

Clean Truck Concession Agreement

All Motor Carriers performing drayage services at the Port of Los Angeles (Port) must hold a Concession issued by the City of Los Angeles Harbor Department (Harbor Department), and agree to the terms of access to the Port herein.

A. Company Information

Motor Carrier Company Name:	
Address:	
Telephone Number:	Facsimile Number:
Email Address:	Website Address:
Principal Contact:	Title:
Company Type: <input type="checkbox"/> Corporation (List State): _____ <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> LLP	Company DBA (Provide DBA filing):
	Federal Taxpayer I.D. No.:
<input type="checkbox"/> Past POLA Agreement No.:	<input type="checkbox"/> New Application

B. Motor Carrier License Information

U.S. Dept. of Transportation M.C. No.:	U.S. Dept. of Transportation USDOT No.:
State of California M.C. Permit No.:	Standard Carrier Alpha Code SCAC:
Other State Permit Nos.:	

C. Motor Carrier Insurance Required Certificates / Verification

Insurance Carrier:	Policy No.
<input type="checkbox"/> Harbor Dept. Auto & General Liability Certificates	<input type="checkbox"/> UIIA Insurance Verification

D. Motor Carrier Safety Compliance

Last Biennial Inspection of Terminals (BIT) Date:	Date of Last Request for BIT Inspection:
Last BIT Waiver Certification Date:	<input type="checkbox"/> Maintenance Plan Attached

MOTOR CARRIER SIGNATURE Authorized Signatories must be 2 Officers of a Corporation, 2 Partners of a Partnership, or Owner of Sole Proprietorship.

As a condition to receiving a Clean Truck Concession to provide its drayage trucks access the Port for drayage services, the undersigned Motor Carrier agrees to comply with all of the Concession Terms and Conditions set forth below. Each of the undersigned signatories affirms that I have the authority to execute this Concession Agreement on behalf of the Motor Carrier, that the above information I have provided is true and correct and that I will notify the Harbor Department of any changes in the listed information or if any information ceases to be true and correct.

Motor Carrier Name:	Date:
Owner/Officer Signature:	Owner/Officer Signature:
Owner/Officer Name:	Owner/Officer Name:
Owner/Officer Title:	Owner/Officer Title:

HARBOR DEPARTMENT SIGNATURE

Date:	Date:
Executive Director Signature:	Approval as to Form and Legality:
Print Name: Eugene D. Seroka	City Attorney Signature:
Print Title: Executive Director	Print Name:
Attest by Board Secretary:	Print Title: Assistant/Deputy City Attorney

**PORT OF LOS ANGELES CLEAN TRUCK CONCESSION AGREEMENT
TERMS AND CONDITIONS**

1. **CONCESSION.** Harbor Department hereby grants to the Motor Carrier a non-exclusive license to access Port property for the purpose of transporting containers and/or other cargo to and from Port marine terminals (“Drayage Service”), in the form of a Clean Truck Concession (“Concession”). As a condition to receiving a Clean Truck Concession to provide its drayage trucks access to the Port for Drayage Service, the Motor Carrier agrees to comply with all of the Concession Agreement Terms and Conditions set forth herein.
2. **TERM.** This Concession shall be effective commencing on the later of 12:01 a.m. on October 1, 2014 or date of Agreement signature by the Harbor Department. The term shall not exceed five (5) years, and all Agreements regardless of effective date shall terminate at 12:00 midnight on September 30, 2019.
3. **LICENSED MOTOR CARRIER.** Motor Carrier certifies it is a licensed motor carrier in good standing and in compliance with the requirements of a valid commercial trucking license/permit under either a state Motor Carrier Permit or a Federal Motor Carrier License (USDOT Number) and Operating Harbor Department (MC Number) under the license numbers provided above. Motor Carriers shall immediately cease operating at the Port and notify the Harbor Department within two business days of any suspension or revocation of its motor carrier license or permit.
4. **DRAYAGE TRUCKS.** Motor Carrier shall equip all Drayage Trucks dispatched for Drayage Service to Port terminals by Motor Carrier under this Concession (“Drayage Trucks”) with radio frequency identification devices (“RFID”) or other compliance tags as directed by the Harbor Department and/or Port marine terminal operators. Motor Carrier shall register and keep updated accurate information about the Drayage Trucks operating at the Port under Motor Carrier’s authority in the State and Port Drayage Trucks Registries.
5. **TRUCK DRIVERS.** Motor Carriers shall ensure that all truck drivers that drive Drayage Trucks operating and dispatched to the Port under its motor carrier permit (“Drivers”) are duly licensed with a valid commercial driver’s license and valid Transportation Worker Identification Credential (TWIC), and comply with all federal and state environmental, safety and security laws and regulations and Harbor Department Tariff and Concession requirements applicable to Drayage Truck drivers and shall maintain records of such licenses, credentials and compliance for all drivers it dispatches to the Port.
6. **SAFETY.** Motor Carriers shall ensure that all Drivers and Drayage Trucks dispatched to the Port under its motor carrier permit are in compliance with all applicable existing regulatory safety standards. Motor Carrier shall maintain and make available for inspection by the Concession Administrator on reasonable notice, all records required for compliance with all existing regulatory programs including U.S. Department of Transportation motor carrier safety regulations, and State of California Biennial Inspection of Terminals program. This includes vehicle maintenance, safety inspection, driver qualifications, driver training, controlled substances and alcohol testing and hours-of-service for all drivers as required by applicable laws. Motor Carrier shall prepare an appropriate maintenance plan for all Drayage Trucks. Motor Carrier shall be responsible for vehicle condition and safety and shall ensure that the maintenance of all Drayage Trucks, including retrofit equipment, is conducted in accordance with manufacturer’s instructions.
7. **ENVIRONMENT.** Motor Carrier shall ensure that all Drayage Trucks and their Drivers dispatched by Motor Carrier shall when entering and leaving Port Property and while on Port Property, comply with Port of Los Angeles Tariff No. 4 and all applicable federal, state and municipal environmental laws, statutes, ordinances, rules and regulations that govern Motor Carrier’s Drayage Trucks and operations. Motor Carrier agrees that Drayage Trucks and Drivers dispatched to provide Drayage Services may be inspected for environmental compliance while on Port property by the Harbor Department or other federal, state or local authorities, including without limitation, the California Air Resources Board or its agents.
8. **COMPLIANCE.** Motor Carrier and all Drayage Trucks and their Drivers dispatched by Motor Carrier to perform Drayage Services shall when entering and leaving Port Property and while on Port Property, comply with this Concession Agreement, Port of Los Angeles Tariff No. 4 and all applicable federal, state and municipal laws, statutes, ordinances, rules and regulations that govern Motor Carrier’s operations, including without limitation, any laws, rules and regulations regulating motor carriers, transportation, hazardous materials, safety, security, environment, employment, traffic, zoning and land use. Motor Carrier agrees that any non-compliant Drayage Trucks and drivers shall be denied access to Port property. Motor Carrier agrees that the Concession Administrator (or any other agent designated by the Harbor Department) may on reasonable notice inspect any property, offices or equipment utilized by the Motor Carrier to perform Drayage Service, and any files or records which the Harbor Department reasonably believes may demonstrate the extent to which the Motor Carrier has complied or has failed to comply with requirements set forth in this Agreement.

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9. FEES.

- a. Concession Fee. A one-time Concession fee of \$2,500 will be assessed to the Motor Carrier at the time of submission of the Concession Application to cover administrative costs of the Concession program throughout the Agreement term.
- b. Annual Truck Fee. An annual \$100 per truck fee will be collected (i) within 30 days of the Effective Date of this Agreement for Drayage Trucks registered as of the Effective Date, (ii) within 30 days of registration of additional Drayage Trucks into the Drayage Truck Registry, and (iii) on the annual anniversary date that each Drayage Truck was registered in the Drayage Truck Registry. Trucks for which an Annual Truck Fee has been paid for a particular year may be registered under multiple Port of Los Angeles Concessions without the payment of any additional annual fee of that year.

10. INDEMNITY. Except to the extent of sole negligence or willful misconduct of Harbor Department, Motor Carrier shall at all times indemnify, protect, defend, and hold harmless the Harbor Department and any and all of its boards, officers, agents, or employees from and against all claims, charges, demands, costs, expenses (including reasonable counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against the Harbor Department, its boards, officers, agents, or employees by reason of any damage to property, injury to persons, or any action that may arise out of the performance of this Agreement that is caused by any act, omission, or negligence of Motor Carrier, its boards, officers, agents, employees, contractors, subcontractors or Drayage Trucks.

11. INSURANCE

- a. Motor Carrier Insurance Required. Motor Carrier certifies that it has obtained and will maintain general liability and motor vehicle insurance that fully complies with the Federal Motor Carrier Safety Administration ("FMCSA"), and state and federal regulations applicable to Motor Carrier's performance of Drayage Service at the Port.
- b. General Liability Insurance. Motor Carrier shall procure and maintain in effect throughout the term of this Agreement, without requiring additional compensation from the Port, commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverages within Motor Carrier's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Motor Carrier. The insurance provided shall contain a severability of interest clause and shall provide that any other insurance maintained by Port shall be excess of Motor Carrier's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision. Each policy shall contain an additional insured endorsement naming the City of Los Angeles Harbor Department, its boards, officers, agents, and employees and a 30-day notice of cancellation by receipted mail as shown in Attachment 1.
- c. Automobile Liability Insurance. Motor Carrier shall ensure that the following insurance is in force at all times during the term of this Agreement for all Permitted Trucks: automobile insurance within Motor Carrier's normal limits of liability but not less than \$1,000,000 combined single limit per occurrence for transportation of all non-hazardous commodities, including oil and hazardous material in bulk and not less than \$5,000,000 combined single limit for transporting hazardous substances in cargo tanks, portable tanks or hopper-type vehicles with capabilities in excess of 3,500 water gallons, or hazardous materials meeting specified hazard classes or divisions within the Hazardous Material Table (49 CFR 172.101). Each policy shall contain an additional insured endorsement naming the City of Los Angeles Harbor Department, and its boards, officers, agents, and employees and an endorsement requiring 30 days' notice of cancellation by receipted mail as shown in Attachment 2.
- d. Carrier Requirements. All insurance required by this Concession shall be placed with insurance carriers accepted by FMCSA and authorized to do business in the State of California and which are rated A-, VII or better in the Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to the Port.

12. ACCIDENT REPORTS. Motor Carrier shall report in writing to Executive Director within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death or bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or damage in excess of Two Thousand Five Hundred Dollars (\$2500.00) to property, occurring upon Port property, or elsewhere within the Harbor District of the City of Los Angeles if Motor Carrier's officers, agents,

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employees, contractors, subcontractors or Drayage Trucks are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Motor Carrier, its officers or managing agents.

13. DEFAULT AND CONTRACT REMEDIES.

a. Notice and Opportunity to Cure. In the event Motor Carrier commits an event of Default (as defined in Section 13.b., below), such event shall be deemed a Default and the Harbor Department shall issue Motor Carrier written Notice of Default. A Notice of Default shall be in writing, signed by the Executive Director or his/her designee, state in detail the nature of the Default, state the cure period and terms of cure, the Remedy that may be imposed if the Default is not cured within the time permitted and not properly contested as permitted in Section 13.d., and shall be delivered by first class mail, overnight courier delivery or personal delivery to the business address provided by the Motor Carrier on Page 1, above, or to any officer of the Motor Carrier. In the event that the Harbor Department determines that the nature of the Default is such that it cannot be cured within the applicable cure period, the applicable remedy will not be imposed so long as Motor Carrier has taken substantial steps toward corrections within the cure period, and diligently continues efforts to complete the cure of the Default as soon as is reasonably practicable. Motor Carrier agrees that the remedies for any breach of this Agreement are contained solely within this Agreement and criminal penalties do not apply to this Agreement.

b. Events of Default

Any of the following shall constitute a default of this Agreement ("Default") by Motor Carrier.

1. Any failure to perform any term of this Agreement and the default continues for seven (7) days after receiving written notice from Harbor Department;
2. Motor Carrier shall be declared to be bankrupt or insolvent according to law, or if any assignment of its property shall be made for the benefit of creditors;
3. Any act or failure to act which operates to deprive Motor Carrier any of the rights, powers, licenses, permits or authorities necessary for the proper conduct and operation of Drayage Service in accordance with applicable laws;
4. Any fraud or misrepresentation in the Concession application, information or data submitted to the Harbor Department required under the Concession;
5. Any effort to misrepresent that a Drayage Truck complies with Section 20 of Port Tariff No. 4, to disable or fail to maintain in proper operation emission-control equipment that has been installed in Drayage Trucks in Drayage Service, or any use of a Drayage Truck in Drayage Service that does not comply with Section 20 of Harbor Department Tariff No. 4;
6. Any failure to pay the Concession Fee or Annual Truck Fees; or
7. Any violation of Harbor Department Tariff No. 4, or applicable municipal, state or Federal laws applicable to Motor Carrier's provision of Drayage Services.

c. Harbor Department's Remedies Upon Default

Following the occurrence of a Default, the expiration of applicable cure periods stated in the Notice of Default, and if Motor Carrier contests the Default, the completion of the appeal procedure in Section 13.d., the Harbor Department may exercise any of the following remedies as to remaining uncured Defaults (each, a "Remedy"):

1. A warning letter;
2. An order that corrective action be undertaken within a specified period of time;
3. An order that the cost of investigation and administration of the Default be paid to the Harbor Department;
4. An order that a course of education or training be completed within a specified period of time;
5. Denial of entry of any non-compliant Drayage Truck or Driver to Port property for Drayage Services;
6. Termination of the Concession Agreement in the event of Motor Carrier's failure to maintain valid motor carrier permit, valid insurance or status as a corporation in good standing under applicable law of state of incorporation;
7. A fee of \$___ per occurrence to be paid by the Motor Carrier for each event of false information regarding a Motor Carrier or its Drayage Truck entered in the Port Drayage Truck Registry;
8. Pursuit of any other action against Motor Carrier allowed by law, including injunctive relief, damages, with all such remedies to be cumulative.

Any waiver by Harbor Department of any breach of covenants herein contained to be kept and performed by Motor Carrier shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent Harbor Department from remedies for any succeeding breach either of the same condition or covenant or otherwise.

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- d. **Appeal.** A Motor Carrier that has received a Notice of Default may send a written appeal to the Harbor Department, contesting the Notice of Default within fourteen (14) calendar days. The Executive Director will designate a person who did not sign the Notice of Default (the "Hearing Officer"), to hold an informal hearing on the Notice of Default. At the informal hearing, the Harbor Department and the Motor Carrier will present any relevant information with respect to the Notice of Default. The informal hearing shall be conducted informally under such procedures as may be designated by the Hearing Officer and any rules of evidence may be dispensed with. The decision of the Hearing Officer on the Notice of Default shall be final when rendered and shall include either upholding the Notice of Default and the Remedy stated therein or disallowing the Notice of Default. The decision shall be in writing and signed by the Hearing Officer, but need not be accompanied by reasons or findings.
- e. **Imminent Danger.** A Notice of Default may contain a finding that the Default constitutes a substantial risk of physical danger or injury to the Harbor Department, its customers or facilities, or the public. Such a Notice of Default may contain a Remedy that takes effect immediately upon issuance of the Notice and is intended to prevent or lessen the risk of danger or injury. If such an immediate Remedy is contained in the Notice of Default, the Remedy shall take effect immediately and shall remain in effect pending the procedures contained in Section 13.d. If the Motor Carrier completes a Notice of Contest, the Harbor Department will endeavor to hold an Informal Hearing as expeditiously as possible.
14. **INTEGRATION.** This Agreement constitutes the entire agreement between the parties to this Concession Agreement and supersedes any and all prior agreements or contracts on this subject matter between the parties, either oral or written. This Agreement may not be amended, waived, or extended, in whole or in part, except in writing signed by all of the parties.
15. **SEVERABILITY.** Should any part of this Agreement be determined by court or agency of competent jurisdiction to be unenforceable, unlawful, invalid, or subject to an order of temporary or permanent injunction from enforcement, such determination shall only apply to the specific provision and the remainder of this Agreement shall continue in full force and effect.
16. **GOVERNING LAW / VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.
17. **NOTICES.** In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notice to the Port shall be addressed to: Concession Administrator, P.O. Box 151, San Pedro, California 90733-0151, and notice to Motor Carrier shall be addressed to it at the Business Address set forth in Section A on Page 1. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.
18. **AFFIRMATIVE ACTION.** Motor Carrier, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition.
19. **WAGE AND EARNINGS ASSIGNMENT ORDERS/NOTICES OF ASSIGNMENTS.** Motor Carrier and/or any subcontractor are obligated to fully comply with all applicable state and federal employment reporting requirements for the Motor Carrier and/or subcontractor's employees. Motor Carrier and/or subcontractor shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Motor Carrier and/or subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. Motor Carrier or subcontractor will maintain such compliance throughout the term of this Agreement.
20. **PROGRAM ADMINISTRATION.** The Port may designate administrative agents to administer the Clean Truck Program and this Agreement, and may provide further details or updates on Clean Truck Program and Concession events and activities by posting on the website at www.portoflosangeles.org/cleantrucks or emails to Motor Carriers at the addresses provided (or updated) in Section A, Page 1. **///END OF TERMS AND CONDITIONS///**