

version: 1.0



Special Terms and Conditions
applicable to the Use of the Port of Hamburg by

Inland Vessels

Special Terms and Conditions applicable to Inland Shipping (STC-Inland)

Effective as of 01 January 2020

Notice:

In the event of any inconsistency or conflict between the German and the English version, the German version shall prevail.

Definition and Interpretation of Terms	3
1 Grouping of Watercrafts into Price Categories.....	4
Price Category A.1.: Passenger watercrafts	4
Price Category A.2.: Cargo vessels and other watercrafts.....	4
2 Port Fees and Charges	4
2.1 Combined fee	5
2.2 Extended HPA-berth fee (eALG).....	6
3 Rebates/Discounts on Port Fees and Charges	6
3.1 Combined-fee rebates/discounts	6
3.2 Rebates on the extended HPA-berth fee (eALG)	7
4 Port Users' Duty to co-operate when they use the Port	7
4.1 Duty to submit the declaration on the use of the port	7
4.2 Time limit to submit the declaration on the use of the port	9
4.3 Options to transmit notices and applications	10
4.4 Documents to be submitted.....	10
4.5 Calculation of the port fees and charges if Port Users do no co-operate.....	11
4.6 Invoicing of fees and charges.....	11
4.7 Persons authorised to accept service.....	12
4.8 Registration with Cruise Gate Hamburg GmbH.....	12

Definition and Interpretation of Terms

In addition to the terms used in the Port GTC the terms used in these Special Terms and Conditions have the definitions and meanings as shown in the table below:

Term	Definition & Meaning
ELBA portal	online portal run by the HPA, via which notices of arrival/departure and tariff choices as per the Schedule of Fees and Charges - Inland Shipping can be submitted
Fees office in charge of inland shipping (EBHS)	office in charge of inland watercrafts that processes notices, applications and other requests by Port Users, which are related to fees governed by these Special Terms and Conditions and the associated Schedule of Fees and Charges
Extended HPA-berth fee (eALG)	as defined in 2.2
Period of validity	the period of use of the port specified in the Schedule of Fees and Charges that is covered by the combined fee plus the services included in the fee
Declaration on the use of the port	as defined in 4
Cabin ship	as defined in 1
Combined fee	as defined in 2.1
Engine parameter protocol	refers to the document in which all the parameters, including components and engine settings which affect the level of emission of gaseous and particulate pollutants from the engine, are duly recorded
NRMM (non-road mobile machinery)	European Union Regulation relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery
Carrying capacity	carrying capacity of a watercraft measured in reference tonnes as specified in the tonnage certificate or similar documents
Price category	as defined in 1
Resting/operating yard	an exclusive area in the port reserved solely for the Port User to bridge waiting periods and spend rest periods
Tariff options	Options of port use with regard to the scopes of use set forth in the Schedule of Fees and Charges in so far as applicable pursuant to the Schedule of Fees and Charges
Transit	an uninterrupted passage through the port area on the Federal Waterway (Norder-/Süderelbe) only without using HPA facilities and/or HPA services
Type-approval	refers to the procedure where the authority in charge certifies that the level of emission of gaseous and particulate pollutants from an engine type or an engine family satisfies the relevant technical requirements
ZKR	Central Commission for Navigation on the Rhine

The subsequent provisions define in more detail the provisions of the General Terms and Conditions applicable to the Use of the Port of Hamburg by Watercrafts if such watercrafts are not deployed in maritime shipping.

1 Grouping of Watercrafts into Price Categories

Watercrafts are grouped into the price categories of the Schedule of Fees and Charges applicable to Watercrafts deployed in Inland Shipping based on the criteria listed below.

Price Category A.1.: Passenger watercrafts

This price category comprises all watercrafts governed by these Special Terms and Conditions that are passenger watercrafts.

The Schedule of Fees and Charges distinguishes watercrafts by type of passenger transport:

- a. **ÖPNV**
Public transport provider "Hamburger Verkehrsverbund (HVV)"
- b. **Day-trip traffic**
To be grouped into this category, the commercial purpose of the watercraft must be the transport of passengers, irrespective of whether passengers are actually carried. Trips and/or voyages generally take place for touristic purposes.
- c. **Cabin ships**
Passenger ships equipped with cabins for overnight stay.

Price Category A.2.: Cargo vessels and other watercrafts

Grouped into this price category are all watercrafts governed by these Special Terms and Conditions that are cargo vessels or other watercrafts.

The Schedule of Fees and Charges groups watercrafts into the following categories:

- a. **Cargo vessels**
Self-propelled cargo watercrafts with cargo-carrying capacities, for instance self-propelled barges and self-propelled tanker barges
- b. **Other self-propelled vessels**
Ships that are no passenger ships and do not transport cargo, for instance push boats, tugboats, mooring boats, etc.
- c. **Watercrafts not self-propelled**
Watercrafts that are not self-propelled or watercrafts with little power of their own that can only move short distances without being towed or pushed, for instance lighters, pontoons, hulls, etc.

2 Port Fees and Charges

Port Users are liable to pay port fees and charges as defined in these Special Terms and Conditions applicable to Inland Shipping pursuant to the terms below and the fee provisions set forth in the Schedule of Fees and Charges - Inland Shipping. No port fees and charges are due for inland vessels in transit.

2.1 Combined fee

2.1.1 Bases

For inland watercrafts not deployed in maritime shipping that use the port a combined fee is due as per the respective price categories of the Schedule of Fees and Charges - Inland Shipping (**combined-fee**). The Schedule of Fees and Charges may list several tariffs within one price category, which cover the respective use of the port in the period of use, type of use or intensity of use (**scope of use**) listed therein. Any use beyond the respective scope of use listed is not covered by the respective fee/charge stated.

Payment of the combined fee does not entitle Port Users to use specific berths operated by the HPA or other infrastructure.

The bases of assessment to calculate the combined fee are in

- price category A.1. the factor “EUR/number of persons allowed to be carried” (€/PAX) for day-trip vessels and ÖPNV watercrafts, and the ship length “EUR/m” for cabin ships;
- price category A.2.: the factor “EUR/kW” (power of the main engine(s)) for ships without carrying capacities; otherwise the factor “EUR/t”, i.e. the maximum load carrying capacity in reference tonnes applies.

2.1.2 The environmental portion of the combined fee

The environmental portion of the combined fee is the portion determined on the basis of environmental factors. The basis to calculate the environmental portion is a surcharge on or reduction in the combined fee measured in per cent. The surcharge/reduction is determined based on the classification of all main engines of the watercraft into one of 4 categories (0, 1, 2 or 3). Classification is based on the level of compliance with the emission limits set by the Central Commission for Navigation on the Rhine (ZKR I and ZKR II) as well as emission Stage III a and Stage V respectively set out in the NRMM Regulation (non-road mobile machinery). Watercrafts the engines of which are classified by Tier standard only, will be allocated to the ZKR and NRMM level respectively, at which the deviation from pollutant emission limits is the lowest.

Proof in the form of a unique, appropriate and valid certificate (e.g. type-approval certificate or engine parameter protocol) must be provided. The basis of assessment is the main engine of the vessel classified in the lowest category.

Exemptions with regard to the classification will only be granted in special circumstances. A certificate equivalent to the type-approval certificate must be provided per each watercraft. Official documents issued by an independent external expert will be accepted if they show that the emission limits will be permanently complied with in accordance with the provisions of the ZKR regulations/NRMM Regulation throughout the period the respective watercraft operates in the Port of Hamburg. Potentially arising additional costs to provide such proof must be borne by the applicant.

Watercrafts not fitted with engines are classified in emissions category 2; no special proof is required.

Insofar as Port Users have not submitted to EBHS any documents showing the classification of the main engines into an emissions category or if the ZKR I requirements have not been satisfied, category 0 will be based on to determine the environmental portion of the combined fee.

The invoice will be issued based on the latest watercraft data available at the time EBHS has received the Port User's tariff choice. It is not possible to adjust the combined fee retroactively even if the watercraft has subsequently been classified into a better emissions category.

The sub-total arrived at after the environmental portion has been applied will be the basis to determine further discounts and/or rebates pursuant to this clause.

2.2 Extended HPA-berth fee (eALG)

If Port Users that use a berth operated by the HPA exceed the period of use, type of use or intensity of use of the berth covered by the combined fee listed in the Schedule of Fees and Charges, they must pay extended HPA-berth fees (eALG) for the extended use as set forth in item B of the Schedule of Fees and Charges.

The berthing time is charged per each call. Moving a watercraft/watercraft convoy to another berth or leaving the berth in the course of the calendar day for a period of time does not count as interruption of the berthing time under one arrival.

If watercrafts use HPA-operated facilities under the city tariff, a minimum of two full calendar days must have passed between the last use of the facility and its next use in order for the period to qualify as a fresh period of use.

If a watercraft calls at the port, which has not transported cargo / carried passengers for commercial purposes, changed its loading status / had passenger turnover or had other repairs in relation to its operability carried out between its departure and next arrival, this does not count as a new call with regard to the calculation of the extended HPA-berth fees (eALG) if less than 4 hours have passed between departure and arrival.

3 Rebates/Discounts on Port Fees and Charges

The Schedule of Fees and Charges - Inland Shipping lists various rebates/discounts that exclusively apply to the extent and the price categories mentioned therein. The rebates/discounts are as follows:

3.1 Combined-fee rebates/discounts

a) Harbour pilot discount (RH)

For seagoing salvage tugboats assessed under the city tariff, which are exclusively active in the Port of Hamburg, a discount in accordance with the Schedule of Fees and Charges is granted upon written application if they regularly transport harbour pilots for free to board or leave seagoing vessels.

b) Time-in-the-shipyard rebate (RW)

The rebate is granted for inland watercrafts for the period of time exceeding 30 continuous days that watercrafts are in a shipyard in the port area of Hamburg to have work carried out to keep them operable. Port Users must provide certification issued by the shipyard as proof.

The application for the rebate will be considered only if it is submitted not later than four weeks after completion of the repair work. Port Users must use the prescribed form and provide the information required in full. Per each calendar year a maximum of 3 months spent in the shipyard as described above will be considered.

3.2 Rebates on the extended HPA-berth fee (eALG)

a) Repair rebate (RR)

The rebate is granted for inland watercrafts for the period of time they use the facilities to have repair work carried out by repair workshops and are charged extended HPA-berth fees. Port Users must provide certification issued by the repair workshop as proof. The application for the rebate will be considered only if it is submitted in writing not later than four weeks after completion of the repair work. Port Users must use the prescribed form and provide the fees office in charge of inland shipping (EBHS) of the HPA the information required in full, preferably by email. Fax will also be accepted.

b) Floating ice rebate (RE)

The rebate is granted for inland watercrafts for the period of time official closures/barriers prevent them from leaving the Port of Hamburg and/or accessing their own resting/operating yards causing them to become liable to pay eALG.

The application for the rebate will be considered only if it is submitted in writing not later than four weeks after the official closure/barrier has been removed. Port Users must use the prescribed form and provide EBHS the information required in full, preferably by email. Fax will also be accepted.

4 Port Users' Duty to co-operate when they use the Port

4.1 Duty to submit the declaration on the use of the port

Port Users must transmit to the fees office in charge of inland shipping (EBHS) of the HPA all data required to calculate the port fees and charges due for each use of the port that is governed by these Special Terms and Conditions applicable to Inland Shipping (**declaration on the use of the port**).

A declaration on the use of the port consists of the

- **notice** of arrival in and notice of departure from the port area. This includes all data which the HPA collects pursuant to the German Traffic Statistics Act [VerKStatG] and the Hamburg Port Traffic Ordinance [HVO], valid as amended.
- **choice of tariff** pursuant to 4.1.1 insofar as no tariff has been chosen for the respective use yet, for instance under a declaration on the use of the port submitted earlier.

Port Users do not need to submit any notice of arrival/notice of departure for watercrafts operating solely within the port area, for which a valid tariff has already been chosen.

This duty to transmit the required data applies *irrespective of* whether cargo is handled, passengers are carried or special tariffs apply and/or *irrespective of* whether the Port User has already chosen/paid for a tariff and/or used infrastructure and/or services provided by Cruise Gate Hamburg GmbH (CGH).

If push convoys and/or tug convoys use the port, Port Users in command of the self-propelled watercraft must submit a separate declaration on the use of the port for each watercraft of the convoy.

If Port Users do not sufficiently meet their duty to notify, they are in breach of duty. The breach of the duty to notify may be "minor" and/or "serious" (see 4.5.) and the

Port User must pay additional and/or other fees and charges as set forth in item C of the Schedule of Fees and Charges - Inland Shipping (e.g. processing fee, penalties).

4.1.1 Tariff options

Their duty to co-operate requires Port Users to choose a tariff for the use of the port. The tariff chosen must cover the actual period of use and scope of use of their stay in so far as the Schedule of Fees and Charges provides for it. Port Users must notify the fees office in charge of inland shipping (EBHS) of the tariff chosen within the applicable time limits, using one of the available transmission options (see 4.3).

Changing the tariff chosen

- is not possible after a period of use has started or is over;
- is possible if a period of use has not started yet. A processing fee per each transaction will apply as set out in the Schedule of Fees and Charges.

If Port Users do not choose a tariff pursuant to the Schedule of Fees and Charges that applies to their specific use of the port, the fees due will exclusively be determined by the fees office in charge (EBHS). The fees office will base their calculation on the tariff listed in the applicable price category that covers the widest scope of use and the respective shortest period of use available pursuant to the Schedule of Fees and Charges - Inland Shipping. The minimum period of use is 14 days.

4.1.2 Proof of resting/operating yard

Port Users will only be granted the city tariff if they dispose of their own or a leased operating yard (resting yard) in the port where the watercrafts regularly bridge waiting periods and take rest periods. The size of the resting/operating yard must be in proportion to the space needed by the watercraft.

As a basis, the resting/operating yard must match the space needed by the watercrafts covered by the city tariff (measured in m²). Deviations are permissible if Port Users can show that a smaller resting/operating yard is sufficient by providing appropriate proof and EBHS consents to it.

In the event of subleases Port Users must provide written proof that the lessor consents to the sublease for the entire period of use covered by the city tariff.

If the watercrafts under the city tariff do not regularly bridge waiting periods and take rest periods in the reserved resting/operating yard, the HPA will, in addition, charge Port Users the balance between the tariff paid and the annual tariffs of the next-higher price categories taking account of the facilities used for such purpose.

4.1.3 Duty to notify the EBHS upon the expiry of the permission to use the resting/operating yard

Port Users must inform EBHS immediately in writing if within the calendar year the resting/operating yard - which is the prerequisite to be granted the city tariff - is no longer available or no longer big enough for the subsequently assessed watercrafts (e.g. water permit revoked or covers smaller area / permanent berth permit expired, etc.).

4.1.4 Duty to notify - ÖPNV

Without being prompted to do so, these Port Users must submit to EBHS, in writing and in a suitable form, the exclusive periods of use and those deviating from them for the calendar year ended by January 31 of the following year.

4.1.5 Duty to notify - eALG

Port Users are requested to submit to EBHS in writing this additional requirement described in 2.2 **prior to the expiry** of the period of use covered under the combined-fee tariff or prior to using the facilities operated by the HPA not covered under the tariff, preferably by email. Fax will also be accepted. Port Users must use the form posted on the website. The date the notice is sent is relevant.

If Port Users notify EBHS of the additional requirement

- only **after they started** using the facility, they will be liable to pay double the eALG set forth in item C of the Schedule of Fees and Charges,
- **not at all** and the HPA comes to know of the additional use, Port Users will also be charged **double the eALG** for the period of use the additional use has been established for, however at least for 3 calendar days.

In addition, processing fees will be charged, penalties will be imposed and/or reimbursement of expenses will be claimed.

4.2 Time limit to submit the declaration on the use of the port

Different terms and conditions apply to the different types of operation. The following applies to all types of operation:

- The notification time limits set out in 4.2.1 or 4.2.2 are valid as applicable.
- A declaration on the use of the port is deemed to have been presented **late** if it has been submitted within 5 calendar days or part thereof after the time limit set has expired.
- If it is submitted after 5 calendar days following the time limit set, the declaration on the use of the port is deemed **not to have been submitted at all**.
- If the time limits are not complied with, other fees and charges set forth in Item C of the Schedule of Fees and Charges (penalties, processing fees) will be imposed.
- Port Users can choose a tariff up to 30 days prior to the intended period of use.

4.2.1 Standard case

Arrival: The declaration on the use of the port must be submitted **24 hours prior to crossing the port boundary**, latest upon leaving the last port/berth.

Departure: Port Users must give notice of their watercraft leaving the port area (departure) **at least 2 hours prior to crossing** the port boundary (notice of departure).

4.2.2 Facilitations

- Watercrafts that leave an area approved under water laws and do not cross the port boundaries: If no valid tariff has been chosen, Port Users must submit a declaration on the use of the port, including choice of tariff for such watercrafts 2 hours prior to starting to use the port at the latest (see 4.1.1). They do not need to submit a separate notice of arrival/ notice of departure upon arrival in/departure from the area approved under water laws.

- Existing stays at the beginning of the year:
For watercrafts that have started to use the port in 2019 and continue to use it through to 2020 and for which
 - a) in 2019
 - a city tariff was chosen, i.e. the watercraft has its own resting and operating yard in the port – or
 - an annual passenger shipping tariff was chosen,
and for which Port Users intend to choose the same tariff in 2020, Port Users must submit a declaration on the use of the port (choice of tariff) independent of arrival or departure by **31 January 2020**;
 - b) **no** tariff pursuant to letter a) above was chosen in 2019,
Port Users must, independent of arrival or departure, submit a declaration on the use of the port (choice of tariff) at the beginning of 2020, latest however on the **fifth day** of the use of the port unless a valid tariff is already in place.

4.3 Options to transmit notices and applications

4.3.1 Choice of tariff as well as notice of arrival/departure (declaration on the use of the port)

As announced in 2018, from 01 January 2020 the HPA will only accept submissions of the choice of tariff and notices of arrival/departure in electronic form (self-processing). Port Users can submit the documents via ELBA, a web portal run by the HPA, that can be accessed at [<https://www.hamburg-port-authority.de/de/wasser/binnenschifffahrt/>]

4.3.2 Application for extended HPA-berth fees (eALG) as well as rebates/discounts

To apply for extended HPA-berth fees (eALG) and/or rebates/discounts, Port Users must use the forms provided at [https://www.hamburg-port-authority.de/fileadmin/user_upload/Antrag_erw_Anlegeentgelt.pdf] and/or [https://www.hamburgportauthority.de/fileadmin/user_upload/Rabatt_erweitertes_Anlegeentgelt.pdf]. Applications submitted without using the forms are subject to additional processing fees as set out in the Schedule of Fees and Charge in force. The processing fees charged depend on the work required.

4.4 Documents to be submitted

Irrespective of the transmission option used and other data required copies of the documents listed below (costs to be borne by the Port User) must be submitted:

- Official inland shipping *tonnage certificate*;
- Official *Community inland shipping certificate* and/ or *measurement certificate* and/or *class certificate*;
- for watercrafts under the city tariff: written proof of a *resting/operating yard* for the respective watercraft, which clearly states the capacity taking account of the total number and types of the watercrafts registered;
- air pollution control certificate [*Luftreinhaltenachweis*] pursuant to Annex II Chapter 8a to the German Regulation on the Safety of Inland Navigation [BinSchUO] and the German Regulation on the Exhaust Emission Limits for the Diesel Engines of Inland Vessels [BinSchAbgasV] and / or a certificate

that clearly states the standard the engine(s) meet/s as set out in the ZKR regulations or the NRMM Regulation or as per Tier standard.

- written proof of the obligation of the invoice recipient named to pay the port fees and charges on behalf of the respective Port User if a third party is listed as invoice recipient.

If necessary, the HPA will also request for the submission of ship operation and navigation records (e.g. logbook)

The HPA may request Port Users to submit additional documents in accordance with specific fee provisions.

4.5 Calculation of the port fees and charges if Port Users do not co-operate

If Port Users are in breach of their duty to co-operate as provided for in 4 of these Special Terms and Conditions, the HPA will impose a penalty and charge processing fees per each breach of the duty to notify as provided for in 2.3 Port GTC [Hafen-AGB] in accordance with the Schedule of Fees and Charges - Inland Shipping.

The penalty imposed depends on the severity of the breach of the duty to notify. There are two types of breach of the duty to notify:

a) *Minor breach of the duty to notify*: the breach of the duty to notify has no impact on the level of port fees and charges paid / payable (e.g. Port User paid an annual tariff for the watercraft and fails to notify the arrival in/departure from the port area; notice is received late), and

b) *Serious breach of the duty to notify*: the breach of the duty to notify affects the calculation and/or level of port fees and charges (e.g. contains errors / incomplete notice / notice not submitted at all).

The **processing fees** charged depend on the work required.

If Port users are in breach of their duty to co-operate and thus the dues to be paid could not be calculated on the specific data required, the dues will be set as if the tariff was not chosen (see 4.1.1).

4.6 Invoicing of fees and charges

Combined fees are invoiced based on the declaration on the use of the port (choice of tariff) transmitted electronically by the Port User via the ELBA portal. Invoices relating to declarations on the use of the port submitted, whose data have already been validated and for which an invoice recipient, including a valid email address has been provided, will be generated automatically and sent by email (self-processing).

Invoices relating to other fees, special cases or combined fees the data of which have not been validated yet (e.g. choice of tariff on the ELBA portal after a re-registration and/or relating to watercrafts and/or invoice recipients registered for the first time) will not be generated automatically. If Port Users have not fulfilled their duty to co-operate in accordance with 4.5 of these Special Terms and Conditions or applications have been submitted without using the forms in accordance with 4.3.2 of these Special Terms and Conditions, processing fees will be charged depending on the work required as set out in the Schedule of Fees and Charges.

4.7 Persons authorised to accept service

Port Users who deploy inland watercrafts can appoint a person authorised to accept service (shipmaster, shipping company, agent, broker, ship chandler, owner of the watercraft, deviating third party as invoice recipient or similar natural or legal person) and authorise them to process the payments due to the Hamburg Port Authority for the use of the port. The Hamburg Port Authority is entitled to bill the port fees and charges payable by the Port User to the person authorised by the Port User to accept service.

4.8 Registration with Cruise Gate Hamburg GmbH

Port Users who wish or intend to use the facilities and/or services offered by CGH must register with Cruise Gate Hamburg GmbH ("CGH"), Am Sandtorkai 66, 20457 Hamburg. Their duties to the HPA to co-operate remain unchanged.