

**NOTE:** When a tug or tugs are required to be positioned alongside other vessels in a sea or swells, damage due to bumping and/or the normal motion of the vessel can occur. In such cases, no responsibility for damage may be charged to the tug, its owners or operators.

**VESSELS AGROUND:** It is acknowledged that when a tug or tugs are assisting grounded vessels, all hawsers, wire cables, tackle materials, supplies, etc., of the tugs are lost, damaged or destroyed during such operations; they shall be replaced by the vessel owner and/or operator at current market cost. When assisting a grounded vessel a “**Grounding Release Waiver**” will be required prior to assistance.

**CANCELLATIONS:** Prior to tug(s) departing from duty station: No Charge. After tug(s) departing from duty station: Assigned tug(s) published rate will apply.

**ORDERING SERVICE:** When a tug is ordered to render service, the ordering party or agent warrants that it has authority from the vessel owner, charterer or operator to order the use of tug or tugs and guarantees payment for such service.

**RATE APPLICATION:** Rates shown in this schedule apply for each tug ordered.

**FUEL SURCHARGE:** There is a fuel surcharge currently in effect which fluctuates with the price of fuel.

**SECURITY CHARGE:** Marine Towing of Tampa reserves the right to implement a security surcharge if cost becomes warranted.

**SUBCONTRACT:** Any service ordered of Marine Towing of Tampa may be subcontracted to others without notice. Any such subcontractor shall have the benefit of all defenses, exemptions and limitations of liability provided herein and shall be considered an independent contractor and not an agent, servant or employee of Marine Towing of Tampa.

**ADJUSTMENT OF RATES:** After written notice, the rates set forth herein may be adjusted due to increases or decreases in operating expenses resulting from changes in laws or regulations and/or changes in working conditions including labor and labor costs in all zones.

**NO WARRANTY OF TUG OR HAWSER:** The assisted or towed vessel assumes all risk for any and all loss, damage or injury sustained by it, or any other vessel, property or persons resulting from the parting of any hawser, line or cable, by whomsoever furnished, and regardless of whether the parting was due to insufficiency, negligence or other cause. There is no warranty of workmanlike service or performance expressed or implied by the tugs, their owner, charterer, operator, manager, or agent.

**TAXES:** Any tax or user fee levied by a governmental body at either the local, state or federal level will be passed on to the vessel owner or operator utilizing our service. The owner of tug or tugs providing service will not be responsible for any such assessments. All such charges are for the account of the vessel and will be incorporated into our invoice if possible or re-billed on a supplemental invoice upon Marine Towing of Tampa being notified of such taxes or fees.

**PILOTAGE:** No pilotage service is offered or supplied by Marine Towing of Tampa. Compliance with all pilotage and vessel manning requirements is the responsibility of the vessel.

**FORCE MAJEURE:** MARINE TOWING, the tugs, their respective owners, affiliates, operator, charterers, managers, underwriters, masters, and crews (collectively, the "Tug Interests"), shall not be responsible or liable for any expense, loss, damage or claim whatsoever caused by or resulting from delays, failures or omission hereunder in the performance of services due to strikes, lockouts, labor disturbances, riots, fire, earthquakes, storm, lightning, epidemics, war, disorders, acts of God, acts of the public enemy, port congestion, mechanical breakdowns, shortage of tugs, priorities in service, or any other cause whatever beyond their control.

**STRIKES, BREAKDOWNS, ETC.:** The tugs and their owners are not responsible for any expenses or claims whatsoever caused by or resulting from the failure or delay in the performance of service due to strike, labor difficulties, breakdowns or any causes beyond our control or created by operation of law.

**LIMITATION OF LIABILITY:** The furnishing of any service or anything done in connection therewith, shall not be construed to be or to give rise to a personal contract, and it is understood that Tug Interests, shall have the benefit of all exemptions from and limitations of, liability to which an owner of a vessel is entitled under the Limitation of Liability Statutes of the United States. MARINE TOWING WARRANTS THE EXERCISE OF REASONABLE CARE IN THE PERFORMANCE OF TUG SERVICES BUT DISCLAIMS ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF WORKMANLIKE SERVICE.

Unless entitled to immunity or to defenses to, exemptions from an limitations of liability provided under this Contract or under any applicable law, rule or regulation that would reduce their liability to an amount less than that hereinafter set forth, Tug Interests shall be liable, only to the extent of their negligence, which negligence shall not be assumed but shall be affirmatively proven, for claims, demands, causes of action, liabilities and costs \*including third party claims) arising out of or in connection with any occurrence or series of occurrences related to the provision of tug services pursuant to this Contract up to a maximum aggregate amount of two hundred and fifty thousand dollars (U.S. \$250,000.00). OWNERS understand and agree that tug services provided hereunder are

rendered at all times under the supervision and command of OWNERS' servants (including the Master of the vessel being assisted and docking pilots), or of State pilots, none of whose actions or inactions may be imputed to the Tug Interests. OWNERS further understand and agree that the rates charged by or on behalf of MARINE TOWING for tug services are predicated upon the limitations of liability and the indemnities set forth in the Contract. Should OWNERS desire that Tug Interests retain liability in excess of \$250,000.00 they must notify MARINE TOWING in writing, whereupon MARINE TOWING will quote rates for tug services hereunder predicated on higher liability limits. Any such quote must be accepted by OWNERS in writing at least twenty-four (24) hours prior to commencement of tug services to the vessel being assisted, failing which the rates and liability limitations otherwise provided herein shall prevail. Nothing herein shall be construed to waive or limit the right of Tug Interests to assert any defenses to liability available to them or to avail themselves of any rights of limitation or exemption from liability under any applicable law, rule, or regulation.

OWNERS and any vessel assisted hereunder assume all risk of, and shall indemnify Tug Interests from and against, any and all loss or damage sustained by OWNERS, Tug Interests or by any other vessel, property or person that results from the parting, heaving or sudden movement of any hawser or other line, by whomsoever furnished or howsoever caused.

Notwithstanding anything to the contrary in this Contract or elsewhere, OWNERS understand and agree that the rates charged hereunder are also predicated on agreement that the Tug Interests shall have no liability for any consequential, punitive, exemplary special damages of any kind howsoever arising.

OWNERS agree to indemnify, defend and hold harmless the Tug Interests from and against any and all claims, demands, causes of action, liabilities and costs (including attorneys' fees, penalties, fines and third party claims of whatever nature) that are attributable to the acts of omissions, whether or not negligent, of the Tug Interests, or any of them, or to the unseaworthiness of any tug and which arise out of or in connection with any occurrence or series of occurrences related to the provision of tug services pursuant to this Contract to the extent that they exceed, in the aggregate, the applicable amounts set forth in subparagraph (b) above. The parties intend for this indemnity to apply in all instances including, without limitation, allision, collision, personal injury, fire, explosion, grounding, oil spills and third party claims. OWNERS warrant that they possess sufficient and adequate insurance on the vessels assisted pursuant to this Contract, including hull and machinery, P&I, cargo and pollution coverage to comply with all applicable laws and to respond for any losses arising out of or connected in any way with Tug Interests entitled to all benefits under said insurances of a named assured or joint member, as applicable.

Nothing herein shall preclude MARINE TOWING from recovering from any responsible party for any damages sustained by and tugs providing service hereunder.

If any provisions of this Contract is found void or unenforceable, the remaining terms and conditions shall remain in full force and effect.

**Waiver.** No failure by MARINE TOWING to demand the strict and literal performance of or compliance with any provision, condition, or requirement herein shall be deemed to be a waiver thereof, or a strict and literal performance of and compliance with any other provision, condition or requirement herein, nor to be a waiver of, or in any manner release Customer or the Vessel(s) from, strict compliance with any provision, condition, or requirement in the future. No waiver by MARINE TOWING hereunder shall be enforceable unless in writing signed by MARINE TOWING.

**Choice of Law and Forum; WAIVER OF JURY TRIAL**

These Terms shall be governed by the federal general maritime laws of the United States of America and, to the extent those laws are not applicable, the laws of the State of Florida, excluding the conflicts of law provisions thereof that would direct the substantive law of another state to apply.

Any and all disputes arising out of or in connection with the Services or otherwise arising out of these Terms shall be brought exclusively in the United States District Court for the Middle District of Florida, Tampa Division , to which jurisdiction and venue Customer agrees. In the event, and only in the event, the aforesaid District Court lacks jurisdiction, the aforesaid disputes shall be brought in the state court located in Tampa, Florida.

IT IS MUTUALLY AGREED BY AND AMONG MARINE TOWING CUSTOMER AND ANY INDEMNIFIED PARTY THAT EACH OF THEM HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY PURSUANT TO THESE TERMS.