

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)

effective as of 01 January 2019

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)	6
4 Port Users' Duty to co-operate when they use the Port	7
4.1 Duty to submit the declaration of the use of the port	7
4.2 Time limit to submit the declaration of the use of the port	8
4.3 Options to transmit the declaration of the use of the port	9
4.4 Documents to be submitted.....	9
4.5 Calculation of the port fees and charges if Port Users do no co-operate.....	9
4.6 Persons authorised to accept service.....	10

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 of 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 and/or 3), whereby 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) and emission Stage III a and Stage V respectively set out in the NRMM Regulation (non-road mobile machinery).

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; adequate proof of such circumstances must be provided. Watercrafts not fitted with engines are classified in emissions category 2; no special proof is required.

In so far 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 its period of use, type of use or intensity of use 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. Moving a watercraft/watercraft convoy to another berth does not count as interruption of the berth time under one 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 operated by the HPA 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 of 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 of the use of the port**). Such information includes, for example, arrival and departure time, the tariff chosen in accordance with 4.1.1 and all data which the HPA collects as laid down in the German Traffic Statistics Act [VerKStatG] and the Hamburg Port Traffic Ordinance [HVO], valid as amended. 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.

If push convoys and/or tug convoys use the port, Port Users in command of the self-propelled watercraft must submit a separate declaration of 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 4.6.) 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 **prior to the expiry** of the period of use covered under the 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 be charged **double the eALG** for the period of use the additional use has been established for, however at least for 3 calendar days.

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

The declaration of the use of the port must be transmitted to the HPA immediately upon each arrival and each departure, latest however within 7 working days. It is deemed to have been received **late** if it is submitted within 28 days. If a declaration of the use of the port is submitted only after 28 days, it is deemed **not to have been submitted at all**.

Port Users under these Special Terms and Conditions - Inland Shipping, who book the city tariff, must submit a declaration of the use of the port at the beginning of each calendar year independent of arrival or departure, latest however on the seventh day of the calendar year they use the port.

If Port Users do not observe the time limit, other fees and charges as set forth in item C of the Schedule of Fees and Charges (penalties, processing fee) will be charged.

4.3 Options to transmit the declaration of the use of the port

Port Users can use the following options to transmit the declaration of the use of the port:

a. *Electronic declaration of the use of the port*

The HPA runs ELBA, a web portal that Port Users can access at <https://www.hamburg-port-authority.de/en/waterway/inland-shipping/>. From 2020 onwards, the HPA plans to accept declarations and tariff choices only if they have been submitted electronically via the ELBA portal.

b. *Manual declaration of the use of the port*

Up until the end of 2019 Port Users can use the notice of arrival/departure form to submit their declaration of the use of the port ([https://www.hamburg-port-authority.de/fileadmin/user_upload/Informationsblatt_-_englisch.pdf]). Port Users who use the form to submit their declaration of the use of the port will be charged a processing fee per each submission as set out in the Schedule of Fees and Charges.

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 [*Luftreinhaltendachweis*] 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.
- 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 level of penalty 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).

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 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.