
General Terms and Conditions Applicable to Civil-Law Agreements on the General Use of the Port of Hamburg

General Terms and Conditions of the Hamburg Port Authority, a public-law institution, applicable to civil-law agreements on the general use of the port of Hamburg, effective from 1 January 2012

Notice:

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

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1 Area of Validity of the General Terms and Conditions

1.1 Statutory basis

With the Hamburg Port Authority Act (HPAG) of 29 June 2005 (HmbGVBl. S. 256, Hamburg Law Gazette and Official Gazette, page 256) the Free and Hanseatic City of Hamburg has established the Hamburg Port Authority as a public-law institution having legal capacity and entrusted it with the development, expansion and management of the port of Hamburg, including the building of the required public infrastructure for all port users, the settlement of companies and the leasing of port plots of land.

According to article 12 (4) HPAG the Hamburg Port Authority is entitled to impose fees in as far as services are rendered based on contractual agreements.

1.2 Subject matter of the General Terms and Conditions

The use of the water areas of the port of Hamburg ("**port area**") by port users and the use of other services, in particular the use of deviation dolphins and the acquisition of ship data and ship movement data is based on a contract under civil law between the Hamburg Port Authority and the relevant port user within the meaning of sub-section 1.4 hereof.

These General Terms and Conditions apply to this contract in addition to the public-law provisions governing the use of the port, valid as amended, in particular in addition to

- the Federal Waterway Act and the ordinances based on it,
- the Port of Hamburg Traffic and Navigation Act and the ordinances based on it,
- the Hamburg Water Act and the ordinances based on it as well as the regulations declared to be applicable in the aforementioned provisions,
- the Port of Hamburg Safety Act and the ordinances based on it,
- Regulation (EC) No. 725/2004 of the European Parliament and the Council of 31 March 2004 on enhancing ship and port facility security,
- the Hamburg Act on the Disposal of Ship and Cargo Wastes (Hamburg Act on the Disposal of Ship Waste) and the ordinances based on it.

Subject matter of the civil-law contract on the use of the port and these General Terms and Conditions is the payment of **port fees** and **berth occupancy charges** in accordance with the "**Schedule of Port Fees and Charges**" attached to these General Terms and Conditions as Annex 1.

Fees for services rendered in connection with the use of the port (e.g. annual port dues, wharfage and berthage fees) are imposed in accordance with the Schedule of Port Fees and Charges applicable in the port of Hamburg. Charges for the use of bridges and locks are imposed in accordance with the general terms and conditions of use of bridges and locks.

Furthermore the Hamburg Port Authority imposes (administration) fees in accordance with article 12 (1) HPAG for the performance of official acts and for unsuccessful objection proceedings regarding the application to an authority to reconsider an administrative act on the basis of further fee schedules of the Free and Hanseatic City of Hamburg.

1.3 Publication of the General Terms and Conditions

These General Terms and Conditions apply to the use of the port by watercrafts. The General Terms and Conditions can be inspected at the premises of the Hamburg Port Authority, Neuer Wandrahm 4, 20457 Hamburg as well as on the website of the Hamburg Port Authority (www.hamburg-port-authority.de). They will be sent to the shipping companies, agents and brokers operating in the port of Hamburg.

1.4 Formation of the contract and contract parties

The contract on the use of the port comes into effect once the port area is entered or the port facilities are used or ship data and ship movement data collected by the Hamburg Port Authority are acquired. Parties to the contract on the use of the port are the Hamburg Port Authority on the one hand and

- the charterer,
- the shipping company,
- the owner,
- the ship chandler,
- any other natural or legal entity using the respective watercraft without being the charterer, shipping company, owner or ship chandler as well as
- a potential third party who arranges for someone to use the port and who owes the port fees
- the acquirer of ship data and ship movement data

(individually or collectively called the “**port user(s)**”) as joint and several debtors on the other hand.

Notwithstanding the relevant provisions, in particular the public-law provisions mentioned in subsection 1.2 hereof, the contract on the general use of the port is exclusively governed by these General Terms and Conditions.

Terms and conditions put forward by a port user which are in conflict with or deviate from these General Terms and Conditions will not be recognised and therefore will not become part of the content of the contractual relationship. This also applies to such matters as may be set forth in the terms and conditions of a port user which, however, do not form part of these General Terms and Conditions.

2 Interpretation and Definitions of Terms

2.1 **Port area** includes all

water areas of the port of Hamburg within the meaning of article 1 (1), sentence 1, (2) and (3) Port of Hamburg Traffic and Navigation Act, the river Bille and its canals downstream the river Bille pumping station as well as the ports of Oortkarten and Zollenspieker.

2.2 **Port use** means

the use of the port area by watercrafts.

2.3 **Call** means

entering of the port area by a watercraft.

2.4 **Facilities** means

shipping terminals and quay berths as well as landing and operating facilities.

2.5 **Seaborder** means

the seafaring border as defined in article 1 Flaggenrechtsverordnung [German Law of the Flag].

2.6 **Watercrafts** are

ocean-going vessels and inland barges, harbour crafts, sports boats, floating equipment and other floating bodies which are generally used for transport. Crafts also include seaplanes and non-water-displacing crafts.

2.7 **Ocean-going carriers** are

(water)crafts which have passed or will pass the seaborder.

2.8 **Inland waterway crafts** include

(water)crafts whose port of departure and port of destination are located on this side of the seaborder.

2.9 **Harbour crafts** are

(water)crafts which move exclusively within the harbour.

2.10 **Cargo vessels** are

ships the profit-making purpose of which is the transport of all kinds of cargo, irrespective of the fact whether cargo is actually transported or handled.

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- 2.11 **Open-top container ships** are vessels which carry their entire cargo load in containers and which are constructed like an open "U". They are fitted with a double bottom and high-sided erections without hatch covers on the upper deck and without a complete deck above the moulded draught. The open container stowage area must occupy at least 66.7% of the total hatchway clear opening area.
- 2.12 **Passenger ships and cruise ships** are ships the profit-making purpose of which is the transport of persons, irrespective of the fact whether persons are actually carried or there is a change of passengers. These ships transport cargo regularly only to provide for their passengers.
- 2.13 **Sports boats** are ships used for sporting and recreation purposes, including crafts operated commercially for the purpose of training people in handling sports boats.
- 2.14 **Traditional ships** are crafts as defined in article 2 (14) of the Ordinance on Traffic in the Port of Hamburg and on other Water Bodies.
- 2.15 **Other ships** are all ships, vessels, carriers, crafts and boats not mentioned in the above sub-sections 2.10 – 2.13 such as, for example, deep-sea and rescue tugboats, anchor-handling tugboats, crane ships, drilling ships, excavators, pushboats.
- 2.16 **Shipmaster** means every shipmaster of a craft/carrier or every person otherwise in charge of the safety of a craft/carrier.
- 2.17 **Gross tonnage** (GT) refers to the cubic capacity of a craft/carrier and/or the measurement result determined based on the International Convention on Tonnage Measurement of Ships ("London Convention") of 23 June 1969 (BGBl. 1975 II S. 67; Federal Law Gazette 1975 II, page 67). The GT is determined in accordance with the "International Tonnage Certificate (1969)" (subsequently called "ITC 69"). If no "ITC 69" is submitted, the Hamburg Port Authority will determine the GT in a different way.
- 2.18 **Cargo handling** means the loading and discharging of vessels as well as freight containers including the transport of goods to be loaded and discharged at the quay handling terminals, in the sheds, on open/free spaces and other storage places. Handling also includes the embarkment and disembarkment of passengers.
- 2.19 **Floating facilities** means floating equipment not usually meant for transport, in particular docks and jetties. They are considered crafts/carriers if they are used as a means of transfer or as overpasses.
- 2.20 **Shipping areas** refers to the areas mentioned and defined below:
1. **Inland waterway transport**
Traffic up or down the river Elbe from Hamburg, including flowing-in rivers and canals up to the next seaborder or navigation limit
 2. **North Sea/Baltic Sea traffic**
Traffic from and to Hamburg from and to ports within the North Sea and Baltic Sea areas as well as from and to Norway, Great Britain, the Faeroe Islands, Ireland and the French Coast down to the Spanish border at the Bay of Biscay
 3. **Overseas traffic**
All other traffic
- 2.21 **Types of transport** refers to the modes mentioned and defined below:
1. **Liner service** refers to regular, not just sporadic, general traffic from and to Hamburg, which runs and is proven running according to a published timetable within a defined shipping area. The ports of call or port groups must be listed by name in the timetable. For the purpose of this provision timetables are the sailing times as per the DVZ shipping list, shipping line timetables and sailing lists published in the shipping business.

The respective liner service is operated by a shipping company that accepts break-bulk cargo bookings at liner service conditions and liner service rates in all ports or port groups which are called in accordance with the sailing schedule and transports these goods.

2. **Tramp vessel service** refers to traffic which is not covered by liner service.

2.22 A **deviation dolphin** is a pile rammed into the harbour bottom to determine and compensate for the magnetic deviation/declination of ships' compasses.

2.23 **Ship data and ship movement data** are:

data on the ship's name, length, gross tonnage, etc. ("ship data") and on the ship's position, arrival time, etc. ("ship movement data") from the ship data processing system of the Hamburg Port Authority. The data can be obtained via the internet against payment of a fee.

2.24 The **climate component** is

a basis of assessment to calculate the port fees. The climate component is a discount introduced to promote the deployment and operation of ships that are especially low on emissions, climate and environmentally friendly.

2.25 The **Environmental Ship Index (or: ESI)** is

an index value used as a basic parameter for the climate component.

The ESI point scheme ranges from zero to 100, whereby 'zero' represents the baseline value that corresponds to the mandatory limits of the pollutants as defined in the provisions of the applicable IMO regulations and '100' represents the uppermost value if a ship emits none of the pollutants defined in the applicable IMO regulations.

2.26 The **port fee declaration** is

the declaration to be made by port users listing all data needed to calculate the port fees as well as all data that the HPA collects in accordance with the Verkehrsstatistikgesetz (VerKStatG) [German Traffic Statistics Act] as amended. The data to be submitted by port users are listed in the "port fee declaration" form published by the HPA on its internet pages. There are several options and forms available to transmit the declaration.

Port users are obligated to submit a port fee declaration each time a cargo vessel, passenger ship or cruise ship calls at the port of Hamburg. This obligation applies irrespective of handling volumes, passenger transports or potential tariff exemptions.

2.27 The **port dues office** is

the special office of the HPA's invoice and receivables management department that processes port fee declarations, applications for rebates and other tariff inquiries.

3 Port Fees and Charges

3.1 Obligation to pay port fees and exemptions

Notwithstanding the obligation to pay fees imposed under public law for the purposes of sub-section 1.2 hereof, the user of the port has to pay a fee for the use of the port in the form of port fees, berth occupancy charges and / or other fees and charges pursuant to the Schedule of Port Fees and Charges (individually or collectively also called "**port fees**").

Watercrafts using the port that do not serve profit-making purposes are exempted from paying these fees unless otherwise stated in the Schedule of Port Fees and Charges. In particular, the use of the port is free of charge for marine crafts, crafts of non-profit institutions and research ships.

3.2 Debtor of the port fees

Debtor of the port fees is each and every port user. If several parties are liable to pay, they will always be liable as joint and several debtors. Any user not working/operating in the port of Hamburg is obligated to name a person authorised to accept service (shipping company, agent, broker or similar natural or legal entities) working/operating in the port of Hamburg and to authorise this person to process the payments due for the use of the port and pay the Hamburg Port Authority. The Hamburg Port Authority is entitled to

invoice the port fees to be paid by the port user to the person named and authorised by the port user to accept service.

3.3 Other claims of the Hamburg Port Authority

Claims the Hamburg Port Authority may have against a port user which arise out of or in connection with the use of the port for other legal reasons remain unaffected by the obligation to pay port fees.

3.4 Amount of the port fees / Schedule of Port Fees and Charges

The amount of the port fees due is defined in the Schedule of Port Fees and Charges, valid as amended, which forms the basis of each contractual relationship between the Hamburg Port Authority and the port user. Changes to the schedule of fees and charges are governed by sub-section 1.3 hereof.

Calculation method: When calculating the port fees and charges, the HPA uses up to four decimal places within the respective sub-items and, to close the sub-item, the HPA rounds off to two decimal places each in accordance with commercial rounding practices. If several sub-items combine, the procedure will be applied to each sub-item. Potential rebates on a percentage basis will be rounded off to the respective amount with two decimal places. Afterwards the HPA will again round off to two decimal places as per standard commercial practice.

3.5 Obligation to pay value-added tax

Port fees are fees and charges as defined in article 10 (1) Umsatzsteuergesetz (UStG) [German Value Added Tax Act]. The debtor of the port fees is therefore obligated to pay value-added tax in addition in as far as the services rendered are subject to value-added tax.

3.6 Calculation basis of the port fees

If the amount of the port fees to be paid is based on the load-carrying capacity of watercrafts and if these crafts are measured based on their cubic capacity, or if the amount of the port fees to be paid is based on the cubic capacity and the craft is measured based on its load-carrying capacity, then one cubic metre of net cubic capacity or one and a half cubic metres of gross cubic capacity are equivalent to one tonne of load-carrying capacity and one net tonnage or one and a half gross tonnages are equivalent to three tonnes of load-carrying capacity.

From 01 July 2012 onwards, the Hamburg Port Authority will calculate the port fees based not only on the gross tonnage but for cargo vessels it will also base on the weight in tonnes (gross) of the cargo handled in the port of Hamburg ("handling component"). To enable the HPA to do so, port users will have to supply additional data.

3.7 Transmission of relevant data / reporting criteria (port fee declaration)

Port users are obligated to prepare a "port fee declaration" for cargo vessels as well as for passenger ships and cruise ships (see sub-section 2.2.26 hereof). The port fee declaration has to be submitted, fully completed and well legible, to the Hamburg Port Authority, port dues office, immediately after leaving the port area, latest however within one week upon departure, whereby port users must use the latest form / the respective layout as published on the internet pages of the Hamburg Port Authority (www.hamburg-port-authority.de).

Most likely from 01 July 2012 onwards, port users may submit the port fee declaration via DAKOSY AG or a web portal provided by a third party commissioned by the HPA. The HPA reserves the right to determine the exact time when these transmission options are available. Annex 2 to these General Terms and Conditions contains detailed information on the transmission options and procedures.

Once the web portal operated by the HPA is fully available, the HPA will charge an administration fee of 0.5% of the port fees calculated, however at least EUR 10.00 and maximally EUR 30.00, for the processing of port fee declarations that have not been submitted electronically using one of the aforementioned options. The administration fee will however not be charged before 01 October 2012.

In the event of doubt port users have to prove, at their own expense, that the item of the Schedule of Port Fees and Charges their calculation is based on corresponds to the classification regulations. This is usually done by submitting a copy of the

- tonnage certificate and,
- for ships carrying liquid bulk cargo, a copy of a valid, fully completed IOPP certificate, including attachments.

If port users do not meet their obligation to submit the required documents, the Hamburg Port Authority will calculate the port fees based on the information it has at hand; ships carrying liquid bulk cargo will be treated as oil tankers and the port fees will be calculated accordingly.

In addition, the Hamburg Port Authority is entitled to request actual unloading and loading volume certificates, manifests, ship drawings or other appropriate documentation.

3.8 Non-submission of the port fee declaration

If port users have not submitted the port fee declaration at all or not in full upon one week after leaving the port area of the Hamburg Port Authority, they will be sent an initial reminder in writing to submit the port fee declaration in full within the deadline mentioned therein.

If port users do not submit the port fee declaration within the deadline set in the initial reminder, a second reminder in writing will be sent to them. In addition, due to not having met their obligation to co-operate, port users are liable to pay to the Hamburg Port Authority a penalty in accordance with the schedule of fees and charges, unless they are not responsible for the non-submission of the port fee declaration. The penalty will be charged separately each and every time port users fail to meet their obligation to co-operate.

If port users do not submit the port fee declaration within the deadline set in the second reminder, the Hamburg Port Authority will calculate the port fees based on the ship information available to the Hamburg Port Authority.

4 Port Fee Reductions

4.1 Prerequisite for being granted additional-traffic reductions for cargo vessels

The port fees for cargo vessels are reduced retrospectively – except for traffic of the price category 33 “ConRo ships” - for the respective calendar year for any additional traffic movements which the port user has towards the Hamburg port area within one calendar year compared with the average traffic movements of the two previous calendar years (reference period) due to the use of additional or bigger ships (“additional traffic movements”), if

- a) in the overseas traffic category an additional 300,000 GT have been achieved due to the use of bigger ships or if at least 8 additional calls have been made;
- b) in the North Sea/Baltic Sea traffic category an additional 60,000 GT have been achieved due to the use of bigger ships or if at least 20 additional calls have been made.

If several port users merge as set forth in the Law on the Transformation of Companies, the traffic movements of the port users that form part of the merger are determined and added up for the reference period prior to the merger in order to determine if the additional-traffic requirements have been met. The additional traffic includes any traffic movements which the port users had towards the port of Hamburg. With regard to the previous years to be taken into account, traffic movements of potential legal predecessors also have to be included.

4.2 Calculation of additional-traffic reductions for cargo vessels

If the requirements regarding a reduction in port fees have been met, the port fees for the additional-traffic movements of the previous calendar year payable or paid pursuant to the Schedule of Port Fees and Charges will be reduced to the extent the traffic movements of this calendar year, determined on the basis of the gross tonnage, exceed the average traffic movements of the two previous calendar years, maximally however by 50% of the port fees due without the reduction for additional traffic movements.

The calculation only takes into account the additional traffic that is below the cap listed in the special tariff 41 of the Schedule of Port Fees and Charges.

4.3 Prerequisite for being granted and calculation of frequency reductions in the price category “cruise ships”

Cruise shipping companies will be granted, in retrospect, a 10% reduction in the port fees payable or paid in accordance with the Schedule of Port Fees and Charges on all calls made within the relevant calendar year from the ninth call onwards ships of their cruise ship fleet make.

From the twelfth call onwards the reduction applicable to all calls within the relevant calendar year is 15%.

4.4 Prerequisite for being granted and calculation of frequency reductions in the price category “ConRo ships”

Shipping companies will be granted, in retrospect, a reduction in the port fees payable or paid in accordance with the Schedule of Port Fees and Charges from the one-hundredth call onwards vessels of their RoRo container ship fleet make within one calendar year. Only the calls made after the hundredth call will be calculated as if they were classified in the tariff category “car carriers”.

4.5 Assertion of a reduction in port fees

In order to be granted a reduction in port fees in accordance with sub-sections 4.1 to 4.4 hereof, the port user has to notify the Hamburg Port Authority in writing. The notification should refer to movements of the previous calendar year and must reach the Hamburg Port Authority between January 1st and May 31st. It should state all the facts proving that the requirements for a reduction in port fees have been met. If several port users merge, the application must, in particular, contain detailed information about the traffic movements of the port users involved covering the two previous calendar years (reference period).

4.6 Rebates to reward climate and environmental friendliness

To protect the climate and to improve the quality of life of Hamburg’s citizens, the HPA plans to introduce a climate component so to promote the voluntary, environmentally conscious behaviour of port users.

For this purpose, the HPA is reducing the port fees for ships that are especially low on emissions taking into account the climate component – Schedule of Port Fees and Charges, Part A, special tariff 51.

Basis of assessment

To determine the environmental performance of a ship, the so-called Environmental Ship Index (ESI) will be based on.

In order to be eligible for a reduction in port fees on the basis of the climate component, the relevant port user needs to have the respective ship registered in a database established by the IAPH.

Application procedure

Interested users of the port can register their respective ship in a database maintained by the global umbrella organisation of port administrations, IAPH (International Association of Ports and Harbours), within the work scope of the WPCI (World Ports Climate Initiative), on a website (ESI website) at www.environmentalshipindex.org or www.wpci-esi.org, for example. The registration of the respective ship in the database mentioned above will not constitute a contractual relationship with the HPA. Rather, by registering their ships the respective users of the port will enter a contractual relationship exclusively with the IAPH.

By entering the information in the database of the IAPH (“ESI website”) mentioned above port users as the potential beneficiaries of the incentive authorise the HPA to access the information they voluntarily entered and revealed on the site.

At the beginning of each quarter, the HPA as the grantor of the incentive will access the information stored there and principally use the data until they are updated again. It is not necessary to submit a separate application or mention the data separately in the port fee declaration to be able to enjoy these incentives.

Verification of the data submitted

The beneficiary of the incentive authorises the HPA or third parties commissioned by the HPA to inspect on board the documents that had to be submitted to be eligible for the incentive.

The ESI scores stated by the beneficiaries of the incentive may be verified by the HPA at any time within the framework of audits. If the ESI scores determined within the framework of an audit deviate from the ESI scores registered with the IAPH, the HPA will inform the IAPH accordingly. The IAPH is entitled to remove the ship concerned from its website in accordance with the conditions stipulated by the IAPH. If the HPA does not receive any new ESI scores for the affected beneficiary of the incentive, the HPA will not take into account any ESI scores when determining the port fees.

Limitation of liability

The contents and efficiency of the websites are the responsibility of the respective operator. Under no circumstances can the HPA be held liable for any financial losses, consequential or indirect damages arising in connection with the quality and efficiency of the ESI websites and the calling up of ESI scores, in particular it cannot be held liable for lost profits, savings not realised, loss of production, interruptions of business, loss of information and data as well as loss of interest on the grounds that the websites could not be accessed. In other respects, section 7 of these General Terms and Conditions applies.

Termination

The HPA may temporarily stop the continuation of or permanently terminate the incentive scheme or the extent of the incentive at any time for any reason. This may in particular be the case if the IAPH stops offering the website, different index values or assessment criteria are based on or if potential budgets, originally reserved for this particular incentive, are depleted early.

4.7 Rebates in the event of special circumstances

The port fee may be reduced for factual reasons in the event of special circumstances. Factual reasons are in particular handling particularities in connection with the cargo to be handled (in particular food shipped as bagged cargo).

It is at the discretion of the Hamburg Port Authority to decide if a rebate will be granted. A rebate can only be granted if the Hamburg Port Authority is informed in writing immediately upon occurrence of the circumstances justifying an application on factual grounds and proof is submitted, latest however one week after receipt of the port fee or berthage fee invoice. The application for the rebate must be submitted in writing.

4.8 Reimbursements of reductions and potential offsettings

In as far as the port fees actually paid by a port user for a previous calendar year exceed the amount that the port user owes, after a reduction in accordance with this sub-section has been granted, the Hamburg Port Authority will reimburse the port user the amount overpaid. The right of the Hamburg Port Authority to offset this amount against other fees due by the relevant port user remains unaffected.

5 Port Fee Classification Criteria / Assessment Criteria

For cargo vessels as well as passenger and cruise ships using the port and its facilities port fees are charged based on the price categories set forth in the Schedule of Port Fees and Charges.

The price category a ship is assessed in will be determined based on the GT and from 01 July 2012 onwards, cargo vessels will in addition be assessed based on handling volumes pursuant to cargo group classification. The assessment is based on the subsequent criteria.

1. Ships carrying liquid bulk cargo

1.1 Oil tankers

The classification into this category is based on shipping areas independent of the type of transport. Oil tankers are ships which are described as such in Form B, Supplement to the International Oil Pollution Prevention Certificate (IOPP), of the revised Annex I to MARPOL 73/78 (International Convention for the Prevention of Pollution by Oil).

For oil tankers which are described as such in sub-items 1.11.1 to 1.11.5 of the aforementioned Form B and which are double-hulled, the GT component of the port fees will be measured based

on the reduced GT if certificates have been submitted that prove the reduced GT accordingly (see Annex "Schedule of Port Fees and Charges", special tariff 42).
In particular, these are crude oil tankers, product carriers and combination carriers.

1.2 Ships carrying other, mostly liquid bulk cargo, chemicals and liquified gases in bulk

The classification into this category is based on shipping areas independent of the type of transport.

This category comprises, for instance, cargo vessels carrying chemicals, gases and other liquid cargo, which are not classified as "oil tankers" and predominantly carry liquid bulk cargoes.

In particular these are ships predominantly carrying liquid bulk cargo which

- have been issued an IOPP certificate in accordance with Form A (Record of Construction and Equipment for Ships other than Oil Tankers), or
- are subject to the Regulations for the Prevention of Pollution by Noxious Liquid Substances in Bulk in accordance with the revised Annex II to MARPOL 73/78 and the International Bulk Chemical Code (IBC Code) respectively, or which
- are subject to the IGC Code (International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk).

2. Ships mostly carrying dry bulk cargo / bulkers

The classification into this category is based on shipping areas independent of the type of transport. This category comprises, for instance, cargo vessels carrying:

- Suction goods / agri-bulk (e.g. oil seeds, fertiliser, grain/cereals)
- Grab goods (e.g. coal, ore, scrap metal)
- Different types of bulk goods, e.g. oil/bulk/ore – ships (OBO) if the goods are predominantly dry.

3. Break bulk cargo vessels, passenger ships, cruise ships and other carriers

3.1 Full container ships, liner service

Classification is based on shipping areas.

In order to be classified into this category, the ship must be fully equipped with container cell guides.

For open-top container ships, the GT component of the port fees is calculated based on the reduced GT measurement if the ITC submitted shows the reduced gross tonnage accordingly (special tariff 45 pursuant to the Annex "Schedule of Port Fees and Charges").

3.2 Car carriers

Classification is based on shipping areas.

In order to be classified into this category, ships must be hulled almost completely. Furthermore it is crucial that the cargo of these ships is discharged or loaded exclusively by rolling it through bow ports, side doors or stern flaps. These vessels are fitted with closed decks that normally are not sub-divided and generally run the entire length of the ship.

The type-relevant prerequisites are met, for example, by car carriers (PCC (Pure Car Carrier) and PCTC (Pure Car and Truck Carrier)).

3.3 RoRo container ships (ConRo)

Classification is based on shipping areas.

In order to be classified into this category, ships must be less fully hulled than car carriers and they must be equipped with at least 3 RoRo loading decks, one on top of the other. Furthermore it is crucial that the cargo of these ships is handled partly through bow ports, side doors or stern flaps and it is also important that containers or other break bulk cargo are discharged or loaded vertically (LoLo procedure) with deck or wharf cranes.

The type-relevant prerequisites are met, for example, by RoRo container ships (ConRo carrier) fitted with container cell guides below deck and/or on deck.

3.4 Other RoRo ships / multi-purpose carriers

Classification is based on shipping areas.

In order to be classified into this category, ships must be less fully hulled than car carriers and ConRo ships and/or they should be fitted with utmost 2 RoRo loading decks, one on top of the other. Furthermore it is crucial that the cargo of these ships is handled partly through bow ports, side gates or stern flaps and it is also important that other break-bulk cargo is discharged or loaded vertically (LoLo procedure).

The type-relevant prerequisites are met, for example, by:

- Heavy-cargo carriers with RoRo facilities
- ConRo vessels with just one or two RoRo loading decks, one on top of the other

3.5 Combined passenger and RoRo ferries (RoPAX), liner service

Classification is independent of shipping areas.

In order to be classified into this category, ships must be hulled almost completely. As a shuttle service the ship regularly calls just one other port and regularly transports cargo that can be transferred fast as well as persons and rolling goods, inclusive of rail-bound waggons to cross waterways.

3.6 Passenger ships / cruise ships

In order to be classified into this category it is crucial that the profit-making purpose of ships is the transport of persons, independent of the fact whether persons are actually carried or if there is a change of passengers. The sea journey itself generally takes place for touristic purposes. These ships transport cargo regularly only to provide for their passengers.

3.7 Other cargo vessels and types of transport

This tariff contains all types of ships and transport that cannot be classified into the categories 1 – 3.6.

Classification is based on types of transport and shipping areas.

This category comprises, for instance:

- Reefer ships: carriers equipped with fastened permanent cooling aggregates
- Heavy-cargo carriers without RoRo facilities
- Pallet carriers or barge carriers
- Oil rig supply ships, unless RoRo ships
- Barges

From 01 July 2012 onwards, the assessment criterion **to determine the handling component** of ocean-going cargo vessels will be their respective handling volumes in tonnes during a call at the port, multiplied by the handling fee allocated to the tariff category. For statistical reasons the cargo groups handled are subdivided within the handling volumes per each tariff category in accordance with the reporting criteria listed below. Handling volumes are measured in tonnes, including packaging material (tare weight), separated into unloading and loading.

As the handling weights of containers (loaded and/or empty) are not reported in full for all units yet, the HPA will base on other data sources until further notice. That is why, when it comes to container handling, average weight values per TEU [twenty foot equivalent unit] apply in the price categories 3.1, 3.3, 3.4 and 3.7. Containers which are shorter than or as long as 20 feet are considered one TEU. Containers longer than 20 feet are considered two TEU.

The average weight in tonnes of one TEU based on to calculate the handling volume is determined based on the volume (sum) and weight of the loaded and empty containers handled in the port of Hamburg in the reference period on the basis of the container weights published by the Statistikamt Nord [statistical office] applicable to this period. The reference period the HPA will base on to determine the average weight from 01 July 2012 onwards is the year of 2010.

Empty containers, which as such are chargeable transshipment goods, will not be accounted for separately in the price calculation yet, they must however be reported for statistical reasons.

The t-to-TEU conversion factor thus determined and to be applied by the HPA is shown in Annex 1, "Schedule of Port Fees and Charges, Part A.2.". The HPA reserves the right to adjust the t-to-TEU conversion factor.

Reporting criteria are the data mentioned in the latest port fee declaration form.

Once the handling component is introduced, cargo groups will be differentiated as follows:

- Liquid bulk cargo
 1. Crude oil, mineral oil products (tonnes)
 2. Chemicals / liquified gases (tonnes)
 3. Other liquids (tonnes)

- Dry bulk cargo
 1. Coal (tonnes)
 2. Iron ores / iron pyrites (tonnes)
 3. Building materials (tonnes) (e.g. grit, sand, stones)
 4. Fertilisers (tonnes) (e.g. potash)
 5. Grain/cereals (tonnes)
 6. Oil seeds (tonnes)
 7. Animal feedstuff (tonnes)
 8. Other bulk cargo (tonnes) (e.g. metal scrap, grab goods)

- Containerised break bulk
 1. Piece, loaded, 20'; tonnes, loaded, 20'
 2. Piece, loaded, 40'; tonnes, loaded, 40'
 3. Piece, empty, 20'; tonnes, empty, 20'
 4. Piece, empty, 40'; tonnes, empty, 40'

- Conventional break bulk / bagged cargoes
 1. Paper (tonnes)
 2. Cellulose (tonnes)
 3. Timber (tonnes)
 4. Tropical fruits (tonnes)
 5. Iron (tonnes) (e.g. pipes)
 6. Vehicles (pieces and tonnes)
 7. Other break bulk / bagged cargoes (tonnes)

6 Terms of Payment, Late Payment, Reminder Fees

6.1 Due date

Payment must be made in full without discount or deduction within 14 days following the date of invoice.

6.2 Damage caused by default

In the event of late payment, the HPA is entitled to charge default interests amounting to at least 8 percentage points above the official basic interest rate published by Deutsche Bundesbank. This does not exclude the right to claim higher compensation for damages caused by default.

6.3 Meeting the obligation to pay

The payment obligation of the port user is considered met only when the Hamburg Port Authority can definitely and finally dispose of the amount. Cheques will not be accepted.

If a direct debit is rejected due to insufficient funds in the port user's account or due to other negligence on the part of the port user, the HPA will charge EUR 5.00 to re-process the direct debit.

6.4 Entitlement to offset / retaining of payments

The port user is only entitled to offset and retain payments against the entitlement of the Hamburg Port Authority to port fees if the counterclaims of the port user are undisputed or have been recognised by declaratory judgement.

6.5 Reminder fees

If the port user delays payment of an invoice, the HPA has the right to charge a reminder fee of EUR 7.00 for each reminder letter sent.

6.6 Lien

In order to secure the entitlement of the Hamburg Port Authority to receive payment of port fees, the Hamburg Port Authority has a legal lien on the relevant ship in accordance with the legal provisions on maritime liens.

6.7 Defence against invoices for port fees and charges

If port users disagree with the invoice amount, they have to raise an objection with the Hamburg Port Authority in writing within one month upon receipt of the invoice. If no objection is made within this period – subject to the subsequent reservation – the invoice is considered accepted. On its invoice the Hamburg Port Authority will specifically point out the objection period and the legal consequences if an objection is not raised within the time limit set.

If port users were unable to comply with the time limit set without any fault on their part, they will have to lodge their objection within two weeks after the problem has been rectified at the latest. Any other statutory claims of the port user with regard to reasonable objections raised after the time limit set has expired remain unaffected.

7 Limitation of Liability

7.1 The port is used at user's own risk. Subject to sub-sections 7.2 and 7.3 hereof, the Hamburg Port Authority as well as its employees, staff, representatives and vicarious agents are solely liable for damages caused by port facilities, the violation of traffic safety obligations or damages which can be attributed to the Hamburg Port Authority in any other way - regardless of the legal nature of the claim asserted and independent of the kind of breach of obligation - if the damages are due to wilfulness and gross negligence.

7.2 In the event of a breach of material contract obligations, the Hamburg Port Authority will be liable for any negligence, limited however to the amount of the foreseeable damage. Material contract obligations are obligations that must be met in order for the contract to be executed properly and which the contractual partner may assume to be met regularly. Claims of the port user arising out of third-party damage claims, claims for lost profits as well as claims for compensation of other pecuniary damages or indirect and consequential damages are excluded.

7.3 The above-mentioned liability limitations and exclusions do not apply to damages caused by injuries to the life, body or health of persons.

7.4 The Hamburg Port Authority cannot be held liable for damages caused by an act of God or the elements.

8 Data Protection

Upon conclusion of the contract the port user agrees that the Hamburg Port Authority may store and keep any port user data obtained in connection with the contractual relationship, in particular data to calculate the port fees collected through the forms, and use them for statistical and planning purposes.

The Hamburg Port Authority will pass on data not made anonymous to third parties only with the consent of the port user concerned.

9 Final Provisions

9.1 Publication

These General Terms and Conditions as well as any subsequent amendments to these General Terms and Conditions will be published as set forth in sub-section 1.3 hereof.

9.2 Invalidity or unenforceability

The invalidity or unenforceability of one or several provisions of these General Terms and Conditions does not affect the validity of the remaining provisions.

9.3 Place of performance

The place of performance for all services to be rendered in accordance with these General Terms and Conditions is Hamburg. The contractual relations between the Hamburg Port Authority and the port user are governed by German law. The exclusive place of jurisdiction for any disputes arising from the contractual relationship between the Hamburg Port Authority and the port user or in connection with it is Hamburg.

10 Effective Date

These General Terms and Conditions come into effect on 1 January 2012. They apply to all contracts on the use of the port concluded on or after that day. Deviating from that, Part A.2. of Annex 1, "Schedule of Port Fees and Charges, Part A", will be effective from 01 July 2012.

Annex 1

Schedule of Port Fees and Charges

to the General Terms and Conditions of the Hamburg Port Authority, a public-law institution, applicable to civil-law agreements on the general use of the port of Hamburg of 1 January 2012

Part A: Port Fees and Charges

For cargo vessels as well as passenger and cruise ships using the port of Hamburg, the river Bille and its canals downstream the river Bille pumping station that

- a) discharge cargo or carry passengers and which have passed the seaborder during the transport
- b) take on cargo or passengers and which will pass the seaborder during the transport,

port fees are to be paid for a period of time of up to five calendar days per each call and per each gross tonnage (GT) in accordance with the price categories listed below. From 01 July 2012 onwards, the port fees due for cargo vessels will additionally be based on handling volumes (tonnes).

A.1.:

Port Fees and Charges, Items 1 to 3.7 – valid for the Period from 01 January 2012 to 30 June 2012

Price		Prices € / GT
1.	Ships carrying liquid bulk cargo	
1.1	Oil tankers	
	11Ü <u>Overseas traffic</u>	0.4546
	11N <u>North Sea/Baltic Sea traffic</u>	0.2161
1.2	Ships carrying other, mostly liquid bulk cargo, chemicals and liquified gases in bulk	
	<u>Overseas traffic</u>	
	12ÜK ~ up to 4,000 GT	0.3074
	12ÜG ~ > 4,000 GT	0.4264
	<u>North Sea/Baltic Sea traffic</u>	
	12NK ~ up to 4,000 GT	0.0963
	12NG ~ > 4,000 GT	0.2018
2.	Ships mostly carrying dry bulk cargo / bulkers	
	<u>Overseas traffic</u>	
	21ÜK ~ up to 4,000 GT	0.3074
	21ÜG ~ > 4,000 GT	0.4264
	<u>North Sea/Baltic Sea traffic</u>	
	21NK ~ up to 4,000 GT	0.0963
	21NG ~ > 4,000 GT	0.2018

Price Category		Price €/ GT
3.	Break bulk cargo vessels, passenger ships, cruise ships and other carriers	
3.1	<u>Full container ships, liner service</u>	
	<u>Overseas traffic</u>	
	31ÜK ~ up to 4,000 GT	0.1201
	31ÜG ~ > 4,000 GT	0.2246
	<u>North Sea/Baltic Sea traffic</u>	
	31NK ~ up to 4,000 GT	0.0342
	31NG ~ > 4,000 GT	0.0673
3.2	<u>Car carriers</u>	
	32Ü <u>Overseas traffic</u>	0.1004
	32N <u>North Sea/Baltic Sea traffic</u>	0.0352
3.3	<u>ConRo ships</u>	
	33Ü <u>Overseas traffic</u>	0.1148
	33N <u>North Sea/Baltic Sea traffic</u>	0.0403
3.4	<u>RoRo / multi-purpose carriers</u>	
	34Ü <u>Overseas traffic</u>	0.1273
	34N <u>North Sea/Baltic Sea traffic</u>	0.0455
3.5	35 <u>Combined passenger / RoRo ferries (Ro/PAX), liner service</u>	0.0569
3.6	36 <u>Passenger ships / cruise ships</u>	0.2236
3.7	<u>Other cargo vessels and types of transport</u>	
	<u>Overseas traffic and tramp vessel service</u>	
	37ÜTK ~ up to 4,000 GT	0.3054
	37ÜTG ~ > 4,000 GT	0.4244
	<u>Overseas traffic and liner service</u>	
	37ÜLK ~ up to 4,000 GT	0.1201
	37ÜLG ~ > 4,000 GT	0.2246
	<u>North Sea/Baltic Sea traffic and tramp vessel service</u>	
	37NTK ~ up to 4,000 GT	0.0963
	37NTG ~ > 4,000 GT	0.2008
	<u>North Sea/Baltic Sea traffic and liner service</u>	
	37NLK ~ up to 4,000 GT	0.0342
	37NLG ~ > 4,000 GT	0.0673

A.2.:

Port Fees and Charges, Items 1 to 3.7 – valid from 01 July 2012

As to the tariffs of the price categories 3.1, 3.3, 3.4 and 3.7, the handling component

- measures the handling volumes of **loaded** containers based on a lump-sum weight of **11.727 tonnes / TEU**. The handling weights of empty containers are included in this lump-sum figure.
- measures in tonnes non-containerised cargo handled.

For the remaining tariff categories that include a handling component handling volumes are measured in tonnes.

Price Category	Components	
	GT	Handling Volumes
	Price in € / GT	Price in € / tonne handled
1.	Ships carrying liquid bulk cargo	
1.1	Oil tankers	
11Ü	<u>Overseas traffic</u>	0.4319 0.0203
11N	<u>North Sea/Baltic Sea traffic</u>	0.2053 0.0085
1.2	Ships carrying other, mostly liquid bulk cargo, chemicals and liquified gases in bulk	
	<u>Overseas traffic</u>	
12ÜK	~ up to 4,000 GT	0.2921 0.0117
12ÜG	~ > 4,000 GT	0.4052 0.0164
	<u>North Sea/Baltic Sea traffic</u>	
12NK	~ up to 4,000 GT	0.0915 0.0043
12NG	~ > 4,000 GT	0.1918 0.0072
2.	Ships mostly carrying dry bulk cargo / bulkers	
	<u>Overseas traffic</u>	
21ÜK	~ up to 4,000 GT	0.2921 0.0117
21ÜG	~ > 4,000 GT	0.4052 0.0164
	<u>North Sea/Baltic Sea traffic</u>	
21NK	~ up to 4,000 GT	0.0915 0.0043
21NG	~ > 4,000 GT	0.1918 0.0072

**Price
Category**

Components		
GT	Handling Volumes	
Price in € / GT	Price in € / tonne handled unless containerised	Price in € / loaded TEU

3. Break bulk cargo vessels, passenger ships, cruise ships and other carriers

3.1 Full container ships, liner service

Overseas traffic

31ÜK	~ up to 4,000 GT	0.1141	0.0147	0.1724
31ÜG	~ > 4,000 GT	0.2134	0.0220	0.2580

North Sea/Baltic Sea traffic

31NK	~ up to 4,000 GT	0.0325	0.0020	0.0235
31NG	~ > 4,000 GT	0.0640	0.0042	0.0493

3.2 Car carriers

32Ü	<u>Overseas traffic</u>	0.0954	0.1225	
32N	<u>North Sea/Baltic Sea traffic</u>	0.0335	0.0629	

3.3 ConRo ships

33Ü	<u>Overseas traffic</u>	0.1091	0.0568	0.6661
33N	<u>North Sea/Baltic Sea traffic</u>	0.0383	0.0200	0.2346

3.4 RoRo / multiple-purpose carriers

34Ü	<u>Overseas traffic</u>	0.1210	0.0816	0.9570
34N	<u>North Sea/Baltic Sea traffic</u>	0.0433	0.0262	0.3073

3.5 35 Combined passenger / RoRo ferries (Ro/PAX), liner service

0.0569	N/A
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3.6 36 Passenger ships / cruise ships

0.2236	N/A
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3.7 Other cargo vessels and types of transport

Overseas traffic and tramp vessel service

37ÜTK	~ up to 4,000 GT	0.2902	0.0265	0.3108
37ÜTG	~ > 4,000 GT	0.4032	0.0289	0.3390

Overseas traffic and liner service

37ÜLK	~ up to 4,000 GT	0.1141	0.0493	0.5782
37ÜLG	~ > 4,000 GT	0.2134	0.0376	0.4410

North Sea/Baltic Sea traffic and tramp vessel service

37NTK	~ up to 4,000 GT	0.0915	0.0079	0.0927
37NTG	~ > 4,000 GT	0.1908	0.0309	0.3624

North Sea/Baltic Sea traffic and liner service

37NLK	~ up to 4,000 GT	0.0325	0.0043	0.0505
37NLG	~ > 4,000 GT	0.0640	0.0098	0.1150

A.3.:

Port Fees and Charges, Special Tariffs, Items 4 bis 7 – valid from 01 January 2012

Special Tariff

Discount on GT portions of the port fee

4. Special Tariff Reductions

41	<u>Cap</u>	
41.1	For ships listed under the price category 3.1 (full container ships, liner service) with a gross tonnage of more than 110,000 GT no port fees are due for the gross tonnage in excess of 110,000 GT.	variable
41.2	For ships listed under the price category 2 (ships carrying dry bulk cargo / bulkers) with a gross tonnage of more than 100,000 GT no port fees are due for the gross tonnage in excess of 100,000 GT.	variable
42	<u>Double-hulled oil tankers</u>	
	For ships listed under the price categories 11 Ü and 11 N the port fees are calculated based on their reduced GT if the ITC submitted proves the reduced GT accordingly. Double-hulled tankers must be certified as such by the state under whose flag the ship is sailing or by any other authorised institution. Proof is to be submitted in the form of a recognised certificate (International Oil Pollution Prevention Certificate - IOPP) issued by the ship safety authority in charge, which states that the ship is double-hulled. The double hull must comply with Regulation 19 of the revised Annex I to the Protocol of 1978 of the International Convention for the Prevention of Pollution From Ships (MARPOL Convention). For oil tankers below the IOPP limit an equivalent certificate must be submitted to prove that the double-hull requirement has been met.	variable
43	<u>Second calls</u>	
43.1	Applicable to ships listed under the price categories 3.1, 3.2, 3.3 and 3.4 as "overseas traffic", as well as ships listed under the price category 3.7 as "overseas traffic and liner service" if they call again at Hamburg within 2 calendar weeks - coming from an interim journey in the North Sea / Baltic Sea area - and had to pay port fees for their previous call as per one of the price categories mentioned above.	50%
43.2	Ships listed under the price categories 1 and 2 will be granted a reduction in port fees if they call Hamburg again within 5 calendar days upon their leaving the port of Hamburg. The calculation of the time limits is based on the provisions laid down in sections 187 ff BGB [German Civil Code]. A reduction will only be granted if the ship has not called any other port for commercial purposes in between and if the debtor who has to pay the port fees is the same.	50%
44	<u>Incentives for passenger ships and cruise ships (price category 36)</u>	
	Calculation method: If a port user meets both the prerequisites to be granted a low-season rebate and a mini-cruise rebate, the mini-cruise rebate will be calculated based on the sub-total reduced by the low-season rebate.	
44.1	" <u>Low-season rebate</u> ": Applicable to ships listed under this price category which call at Hamburg in the periods from October through November or from January through March and had to pay port fees for their previous call.	10%
44.2	" <u>Mini-cruise rebate</u> ": Applicable to ships listed under this price category if they call at Hamburg again and had to pay port fees for their previous call.	
44.2.1	within 5 days (max. 120 hours) between departure and second call, <u>or</u>	20%
44.2.2	within 3 days (max. 72 hours) between departure and second call	40%

		Discount on GT portions of the port fee
Special Tariff		
to item 4	Special Tariff Reductions	
45	Open-top container ships For open-top container ships, the port fees due are calculated based on the reduced GT measurement if the ITC submitted proves the reduced gross tonnage accordingly.	variable
		Discount on GT portions of the port fee
5.	Comprehensive Tariff Reductions	
51	<u>Climate component incentive (environmental and climate friendliness)</u> Based on their ESI (Environmental Ship Index) score ships that call at the port within the score validity period will be entitled to a discount on the port fees actually applicable in accordance with the price list (special tariffs 1 to 45) as mentioned below ESI score 20 up to < 25 = 0.5% discount, maximally € 250 ESI score 25 up to < 35 = 1% discount, maximally € 500 ESI score 35 up to < 50 = 5% discount, maximally € 1,000 ESI score ≥ 50 = 10% discount, maximally € 1,500	variable
		Discount
6.	Tariff Exemption	
61	<u>North Sea resorts traffic</u> Applicable to passenger ships sailing between Hamburg and the German North Sea resorts if their load amounts to less than 10 tonnes – excluding hand luggage and mail.	100%
62	<u>Special fishing boats</u> Fishing boats carrying their own catch only	100%
63	<u>Special port areas</u> Applicable to ships going only to the Neuhöfer Kanal excluding the water area in front of the Neuhöfer Pier.	100%
7.	Penalty in accordance with Sub-Section 3.8 (Failure to submit the Port Fee Declaration)	Fee due
71	The penalty due is 5% of the net invoice amount Minimum fee due Maximum fee due	€ 20 € 600

The special tariffs listed under items 4 and 5 (special and comprehensive tariff reductions) as well as under item 6 (tariff exemptions) and item 7 (penalty) will remain legally effective and in force also after 01 July 2012.

Part B: Berth Occupancy Charges

For cargo vessels as well as passenger and cruise ships using the port of Hamburg, the river Bille and its canals downstream the river Bille pumping station as well as the ports of Oortkarten and Zollenspieker for longer than five calendar days after entering the port area, berth occupancy charges are due for any use in excess of this period of time.

An interruption in the use that lasts less than 24 hours can be taken into account only if the period of use was interrupted for commercial activities and if, upon the request of the Hamburg Port Authority, appropriate proof has been submitted.

The following berth occupancy charges per each GT value apply:

1.	Price Category	Berth Occupancy Fees	Price in € / GT
1.1		Ocean-going vessels for a period of use subject to berth occupancy charges of	
	Li111	~ up to one week, for each 24 hours or part thereof ...	0.0186
	Li112	~ more than one week, for each 24 hours or part thereof ...	0.0311
1.2		Inland barges for a period of use subject to berth occupancy charges of	
	Li121	~ up to two weeks, for each week or part thereof ...	0.0973
	Li122	~ more than two weeks, for the first two weeks charges as per item Li 121; for any further period of use, for each four weeks or part thereof ...	0.6034
2.	Special Tariff	Exceptional cases / discounts There is <u>no</u> obligation to pay berth occupancy charges	
	Li21	Inland barges / ice for inland barges if they cannot leave because of floating ice.	
	Li22	Time in the shipyard applicable to ships for as long as they are in the shipyard for repair work.	
	Li23	Repair work applicable to ships for as long as they remain in the port of Hamburg due to repair work carried out in shipyards or repair shops; the port user has to submit appropriate proof to the Hamburg Port Authority in the form of a certificate issued by the shipyard or the repair shop.	
	Li24	Cap For ships listed under the price category 3.1 (full container ships, liner service) with a gross tonnage of more than 110,000 GT no berth occupancy charges are due for the gross tonnage in excess of 110,000 GT.	
	Li25	For ships listed under the price category 2 (ships carrying dry bulk cargo / bulkers) with a gross tonnage of more than 100,000 GT no berth occupancy charges are due for the gross tonnage in excess of 100,000 GT.	

Part C: Other Fees and Charges

- | | | |
|----|---|------------|
| 1. | Use of public deviation dolphins by ships
for a one-time compensation,
for each GT | € 0.2194 |
| 2. | Electronic communication of ship data and
ship movement data ,
annual fee | € 1,185.00 |

Annex 2

Port Fee Declaration Transmission Procedure

to the General Terms and Conditions of the Hamburg Port Authority, a public-law institution, applicable to civil-law agreements on the general use of the port of Hamburg, effective from 1 January 2012

Following the request of the port industry, the HPA will, in future, take account of handling volumes - and thus the earning power of ship calls - in its Schedule of Port Fees and Charges and consequently participate more in economic cycles. The gross tonnage, which has so far been based on to calculate port fees and charges, will gradually become less important. Instead handling volumes will play a bigger role.

In this context, the procedures to transmit the data required to be stated in the port fee declaration will be to be modernised and adjusted **by 01 July 2012** in order to meet the specific requirements for the handling component to be effective. Test runs are planned before that date.

From 01 July 2012 until further notice users will be able to choose between three different transmission options and procedures respectively to submit their port fee declaration.

The HPA reserves the right to request port users to submit evidence to prove the correctness of the data provided. This applies to all transmission options (see sub-section 3.7 of the General Terms and Conditions). In the event deviations are detected, the HPA will point out such discrepancies to the user of the port and the HPA may demand from the port user, at the user's expense, to furnish the HPA with the original of certain appropriate documents such as actual unloading and loading volume certificates or manifests / manifest data.

From 01 July 2012 onwards, the following specific procedures to transmit the port fee declaration are planned:

1. Data transmission via the data communication system operated by Dakosy AG

By calling the port and by entering their data into the system provided and maintained by Dakosy AG, users of the port who, on the grounds of a separate legal relationship transmit data via the communication system operated by Dakosy AG, authorise Dakosy AG to electronically transmit to the HPA the data ("electronic port fee declaration"). DAKOSY AG does not charge any additional fees for the transmission of the data as regards the existing legal relationship. DAKOSY AG however reserves the right to charge support fees in connection with linking a port user to the system. The target set of data consists of actual unloading and loading volume certificates pursuant to the reporting criteria listed in the port fee declaration as well as other data required to be stated in the port fee declaration (see General Terms and Conditions, sub-sections 2.26 and section 5).

The port user provides such data to DAKOSY AG and authorises DAKOSY AG to transmit them to the HPA. The port user obligates to take suitable measures within his area of responsibility to ensure secure data transmission.

In particular, the user of the port will:

- capture and transmit the data in the format predefined by Dakosy AG so to ensure that they can be read electronically;
- ensure that the data are complete, correct, up to date and free of viruses;
- install reasonable monitoring programmes to monitor electronically transmitted messages and in particular inform Dakosy AG without delay if no acknowledgements of receipt are sent;
- take the required safety-relevant precautions (e.g. Firewalls, anti-virus programmes) and use state-of-the-art encryption and anti-virus software when transmitting data via the internet so to guarantee safe and secure data transmission;
- in his area of responsibility, save the data transmitted such that in the event the message gets lost he will be able to access and call it up again or reconstruct it.

If users wish to participate in this procedure, they must make sure that all the information the HPA requires to be stated in the port fee declaration form is displayed. If port users are unable or do not want to transmit electronically to the HPA all the data required to be stated in the port fee declaration as described in clause 1 above, the port user cannot use this procedure.

Instead the port user will have to send the port fee declaration to the HPA manually (see clause 3 below) or via the web portal (see clause 2 below).

2. Transmission of the port fee declaration via a web portal

If port users are unable or do not want to use the services offered by DAKOSY AG (see clause 1 above), the HPA or a third party commissioned to do so will offer port users a web portal they can use to transmit the port fee declaration.

The HPA will register and administer users. **The terms and conditions of use of the web portal** will be published on the web portal.

The port user obligates to take suitable measures within his area of responsibility to ensure secure data transmission.

In particular, the port user will:

- capture and transmit the data in the format predefined by Dakosy AG so to ensure that they can be read electronically;
- ensure that the data are complete, correct, up to date and free of viruses;
- install reasonable monitoring programmes to monitor electronically transmitted messages and in particular inform the HPA without delay if no acknowledgements of receipt are sent;
- protect authorisations to use or access allocated to users or their staff as well as identification and authentication safeguards against third-party access and not disclose them to unauthorised third parties; if due to a change in staff or restructuring measures there is a risk that access data of port users may be misused or used without authorisation, port users must inform the HPA accordingly without delay so that the HPA can change the access data.
- Port users' other obligations to co-operate will be published on the web portal.

The HPA will publish the latest information on the development of the web portal on its internet pages.

3. Manual transmission of handling volume data

As an alternative to the electronic transmission of the port fee declaration as laid down in clause 1 or clause 2 above, the HPA will offer port users the option to submit a "manual" port fee declaration until further notice. The port fee declaration can be submitted as mentioned in sub-section 3.7 of the General Terms and Conditions (by e-mail, fax or by post).

The port user must ensure that the port fee declaration contains all the information required by the HPA to be stated on the form - in particular information required from 01 July 2012 with regard to the additional assessment criterion, the handling component.

In the course of the first six months of 2012, the HPA will adjust the form published on the internet and inform all port users accordingly.