

# TEMCO, LLC

## Schedule of Charges

for

TEMCO, LLC PNW Elevators

Includes:

Tacoma, WA

Kalama, WA

Portland, OR

Licensed Under the United States Warehouse Act

License Number: 3-10026

Tariff Number One

February 15, 2012

Temco, LLC  
 Temco Elevators: Tacoma, WA, Kalama, WA and Portland, OR (Irving)  
 Licensed under the United States Warehouse Act, License: 3-10026  
 Tariff No. 1  
 Effective February 15, 2012

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## GENERAL RULES AND REGULATIONS

### 1. Notice to Public

The use of the facilities and services, as mentioned herein, without other specific notice to the public, shall constitute a consent to the terms and conditions of this tariff and evidence of an agreement on the part of all users of such facilities and services to pay all charges specified herein and be governed by all rules and regulations printed in this tariff.

### 2. Application of Rates

Rates, charges, rules and regulations named in this tariff, additional revisions or supplements thereto shall apply on all grain received at the regular grain facilities of Temco, LLC elevators; Temco Elevator Portland (Irving Elevator) in Portland, Oregon, Temco Elevator Tacoma in Tacoma, Washington, and Temco Elevator Kalama in Kalama, Washington, hereinafter called Temco, and applies on commodities in bulk only, on and after effective date of this tariff or effective dates of additions, revisions or supplements thereto. Said rates, charges, rules and regulations shall also apply on any grain on hand in said facilities on the effective date of this tariff, additions, revisions or supplements thereto; and shall be assessed at rates effective in the tariff; additions, revisions or supplements thereto under which said grain was received.

The quotation of rates, charges or conditions in this tariff are not to be interpreted as a guarantee that such operations can or will be performed by Temco.

### 3. Rates Subject to Change

Rates, charges, rules and regulations involving labor are predicated on straight time labor rates under ordinary labor and traffic conditions and are subject to increase without notice, except as required by law, when altered conditions necessitate tariff changes.

### 4. Reserved

### 5. Demurrage. Delays and Waiver of Charges

Temco does not undertake to receive, unload, load, handle or deliver grain within any particular time. Conveyances will be received and loaded or unloaded in regular turn of arrival except as provided in Items 11 and 27.

In furnishing the services of ordering, billing-out, loading and unloading cars, barges and trucks and of handling grain or other commodities to or from vessels, no responsibility for any demurrage whatsoever on either cars, barges, trucks or vessels will be assumed by Temco; nor will delays in loading, delivery or handling, arising from combination, riots, lockouts, strikes or any persons in its employ or in the service of others or arising from any other cause not reasonably within the control of Temco, entitle owners, shippers, consignees or carriers to waiver of storage or of any other expense or terminal charge that may be incurred.

6. Insurance

Unless otherwise specified under individual items, all grain accepted for storage is insured at current market values against loss by fire, internal explosion, lightning, windstorm, cyclone or tornado, from the time it is received into the elevator and such insurance will remain in effect until the grain is delivered from the elevator.

7. Weighing and Inspection

The Portland, Oregon facility of Temco covered by this tariff is operated as a tidewater terminal grain warehouse and all services of weighing, sampling and inspecting are performed by the Federal Grain Inspection Service (hereinafter referred to as "FGIS"), or its designated agencies.

The Tacoma and Kalama, Washington facilities of Temco covered by this tariff are operated as tidewater grain warehouses and all services of weighing, sampling and inspecting are performed by the Grain Inspection Department of the State of Washington.

All other services of Sampling and/or Inspections are performed by an Independent Agency or FGIS, at Temco's option, and other weighing services are performed by elevator personnel unless other arrangements are made for these services prior to the delivery of the grain or non-grain commodities.

The fee for weighing, sampling and inspecting, either on straight time or overtime basis, is \$0.30 per short ton of 2,000 pounds. Furthermore, fees as fixed by the FGIS and/or by the Grain Inspection Department of the State of Washington are in addition to the charge specified above and will be assessed directly against the owner of the grain by FGIS, but if these charges are assessed to or paid by Temco, such payment will be for the account of the owner of the grain or the party ordering the grain handled.

8. Basis of Charges

All charges are based on weights furnished by FGIS, the Grain Inspection Department of the State of Washington, or its designated agencies. On bulk grain received or unloaded into the elevator the gross in weight shall be used in assessing wharfage, elevation, cleaning and storage. The gross outturn weight of bulk grain shall be the basis for the assessment of loading out charges. Storage on grain cleaned and remaining in storage after close of run shall be assessed on the basis of the weight of the clean grain.

9. Terms

Terms are cash with all charges and advances being due and payable as arranged in advance. Temco reserves the right to require posting a bond to secure payment of any charges or liquidated damages or to estimate and demand payment of charges in advance before vessel will be permitted into berth or before grain or any freight will be delivered to the vessel. Any claims against Temco will not be allowed as an offset against outstanding invoices or accrued charges until such claims have been admitted by Temco, or legally established.

Interest at a rate of 2-1/2 percent over the effective prime rate at the time of invoice unless the resulting rate is beyond that permitted to be charged to the account debtor under the laws of the State of

Washington for the Tacoma Elevator or Kalama Elevator or the State of Oregon for the Portland Elevator. In which case, interest at the maximum lawful rate under the laws of the State of Washington for the Tacoma Elevator or Kalama Elevator or the State of Oregon for the Portland Elevator will be charged commencing 10 days from date of invoice on all moneys or invoices due Temco for services covered by this tariff.

### INCOMING AND/OR IN-HOUSE

10. Right Reserved to Refuse Grain

Temco, in its sole discretion, reserves the right to refuse, without responsibility attaching for any loss, damage or demurrage that may be incurred, any grain which in the judgment of Temco, is unmerchantable or in unfit condition for handling or storage, or grain for which arrangements for handling or storage have not been made in advance of arrival of the grain.

11. Preference Unloading

Whenever, in the judgement of Temco, it is deemed that conditions necessitate, right is reserved to give preference to the unloading into the facilities of those conveyances containing commodities for which elevator accommodations or outbound transportation is first available, without liability to Temco for loss, damage or demurrage that may be incurred because of such order of unloading.

12. Storage of Smutty Grain Conditional

Grain containing smut, as determined by FGIS or the Grain Inspection Department, or its designated agencies, will be subject to Items Nos. 10 and 42.

13. Sample Grade

Subject to provisions of Item No.15, bulk grain graded as "Sample Grade" will be stored in special bins, at owner's expense, unless storing with other grades is authorized by the owner and consented to by Temco.

14a. Binning

In the absence of specific instructions for special binning (see Item No.15), bulk grain will be stored in bins containing the same kind and grade of grain regardless of ownership.

14b. Right of Transfer

Temco reserves the right to transfer commingled storage grain at our expense for which receipts have or have not been issued to another licensed warehouse for continued storage, subject to the terms and conditions prescribed by the Secretary of Agriculture. The owner of the grain will receive delivery at this warehouse unless other mutually agreeable arrangements are made.

15. Special Binning

Providing arrangements for receiving, unloading and storing have been made in advance of arrival of grain (see Item No.10) and space in elevator permits, grain may be accepted for storage in special bins only providing such grain is in sufficient quantity to fill entire bin or, if not, owner of such grain will assume charges for full bin capacity storage (see NOTE below) at respective rates for storage named in Item No. 40 from the date the first grain is placed therein until last withdrawal therefrom.

Grain stored or binned in special bins is at owner's risk for loss in weight or grade.

NOTE: U.S. Standard Weights and Measures will be used as weight per bushel for the basis of computing capacity of bins for storage of all grain.

16. Transferring Bin to Bin

Grain will be transferred from bin to bin whenever, in the opinion of the Temco, such action is necessary to obtain the benefit of the full storage capacity of the elevator. (See Item No. 43).

17. Cleaning and Turning

All cleaning and turning of grain is for the account of the owner and any resulting shrinkage or loss in weight of grain must be borne by the owner.

Turning: Turning by transferring will be performed when requested by owner.  
(See Item No. 43).

Cleaning: Grain will be cleaned or separated when necessary to conserve bin space  
or when requested by owner. (See Item No. 41).

18. Right Reserved to Terminate Storage

Temco reserves the right to terminate storage and to order the removal of any grain which from its inherent nature or otherwise may, in the judgment of Temco, cause damage to other grain or become offensive to the premises. Such grain not removed by owner within the time specified in the notice to remove may be removed and placed in storage elsewhere (in grain storage or other type of facility) by Temco at the expense and risk of the owner.

19. Withdrawals Effective

Withdrawal orders must take their turn and shall not become effective until such order and the receipts represented thereby, properly endorsed, have been received by Temco.

20. Advancing Transportation Charges

Freight, switching and demurrage charges may be advanced by Temco when requested by the owner of the grain. These charges are due and payable as they accrue and will be subject to sight draft, delivery of negotiable warehouse receipt being contingent upon payment of draft.

21. Warehouse Receipts

Subject to Item No. 20, on request, warehouse receipts will be issued to owners of grain at time grain is received. Delivery of grain will be made only upon written order of the owner and surrender of warehouse receipts properly endorsed and payment of all accrued charges.

22. Elevator & Labor Overtime, Penalty Time

All rates named in this tariff for services involving labor are based upon the payment of labor at basic straight time wages and the performance of such services on days or during hours when the basic straight time scale applies. When any services are performed on Saturdays, Sundays or union holidays, or during hours when the payment of overtime, penalty time, or the payment of wages for a minimum number of hours is necessitated, rates for such services will be subject to advance arrangements (see Item No. 46), except that elevator and labor overtime and penalty time involved in the loading or unloading of ocean vessels will be assessed the vessel at the rates provided in Item No. 39. For loading or unloading bulk grain from vessels between 5 p.m. - and 8 a.m. and all work on Saturdays, Sundays and holidays shall be designated as overtime and in keeping with the custom of the port and to maximize productivity, vessels working Monday through Friday (holidays excluded) shall work a minimum of 8 hours and such overtime incurred is for the account of the vessel. (See Item No. 25).

Regardless of the number of men working on the vessel or in the elevator, the rates in Item No. 39, which are in addition to other applicable tariff charges: will be charged the vessel for all overtime and penalty hours worked, and if the vessel works any time on Saturdays, Sundays, holidays or night shifts (subject to stop-work conditions that affect overtime hours), an eight hour minimum of overtime will be charged the vessel. Overtime charges on such days will start accruing at 8 a.m. on the day shift and at 6 p.m. on the night shift.

22a. Holidays

Holidays shall be:

New Years Day (00:00 Jan 1 to 08:00 Jan 2)	Martin Luther King's Birthday (3 <sup>rd</sup> Monday Jan.)
Lincoln's Birthday (Feb. 12)	President's Day (3 <sup>rd</sup> Monday Feb.)
Good Friday (Friday before Easter)	Cesar Chavez' Birthday (Mar. 31)
Memorial Day (Last Mon. in May)	Independence Day (July 4)
Bloody Thursday (July 5)	Harry Bridges' Birthday (July 28)
Labor Day (1 <sup>st</sup> Mon. in Sept.)	Columbus Day (2 <sup>nd</sup> Monday in Oct.)
Veteran's Day (Nov. 11)	Thanksgiving Day (4 <sup>th</sup> Thurs. in Nov.)
Thanksgiving Friday	Christmas Eve (Dec. 24)
Christmas Day (00:00 Dec 25 to 08:00 Dec 26)	New Years Eve (Dec 31)

Holidays also include any other days designated as a holiday by the State of Oregon, State of Washington, the United States Government, or other governmental authority having lawful jurisdiction, and all holidays designated by BIMCO or under the West Coast ILWU-PMA Labor Agreement, which are not included above. The monthly ILWU stop work meeting (at Portland and Kalama Elevators usually the second Wednesday evening of each month from 1700 hours to 0800 hours the following morning and at the Tacoma Elevator usually the second Thursday evening of each

month from 1700 hours to 0800 hours the following morning) shall be recognized as a “holiday” in this tariff.

Should any of the stipulated holidays fall on a Saturday, it shall be observed on the preceding Friday. If a holiday falls on a Sunday, the following Monday shall be deemed as that holiday. Should one of the 2 consecutive day holidays, (July 4/5, Dec. 24/25, and Dec 31/Jan 1) fall on a Friday/Saturday, it shall be observed on the preceding Thursday/Friday and if it should fall on a Sunday/Monday, it shall be observed on the following Monday/Tuesday. Temco reserves the right at its discretion, upon not less than seven (7) days notice, to declare other special holidays in addition to those listed above.

23. Right to Refuse Overtime Services

Temco reserves the right to refuse services involving overtime, penalty time, or payment of wages for a minimum number of hours unless furnished with written orders authorizing the service and guaranteeing the additional expense. Such expense will be assessed against the party or parties authorizing same. Notwithstanding the foregoing, Temco reserves the right to refuse to work overtime, even though requested, at its own discretion.

24. Right to Perform Overtime Services

Whenever, in the judgment of Temco, it shall be deemed necessary to perform on overtime any services in connection with the loading, unloading, handling, cleaning, or processing of grain, right is reserved to perform such services and to order weighing and inspection by grain inspectors in the name of and at the expense of the owner of the grain.

25. Continuous Vessel Loading or Unloading

Temco reserves the right to require continuous loading or unloading of grain to or from ocean vessel through twenty-four hours per day. All overtime or penalty time accruing during such loading or unloading is for the account of the vessel. (See Items Nos. 22, 27, 29 and 39).

26a. Standby and Lost Time

When Temco is required to order labor for a specific service and for a stated time and through no fault or inability of Temco, the services may not or cannot be started and standby time of labor is incurred or when services in progress are delayed through fault of others for periods of or exceeding fifteen consecutive minutes, the full cost of labor for the extent of time lost will be assessed, plus 35%. These costs will be assessed against the party or parties responsible for the delays, except that the provisions of this paragraph do not apply to standby time and lost time related to the loading or unloading of ocean vessels.

26b. Vessel Failure to Perform

Whenever Temco has ordered elevator labor in conjunction with Longshore gang for scheduled vessel loading and vessel fails to arrive or refuses to take the berth for loading, vessel will be responsible to Temco for lost or dead time costs as liquidated damages of \$10,000.00 per hour.

26c. Draft Surveys

Each vessel loading at Temco Elevator will be allowed one (1) thirty minute period for the purpose of checking draft and stability calculations. Any delay in excess of the one (1) thirty minute period used by the vessel will be charged to the vessel and/or owner(s) at the rate of \$2500 for each fifteen minute period or fraction thereof.

OUTBOUND

27. Berthage

- a. Prior to occupying a berth at Temco elevator the vessel's representative must apply in person during customary hours at the respective Temco Elevator (Portland, Kalama or Tacoma Elevator) for permission to occupy a berth at Temco Elevator.
  - 1 Subject to provisions of this tariff and supplements thereto, vessels permitted to berth at Temco Elevators shall be assessed dockage charges as provided in Item No. 33.
- b. Subject to exceptions set forth below, vessels shall be assigned a berth for the purpose of loading grain in the order in which they shall file with Temco the following:
  - 1 A written application for berth at the elevator and written permission from Temco to occupy the berth.
  - 2 Certificate of Readiness issued by the local National Cargo Bureau, Inc. representative showing vessel's readiness to load in all compartments intended to be used for grain cargo. Any change in a vessel's Certificate of Readiness, after filing, may result in vessel's loss of position in loading sequence. Should this occur after berthing, the elevator manager or superintendent may require the vessel to vacate the berth at the vessel's expense.
  - 3 An official Stowage Examination Certificate issued by the Department of Agriculture of the State of Washington or the Federal Grain Inspection Service, or its designated agencies, after inspection, that all cargo compartments are substantially clean, dry and free of insect infestation, and suitable to maintain the quality of the grain or commodity.
  - 4 Temco Elevator Berth Application properly executed.
  - 5 Evidence that the vessel has been entered at the U.S. Customs House.
  - 6 Evidence that the vessel has been accepted by Charterer or has permission from Charterer to commence loading.
  - 7 If applicable and requested, to provide Certificate showing that its cargo handling gear meets the standards set forth by the Secretary of Labor's Safety and Health Regulations for Longshoremen.

- 8 Any other certificate required to be furnished under the applicable laws, regulations or elevator tariff. Including, but not limited to; completed security questionnaire, crew list and anticipated visitor list.
  - 9 Tankers and oil/bulk/ore carriers will further be subject to provisions of Item No. 28.
- c. The filing of such berth application and supporting certificates shall constitute that the Master, Owners, Manager, Operator or other duly authorized representative of the stated vessel shall deliver to Temco signed written evidence of the receipt on board of the commodity or commodities according to the elevator description and tally, with no qualifications for unpaid freight or condition after leaving spout. Also, the filing of such berth application and its acceptance by Temco shall constitute a contract between Temco and the vessel, her Owners/Operators, confirming their agreement to abide by the charges, rules and regulations of this Tariff
  - d. After filing, the vessel must inform Elevator management immediately if any event renders the vessel not ready for loading in all respect, or not able to come to berth when called. This shall include, but is not limited to, bunkering, repairing, U.S. Coast Guard restrictions, vessel class issues, etc. If vessel fails to notify Elevator management of such event, and the vessel is not able to come to berth when called, Temco, in its discretion, may change the vessel's position in the loading sequence, cancel its filing, suspend lay time, and/or impose Standby – Lost Time as described in 26a.
  - e. Despite the issuance of the certificates called for above, whenever determined necessary in the judgment of Temco, either before or during loading, a re-inspection of the vessel by the Federal Grain Inspection Service will be required to replace the original certificates. Temco may also require certification from a recognized laboratory or marine chemist that all compartments for receiving grain and/or non-grain commodities are free of contaminating gasses or odors. Should there be, any time before or during loading, determination made by an official responsible for issuing certificates that the vessel is not in suitable condition to be loaded, then at the discretion of Temco, the berth assignment may be withdrawn and the vessel refused a berth or, if in berth, ordered to vacate, any and all costs for the account of the vessel. An order to vacate hereunder shall not excuse the vessel from any costs or damages to Temco resulting from such interrupted loading.
  - f. Temco reserves the right to refuse berthage, to alter the turn of vessels to be loaded or unloaded, or to require the vessel to vacate or change berth whenever confronted by urgent need to receive or ship a particular grade or type of grain or to facilitate conditions at the dock. When there are more vessels than the elevator can accommodate at one time, or if it is necessary for a vessel already loading to work overtime in order to make way for another vessel scheduled to load, the vessel already in berth may be required by Temco to work overtime at vessel's expense. If the vessel refuses to work overtime, it will lose its turn in favor of the next vessel in turn that is willing to work overtime. The ship so losing its turn will be entitled to the first berth available thereafter subject to overtime agreement as may be required by Temco. Additional charges, other than defined in the tariff, may apply relative to the request for continuous loading with overtime. Temco Elevator Tacoma berth includes a rain-roof that

allows for loading operations to continue during periods of rain. If the vessel refuses to load cargo under the rain-roof during periods of rain, Temco shall have the right to order the vessel to vacate the berth (with all shifting and other related costs for vessel's sole account) and to berth and completely load a different vessel. Temco also reserves the right to refuse berthage to any vessel of such size or design that at the sole discretion of Temco, will not allow a reasonably safe and/or efficient loading operation. In the event Temco allows berthage of a vessel of such size or design that does not permit efficient loading operations all shifting and other related costs for vessel's sole account.

- g. Commodities loaded at Temco elevator are loaded under the rules, terms and conditions of the Federal Grain Inspection Service. Whenever a vessel refuses to load under these terms, Temco reserves the right to hold the vessel responsible for all delays and any liquidated damages resulting therefrom.
- h. Whenever a vessel is unable or refuses to load or refuses to vacate berth under provisions of "d", "e", "f", and "q" of this section 27, Temco, may at its discretion, order the vessel to vacate the berth within one hour after a notice to vacate is delivered to the vessel's Owner, Master, Mate or Operator. If a vessel refuses or fails to vacate the berth within one hour after receipt of the notice to vacate, Temco shall be entitled to charge and recover as liquidated damages, \$10,000.00 per hour for each hour of each calendar day from one hour after receipt of the notice to vacate until vessel leaves berth regardless of intervening circumstances of any nature. Appropriate officers and crew shall be maintained on board at all times to enable vessel to leave berth. Any expense incurred in vacating and re-berthing will be for vessel's account. The parties agree that this amount represents a minimum estimate of damages to Temco because of the failure or refusal to vacate. This charge shall not constitute a waiver by Temco of the greater actual damages it may sustain as a result of the vessel's failure or refusal to vacate. Such failure or refusal to vacate shall constitute a trespass entitling Temco to compel removal from berth.

Application for and use of the berth shall constitute agreement of the vessel that the foregoing amount of liquidated damages accurately reflects the loss to Temco from inability to use the berth for loading. Temco's right to recover liquidated damages shall not impair its right to compel removal of the vessel from the berth by any lawful means nor constitute a waiver by Temco of any greater actual damages (including special or consequential damages) it may have sustained as a result of the vessel's refusal or failure to vacate the berth

- i. If a vessel fails or refuses to vacate a berth when ordered by Temco to do so, Temco may cause removal of the vessel from the berth by any lawful means, and shall be entitled to recover from the vessel Owners and/or Operators all expenses incurred in doing so. Temco shall not be responsible for any damage to or loss of the vessel in the course of removing a vessel from a berth after the vessel has failed and refused to vacate the berth pursuant to order of Temco in accordance with this tariff.
- j. Wherever the word "vessel" appears in this tariff it means the physical vessel and when this Tariff refers to "vessel" with respect to obligations, it means the vessel's master, crew, owner, charterer, and agents jointly and severally. In addition, it is understood that it has reference only to dry cargo ocean vessels of a type customarily engaged in the carriage of grain. Other vessels

will not be accepted for loading except at the convenience of the elevator and under terms, rates and conditions to be negotiated in each instance.

- k. Vessels in berth shall at all times provide adequate lighting equipment and maintain appropriate officers and crew aboard to allow shifting on berth, vacating of berth, or lading of cargo at any time loading may be agreed to or ordered by Temco including night shifts, Saturdays, Sundays and holidays. Vessels shall be fully prepared to vacate loading berth within one hour after completion of loading.
- l. Berthing of vessels at the grain berth not engaged in loading cargo will be at the discretion of Temco, and then only with the expressed understanding that vessels will move their position in favor of vessels loading or discharging cargo.
- m. It is the responsibility of the vessel to provide and maintain safe access to and from the vessel at all times.
- n. No bunkering of bulk flammables is allowed.
- o. Any user causing damage to or destruction of Temco's property or equipment shall be liable for the cost and expenses of restoration, replacement, or repair, and shall be liable in indemnity to Temco for loss of revenue caused thereby.

Temco reserves the right to repair, contract the same, or otherwise cause to be repaired, any and all damages, at the expense of the user.

Users agree to indemnify and save harmless Temco from and against all losses, claims, demands and suits for damages, death or personal injury, including court costs and attorney's fees, losses, incident to, or resulting from the user's operations of the facility and utilization of the facility, and resulting from the negligence, misconduct, illegal activity, failure to observe applicable laws or regulations, omissions or default of the user, and its employees; provided however, that the User shall not be responsible for losses resulting solely and directly from the negligence of Temco.

- p. The Owners/Operators/Master/Agent of vessels presenting berth application to load at Temco Elevators, thereby authorize "In Transit" shiphold fumigation in accordance with applicable State and/or Federal regulations, and insures that such vessels are fit for such fumigation. Should any vessel refuse to allow "In Transit" shiphold fumigation, the Owners/Operators/Charterers shall be responsible for any and all costs, damages, delays and expenses. Any crew wishing to vacate the vessel while fumigation takes place will do so at the expense of vessel's owner.
- q. Labor Actions. In the event of an actual or potential strike or other work or labor action on the vessel or on shore, formal or informal, which in TEMCO's judgment has or potentially will slow, stop, interrupt or impede elevator operations, where the work action is related to the vessel, its ownership, any charterer, or to a party having an interest in the goods loaded or to be loaded on the vessel (notwithstanding the fact that labor may allege that the cause of their action is a safety or health concern or otherwise beyond their control), TEMCO in its discretion

may refuse to accept the vessel at the berth, delay the vessel's turn at the berth, or if the vessel is at the berth at the time of the actual or potential labor action, order the vessel off the berth. Any time lost as a result of TEMCO exercising its discretion as provided above will not count as laytime or, if applicable, time on demurrage or detention.

27-a. Vessel Work / Repairs

There shall be no work or repairs of any nature on a vessel in berth when such work or repair involves any open flame, welding, burning, scraping or any "hot work", nor any work or repair involving the use of tools or equipment where there is a possibility of sparks unless the prior express written approval of Temco is obtained. The Master/Vessel, Owner/Operator will be held fully responsible for any infraction or violation of these regulations. The vessel shall at all times obey elevator rules regulating delivery of oil in bulk, other combustible products or any hazardous or toxic materials as defined by the Environmental Protection Agency via truck, barge or other conveyance.

28. Tankers and Oil/Bulk/Ore Carriers

All tankers and oil/bulk/ore carriers presenting themselves to load at the elevator, in addition to the certificate issued by the National Cargo Bureau must also obtain Certificate of Stowage Examination issued by the United States Department of Agriculture showing all compartments ready to receive grain and a Marine Chemist Certificate issued by a recognized laboratory showing that all spaces are safe and free of contaminating gasses or odor in accordance with the "Standard for the Control of Gas Hazards on Vessels to be Repaired" adopted by the National Fire Protection Association.

Should the vessel be delayed in loading due to congestion/delays at the elevator between the time of filing a Berth Application and commencing to load, new passes and re-filing may be required prior to the vessel being permitted to dock and commence loading.

During the course of the loading operation, should the loading cease or be interrupted due to petroleum odor emanating from the vessel or vessel's compartments, or any other reason attributable to the condition of the vessel or its suitability to receive grain, the Owners/Master/ Operator(s) will forthwith:

- a. Immediately remove the vessel from the loading berth at the owner's expense.
- b. Issue clean Mates Receipts for the cargo already loaded.

Owners/Master/Operator(s) will guarantee the above in writing on filing their berth application and by failing to do so will result in the vessel not being permitted to berth.

In addition, the Owner/Master/Operator(s) will insure that the vessel will be so loaded so that it remains in safe seaworthy trim throughout the loading operation to permit shifting out of the berth should it become necessary due to the above. In the event the vessel shall not promptly leave the elevator berth when so ordered in accordance with this tariff, any cost, attorney fees and expenses in

connection with the moving of the vessel shall be for the account of the Owner/Master/ Operator(s) and at the full risk of the Owner/Master/Operator(s).

Furthermore, the Owner/Master/Operator(s) shall be responsible for any and all damages to the elevator and/or suppliers by reason of the vessel's failure to vacate the berth when so ordered.

29. Remedies for Enforcement of Tariff

Temco shall have all remedies available to it at law, in equity or under Maritime Law to enforce the rules and regulations of this tariff and to collect charges and liquidated damages due under this tariff, including but not limited to a maritime lien against the vessel for such charges or liquidated damages. In the event of any legal proceedings to enforce any provision of this tariff or to recover any charges or liquidated damages due under this tariff, Temco shall be entitled to recover its expenses incurred in such proceedings, including attorney's fees in any trial court and on any appeal.

30. Shippers Requests and Complaints

Requests and complaints from shippers on matters relating to rates, rules and regulations contained in this tariff must be made in writing to the respective Temco Elevator (Portland, Kalama or Tacoma).

31. Stevedore Agreement - Loading and Trimming

Unless Temco or its designee is appointed to perform the stevedoring, the vessel shall have, prior to berthing, engaged a stevedore, which has entered into and complied with the elevator's Standard Form Stevedore Agreement. Temco reserves the right to refuse berthing unless this condition has been fulfilled and to remove a vessel already in berth should the stevedore so engaged breach said agreement or the rules governing stevedore access and operation established thereunder.

The Elevator, on request, will perform stevedoring of vessels with rates to be mutually agreed.

32. Service and Facilities Charge

- A. Definition: Service and facilities charge is the charge assessed ocean vessels, their owners or operator(s), which receive or discharge cargo at the terminal for the use of the terminal working areas in the receipt or delivery of cargo to or from ocean vessels and for services in connection with the receipt, delivery, care, custody and control of cargo required in the transfer of cargo from shippers, their agents or connecting carriers, to vessels.

NOTE: Service and facilities charge does not include any cargo handling, loading or unloading operations, or any labor other than that which is involved in performing the services, nor any services or facilities the charge for which is included in other individual charges. Where the contract of affreightment establishes the responsibility as between the parties thereto for

payment of the Service and Facilities charge named in this tariff, such charges shall be borne by whomever shall be determined to be responsible under the contract of affreightment; but the full amount of such charges shall be billed to and paid by the vessel, its owners, agents or operators, to Temco. Allocation or adjustment of these charges between vessel and cargo shall be made solely by the parties to the contract of affreightment, in accordance with the terms of such contract. The term "Contract of Affreightment" as used herein shall mean tariff, charter party, ocean rate or any other arrangement under which the vessel transports cargo.

- B. Total cargo transferred to the vessel shall be the basis for calculating Service and Facilities Charges at the following rates in US Dollars per short ton (2000 lbs.):

VESSEL CLASSIFICATION	RATE PER. SHORT TON
Self-Trimming Bulk Carriers	\$2.28
Non Self-Trimming Bulk Carriers	Negotiable
Tankers	\$4.62
Two Deck Vessels	Negotiable
Three Deck Vessels	Negotiable
Unclassified Vessels	Negotiable
Lash-type Barges	Negotiable
Vessels Stowing Less Than 1500 Short Tons	Negotiable

- a. Vessels utilizing/loading into wing tanks shall be assessed \$0.57 per short ton on the entire cargo loaded, in addition to any/all other charges due from the vessel.
- b. Vessels requiring stowage procedures known as bundling shall be assessed \$1.05 per short ton on the entire cargo loaded, in addition to any/all other charges due from the vessel.
- c. Vessels utilizing non-automatic hatch covers (i.e., pontoon, wire-pull, etc.) shall be assessed \$0.65 per short ton on the entire cargo loaded, in addition to any/all other charges due from the vessel.
- d. Non Self-Trimming Bulk Carriers shall be any bulk carrier type using any type or amount of trimming and/or panning.
- e. The removal of oily slops/oily bilge water, utilizing an approved removal company employed by the vessel owners is allowed only if Temco grants prior permission; a minimum additional charge of \$20,000.00 will be assessed to the vessel owner. Proper notification procedures must be strictly followed.
- f. Vessels loading non-grain commodities including Alfalfa or Beet Pellets, Millrun Pellets, and Peas shall be subject to an additional charge of \$0.30 per short ton.
- g. For elevator performance, an additional charge of \$0.15 per short ton shall be assessed on the amount of cargo loaded at Temco Elevator berth whenever loading production meets or exceeds the average of 8,500 short tons per shift of the total elevator performance time used

on the vessel. This charge will be based on the elevator's ability to perform and any delays through fault of others shall be excluded from the elevator performance time.

- h. When Temco loads cargo of like commodity and quality into vessel holds partially loaded at previous berth(s), Temco will be responsible for topping the number of holds based on the percentage of cargo loaded at Temco berth. In the event a vessel requires a greater percentage of topping than the prorated percentage of cargo loaded at the berth, a charge of \$0.10 per short ton will be assessed on the amount of cargo loaded at the berth.

33. Vessel Dockage

- a. Definition: The charges assessed against an ocean vessel for berthing at a wharf, pier, bulkhead structure, piling structure, or bank, or for mooring to a vessel so berthed.
- b. Dockage on all Bulk Carrier Vessels loading at Temco Elevator Portland: The following rates will apply for the first 72 hours. Time will be assessed as in item 33c.

Dockage Rates:

GRT up to and including 25,000:	\$2.65 per gross registered metric ton
GRT from 25,001 up to and including 35,000:	\$2.43 per gross registered metric ton
GRT from 35,001 and above:	\$2.27 per gross registered metric ton
Fourth 24-hour period is assessed at:	\$0.92 per gross registered metric ton
Fifth 24-hour period is assessed at:	\$0.97 per gross registered metric ton
Sixth and all subsequent 24-hour periods at:	\$1.03 per gross registered metric ton

- c. Dockage on vessels loading at Temco Elevator Kalama will be subject to dockage rates, charges and any applicable rules and regulations contained in tariff published by the Port of Kalama. As provided in Agreement between parties, Temco may, on behalf of the Port of Kalama, invoice and collect the dockage fees in accordance with rates in the Port's published tariff.
- d. Dockage on all Bulk Carrier Vessels loading at Temco Elevator Tacoma will be assessed at a rate of \$3.25 per gross registered metric ton for the duration of loading. Any vessel with lifting gear will be assessed at a rate of \$3.55 per gross registered metric ton. All Tanker Vessels and Tween-Decker vessels will be assessed at a rate of \$3.25 per gross registered metric ton, after forty-eight (48) hours at berth the dockage assessment will be increased \$0.50 per gross registered metric ton (for a total dockage rate of \$3.75 per gross registered metric ton) for each day (or portion of a day) that the vessel remains at berth. Time will be assessed as in item 34c.
- e. Dockage Period - How calculated: The period of time upon which dockage will be assessed shall commence when the first mooring line is on the wharf, or to a vessel so berthed, and shall continue until such vessel completely free from and has vacated such berth or ship. No deductions will be allowed for Saturdays, Sundays or holidays, or because of weather or other conditions.

- f. Ocean-Going Barges are considered within the definition of vessels, as used herein.
- g. All dockage shall be paid in advance. Dockage shall be calculated and charged upon the highest gross registered tonnage as published in "Lloyd's Register of Shipping" or "Rightship." Vessel must provide a copy of the certificate of registry or other appropriate documentation as evidence if requested by Temco. For Tanker vessels and Tween -Deck vessels, the elevator will estimate in advance the length of time which these vessel will be at berth, and require advance payment for same. Final settlement to be made within thirty (30) business days after completion.
- h. Layberth Status: Layberth for Temco Elevator Portland (Irving) is negotiable.

At the discretion of Temco, a vessel may be permitted to moor at, or remain idle at the Elevator's berth on layberth status. Requests for layberth status must be received in writing by Temco at Temco Inver Grove Heights, MN office no later than 14:00 hours Pacific Time on the day proceeding the idle period

- i. Rafts, Barges, Scows or Rivercraft: Not to be moored to the Elevator's berth, or tied up to any vessel berthed, without Temco's express written permission at least twenty-four (24) hours prior to berthing.

34. Grain Loading Equipment, Clean Air Standards and Shiploading Pollution Control Charges

Air pollution laws require that vessel loading operations do not violate established clean air standards and also that loading be carried out in a manner that will insure complete efficiency of the terminal subject to prevailing circumstances. Temco has installed such equipment to facilitate compliance with these standards and will direct modification or curtailment of stevedore contractor practices as may be required to assure conformity with the substance of this item. The charge for this shiploading pollution control will be assessed to the vessel's agent (when applicable) at a rate of \$0.65 per 2000 pounds of commodity loaded.

Temco's actions hereunder shall not relieve the vessel or stevedore from the consequences of any actions or course of conduct contrary to Temco's directions. Any fines levied for violation of Air Pollution Control laws or regulations to be assessed to vessel and/or vessel's stevedore contractors.

35. Wharfage

Definition: Wharfage is a charge for the use of the grain facilities and is assessed on all grain received and shall not be deemed to have reference to the term of the same name usually typical to maritime operations. This charge is assessed whether or not the grain received is eventually delivered to a vessel. The specific services set forth in this tariff and any additional services that might be performed are not included within this item and a separate charge will be assessed in accordance with this tariff or as agreed upon with Temco for performance of services.

Wharfage is the charge for the passage of cargo on, over, under or through wharf, pier, or bank structure, inward or outward, or otherwise loaded or discharged, while vessel is at the Temco's berth.

Wharfage is due by the owners of the commodities on which wharfage is assessed. The collection of wharfage must be guaranteed by the vessel, her owners and the use of the wharf by the vessel, her owners shall be deemed an acceptance and acknowledgment of this guarantee. Wharfage shall be due and payable upon presentation.

Wharfage rates do not include insurance, assorting, weighing, marking, sampling, inspecting, cooping, recording marked weights or numbers, or loading or unloading to or from railroad cars or motor vehicles, stevedoring, dunnaging, handling, customs charges, revenue stamps, or fees of any nature imposed by the State or Federal government against the shipment or vessels transporting same.

Exception:

When it is requested that the wharfage charges be assessed and collected directly from the cargo owner or Federal Agency, and where satisfactory guarantee of payment is given to Temco, the wharfage charges will be assessed and collected from the cargo owner or Federal Agency making the request in lieu of collection from the vessel as provided above.

Non-Application of Wharfage -  
 No wharfage will be charged on:

1. Stevedore gear brought on facilities for purpose of moving cargo or merchandise.
2. Baggage accompanying travelers, except automobiles.

RATES ARE IN CENTS PER BUSHEL UNLESS OTHERWISE SPECIFIED

SERVICE	RATE
Grain, N.O.S. (Not Otherwise Specified)	\$ 0.25
36. <u>Unloading from Cars, Barges, Trucks at Elevator</u>	
Elevation, including conveying through scales (See Item No. 7) and binning, but exclusive of wharfage:	
Wheat	\$ 0.25
Grain, N.O.S.	\$ 0.25
37. <u>Loading into Cars, Barges, Trucks at Elevator</u>	
Including conveying through scales	
Grain, N.O.S.	\$0.25
38. <u>Loading to Ship or Barge Excluding Lash Barges</u>	
Delivery to vessel, including conveying through scales and mixing	
Grain, N.O.S	\$ 0.25

RATES ARE IN CENTS PER BUSHEL UNLESS OTHERWISE SPECIFIED

<u>SERVICE</u>	<u>RATE</u>
39. <u>Overtime and Penalty Time Loading or Unloading of Vessels</u> (See Item No. 22)	
Overtime and Penalty time on Saturday, Sunday, holidays or night shifts, per 10 hour shift, prorated.	\$19,000.
(Includes official inspectors, weighers, samplers, elevator personnel and regardless of number of hours or gangs employed for the shift).	
Note: During excess time hours, when ordered in writing by Temco, a flat charge of \$1,200.00 per hour shall be assessed.	
40. <u>Storage-Insured Warehouse Receipts</u>	
From date received until date delivered; Grain, N.O.S. (per day)	\$ 0.003
41. <u>Cleaning</u>	
Separation of Grain, N-O-S.	\$ 0.10
42. <u>Smutting</u>	
See Item No. 46	
43. <u>Transferring and Turning</u>	
Grain, N.O.S. (Transferring from Bin to Bins)	\$ 0.03
44. <u>Fumigation</u>	
(See Note this Item)	
Grain, N.O.S.	\$0.10
Note: Fumigation of conveyances of grain by Temco is at its option and it may perform the service at charge named above or order conveyances fumigated by owner or consignee of the grain. Right is reserved by Temco to refuse to accept or unload grain infested by weevil or other insects until such grain has been fumigated to the satisfaction of Temco.	
45. <u>Fresh Water</u>	
At the request of the vessel, Fresh water will be furnished for a flat fee of \$750.00 Temco will provide a \$200.00 discount if funds are received prior to the vessel departing the berth.	

46. Miscellaneous Charges

Charges for services not specifically provided in this tariff will be furnished upon application and will be commensurate with the extent and nature of the service involved.

47. Terminal Security Fee

A daily charge of \$1250.00 will be assessed against the ocean vessel, its owners or operators while berthed at the terminal. Time will be calculated the same as Dockage in Section 33c of this tariff. This charge is intended to defray costs incurred by Temco in providing increased facility security while vessels are berthed at the terminal, as required by U.S. Department of Homeland Security in 33 CFR part 105. Temco does not provide comprehensive security services, does not insure the safety of vessels docked at its facilities, and is not responsible for losses suffered by vessels docked at Temco. Vessels berth at Temco at their own risk.

All vessels, prior to occupying the Temco berth, shall advise Temco of the name of the Vessel's Security Officer. In addition, the vessel shall have an approved Vessel Security Plan, be in full compliance with ISPS Code MTSA 2002 and U.S. Coast Guard regulations 33 CFR parts 101 and 104 and any other international and local security laws and regulations which may be issued. The vessel shall follow instructions that may be given by the Facility Security Officer as circumstances may necessitate. Nothing herein notwithstanding shall be construed to alter the vessel's obligation and that of its owners and operators, to remain fully compliant with all international and local security laws and regulations. Vessels berthing at Temco facility which are found not compliant will be held responsible for all costs and consequences resulting from non-compliance.

The Vessel Security Officer is to ensure that vessel officers, crew or any other personnel that are not granted permission to disembark by the concerned authorities shall remain on board at all times while at Temco facility. In addition, the Vessel Security Officer is to ensure that vessel officers, crew or any other personnel that are granted permission to disembark must comply with Temco's and U.S. Coast Guard escorting requirements for traversing Temco's restricted areas. Vessel not in compliance with Temco and/or U.S. Coast Guard requirements will be responsible for any and all resulting penalties, fines or fees.

48. Stores Delivery

The delivery of stores and supplies to vessel may be permitted across Temco's dock at Temco's discretion and only after prior approval from the company. Temco reserves the right to forbid any stores delivery in a situation which, in its sole judgment, interferes with operations, or presents safety or environmental risk, or conflicts or is restricted or prohibited by applicable laws.

49. Maritime Fire and Safety Association  
In order to assist in providing a coordinated marine fire response to shipboard fire, a harbor fee will be assessed each vessel on its first call at a participating MFSA member's dock. Only one MFSA harbor fee will be payable for each entry into the Columbia/Willamette River System. Temco is a member of the MFSA.
50. Unloading Grain from River Barges  
If in the judgment of Temco, barges of any type are so constructed or loaded as not to permit normal unloading operations, an added charge as determined by Temco, will be assessed.
51. Interpretation  
Temco reserves the right to interpret and apply the Tariff at its own discretion.
52. Force Majeure  
Temco will undertake to furnish all services specified in this Tariff with reasonable promptness, but is not obligated to furnish services, nor is it liable for failure to do so in the event of Government intervention, labor troubles, war conditions, civil commotion or other causes beyond the control of Temco.
53. Rain and Other Weather Related Delays  
Rain and other weather-related delays, for official time keeping purposes, will be kept by the Elevator control room or stevedores.
54. Anchorage Requirements (Temco Elevator Tacoma)  
A vessel desiring berth at the Temco Elevator Tacoma must anchor at the nearest anchorage to the berth within Commencement Bay. Vessels electing to anchor outside of Commencement Bay will be responsible for any and all shifting costs to move into a Commencement Bay anchorage, prior to berthing, when available.  
In the event a vessel fails to comply with this requirement (a "noncompliant vessel") and another vessel or vessels, although filed later, are anchored at the closest anchorage available within Commencement Bay (each a "compliant vessel"), then Temco may, at its discretion, bypass the noncompliant vessel if in Temco's judgment, loss of berth time may be avoided thereby.
55. Gangway Rental  
  
It is always the responsibility of the vessel on berth to provide safe passage to and from the berth and vessel. Temco will provide a shore side gangway to allow egress to and from the vessel. The charge for this, regardless of whether vessel elects to use this service or not, will be \$1500 for the duration of the vessel's stay.
56. Indemnity  
Every party using Temco Elevators shall indemnify and hold harmless, Temco, its employees and agents, from and against any claims, damages, losses and expenses (including attorney fees), for injury to or death of any person, employee, agent or invitee, or for damage to or destruction of any property arising out of or in any way connected with such party's use of the

terminal facility. Each party using Temco Elevators shall also indemnify and hold harmless, Temco, its employees, agents and invitee, from and against all claims, damages, losses and expenses (including attorney fees), for injury to or death of any persons (including employees of Temco), and for damage to or destruction of property, cause in whole or in part by any negligent act or omission or breach of these rules by the party, its employees, agents or anyone else for whose acts the party is or may be liable.

**Addendum 1, applicable to Temco Portland Elevator and Temco Kalama Elevator**

**TUGS & LINES SERVICE**

**Lines Service:** All lines services used by vessels at the TEMCO elevator must be arranged through the lines service provider identified by the facility. Manning requirements for lines service may vary, depending on mooring configuration, type of line, dock layout and condition, weather conditions and safety considerations. Other conditions requiring extra men are: lines that are crossed with other vessels lines, dock cranes in work area, ice and snow or other onerous situations that may arise.

Vessel agents will be solely responsible for arranging for lines services from the designated lines service provider. All lines services shall be at the vessel's expense. Where line boat services are needed in addition to linesmen at the berth, the Designated Tug Company described below shall be used for such service.

**Tugs:** All tug and line boat services used by vessels at the TEMCO elevator must be arranged through the tug service company identified by the facility (the "Designated Tug Company"). The Designated Tug Company shall be used for all necessary tug assistance and line boat service, including vessel docking, undocking, shifting while at berth, or while lying at the berth.

The number and characteristics of the tugs used shall be at the discretion of the vessel and/or pilot. However, all vessels are required to make use of a sufficient number of tugs to safely accomplish the intended task, including, but not limited to, the use of reasonable care with regard to size of vessel, the current water conditions and the current weather conditions.

Vessel agents will be solely responsible for arranging for tug and line boat services from the Designated Tug Company. All tug and line boat services shall be at the vessel's expense.

Rates and terms of service for tug and line boat services will be determined by the Designated Tug Company's published Schedule of Rates and Terms, which shall be applicable to all tugs providing service.

A current copy of the Designated Tug Company's Schedule of Rates and Terms will be made available on request. By accepting tug service, vessels and their owners/operators certify that they have read and accepted all terms of this elevator tariff and the Designated Tug Company's published Schedule of Rates and Terms (see <http://shavertransportation.com/ship-assist.html>).

All vessels will be required to deposit with TEMCO funds sufficient to cover the use of the proper number of tugs and line handlers (as determined by the facility based on the current conditions) for docking, undocking and any additional anticipated tug or line handling usage. Funds must be deposited upon filing of the Berth Application. TEMCO shall pay the Designated Tug Company on behalf of the vessel with the deposited funds, and shall return to the vessel agents any deposit in excess of actual usage incurred by the vessel.

Notwithstanding the requirements herein, TEMCO shall not be liable for any costs, expenses, damages or delays caused by the acts or omissions of the Designated Tug Company, the vessel or the vessel pilot.

## **Addendum 2, applicable to Temco Elevator Tacoma**

All tugs and lines services used by vessels at the Temco Elevator Tacoma must be arranged through the tug service company identified by the facility (the “Designated Tug Company”). The Designated Tug Company shall be used for all necessary tug assistance and lines service, including vessel docking, undocking, shifting while at berth, or while lying at the berth.

The number and characteristics of the tugs used shall be at the discretion of the vessel and/or pilot. However, all vessels are required to make use of a sufficient number of tugs to safely accomplish the intended task, including, but not limited to, the use of reasonable care with regard to size of vessel, the current water conditions and the current weather conditions.

Manning requirements for lines service may vary, depending on mooring configuration, type of line, dock layout and condition, weather conditions and safety considerations. Other conditions requiring extra men are: lines that are crossed with other vessels lines, dock cranes in work area, ice and snow or other onerous situations that may arise.

Vessel agents will be solely responsible for arranging for tug and lines services from the Designated Tug Company. All tug and lines services shall be at the vessel’s expense.

Rates for tug services will be determined by the Designated Tug Company’s published Pacific Northwest Schedule of Rates and Terms.

Rates for lines services will be determined by the Designated Tug Company’s published PNW Schedule of Rates and Terms, Line Services.

A current copy of the Designated Tug Company’s Schedule of Rates and Terms will be made available upon request.

The Designated Tug Company is “Foss Maritime Company”.

All vessels will be required to deposit with Temco funds sufficient to cover the use of the proper number of tugs and line handlers (as determined by the facility based on the current conditions) for docking, undocking and any additional anticipated tug or line handling usage. Funds must be deposited upon filing of the Berth Application. Temco shall pay the Designated Tug Company on behalf of the vessel with the deposited funds, and shall return to the vessel agents any deposit in excess of actual usage incurred by the vessel.

Notwithstanding the requirements herein, Temco shall not be liable for any costs, expenses, damages or delays caused by the acts of omissions of the Designated Tug Company, the vessel or the vessel pilot.