN THIS TARIFF SHALL MEAN:**

**ADM GRAIN CO.:** An operating division of Archer Daniels Midland Company. ADM GRAIN CO. is the Operator of the Galveston and Corpus Christi elevators and elevator facilities. ADM GRAIN CO. shall also mean its parents, subsidiaries, divisions, affiliates and/or joint ventures, and their respective officers, directors, agents and employees and all persons, firms, or other entities which may manage, own, lease, control, or operate the Galveston and Corpus Christi elevators and elevator facilities.

**BERTH:** That section of the wharf, including mooring facilities, used by a vessel while docked.

**DAY:** Unless otherwise specified, a day shall be considered as a twenty four hour period or fraction thereof beginning at 12:00:01 a.m.

**DOCKAGE:** The charge assessed against the vessel for berthing at a wharf or dock.

**ELEVATOR(S) AND/OR ELEVATOR FACILITIES:** The physical property, e.g. shoreside and landside grain export elevators at Galveston and Corpus Christi including, but without limitation, barge and rail unloaders, concrete silos, conveyors, steel shipping galleries, spouts, and ship docks, located at:

Galveston:  
Port of Galveston  
3100 Wharf Road  
Galveston, Texas 77550

Corpus Christi:  
Port of Corpus Christi  
2122 Navigation  
Corpus Christi, Texas 78402

Telephone: 409-763-6443  
Fax: 409-763-8608

Telephone: 361-882-1956  
Fax: 361-882-1998

**ELEVATOR OVERTIME:** Operation during overtime hours. Any vessel arriving at any of the respective ADM GRAIN CO. elevators in Galveston or Corpus Christi during what is

considered overtime hours will be assessed overtime if applicable at first line to dock. The vessel and/or agent will be charged elevator overtime continuously until last line away from dock. Fractions of whole hour will be determined by ADM GRAIN CO.

**FACILITY:** Any structure or property managed, owned, leased, controlled, or operated by ADM GRAIN CO. at the Galveston and Corpus Christi elevator(s) and/or elevator facilities.

**GRAIN:** The term "grain" shall include wheat, corn, oats, barley, rye, grain sorghum, soybeans, flaxseed, and any other grain for which standards may be established under provisions of the U.S. Grain Standards Act.

**HOLIDAYS:**

New Year's Day	Columbus Day
Martin Luther King, Jr. Day	Veterans Day
President's Day	Thanksgiving Day
Good Friday	Friday after Thanksgiving
Memorial Day	Christmas Eve Day
Independence Day (July 4)	Christmas Day
Labor Day	New Year's Eve Day

And any other day that shall be ordered or proclaimed as a holiday by the governments of the U.S.A. or the State of Texas. Should any of the above fall on a Saturday, the previous Friday will also be observed as the holiday. Any holiday falling on a Sunday, the following Monday will also be observed as a holiday. When December 24 and December 31 fall on Sunday, this holiday will be observed on Sunday.

**STRAIGHT TIME HOURS:** Those hours of work when labor is paid at basic straight time wage rates; namely 0800 through 1200, and 1300 through 1700; Monday through Friday, except for holidays.

**OVERTIME HOURS:** Hours of work performed before 0800 and after 1700 and during meal periods (meal hour periods are 2400 to 0100, 0600 to 0700, 1200 to 1300, and 1800 to 1900), Monday through Friday, and all hours of work performed on Saturday, Sunday and Holidays.

**LOADING/ UNLOADING:** The service of loading or unloading grain between any place in the terminal and railroad cars, trucks, or vessel or any other means of conveyance to or from the terminal facility.

**OWNERS/ OPERATORS:** The vessel, its Master, owners, managers, operators, charterers, persons in charge, and/or agents, and/or others engaged in the use of and/or mooring of vessels at the elevator(s) and/or elevator facilities and activities conducted at the elevator(s) and/or elevator facilities.

**REQUESTS AND CORRESPONDENCE:** Inquiries concerning this tariff, and its provisions, rates, charges, rules, and regulations, must be made in writing.

**STORAGE:** The service of providing warehouse facilities for the storing of grain.

**TRIMMING:** Distributing cargo in a ship so that the load will not shift and in order that the weight will be properly distributed, or whenever any equipment is attached to the loading spout for mechanical diversion of the grain flow into the vessel holds, or any vessel loading that requires restrictive flow of product on any one of the ship loading spouts.

**USERS:** The term "user" or "users" shall include all entities, including vessels, their Masters, owners, managers, operators, charterers, persons in charge, and/or agents, and/or others

engaged in the use of and/or mooring of vessels at the elevator(s) and/or elevator facilities and activities conducted at the elevator(s) and/or elevator facilities.

**VESSEL:** The word "vessel" means a dry bulk cargo ocean vessel or barge of a type customarily used in the carriage of grain (private carriers only) and includes every description of vessel or other artificial contrivance or conveyance used, or capable of being used, as a means of flotation (whether used primarily as a vessel in navigation or not), cargo handling, and/or transportation on or by water, whether self-propelled or not, with or without motive power or steering mechanism, and whether or not stationery or underway.

**WAREHOUSEMAN:** ADM GRAIN CO., when engaged in the business of receiving and storing grain for others.