

Port Transportation Association



To the Attention of Michael Crawford
Office of the British Columbia Container Trucking Commissioner
1085 Cambie St. Vancouver, BC V6B 5L7

May 26, 2022

Mr. Crawford,

Please accept this letter as the Port Transportation Association's (PTA) response to the CTS Licence Amendment proposal (Appendix I) as issued on April 13, 2022.

We would like to start by thanking the Office of the British Columbia Container Trucking Commissioner (OBCCTC) for its clarification on its interpretation of the term 'container' as provided to stakeholders on May 18, 2022 (Appendix II).

As for the CTS Licence Amendment Proposal itself, we note that a number of the defined terms do not match the definitions provided for the same terms in the *Container Trucking Act* (Act) and *Container Trucking Regulation* (Regulation).¹ For clarity, we suggest that terms used in the CTS Licence that are otherwise defined in the Act or Regulation be assigned the same meaning that have in the Act or Regulation as the case may be. Should the OBCCTC like to add to or assign new meaning to any of the terms, the term should be replaced with a different word to avoid confusion or unintentional error by licensees. We suggest that the correspondence from the OBCCTC similarly ensure that terms that are defined in the Act and Regulation be used as defined in the legislation.

Our additional comments below address three issues: (i) off dock traffic, (ii) electronic tracking and record keeping, and (iii) truck tag distribution.

i. Off-Dock Amendments

¹ The following terms which appear in the licence are already defined in the Act or Regulation, or appear to have an equivalent term under the Act for Regulation: Container, Container Trucking Services, Employee (see "directly employed operator" in the Regulation), Independent Operator, Indirectly Employed Operator, Licensee, Marine Terminal, and Trucker.

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While the PTA has objected to the enforced regulation of off-dock work, we understand the Commissioner's desire to move forward with this proposal in the new licence term. That being said, we feel that clauses 6.3 and 6.15 have been written in a broad manner that does not restrict regulation to the Lower Mainland i.e. the "prescribed area" for the purposes of s.16(1) of the Act.

Transportation of a container to or from a location outside the Lower Mainland is not a "prescribed" container trucking service for which a licence is required,² and thus licensees should not be prohibited from subcontracting to unlicensed companies performing that work.

The PTA proposes that both clauses be updated to reflect the boundaries of subcontracting and tag restrictions, with clear and defining wording such as:

Section 6.3: The Licensee must not enter into any Subcontract for Container Trucking Services to be provided entirely within the Lower Mainland with any party who is not a Licensee.

Section 6.15: The Licensee must use only Truck Tags allocated by the Commissioner on the conditions imposed by the Commissioner to carry out Container Trucking Services provided entirely within the Lower Mainland.

We also wish to note that with this regulation comes a need for additional tags to be released to the industry. As the correct number to tags necessary may be difficult to assess, the PTA would request the Commissioner err on the side of caution in allowing companies to adequately judge their necessary tag counts, and reduce the number as or if necessary, slowly over a period of time, based on a company's tag usage and the criteria for tag removal as stated in the CTS Licence. The need for criteria for tag removal is discussed more below.

ii. Electronic Tracking and Record Keeping

The 2022 CTS Licence Amendments propose a shift to electronic tracking and record keeping; however the proposed changes as they are written leave many questions for the industry as to what exactly is required to remain compliant.

The PTA would like to see Section 6.7 amended to clarify a number of issues that arise from the proposed wording:

1. A licensee's obligation to equip trucks with electronic devices should be restricted to the licensee's own fleet, and not the fleets of other licensees or unlicensed companies subcontracted to provide services as

² Regulation, ss. 2(1)(b), 2(2); Act, s.16(1).

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permitted by the Act. “[A]ll trucks engaged...for the Licensee” is too broad encompassing trucks that are not within a licensee’s control.

2. Does a licensee have to equip its entire fleet with electronic devices, or only those trucks that are providing container trucking services entirely within the Lower Mainland i.e. tagged units?
3. Is it the licensee’s responsibility and expense to equip an I/O unit with an electronic device and cover any service fees or subscription costs, or is that an acceptable pay deduction for an I/O?
4. What exactly must be recorded by the electronic devices? Is it one clock in and one clock out time, or is it the start and stop times of each move? Does the device need to continuously record or is manual entry of start and stop times sufficient?
5. Can or should licensees track different information for company drivers versus I/Os?
6. Can or should licensees track different information based on whether a driver is being paid hourly or by a trip rate?
- 7.

Section 6.8 fails to specify exactly what data is required to be collected, how this data should be stored, and in what format, to maintain accessibility over the proposed four-year period. Section 6.8 should be amended to clearly specify the requirements for licensees.

For all sections 6.7 through section 6.12, the industry requires clarity on what constitutes appropriate technology for recording hours and payroll/wage statements. Having spent time earlier this year reviewing various programs and technology available to the industry, the scope and variation on pricing of available options is significant.

A robust payroll system through a dray specific software/accounting program heeds the same results as an Excel spreadsheet and timecard phone app depending on a company’s size and given the current language, both appear to fall within the electronic record keeping requirements.

We would like the OBCCTC to prescribe clear minimum requirements for electronic devices and electronic record keeping to ensure that whichever method or program a licensee chooses meets the Commissioner’s standard. Given the cost of altering company practices and the potential consequences to a licensee for non-compliance, licensees should have this information BEFORE, rather than AFTER an audit.

iii. Truck Tag Distribution

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Section 6.18 reads as follows:

The Commissioner reserves to his or her entire discretion the determination of the number of Truck Tags allocated to the Licence and may reduce or increase the number of Truck Tags allocated to the Licence over the Term.

The PTA once again stresses the need for clear guidelines and objective standards to be provided to the industry on what thresholds must be met by a licensee to both lose or gain additional truck tags.

The OBCCTC should not reduce the number of tags allotted to a company based on a standard that has not been defined. It is unfair. A company should have a transparent guide to work from, otherwise it cannot reasonably assess whether its tag allocation is at risk or not.

We note that the Tag Management Policy (which is not referenced in the CTS Licence) cites “[f]ailure to maintain performance” and a possible cause for reduction in tags”. This is not sufficient.

Nothing in the Policy indicates what exactly about a licensee’s fleet performance would be examined or at what point the Commissioner will view a licensee’s performance to have decreased such that tag removal may be contemplated. The Policy does not provide a metric against which licensees can monitor themselves other than non-specific reference to the Licensee’s balanced scorecard.

In our opinion, the current scorecards do not provide a transparent evaluation. How exactly the scorecards are generated is not disclosed to our knowledge, and the Commissioner has not set express performance standards which can be judged against the scorecards. Consequently, a licensee faces the costly and inconvenient task of proving efficiency to the Commissioner without any guidance as to what “efficiency” is supposed to look like. This must be addressed as a matter of fairness to licensees.

Regarding truck tag distribution, we seek clarification regarding opportunities to apply for additional tags in 2022 and between 2022 and 2024. The OBCCTC’s Tag Management Policy says that “Licensees may apply to increase the number of tags authorized under its Licence at the time of licensing and/or once during the term of the Licence”. By amending the 2020 CTS Licences and rolling the term through 2024, does the Commissioner intend to treat 2022-2024 as a new licence term, or does the Commissioner intend that the licence term for the purposes of the policy will be 2020-2024?

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Some licensees have already used their one application for additional tags between 2020 and 2022. Will those licensees be permitted to apply for additional tags in 2022? Will those licensees be permitted to apply for additional tags in 2023?

We ask that the OBCCTC clarify how the Tag Management Policy will apply in the upcoming tag application process and between 2022 and 2024.

Our view is that, regardless of applications made between 2020 and 2022, licensees should be permitted to apply for tags in 2022 and again at least one time during a 2022-2024 term.

The Port Transportation Association believes that the points presented in sections i, ii, and iii, though particular, address key issues surrounding clarity and will provide the industry with transparent guidelines to ensure full compliance.

Thank you for your consideration, and we look forward to the next round of industry discussions.

Sincerely,

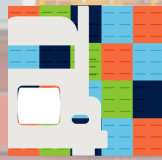
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Appendix I:

- *CTS Licence Amendment proposal*



OFFICE OF THE
BRITISH COLUMBIA CONTAINER
TRUCKING COMMISSIONER

CTS Licence Amendments Consultation Guide





OFFICE OF THE
BRITISH COLUMBIA CONTAINER
TRUCKING COMMISSIONER

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April 2022

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Executive Summary

The 2020 Container Trucking Services Licence (“Licence”) will expire on November 30, 2022.

The Office of the BC Container Trucking Commissioner (“OBCCTC”) is proposing a two-year extension to the current term of the 2020 Container Trucking Services (“CTS”) Licence, which would extend the term of the Licence to November 30, 2024.

The OBCCTC will be making other amendments to the Licence that would come into effect at the same time. Consultation has already occurred on some of these amendments with the result that consultation on those changes will be restricted to how the amendments will be implemented. These amendments will reflect recommendations made in the [Off-Dock Drayage Reform Consultation Report](#). Under the amended Licence, licensees will:

- be prohibited from using unlicensed affiliate companies for container trucking services and from contracting with unrelated, unlicensed companies for the provision of container trucking services; and
- be required to use electronic record keeping and payroll systems as a condition of licence.

Other “housekeeping” amendments will also be made.

This consultation document includes a summary of all the amendments and an annotated copy of the amended Licence for review.

Consultation Process

This consultation document is provided for stakeholder discussion and comment. The OBCCTC will engage with industry stakeholders to discuss proposed amendments to the Licence. A final report will be issued following consultation.

The written comment period is open until the end of the day on May 27, 2022. Written submissions can be sent to the OBCCTC at the following email address: registrar@obcctc.ca. Submissions will be posted on the OBCCTC website.

Consultation Timeline

| | |
|--|---|
| Written comment submission period April 13-May 27, 2022 | The OBCCTC will invite stakeholders to submit their written comments. |
| Consultation meetings with stakeholders June 6-9, 2022 | Stakeholders will be invited to meet with the Commissioner to discuss the licence amendments. |
| Final consultation report published July 4, 2022 | The final consultation report will be published based on what was heard during consultation. |

Background

Licence Term Extension

The OBCCTC is proposing a two-year extension to the current term of the 2020 CTS Licence.

Off-dock Amendments & Electronic Record Keeping Requirements

The OBCCTC began consulting with stakeholders regarding off-dock container movements in September 23, 2020, with the publication of the [Off-Dock Drayage Insights Report](#) and a call for written submissions.

Following consultation, the [Off-Dock Drayage in the Lower Mainland Recommendation Report](#) was published on May 12, 2021, which provided the Commissioner's recommendations to address the issue of off-dock drayage activity. Consultation on the recommendations was conducted with stakeholders between August and September 2021.

A final [Off-Dock in the Lower Mainland Consultation Report](#) was published on November 10, 2021 and included the following recommendations:

- Licensees be prohibited from using unlicensed affiliate companies for container trucking services and from contracting with unrelated, unlicensed companies for the provision of container trucking services; and
- Licensees be required to use electronic record keeping and payroll systems as a condition of licence.

General Record Keeping Obligations

OBCCTC auditors have increasingly encountered issues arising from licensee failure to retain records as required by the Licence. There has also been some confusion respecting the length of time licensees are required to keep certain records. Therefore, the OBCCTC is proposing amendments to the Licence to clarify which records must be retained by licensees and for how long.

Licence Amendments

Licence Term Extension

The OBCCTC proposes to extend the term of the current 2020 CTS Licence for two years. The current CTS Licence would expire on November 30, 2024, rather than November 30, 2022.

Extending the term of the current Licence would allow licensees time to adjust to new record keeping requirements and make appropriate arrangements to ensure that unlicensed parties are no longer being used to conduct CTS.

Off-dock Amendments - Unlicensed Companies

Licensees will be prohibited from subcontracting for CTS with any party who is not a Licensee.

Electronic Record Keeping Requirements

Licensees will be required to electronically track driver activity and link that tracking to electronic driver payroll systems. Licensees will be required to provide the OBCCTC with this electronic data on request and confirm that there is an electronic CTS tracking device or technology installed in each tagged truck.

General Record Keeping Obligations

The Licence language is being amended to remind licensees of the requirement to keep payroll records and wage statements for four years after the date the records were generated. Licensees are also being reminded that they remain subject to the record-keeping obligations of the Licence for a period of four years from the date the Licence expires or is terminated, cancelled or surrendered.

Licensees will also be reminded that they are required to retain and preserve all records upon the commencement of an audit or investigation.

Consultation Topics

Licence Term Extension

The OBCCTC proposes to extend the term of the current 2020 CTS Licence by two years to accommodate licensees as they make appropriate arrangements to implement electronic record keeping systems and ensure that unlicensed parties are no longer being used to conduct CTS. The 2020 Licence would expire on November 30, 2024.

Off-dock Amendments - Unlicensed Companies

The OBCCTC has already conducted extensive consultation regarding off-dock container activity in the Lower Mainland and has drafted licence amendments to reflect the outcome of those consultations. Stakeholders are being invited to comment on the amended licence language respecting the prohibition on subcontracting with unlicensed parties for off-dock CTS with a particular focus on discussing the amount of transition time required to adapt to the new prohibition.

Electronic Record Keeping Requirements

The OBCCTC has already conducted consultation regarding the need for electronic record keeping requirements in the Licence. The OBCCTC is committed to the implementation of electronic record keeping systems for licensees to modernize and professionalize record keeping practices and increase compliance in the industry. Licensees must have an electronic record keeping system that tracks driver activity and that is linked to payroll.

The OBCCTC is aware that many licensees already use electronic record keeping systems, and is interested in understanding more about whether and how these systems will be able to meet the record keeping and audit requirements of the OBCCTC.

For licensees who currently do not use electronic record keeping systems, the OBCCTC is interested in canvassing options for implementation, including feasible timelines for their implementation.

The OBCCTC would particularly like to hear from stakeholders on the following:

- What is your current method of tracking driver activity and payroll?
- Do you have an electronic record keeping system in place to track driver activity and payroll?
- If so:
 - what program or software do you currently use?
 - how will the system meet the requirements of the Licence and of the OBCCTC audit program?
 - does your current electronic record keeping system require manual input of driver activity (e.g. trips) and further manual input to calculate payroll or are the systems linked electronically?
- What is a reasonable time frame for companies to implement and transition to an electronic record keeping system?



CONTAINER TRUCKING SERVICES LICENCE

ISSUED BY:

British Columbia Container Trucking Commissioner

(“Commissioner”)

TO:

(“Licensee”)

Date of issuance: _____, 2022

Under authority of: *Container Trucking Act*, SBC 2014, chapter 28 and the *Container Trucking Regulation* BC Reg 248/2014, as amended (the “Act” and the “Regulation” respectively).

This Licence is comprised of the cover page, the definitions, the Licence terms and signature page, and the Schedules:

Schedule 1: Conditions of Licence (Appendices A to E)

Schedule 2: Sponsorship Agreement

Schedule 3: Consent

Schedule 4: Consent Forms Confirmation

Schedule 5: Statutory Declaration

1. DEFINITIONS

Unless defined below, the capitalized terms used in this Licence have the meanings set out in the Act and Regulation.

“**Access Agreement**” means the contract between Vancouver Fraser Port Authority and the Licensee, pursuant to which the Vancouver Fraser Port Authority grants the Licensee access to the Licence Area upon certain commercial terms and conditions;

“**Approved Vehicle**” means a vehicle that is designed to be self-propelled,

- (a) to which a trailer, within the meaning of the *Motor Vehicle Act*, RSBC 1996, chapter 318 as amended, that is designed, used or intended for the carriage of containers, is or may be attached, and
- (b) by which a trailer described in (a) is or may be drawn;

and that meets all of the requirements of this Licence, including, without limitation, that such vehicle has, prior to entering the Licence Area, been properly and duly approved for use by the Vancouver Fraser Port Authority pursuant to the Access Agreement, and, if required, by the Commissioner;

“**Business Costs**” means the costs of operating a business for which a Licensee is responsible and includes, but it is not limited to, chassis rental, wear and tear on tires, cargo insurance, Smart Phone costs, bridge or road tolls, loading fees, Access Agreement charges, fees related to the Terminal Gate Compliance Initiative, GPS-related expenses, (unless the Sponsored Independent Operator has unreasonably failed to cooperate in the return of the GPS unit to the Commissioner or to the Licensee);

“**Compensation**” means remuneration and fuel surcharge as those terms are defined by the Container Trucking Legislation;

“**Conditions of Licence**” means the conditions set out in section 6 and Schedule 1;

“**Container**” means a metal box furnished or approved by an ocean carrier for the marine transportation of goods;

“**Container Trucking Legislation**” means the *Container Trucking Act* SBC 2014, chapter 28, as amended, the Container Trucking Regulation BC Reg 248/2014 regulations, Orders, and the Rules of Practice and Procedure made under that Act as defined and prescribed pursuant to and by the Container Trucking Legislation; container trucking legislation thereunder;

“**Container Trucking Services**” means the transportation of a Container by means of a truck;

“**Container Trucking Contract**” means an agreement, arrangement or understanding by which a Licensee is required to complete Container Trucking Services by transport of one

or more Containers to a final point of delivery in accordance with the terms of the agreement, arrangement or understanding;

“**Employee**” means an employee within the meaning of the *Employment Standards Act*, RSBC 1996, chapter 113, as amended;

“**Equipment**” means tractors, road transportation equipment, chassis, trailers and trucks, and includes Approved Vehicles;

“**Independent Operator**” means a person, other than a Licensee, who performs Container Trucking Services and has an ownership interest or a leasehold interest in a vehicle that is designated to be self-propelled,

- (a) to which a trailer, within the meaning of the *Motor Vehicle Act*, RSBC 1996, chapter 318 that is designed, used or intended for the carriage of Containers, is or may be attached, and
- (b) by which a trailer described in paragraph (a) is or may be drawn;

~~Independent Operator~~ and has the same meaning as ~~Owner Operator~~, “owner operator,” as the context requires;

“**Indirectly Employed Operator**” means an individual who performs Container Trucking Services and is an Employee of an Independent Operator;

“**Law**” means any statute, regulation, bylaw, rule, regulation, and order of any government or municipality;

“**Licence Area**” means Marine Terminals and lands within the jurisdiction and control of the Vancouver Fraser Port Authority;

“**Licence**” has the same meaning as “licence” under the Container Trucking Legislation;

“**Licensee**” means an entity, whether corporate or individual, to whom a Licence has been granted;

“**Marine Terminal**” means one of the following:

- (a) Centerm;
- (b) Deltaport;
- (c) Fraser Surrey Docks;
- (d) Vanterm; and
- (e) any other container terminal for which an authorization issued under the *Canada Marine Act* or an Access Agreement is required by the Vancouver Fraser Port Authority;

“**OBCCTC**” means the Office of the British Columbia Container Trucking Commissioner;

“Order” means an order made by the Commissioner under the Container Trucking Legislation;

“Port Pass” means a hard copy pass issued on terms by or on behalf of the Vancouver Fraser Port Authority, verifying that the holder has a *bona fide* requirement to access the Licence Area;

“person” has the meaning given to that term in the *Interpretation Act*, RSBC 1996, chapter 238, as amended;

“Related Person” means, in relation to a Licensee, any person with the same directing mind as ~~the~~a Licensee, and includes:

- (a) a person controlled directly or indirectly by ~~the~~a Licensee or any entity comprising ~~the~~a Licensee;
- (b) a person that directly or indirectly controls ~~the~~a Licensee or any entity comprising ~~the~~a Licensee;
- (c) a person that is directly or indirectly controlled by another person that:
 - (i) directly or indirectly controls ~~the~~a Licensee; or
 - (ii) ~~the~~a Licensee directly or indirectly controls; or
- (d) a person from whom the Licensee directly or indirectly acquired all or part of the Licensee’s container trucking business;

“Required Information” means the information described in Appendix D of Schedule 1;

“Security” means the instrument described in section 5 and as attached as Appendix C to Schedule 1;

“Sponsorship Agreement” means a sponsorship agreement in the form attached as Schedule 2;

“Sponsored Independent Operator” means Independent Operators sponsored by the Licensee pursuant to the Sponsorship Agreement;

“Subcontract for Container Trucking Services” means an agreement, arrangement or understanding by which a Related Person or other party undertakes to transport any or all of the Containers to which a particular Container Trucking Contract applies whether or not such transport results in delivery of those Containers to a final point of delivery specified in the Container Trucking Contract;

“Truck Tag” means a truck allocation issued pursuant to this Licence;

“Term” means the period of time described in section 3.1;

“Trucker” has the meaning given to it by the Container Trucking Legislation;

“Wait Time Remuneration” has the meaning given to it by the Container Trucking Legislation;

2. GRANT

2.1 The Commissioner grants to the Licensee a Licence to carry out Container Trucking Services as defined and prescribed pursuant to and by the Container Trucking Legislation in accordance with this Licence.

3. TERM

3.1 The Term of this Licence is from the date it is issued to XX, 20XX.

3.2 This Licence is renewable at the discretion of the Commissioner, for an additional term or ~~subsequent additional~~ terms, as decided by the Commissioner.

4. FEES

4.1 The Commissioner acknowledges that the Licensee has agreed to pay a licence fee for the Term.

5. SECURITY

5.1 The Licensee shall provide the Commissioner with Security in the form of a ~~Compliance Bond-compliance bond~~ or an ~~Irrevocable Letter-irrevocable letter~~ of ~~Credit-credit~~ or in another form acceptable to the Commissioner, at least ten (10) business days prior to the commencement of the Term and in a form and content satisfactory to the Commissioner and in accordance with the requirements ~~pursuant to~~ of the Container Trucking Legislation and in favour of the Commissioner and Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Transportation and Infrastructure, in the amount of _____ DOLLARS (\$_____). The Commissioner reserves the right to increase the required Security, in accordance with the Container Trucking Legislation, in the event the Licensee’s fleet of tagged trucks approved to undertake Container Trucking Services under this Licence increases.

5.2 The Commissioner may realize against the Security regarding any of the following once the Commissioner has made a final determination and the Licensee has failed to pay the amount owing within the specified time:

- (a) any amounts owing by the Licensee to a Trucker pursuant to a judgment or order of a court of competent jurisdiction in relation to remuneration, wait time remuneration or fuel surcharges;
- (b) any amounts owing by the Licensee to a Trucker pursuant to a decision or Order of the Commissioner in relation to remuneration, wait time remuneration or fuel surcharge; and/or

- (c) administrative fines owing by the Licensee pursuant to a decision or Order of the Commissioner.

5.3 The Commissioner shall not be obliged to realize against any or all of the Security ~~regarding to secure payment of amounts owing by the Licensee or in respect of~~ any claims it may have against the Licensee before terminating this Licence.

5.4 No exercise of its rights under this clause shall disentitle the Commissioner from claiming for damages resulting from any breach of this Licence or any negligent act or omission by the Licensee, nor limit the quantum of any such claim.

5.5 If the entire Security, or any portion thereof, is realized by the Commissioner as aforesaid, then the Licensee shall, upon written demand of the Commissioner, re-establish the Security in an amount as directed by the Commissioner within five business days after receipt of such demand. The Licensee shall maintain the Security in force and effect until the expiry or termination of the Licence. Failure to meet this requirement constitutes a default under this Licence.

5.6 If the issuer of the Security notifies either the Commissioner or the Licensee that the Security is invalid or will be invalidated for any reason, the Licensee shall obtain and deliver to the Commissioner forthwith upon receipt of such notification, valid replacement Security effective from the date of invalidation of the Security, which replacement Security shall contain the same terms and conditions as the cancelled or terminated Security.

5.7 The delivery of valid replacement Security by the Licensee under section 5.6 is in addition to, and does not preclude, the exercise by the Commissioner of any right, power or remedy available to the Commissioner under the Licence, or pursuant to Law, in connection with the realization of the Security.

5.8 Despite any term of this Licence, the format, terms and conditions, execution and identification of the Licensee on the Security, as applicable, may be modified as required by the Licensee and to the satisfaction of the Licensee and the Commissioner, only to the extent necessary to reflect the structure or identity of the Licensee.

5.9 The Licensee agrees that the Commissioner may release to the issuer of the Security any information the Commissioner obtains in relation to the Commissioner's final determination in section 5.2.

7.6. CONDITIONS OF LICENCE

Responsibilities of Licensee

7.16.1 This Licence is issued subject to all Conditions of Licence, ~~including the Conditions set out in Schedule 1, with which the.~~ The Licensee must comply with all Conditions of the Licence throughout the Term.

7.26.2 Breach of a Condition of Licence may result in suspension or cancellation of the Licence, an administrative fine of up to \$500,000 and/or Orders under section 9 of the Act.

~~7.36.3~~ The Licensee ~~accepts and assumes legal responsibility~~ must not enter into any Subcontract for, ~~and control over, all Truckers who provide~~ Container Trucking Services ~~on behalf of the~~ with any party who is not a Licensee.

~~7.4~~ The Licensee is responsible for ~~paying the minimum rates set by the Commissioner to all Truckers set out in 6.3.~~

~~6.4~~ The Licensee must register with the OBCCTC the Required Information set out in Part A of Appendix D to Schedule 1 and must maintain the currency of the Required Information ~~asset~~ out in Part B Appendix D to Schedule 1.

~~7.56.5~~ Upon the expiration, termination, cancellation or surrender of the Licence, the former Licensee remains subject to the record-keeping obligations set out in the Licence and must retain and preserve all records set out in Appendix D to Schedule 1- for a period of four (4) years from the date of the expiration, termination, cancellation or surrender.

~~6.6~~ Upon the commencement of an audit or investigation, the Licensee must retain and preserve all records set out in Appendix D to Schedule 1, including those set out in section 4(f), and may not dispose of any records until advised that it may do so by the OBCCTC.

Electronic Container Trucking Services Tracking

~~6.7~~ The Licensee must ensure that all trucks engaged in Container Trucking Services for the Licensee are equipped with an electronic device or technology that records the number of hours of Container Trucking Services and/or Container Trucking Services trips performed.

~~6.8~~ The Licensee must retain, and make available to the OBCCTC upon request, all data generated by the electronic device in all trucks engaged in Container Trucking Services for the Licensee for four years after the date the data was created.

~~6.9~~ The Licensee must not withhold, alter, or tamper with the electronic devices or data.

Electronic Payroll and Wage Statements

~~6.10~~ The Licensee must ensure that payroll records and wage statements for all drivers performing Container Trucking Services are created and maintained electronically.

~~6.11~~ The Licensee must retain, and make available to the OBCCTC upon request, all payroll records and wage statements for all drivers engaged in Container Trucking Services for the Licensee for four years after the date the payroll record or wage statement was generated.

~~6.12~~ The Licensee must not withhold, alter, or tamper with the electronic payroll records or wage statements.

Access to Marine Terminals

~~7.66.13~~ The Licensee ~~is~~ must be eligible to enter the Licence Area for the purposes of carrying out Container Trucking Services.

7.76.14 The Licensee ~~holds~~must hold a valid Port Pass and ~~is~~must be party to a valid Access Agreement.

Truck Tags

7.86.15 The Licensee ~~earries~~must carry out Container Trucking Services using only Truck Tags allocated by the Commissioner on the conditions imposed by the Commissioner ~~or as reduced or increased by the Commissioner.~~

7.96.16 The Licensee must assign a Truck Tag to each truck performing Container Trucking Services.

7.106.17 _____ The Licensee acknowledges that the Commissioner may consider information provided by the Vancouver Fraser Port Authority under its performance review program in determining the number of Truck Tags that the Licensee is authorized to use pursuant to this Licence, ~~and acknowledges that that determination may vary throughout the Term.~~

7.116.18 _____ The Commissioner reserves to his or her entire discretion the determination of the number of Truck Tags allocated to the Licence and may reduce or increase the number of Truck Tags allocated to the Licence over the Term.

Other

7.126.19 _____ The Licensee ~~complies~~must comply with all applicable Laws, Orders, and safety and security requirements of the Commissioner.

7.136.20 _____ The Licensee ~~complies~~must comply with the terms of the Sponsorship Agreement attached as Schedule 2.

7.146.21 _____ The Licensee must not engage the services of any Trucker for the carrying out of Container Trucking Services unless the Trucker is employed by the Licensee or is a Sponsored Independent Operator of the Licensee.

7.156.22 _____ The Licensee ~~complies~~must comply with the reservation system and any other systems established by the Vancouver Fraser Port Authority or terminal operator and adopted by the Vancouver Fraser Port Authority.

7.166.23 _____ The Licensee ~~takes~~must take all reasonable steps to ensure that every Trucker conducting Container Trucking Services on behalf of the Licensee complies with all of the Conditions of Licence.

7.176.24 _____ The Licensee ~~ensures~~must ensure that every Trucker who conducts Container Trucking Services on behalf of the Licensee executes and delivers to the Licensee the consent form attached as Schedule 3, and the Licensee ~~exeeutes~~must execute the consent forms confirmation form attached as Schedule 4.

7.186.25 _____ The Licensee ~~provides~~must provide a copy of the Licence to Truckers who carry out Container Trucking Services on behalf of the Licensee before those Truckers commence those services.

7.196.26 The Licensee ~~may~~must not assign or transfer this Licence or Truck Tags.

7.206.27 The Licensee ~~may~~must not receive by assignment or transfer a Licence or Truck Tags.

7.216.28 Unless the Commissioner expressly consents, the Licence terminates on change of control of the Licensee, which occurs by the transfer by sale, assignment, transmission on death, mortgage, trust, or any of means of any shares, voting rights, or interest which results in in either:

- (a) a change of beneficial ownership of one or more of the parties that comprise the Licensee; or
- (b) a change of the identity of a person who is the directing mind of the Licensee.

7.226.29 The Licensee ~~provides~~must provide the Commissioner with a Statutory Declaration from its principal or principals in the form attached as Schedule 5. The Commissioner may exempt the Licensee from referring to sanctions assessed against, ~~or~~ monies owed by, or activity engaged in by a Related Person, if it is unreasonable to require the Licensee to provide this information.

8.7. CONTACT INFORMATION AND NOTICE

8.17.1 The Licensee must provide the Commissioner with one contact for all communication under this Licence, which contact information is set out in 7.2.

8.27.2 The contact for all communication pertaining to this Licence between the Commissioner and the Licensee, on behalf of the Licensee will be printed in English as follows:

Name: _____
Company: _____
Address: _____

Telephone: _____
Facsimile: _____
Email: _____

8.37.3 The contact for all communications pertaining to this Licence to the Commissioner shall be through the office of the Commissioner.

9.8. AMENDMENT, ADDITIONAL CONDITIONS, SUSPENSION AND TERMINATION

9.18.1 Modification, addition of conditions, suspension and termination of this Licence are governed by the Container Trucking Legislation.

10.9. MISCELLANEOUS

10.19.1 The Schedules and Appendices form part of this Licence.

THE COMMISSIONER HAS ISSUED THIS LICENCE as of the date of issuance noted above.

The British Columbia Container Trucking
Commissioner (or delegate)

SCHEDULE 1
CONDITIONS OF LICENCE

See attached Appendices:

Appendix A - Prohibited Practices
Appendix B - Equipment and Safety
Appendix C - Form of Security
Appendix D - Required Information
Appendix E - Payment of Compensation

Breach of a Condition of Licence may result in suspension or cancellation of the Licence, an administrative fine of up to \$500,000 and/or Orders under section 9 of the Act.

APPENDIX A

Prohibited Practices

1. A Licensee must not do any of the following:
 - (a) require an Employee or Independent Operator to have an ownership interest or a leasehold interest in Equipment in which the Licensee has an ownership interest or leasehold interest;
 - (b) require an Employee to assume an interest in or obligation to the Licensee;
 - (c) require an Independent Operator to sell his or her Equipment to the Licensee;
 - (d) require an Independent Operator or Indirectly Employed Operator to become an Employee of the Licensee;
 - (e) require an Employee to become an Independent Operator or Indirectly Employed Operator;
 - (f) misrepresent, or require or allow a Trucker to misrepresent, the time worked, the distance travelled or monies paid to the Trucker;
 - (g) pay Truckers by a method of Compensation that is a hybrid of per trip and hourly; or
 - (h) threaten, harass, coerce, or attempt to influence a Trucker in any way, either directly or indirectly, regarding a Trucker's right to retain his or her Compensation.

APPENDIX B
Equipment and Safety

1. A Licensee must ensure all of the following:
 - (a) that the Licensee conducts Container Trucking Services pursuant to this Licence using only Approved Vehicles;
 - (b) that all Approved Vehicles are maintained in good condition and repair;
 - (c) in addition to the above:
 - (i) that each Approved Vehicle is equipped, on the Vancouver Fraser Port Authority's request, with tracking and radio frequency equipment and other vehicle identification equipment at the sole cost of the Licensee; and
 - (ii) that the maintenance of the tracking or radio frequency equipment is to the standard of a prudent owner and the Licensee shall return that tracking and radio frequency equipment upon termination of the Licence or earlier request by the Commissioner and the Licensee shall comply with the Vancouver Fraser Port Authority's programs regarding equipment identification, tracking, monitoring, location and movement; and
 - (d) that all Approved Vehicles used by the Licensee for Container Trucking Services are identified.
2. The Licensee must:
 - (a) maintain a valid Canadian National Safety Code Certificate, or equivalent American certification; and
 - (b) must advise the Commissioner immediately if either is cancelled or terminated, and if this occurs the Licensee must:
 - (i) immediately cease the carrying out of Container Trucking Services.

APPENDIX C
Form of Security

The existing approved Security (if automatically renewed), or a new form of approved Security (if required for any reason, including for example an applicable change in fleet size) is to be inserted here.

APPENDIX D
Required Information

A. INFORMATION THAT MUST BE REGISTERED WITH THE OBCCTC

1. The Licensee must register with the OBCCTC in English and in the form included in the application for licence the following information for each Trucker (employee, sponsored I/O and indirectly employed operator) who performs Container Trucking Services on behalf of the Licensee:
 - (a) the Trucker's name, date of birth, telephone number and residential address;
 - (b) the nature of the employment relationship between the Licensee and the Trucker: directly employed operator or employee; indirectly employed operator or I/O; indirectly employed operator or IEO;
 - (c) the Trucker's Port Pass number;
 - (d) the date the Trucker first performed Container Trucking Services for the Licensee; and
 - (e) the type of remuneration for the Trucker (whether hourly or per trip).
2. The Licensee must register with the OBCCTC in English and in the form included in the application for licence the following information for every vehicle approved by the Commissioner and used to carry out, either directly or indirectly, Container Trucking Services on behalf of the Licensee:
 - (a) Title to the vehicle (vehicle ownership information);
 - (b) Vehicle Identification Number ("VIN");
 - (c) the license plate number of each vehicle allotted a Truck Tag under the Licensee's Licence; ~~and~~;
 - (d) the name and contact information for each Trucker driving that vehicle-; and,
 - (e) confirmation that there is an electronic Container Trucking Services tracking device or technology installed in the vehicle.
3. The Licensee must ensure that all of the information set out at 1 and 2 above is kept current and must report any changes to the OBCCTC within 10 business days of the change.

B. RECORDS THAT MUST BE MADE AVAILABLE UPON REQUEST

4. The Licensee must keep complete, accurate and up-to-date records of the following information and must, upon request, provide the information to the Commissioner (or, where applicable, authorize the Commissioner to be provided with) information as follows regarding the Licensee, Related Persons, affiliates and successor companies:
- (a) all authorizations in proper form as may be required by the Commissioner in connection with obtaining or accessing the information set out in 4(b)-(k) below;
 - (b) a copy of the Licensee's current National Safety Council ("NSC") Safety Certificate;
 - (c) the Licensee's Carrier Profile as filed with the Ministry of Transportation and Infrastructure;
 - (d) the NSC and ICBC abstracts for the Licensee and all Truckers accessing the Licence Area and, if the Commissioner has, in its sole opinion, grounds of apprehension regarding the safety status, history and/or operating practices of the Licensee or its Truckers, the relevant NSC BC ID and access code. Provision of the access code shall be deemed to be authorization by the Licensee and/or the holder of the NSC for the Commissioner to access and review the information stored within the NSC system;
 - (e) corporate and company records of the Licensee, Related Persons, affiliates and successor companies;
 - (f) electronic wage statements and electronic payroll records, as defined and required by ~~sections~~ sections 27 and 28 of the *Employment Standards Act*, RSBC 1996, c. 113 (excerpted below), as amended, of the Licensee and Related Persons, affiliates and successor companies, and the following additional information of the Licensee and Related Persons:
 - i. fuel surcharges paid to the Trucker;
 - ii. payment of Wait Time Remuneration;
 - iii. hours worked and trips completed on each day by the Trucker performing Container Trucking Services on behalf of the Licensee;
 - iv. benefits, if any, paid to the Trucker;
 - v. total Compensation, before taxes and any other deductions, paid to the Trucker;
 - vi. any deductions made from the Trucker's Compensation, and the reason for the deduction; and
 - (g) Electronic container trucking services tracking data as required by s. 6.7-6.9 of this Licence.
 - ~~(g)~~(h) records of the Licensee, Related Persons, affiliates and successor companies that pertain to engagement and remuneration of Truckers working in the container trucking industry;
 - ~~(h)~~(i) collective agreements binding on the Licensee, Related Persons, affiliates and successor companies and any related terms or letters of agreement or other

agreements that govern the Licensee or Related Persons and Truckers who provide Container Trucking Services to the Licensee;

~~(i) confirmation that the Licensee retain records described in subsections (a) to (d) related to a person, company or entity that may be a substitution for, a new corporate entity of, an assignee of the Licensee, or a Related Person, affiliate and successor company;~~

(j) a record of any claim made against the Licensee or against a person, company, or entity that may be a substitution for, or a new corporate entity of either, ~~and~~

(k) an assignee of the Licensee, or a Related Person, affiliate or successor company regarding non-payment of Compensation and Wait Time Remuneration to Truckers as prescribed pursuant to the Container Trucking Legislation and proof that the claim has been satisfactorily resolved; and

(l) confirmation that the Licensee retain records described in subsections (a) to (d) related to a person, company or entity that may be a substitution for, a new corporate entity of, an assignee of the Licensee, or a Related Person, affiliate and successor company.

5. On the request of the Commissioner, a Licensee must provide the Commissioner with a compliance letter from a Certified Professional Accountant ("CPA") from an established accounting firm acceptable to the Commissioner confirming that the Licensee has:

(a) duly made all source deductions and WCB submissions respecting a Trucker who is an Employee of the Licensee within the meaning of the Employment Standards Act, RSBC, chapter 113, as amended;

(b) not set off or deducted Business Costs from Wait Time Remuneration or Compensation owed to a Trucker pursuant to the Container Trucking Legislation;

(c) not received, directly or indirectly, a financial set-off, commission or rate deduction or rebate from a Trucker employed or retained by the Licensee; and

(d) paid all Truckers performing Container Trucking Services employed or retained by the Licensee in accordance with the covenants in this Licence and the Container Trucking Legislation.

6. On the request of the Commissioner, a Licensee must provide the Commissioner, on a timely basis, with:

(a) evidence of the Licensee's compliance with all approvals required by law, including regulatory approvals, and with a copy of the Licensee's Access Agreement and Port Pass; and

(b) current information related to the Licensee, Truckers conducting Container Trucking Services on behalf of the Licensee, and Approved Vehicles.

Wage statements

27 (1) On every payday, an employer must give each employee a written wage statement for the pay period stating all of the following:

- (a) the employer's name and address;
- (b) the hours worked by the employee;
- (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
- (d) the employee's overtime wage rate;
- (e) the hours worked by the employee at the overtime wage rate;
- (f) any money, allowance or other payment the employee is entitled to;
- (g) the amount of each deduction from the employee's wages and the purpose of each deduction;
- (h) if the employee is paid other than by the hour or by salary, how the wages were calculated for the work the employee is paid for;
- (i) the employee's gross and net wages;
- (j) how much money the employee has taken from the employee's time bank and how much remains.

(2) An employer may provide a wage statement to an employee electronically if the employer provides to the employee, through the workplace,

- (a) confidential access to the electronic wage statement, and
- (b) a means of making a paper copy of that wage statement.

(3) [Repealed 2002-42-8.]

(4) If a wage statement would be the same as the wage statement given for the previous pay period, another wage statement need not be given until a change occurs.

Payroll records

28 (1) For each employee, an employer must keep records of the following information:

- (a) the employee's name, date of birth, occupation, telephone number and residential address;
- (b) the date employment began;
- (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
- (d) the hours worked by the employee on each day, regardless of whether the employee is paid on an hourly or other basis;

- (e) the benefits paid to the employee by the employer;
- (f) the employee's gross and net wages for each pay period;
- (g) each deduction made from the employee's wages and the reason for it;
- (h) the dates of the statutory holidays taken by the employee and the amounts paid by the employer;
- (i) the dates of the annual vacation taken by the employee, the amounts paid by the employer and the days and amounts owing;
- (j) how much money the employee has taken from the employee's time bank, how much remains, the amounts paid and dates taken.

(2) Payroll records must

- (a) be in English,
- (b) be kept at the employer's principal place of business in British Columbia, and
- (c) be retained by the employer for 4 years after the date on which the payroll records were created.

APPENDIX E

Payment of Compensation

1. The Licensee must remunerate all Truckers who either directly or indirectly provide Container Trucking Services on behalf of the Licensee in accordance with the Container Trucking Legislation.
2. The Licensee must not set off or deduct Business Costs from Compensation or Wait Time Remuneration owed to a Trucker.
3. The Licensee must remit all Wait Time Remuneration to every Trucker who is paid by the Licensee on a per trip basis in the manner prescribed by the Container Trucking Legislation.

SCHEDULE 2
SPONSORSHIP AGREEMENT

| |
|---|
| Name of Licensee (“Sponsor”): _____ |
| Name and Port Pass # of Sponsored Independent Operator (together with an eligible employee of the Sponsored Independent Operator, the “Sponsored IO”) <i>Name:</i> _____ <i>Telephone #:</i> _____ <i>Email:</i> _____ <i>Port Pass #:</i> _____ |

Pursuant to the Sponsor’s application for an Access Agreement and a Container Trucking Services Licence, the Sponsor and the Sponsored IO hereby apply for Sponsorship.

The Sponsor and the Sponsored IO acknowledge and agree that:

- 1) the capitalized terms in this Schedule have the same meaning as those terms are defined in the Container Trucking Services Licence issued to the Sponsor;
- 2) the Sponsorship will not be effective unless and until the Commissioner confirms his or her approval of same in writing;
- 3) the Sponsored IO is bound by all of the covenants of the Sponsor contained in the Licence issued by the Commissioner to the Sponsor. For greater certainty, but without limitation, the Sponsor and the Sponsored IO are subject to all of the provisions of the Container Trucking Legislation;
- 4) the Sponsored IO is on the I/O List held and administered by the OBCCTC;
- 5) if the Sponsored IO uses the services of another person to undertake Container Trucking Services, that sole person must be an employee of the Sponsored IO and identified in the form attached as Appendix 1;
- 6) the Sponsored IO may not employ more than one person at a time to undertake Container Trucking Services;
- 7) all data respecting trucks must be provided in accordance with the Commissioner’s and the Vancouver Fraser Port Authority’s application processes;
- 8) all data submitted to the Commissioner must be kept current. It is the Sponsor’s obligation to notify the Commissioner forthwith if any of the information of the Sponsor, the Sponsored IO or the Sponsored IO’s employee changes;
- 9) either the Sponsor or the Sponsored IO may terminate the Sponsorship at any time, upon notice to the other party, and to the Commissioner;
- 10) the terms and continuation of the Sponsorship Agreement are subject to the Commissioner’s discretion. Any breach of the terms of the Sponsorship Agreement by the Sponsor or the Sponsored IO may lead to termination of the Sponsorship Agreement by the Commissioner.

PLEASE NOTE:

- A) APPLICATIONS WILL NOT BE CONSIDERED UNLESS THE SPONSORED IO AND ANY PERSON EMPLOYED BY THE SPONSORED IO TO UNDERTAKE CONTAINER TRUCKING SERVICES HAS SUBMITTED TO THE SPONSOR A COMPLETED CONSENT TO DISCLOSE, IN THE FORM ATTACHED AS SCHEDULE 3 TO THE CONTAINER TRUCKING SERVICES LICENCE ISSUED TO THE SPONSOR;
- B) NO ACTIONS TAKEN PURSUANT TO ANY OF THE SECTIONS ABOVE IMPACT ANY OF THE CONDITIONS OF THE ACCESS AGREEMENT;

SPONSORSHIP AGREEMENT

By signing in the space provided below, the Sponsor and the Sponsored Independent Operator confirm that they agree to the terms and conditions set out above.

Dated this ____ day of _____, 20____.

| | |
|--|---------------------------------|
| SPONSOR , <i>by its duly authorized signatory</i> | WITNESS: |
| <hr/> Signature | <hr/> Signature |
| <hr/> Name (please print) | <hr/> Name (please print) |
| <hr/> Company Name (please print) | <hr/> <hr/> <hr/> Address |

| | |
|---|---------------------------|
| SPONSORED INDEPENDENT OPERATOR, by <i>its duly authorized signatory or signatories, if a corporate entity</i> | WITNESS: |
| <hr/> Signature | <hr/> Signature |
| <hr/> Name (please print) | <hr/> Name (please print) |
| <hr/> Signature | <hr/> |
| <hr/> Name (please print) | <hr/> |
| | <hr/> Address |

SPONSORSHIP AGREEMENT

Appendix 1: Information Re Sole Employee of Sponsored IO's

| Port Pass Number | First Name | Middle Name | Last Name |
|------------------|------------|-------------|-----------|
| | | | |

SCHEDULE 3

CONSENT

I, _____ (please print clearly), **effective as of the date set out below,**
hereby acknowledge and agree that:

- 1) _____, (the “**Licensee**”) has been issued a licence by the British Columbia Container Trucking Commissioner (the “**Commissioner**”), appointed under the British Columbia *Container Trucking Act* (the “**Act**”), to carry out container trucking services as defined and prescribed pursuant to the Act and its regulations or a licence has been deemed (the “**Licence**”).
- 2) In order to apply for the Licence, and periodically during the term of the Licence, the Licensee must provide certain information, which may include personal information, respecting companies, vehicles and vehicle operators and related activities to the Vancouver Fraser Port Authority (the “**Authority**”) and/or to the Commissioner (the “**Required Information**”).
- 3) The Required Information is collected and may be used by and disclosed to the Commissioner, the Authority or Her Majesty the Queen in right of the Province of British Columbia, represented by the Minister of Transportation and Infrastructure (the “**Province**”), for the purpose of stabilizing the container trucking industry in the Lower Mainland of British Columbia, and enhancing safety, security, order, and operational efficiencies within that industry, and ensuring compliance with the Act, and the regulations and orders of the Authority or the Commissioner made under that Act (the “**Purpose**”).
- 4) In consideration of the possibility of my deriving a benefit from the granting of the Licence, I hereby unconditionally and perpetually consent, authorize and grant to the Commissioner, the Authority and the Province all necessary authority, right and licence:
 - a) to collect, including to collect indirectly from the Licensee, the Commissioner, the Authority or the Province, as the case may be, any of my personal information contained in the Required Information;
 - b) to use any of my personal information contained in the Required Information in furtherance of the Purpose; and
 - c) to disclose any of my personal information contained in the Required Information to the Licensee, the Commissioner, the Authority and/or the Province, as the case may be, in furtherance of the Purpose or as may be authorized or required in accordance with applicable law, including under the Act.
- 5) I further agree:
 - a) to provide the Required Information to the Licensee, the Authority, the Commissioner or the Province as may be required or requested from time to time;

- b) that the Authority or the Commissioner may disclose to third parties the Required Information, including any of my personal information contained in the Required Information, and any other information in respect of any breach of the terms of the Licence or any proposed or actual suspension, modification, or termination of the Licence; and
- c) that such third parties may share with the Authority or the Commissioner any comparable or necessary information, including personal information, about me, my vehicles, my companies, my activities and my operations, in respect of any breaches of the terms of the Licence or any proposed or actual suspension, modification, or termination of the Licence.

Dated this ____ day of _____, 20__

SIGNED & DELIVERED in the presence of:

Witness Name (Please print)

Witness Signature

Signature of Consenting Party

In accordance with this Consent, your personal information will be collected under section 26(c) of the *Freedom of Information and Protection of Privacy Act* for the purpose described above in section 3. If you have any questions regarding the collection of personal information under this Agreement, please contact: Deputy Commissioner, 3rd Floor - 1085 Cambie Street, Vancouver, V6B 5L7; Telephone: (604) 660-6051.

SCHEDULE 4
CONSENT FORMS CONFIRMATION

This is to confirm that _____ (Company Name of Licensee), who has applied for and obtained a Container Trucking Services Licence (the “Licence”), has obtained from every driver or operator of an Approved Vehicle and from every Trucker who will be conducting Container Trucking Services on the Licensee’s behalf the consent forms that are required pursuant to Section 6.17 of the Licence, (the “Consent Forms”). The Licensee further confirms that it will retain the original Consent Forms in its records.

Duly Authorized Signatory of the Licensee

Dated the ____ day of _____, 20____.

SCHEDULE 5
STATUTORY DECLARATION

IN THE MATTER OF THE *Container Trucking Act* and *Regulation* and the application for a Container Trucking Services Licence submitted on the _____ day of _____, 20__

BETWEEN:

BRITISH COLUMBIA CONTAINER TRUCKING COMMISSIONER

(the “Commissioner”)

AND:

(“Licence Applicant”)

I, _____, being a principal of the Licence Applicant,
(PRINT OR TYPE FULL NAME AND POSITION OR TITLE)

DO SOLEMNLY DECLARE THAT:

1. These terms have the following meaning in this Declaration:

“**Application**” means the application for a Container Trucking Services Licence submitted by the Licence Applicant to the Commissioner on the date referred to above;

“**Act**” means the *Container Trucking Act* S.B.C. 2014, chapter 28;

“**Marine Terminal**” means one of the following:

- (a) Centerm;
- (b) Deltaport;
- (c) Fraser Surrey Docks;
- (d) Vanterm;
- (e) any other container terminal for which a trucking authorization or port access agreement is required by the Vancouver Fraser Port Authority;

“**Related Person**” means, in relation to the Licence Applicant, any person with the same directing mind as the Licence Applicant, and includes:

- (a) a person controlled directly or indirectly by the Licence Applicant or any entity comprising the Licence Applicant;
- (b) a person that directly or indirectly controls the Licence Applicant or any entity comprising the Licence Applicant;
- (c) a person that is directly or indirectly controlled by another person that:

- (i) directly or indirectly controls the Licence Applicant or any entity comprising the Licence Applicant; or
- (ii) the Licence Applicant or any entity comprising the Licence Applicant directly or indirectly controls; or
- (d) a person from whom the Licence Applicant or any entity comprising the Licence Applicant directly or indirectly acquired all or part of the Licence Applicant's container trucking business;

“Regulations” means the *Container Trucking Regulation*, BC Reg 248/2014;

“Trucker” has the meaning given to it by the Act.

2. No sanctions have been assessed by the Vancouver Fraser Port Authority, the Commissioner, the provincial government or the government of Canada against the Licence Applicant or against a Related Person whether or not that Related Person exists at the time of the Application, or if any sanctions have been assessed against the Licence Applicant or the Related Person, the Licence Applicant or the Related Person has discharged all obligations related to those sanctions, and is currently compliant with all applicable laws;
3. No monies are owed to a Trucker under the Act or Regulations by the Licence Applicant, or by a Related Person, whether or not that Related Person exists at the time of the Application;
4. The Licence Applicant has not engaged in any activity prohibited by the Regulations, or, if the Licence Applicant has engaged in activity prohibited by the Regulations, sanctions have been assessed against the Licence Applicant and the Licence Applicant has discharged all obligations related to those sanctions, and is currently compliant with all applicable laws;
5. No Related Person, whether or not that Related Person exists at the time of the Application, has engaged in any activity prohibited by the Regulations, or, if a Related Person has engaged in activity prohibited by the Regulations, sanctions have been assessed against the Licence Applicant and the Licence Applicant has discharged all obligations related to those sanctions, and is currently compliant with all applicable laws.
6. The Licence Applicant is eligible to obtain access to all Marine Terminals if the Licence Applicant obtains a Container Trucking Services Licence.

AND I MAKE THIS SOLEMN DECLARATION, conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under Oath.

DECLARED BEFORE ME at

_____, in the
Province of British Columbia, on this

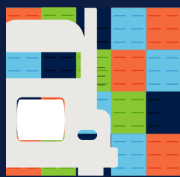
_____ day of _____, _____.

A Commissioner for taking affidavits for
British Columbia

Signature of Principal of Licence Applicant

Print Name

Note: If you make a false statement, you may be subject to penalties under the Act and the Regulation or charged with an offence.



OFFICE OF THE
BRITISH COLUMBIA CONTAINER
TRUCKING COMMISSIONER

1085 Cambie Street, Vancouver BC V6B 5L7

info@obcctc.ca

obcctc.ca

604-660-6051

Port Transportation Association



Appendix II:

- *OBCCTC May 18, 2022, Letter RE: 'Container'*



May 18, 2022

Industry Advisory Licence and Truck Tag Requirements

Background

Stakeholders have sought further clarification from the Office of the BC Container Trucking Commissioner (“OBCCTC”) about how it interprets “container” when determining which container movements attract the Commissioner’s rates and require a Container Trucking Services Licence (“CTS Licence”) and truck tag. In particular, questions have arisen regarding containers moved to and from facilities in the Lower Mainland operated by rail carriers.

The *Container Trucking Act* (the “Act”) is intended to regulate on-dock and off-dock container trucking services in the Lower Mainland (container trucking services that require access to marine terminals at some stage). “Containers” moved to and from rail facilities in the Lower Mainland are regulated by the Act. This means that they must be carried out by licensees using tagged trucks and that they attract the regulated rates. This has always been the case.

Prior to the signing of the Joint Action Plan and the introduction of the Act, rail facilities in the Lower Mainland were considered on-dock locations for the purpose of calculating rates prescribed in collective agreements. Since the introduction of the Act, they have been categorized as off-dock locations attracting an off-dock rate for the movement of “containers” to and from these facilities.

The Act makes it an offence to carry out prescribed container trucking services in the Lower Mainland without a CTS Licence. Both on and off-dock container trucking services are to be completed by licenced companies using tagged trucks. Licensees must pay truck drivers the Commissioner’s rates for both on and off-dock container trucking services. Stakeholders are reminded that CTS Licence amendments will be introduced this year that will make it a violation of the CTS Licence for licensees to use unlicensed companies and/or untagged trucks to conduct container trucking services.

Discussion

Some licensees have submitted that because they are not moving “containers” as defined in the *Regulation* between rail facilities and other facilities in the Lower Mainland, and/or that because they are not directing the moves, they are not required to use licenced companies and/or tagged trucks to conduct the moves.

Meaning of “container”

The supply chain has evolved, particularly in recent years. Shippers are engaging in ocean transport and companies other than traditional ocean carriers are “furnishing” or “approving” containers for the marine transportation of goods. Containers which were previously used only for overland shipping purposes are being utilized for marine transportation.

A “container” is defined in the *Regulation* as “a metal box furnished or approved by an ocean carrier for the marine transportation of goods.” The OBCCTC interprets “furnished” and “approved” broadly and interprets “ocean carriers” to include companies transporting containers over the ocean, whether or not they are primarily in the business of ocean transport.¹

This means that a metal box that has been moved by rail within Canada qualifies as a “container” if it is furnished or approved by a company responsible for its marine transportation. And this, in turn, means that if the “container” is moved between rail facilities and other facilities in the Lower Mainland, it must be moved by licenced companies using tagged trucks. In other words, not all container moves from rail facilities are “domestic” and outside the scope of the *Act*.

Containers dispatched by unlicensed companies and/or moved with untagged trucks

The OBCCTC does not accept that container trucking services moves between rail and other facilities in the Lower Mainland are not regulated simply because they are dispatched by unlicensed companies or performed by untagged trucks. Among other reasons, this would be inconsistent with the fact that railway facilities are included in the off-dock rate table.

Conclusion

Any container that meets the definition of “container” in the *Regulation* involved in a “container trucking services” move within the Lower Mainland must be conducted by a licensee using a tagged truck and attracts the Commissioner’s rates.

Sincerely,

OFFICE OF THE BC CONTAINER TRUCKING COMMISSIONER



Michael Crawford
Commissioner

¹ See OBCCTC Industry Advisory, “Licence and Truck Tag Requirements,” February 28, 2022.