



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

General Terms and Conditions (“AGB”) of the Hamburg Port Authority (“HPA”), a public-law institution, applicable to civil-law agreements on the general use of the Port of Hamburg, effective as of 1 January 2017

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

Table of Contents

1	Area of Validity of the AGB	4
1.1	Statutory basis.....	4
1.2	Subject matter of the AGB	4
1.3	Publication of the AGB.....	5
1.4	Formation of the contract and contract parties.....	5
1.5	Interpretation and Definition of Terms	5
1.5.1	General information.....	5
1.5.2	Type of traffic classified by shipping area.....	6
1.5.3	Type of service by liner service / tramp service as well as day-trip traffic.....	6
1.5.4	Watercrafts meant for movement classified by registration, design and purpose of use	7
1.5.5	Floating facilities and pontoons not usually meant for movement	8
1.5.6	Bases of assessment and bases for rebates and discounts on port fees and charges	8
1.5.7	Reporting requirements	9
1.5.8	Notification offices	10
1.5.9	Examples for invoice items and other chargeable services rendered by the HPA.....	10
2	Port Fees and Charges at a Glance	10
2.1	Obligation to pay port fees and charges / exemptions	10
2.2	Debtor of the port fees and charges.....	11
2.3	Other claims of the Hamburg Port Authority	11
2.4	Amount of port fees and charges payable / Schedule of Port Fees and Charges.....	11
2.5	Obligation to pay value-added tax.....	11
2.6	Basis to calculate the port fees and charges	11
2.7	Duty to co-operate: transmission of the relevant data / reporting criteria	12
2.7.1	“Port fee declaration” for seagoing vessels and watercrafts	12
2.7.2	“Notice of arrival” and “notice of departure” / declaration of the use of the port to be submitted for inland vessels, vessels operating in the port and inland watercrafts when they enter or leave the port area	13
2.7.3	Additional duty to notify applicable to watercrafts that operate in the port area.....	14
2.7.4	Duty to notify applicable to seagoing cruise ships	14
2.8	Penalties in the event of a breach of duty to notify.....	14
3	Rebates and Discounts on Port Fees and Charges	15
3.1	Discounts	15
3.1.1	Discounts to reward particularly environmentally conscious behaviour	15
3.1.2	Reductions in the event of special circumstances.....	17
3.2	Rebates	17
3.2.1	Additional-traffic rebates.....	17
3.2.2	Frequency rebates	18
3.2.3	Transshipment rebate	18
3.2.4	Application to be granted reductions	19
3.3	Refund of reductions and potential offsetting of annual dues.....	20
4	Classification Criteria / Assessment Criteria applicable to Port Fees and Charges.....	20
4.1	Port fees	20
4.1.1	Assessment criteria	20
4.1.2	Reporting criteria.....	23
4.2	Demurrage Charges	23
4.3	Annual port dues	24

4.4	Berth fees and annual berth fees	24
4.5	Combined fee (planned to be introduced in 2018)	24
4.6	Other fees and charges	24
4.6.1	Individual berth services.....	24
4.6.2	Reimbursement of expenses	25
5	Terms of Payment, Late Payment.....	25
5.1	Due date	25
5.2	Meeting the obligation to pay	25
5.3	Entitlement to offset / retain payments	25
5.4	Late payment	25
5.5	Lien.....	25
5.6	Defence against invoices for port fees and charges.....	25
6	Limitation of Liability	26
7	Data Protection.....	26
8	Final Provisions, Entry into Force	26
8.1	Publication	26
8.2	Invalidity or unenforceability	26
8.3	Place of performance, governing law, jurisdiction.....	26
8.4	Entry into force	26
9	Annex: Schedule of Port Fees and Charges.....	27

Annex: Schedule of Port Fees and Charges

1. Ships carrying liquid bulks

Price category 11: Oil tankers

Price category 12: Ships carrying other, mostly liquid bulks, chemicals and liquefied gases

2. Ships mostly carrying dry bulks

Price category 21: Bulkers

3. General cargo vessels, passenger / cruise ships and other commercial ships

Price category 31: Full container ships in scheduled liner service

Price category 32: Car carriers

Price category 33: RoRo container ships (ConRo)

Price category 34: Other RoRo ships / multi-purpose carriers

Price category 35: Combined passenger and RoRo ferries (RoPAX) in scheduled liner service

Price category 36: Passenger ships / cruise ships

Price category 37: Other cargo vessels and types of traffic

Price category 38: Other commercial watercrafts / offshore shipping

Price category 39: Sports and recreational boats / yachts

Price category: Inland vessels and watercrafts deployed in the port area

1 Area of Validity of the AGB

1.1 Statutory basis

The Hamburg Port Authority (subsequently referred to as the “**HPA**”) was established as a public-law institution with legal capacity by the Free and Hanseatic City of Hamburg under the Hamburg Port Authority Establishment Act (HPAG) which entered into force on 29 June 2005 (HmbGVBl. S. 256, Hamburg Law Gazette, page 256). Pursuant to the Act the HPA’s duty is to develop, expand and manage the Port of Hamburg. This includes the provision of the required public infrastructure to all Port Users, industrial location management and the leasing of port plots of land to third parties.

According to section 12(4) HPAG the HPA is entitled to impose fees and charges in as far as services are rendered based on contractual agreements.

1.2 Subject matter of the AGB

The use of the water areas of the Port of Hamburg (“**port area**”) by Port Users, the use of the quay facilities, jetties, piers and dolphins operated by the HPA and the use of all other services is based on a contract under civil law between the HPA and the respective Port User within the meaning of sub-clause 1.4 hereof.

These AGB apply to that contract in addition to the public-law provisions governing the use of the port, valid as amended, in particular in addition to

- the Federal Waterways Act and the ordinances based on it;
- the Hamburg Port Traffic and Navigation Act and the ordinances based on it, in particular the
 - Ordinance on the Carriage of Passengers for Consideration [Verordnung über entgeltliche Personenbeförderung]
 - Ordinance on Watercrafts operating in the Port [Hafenfahrzeugverordnung] and
 - Ordinance on the Assistance and Salvage of Seagoing Vessels [Seeschiffsassistenzenverordnung]
- the Hamburg Water Act and the ordinances based on it;
- the Hamburg Port Safety and Security Act and the ordinances based on it;
- the Hamburg Act on the Disposal of Ship and Cargo Wastes (Hamburg Ship Waste Disposal Act) and the ordinances based on it.

Subject matter of the civil-law contract on the use of the port and these AGB is the payment of **port fees, demurrage charges, annual port dues, berth fees** and **other fees and charges** in accordance with the “**Schedule of Port Fees and Charges**” which is attached to these AGB as Annex.

Fees for services rendered in connection with the use of the port (e.g. administrative and usage fees) are imposed in accordance with the Port of Hamburg Scale of Public Fees [Hafengebührenordnung] applicable in the Port of Hamburg. The use of bridges and locks is charged in accordance with the general terms and terms of use applicable to bridges and locks.

Fees/charges payable for the use of other individual services in connection with the use of HPA berths that goes beyond mooring will be imposed by the HPA on a case-to-case basis in line with the type and scope of services rendered. Enquiries should be addressed to the HPA, Property Management, Neuer Wandrahm 4, 20457 Hamburg (immobilienservice@hpa.hamburg.de).

The use of berths and the associated infrastructure by seagoing cruise ships is subject to fees/charges in accordance with the general terms and conditions of Cruise Gate Hamburg GmbH (“CGH”).

Furthermore the HPA imposes fees in accordance with section 12(1) HPAG for the performance of official acts and for unsuccessful objections lodged on the basis of the Fees Act and other Scales of Fees of the Free and Hanseatic City of Hamburg.

More information about other service providers in the port is available at: <http://www.hamburg-port-authority.de/de/hafenkunden/oberhafenamt/Documents/PortInformationGuide.HPA.pdf>.

1.3 Publication of the AGB

The AGB can be inspected at the premises of the Hamburg Port Authority, Neuer Wandrahm 4, 20457 Hamburg, as well as on the website of the HPA (www.hamburg-port-authority.de). The AGB will be sent to the shipping companies, agents and brokers operating in the Port of Hamburg that have business relations with the HPA.

1.4 Formation of the contract and contract parties

The contract on the use of the port becomes effective once a watercraft enters the port area, stays in the port area, or uses the public facilities in the port or services offered such as, for instance, the provision of ship data and ship movement data.

Parties to the contract on the use of the port are the HPA 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
- any 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 sub-clause 1.2 hereof, the contract on the general use of the port is exclusively governed by these AGB.

Terms and conditions put forward by a Port User which are in conflict with or deviate from these AGB will not be recognised and therefore not become a part 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 AGB.

1.5 Interpretation and Definition of Terms

1.5.1 General information

- **Port area** includes all water areas of the Port of Hamburg within the meaning of section 1(1), 1st sentence, (2) and (3) of the Hamburg Port Traffic and Navigation Act, the River Bille and its canals downstream of the River Bille pumping station as well as the port basins of Oortkaten and Zollenspieker. The port area is defined by the **port boundary** as set forth in the Schedule to the Hamburg Port Traffic and Navigation Act.
- **Port use** means the use of the port area by watercrafts.
- Watercrafts are **stationed or properly deployed** in the port area if they are stationed or deployed there for a long period of time. The HPA must have approved, permitted or signed an agreement on the stationing or deployment of the watercraft. Specifically, the Port User must present to the HPA, fees office in charge of inland and port shipping, proof of a non-public berth that is regularly used as a permanent overnight berth or permanent berth.

The following certificates are considered proof that the stationing has been approved:

- Water permit (to be obtained from the Water Authority of the HPA) and/or
 - Permit or licence issued by the water police (to be obtained from the Harbour Master's Division of the HPA) or
 - Civil-law agreement entered into with the Property Management of the HPA.
- Watercrafts are **predominantly deployed** in the port area if they use the port area on at least 183 calendar days within the calendar year.

- **Call** means
the entering of the port area by a watercraft.
- **Facilities** means
shipping terminals and quay berths, quay, landing and operating facilities as well as dolphins.
- **Sea border** means
the seafaring border as defined in article 1 Flaggerechtsverordnung [German Law of the Flag].
- **Shipmaster** means
every shipmaster of a watercraft or every person otherwise in charge of the safety and security of a watercraft.
- **Watercrafts** are
seagoing vessels and inland vessels, port-operating watercrafts, sports boats, floating equipment and other floating facilities which are generally used for movement. Watercrafts also include amphibious vehicles, seaplanes and non-water-displacing watercrafts.

1.5.2 Type of traffic classified by shipping area

- **Port traffic** refers to
watercrafts whose place of departure and place of destination are located within the port area. This includes movements of watercrafts stationed within the port area.
- **Inland shipping** refers to
watercrafts whose port of departure and port of destination are located on this side of the sea border.
- **Maritime shipping** refers to
watercrafts which have crossed or will cross the sea border. Maritime shipping is divided into
 - **Short distance traffic** which refers to
traffic from and to Hamburg from and to ports beyond the sea border in the North Sea and Baltic Sea areas as well as from and to ports in Norway, Great Britain, the Faeroe Islands, Ireland and the French Coast down to the Spanish border at the Bay of Biscay.
 - **Other maritime traffic** which refers to
all other traffic.

1.5.3 Type of service by liner service / tramp service as well as day-trip traffic

- **Scheduled liner service in maritime shipping** refers
regular, not just sporadic, general traffic from and to Hamburg, which runs, and is proven running, according to a published sailing schedule within a defined shipping area. The ports of call or port groups must be listed by name in the sailing schedule. For the purpose of this provision sailing schedules are the sailing times as per the DVZ shipping list, shipping line sailing schedules and sailing lists published in the shipping industry.
The respective liner service is operated by a shipping company that accepts general cargo bookings at liner service conditions and liner service rates in all ports or port groups called in accordance with the sailing schedule and transports these goods.
- **Tramp vessel service in maritime shipping** refers to traffic which is not covered by scheduled liner service.
- **Day-trip traffic** refers to
 - Seagoing vessels: passenger ships that carry passengers for the purpose of event trips, day trips and harbour tours without overnight stay;
 - Inland vessels: passenger ships of all types or launch boats that are no passenger cabin ships that carry passengers for the purpose of event trips, day trips and harbour tours.

1.5.4 Watercrafts meant for movement classified by registration, design and purpose of use

1. **Seagoing vessels** are ships and other floating crafts that are registered in a ship register and classified accordingly and/or for which a permit to operate has been issued. In Hamburg it is not possible to have seagoing vessels classified, simultaneously or alternately, as inland vessels.
2. **Inland vessels** are ships that are registered in an inland vessel register and classified accordingly and for which a registration number and/or a permit to operate has been issued. Inland vessels are usually predominantly deployed in inland shipping. In the Hamburg port area it is not possible to have inland vessels classified, simultaneously or alternately, as seagoing vessels or as port-operating watercrafts.
3. **Port-operating watercrafts** are watercrafts meant exclusively for use in the area of validity of the Hamburg Port Traffic and Navigation Act or for which a valid port-operating watercraft certificate has been issued. The provisions of the Ordinance on Watercrafts operating in the Port as amended on 7 May 2013 (Hamburg Law Gazette. p. 193) apply.
4. **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.
5. **Open-top container ships** are ships that carry their entire cargo load in containers and are constructed like an open "U". They are fitted with a double bottom and cell guides without hatch covers. The open container stowage area must be at least 66.7% of the total hatch area.
6. **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 if there is a change of passengers. These ships usually carry cargo only to provide for their passengers. This includes event ships.
7. **Other commercial watercrafts** are all commercial ships, vessels, carriers, watercrafts and boats not mentioned in the above clauses 1-6 such as, for example, deep-sea and salvage tug boats, anchor-handling tug boats, crane ships, drill ships, push boats, offshore vessels, hulls or hull segments.
Seagoing salvage tug boats, harbour tug boats and push boats are also deemed other commercial watercrafts. The Ordinance on the Assistance and Salvage of Seagoing Vessels defines them as self-propelled watercrafts with a bollard pull of at least 15 tonnes. Tug boats with a bollard pull of less than 15 tonnes (harbour tug boats and push boats) are governed by the provisions of the Ordinance on Watercrafts operating in the Port.
8. **Sports boats** are watercrafts used for sporting and recreational purposes, including watercrafts operated commercially for the purpose of training people in handling sports boats. This includes yachts.
9. **Traditional ships** are watercrafts as defined in article 2(14) of the Ordinance on Traffic in the Port of Hamburg and on other Water Bodies (Hamburg Port Traffic Ordinance). If they carry passengers for consideration at the time they enter the port area and/or while they use it, the charging provisions applicable to passenger ships and cruise ships apply. If they call the port for other commercial purposes, the provisions of the respective price category apply.
10. Other **non-profit** watercrafts or watercrafts deployed for specific purposes that benefit society are watercrafts that are sailing vessels used for training purposes by the navy or the merchant navy, training ships of non-profit organisations or other sailing vessels which are deployed for non-profit purposes or for specific purposes that benefit society and which do not call at the port for commercial purposes.
11. **Other vessels** are all watercrafts not listed under the above clauses 1-10.

1.5.5 Floating facilities and pontoons not usually meant for movement

- **Floating facilities** are floating equipment not usually meant for movement, in particular docks, piers and jetties. They are considered watercrafts if they transfer and are transferred.
- **Pontoons** are permanently fixed floating facilities which are in particular used as living quarters, offices, social or meeting rooms, as restoration workshops, workshops or for storage purposes. They are considered watercrafts if they transfer and are transferred.

1.5.6 Bases of assessment and bases for rebates and discounts on port fees and charges

- **Gross tonnage (GT)** refers to the cubic capacity of a watercraft and/or the measurement result determined based on the International Convention on Tonnage Measurement of Ships ("London Convention") of 23 June 1969 (BGBl. [Federal Law Gazette] 1975 II, p. 67). The GT is determined in accordance with the "International Tonnage Certificate (1969)" (subsequently referred to as "ITC 69"). If no "ITC 69" is submitted, the HPA will determine the GT in a different way.
- **Reference tonne** refers to the load-carrying capacity of a watercraft as specified in the official tonnage certificate.
- **Cargo handling** refers to the loading and unloading of vessels as well as freight containers including the transport of goods to be loaded and unloaded at the quayside handling terminals, in the sheds, on open spaces and other storage places. Handling also includes the embarking and disembarking of passengers.
- **kW (kilowatt)** is a basis of assessment to determine the power of a ship's engine.
- **Environmental discount on port fees** refers to a discount granted on port fees. The discount has been introduced to promote the deployment and operation of low-emission ships that are especially eco-friendly and climate-friendly.
- **Environmental Ship Index (ESI)** is a point scheme that 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 IMO regulations as amended and '100' represents the uppermost value if a ship emits none of the pollutants defined in the IMO regulations as amended.
- **Green Award** is a certificate awarded by the independent non-profit Green Award Foundation, P.O. Box 23107, 3001 KC Rotterdam, The Netherlands. It is issued for certain types of ships upon application and after an audit and inspection respectively. The certificate is valid for a limited period of time. More information is available at www.greenaward.org.
- The **Blue Angel for ship operations that are particularly eco-friendly (RAL-UZ 110)** is an ecolabel owned by the Federal Ministry of the Environment, Nature Conservation, Building and Nuclear Safety; the development of the criteria is the responsibility of the Federal Environment Agency. Following verification of conformity with the Blue Angel's standards, the ecolabel is awarded for a limited period of time by RAL gGmbH, Siegburger Straße 39, 53757 St. Augustin, Germany (<http://www.ral-ggmbh.de>) based on criteria determined by the environmental label jury, such as environmental, safety, ship operational, crew and management aspects. More information is available at <https://www.blauer-engel.de/de/produktwelt/gewerbe/schiffsbetrieb>.
- **Transshipment** is the seaside inbound and the seaside outbound delivery of cargo and/or containers.

- **Transshipment “other maritime traffic” (transshipment 1 → “TSR 1”)** is the transshipment of seaside inbound cargo arriving from ports of the “other maritime traffic” shipping area and of seaside outbound cargo delivered to ports of the “short distance traffic” shipping area or the transshipment of inbound cargo arriving from ports of the “short distance traffic” shipping area and of seaside outbound cargo delivered to ports of the “other maritime traffic” shipping area. The shipping area of both the inbound and outbound cargo is determined based on the last and next transshipment port of the container.
- **Transshipment “interlining other maritime traffic” (transshipment 2 → “TSR 2”)** is a special type of transshipment of both seaside inbound and seaside outbound deliveries in the “other maritime traffic” shipping area. The shipping area of both the inbound and outbound cargo is determined based on the last and next transshipment port of the container.

1.5.7 Reporting requirements

- The **port fee declaration** is the declaration to be submitted by Port Users when a **seagoing vessel** that is deployed in maritime shipping, inland shipping or operates in the port area calls at the port. The declaration must contain all the data needed to calculate the port fees and charges as well as all the data that the HPA collects in accordance with the German Traffic Statistics Act [VerKStatG] as amended.

Port Users must submit a port fee declaration to the port fees office of the HPA each time a seagoing vessel calls at the Port of Hamburg. This duty applies irrespective of whether cargo is handled, passengers are carried or tariff exemptions apply.

If a watercraft that is not self-propelled but manoeuvred by a motorised other seagoing vessel enters the port area or crosses the port boundary on departure, the motorised watercraft must comply with the reporting requirements applicable to watercrafts that are not self-propelled.

Port Users must use the web portal for seagoing vessels called “**MUST-HAVE**” (Maritime User Service Tool for HAMBURG VESSEL calls) to submit the port fee declaration for seagoing vessels. The web portal screen will prompt Port Users to enter the data required for the port fee declaration. There are various options to use MUST-HAVE (www.must-have.dakosy.de) (see 2.7.1).

- **Notices of arrival and notices of departure (declarations of the use of the port)** are the declarations Port Users must submit when **inland vessels or port-operating watercrafts** which are deployed in maritime shipping or inland shipping or operate in the port call at the port. The notices must contain all the data needed to calculate the port fees and charges as well as all the data that the HPA collects in accordance with the German Traffic Statistics Act [VerKStatG] as amended.

Port Users must submit to the **fees office in charge of inland and port shipping** a notice of arrival and a notice of departure each time a commercial watercraft deployed in inland shipping enters or leaves the port area. This duty applies irrespective of whether cargo is handled, passengers are carried or tariff exemptions apply.

If a watercraft that is not self-propelled but manoeuvred by a motorised other inland vessel enters the port area or crosses the port boundary on departure, the motorised watercraft must comply with the reporting requirements regarding the watercraft that is not self-propelled.

The data to be submitted by Port Users are listed in the “notice of arrival” and “notice of departure” forms published by the HPA on its website. There are several options and forms available to transmit the notices (see 2.7.2).

If such watercrafts predominantly operate or are stationed in the port area, Port Users must notify the fees office in charge of inland and port shipping (see 2.7.3) prior to entering the port area.

In addition, Port Users must notify the fees office in charge of inland and port shipping promptly in writing of the sale, renting / leasing out, permanent breakdown of the watercraft or if the watercraft no longer meets the requirements of a port-operating watercraft.

1.5.8 Notification offices

- The **port fees office** is the office within the Accounts Department of the HPA that is in charge of port fee declarations, applications for rebates and discounts and other tariff / price category enquiries by seagoing vessels and/or vessels deployed in maritime shipping.
- **The fees office in charge of inland and port shipping** is the office within the Maritime Commercial Management Department of the HPA that is in charge of notices of arrival and departure, notices submitted by Port Users who deploy watercrafts that operate in the port area, applications and other enquiries regarding tariff / price categories applicable to inland vessels and port-operating watercrafts.

1.5.9 Examples for invoice items and other chargeable services rendered by the HPA

- **Ship data and ship movement data** are data about a ship's name, length, gross tonnage, etc. ("ship data") and data on a ship's position, arrival time, etc. ("ship movement data") from the ship data processing system of the HPA. The data can be obtained via the internet for a fee.
- **Processing fees** will be charged if Port Users do not submit their port fee declaration electronically via the MUST HAVE web portal or if they do not submit any port fee declaration at all and the HPA has to issue an invoice based on the data known to the HPA.

2 Port Fees and Charges at a Glance

Overview:

The HPA provides and the Port User uses	Water areas	Public facilities operated by the HPA	Services rendered by the HPA
	of the port area from/ until crossing the port boundary	from mooring to unmooring	such as data provision, etc.
Seagoing vessels and seagoing watercrafts	Port fees, demurrage charges	Berth fees	Other fees and charges
Inland vessels and inland watercrafts	Port fees, demurrage charges	Berth fees	
Predominantly port traffic	Annual port dues	Berth fees	

2.1 Obligation to pay port fees and charges / exemptions

Notwithstanding the obligation to pay fees imposed under public law, the Port User must pay a fee for the use of the port in the form of port fees, demurrage charges, annual port dues, public-berth fees and/or other port fees as well as charges pursuant to the Schedule of Port Fees and Charges (individually or collectively called "**port fees and charges**"). The HPA charges minimum port fees and charges in accordance with the Schedule of Port Fees and Charges per each chargeable use of the port.

Watercrafts using the port that do not serve profit-making purposes are exempted from paying these fees and charges unless otherwise stated in the Schedule of Port Fees and Charges.

In particular the use of the port is free of charge for navy watercrafts, watercrafts of non-profit organisations and research ships unless other fees and charges apply.

2.2 Debtor of the port fees and charges

Debtor of the port fees and charges is each and every Port User. If several parties are liable to pay, they will always be liable as joint and several debtors.

Any Port User not operating in the Port of Hamburg who deploys **seagoing vessels** or **watercrafts in maritime shipping**, is obligated to name a person authorised to accept service (shipping company, agent, broker, or similar natural or legal entities) 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 HPA. The HPA is entitled to invoice the port fees and charges to be paid by the Port User to the person named and authorised by the Port User to accept service.

2.3 Other claims of the Hamburg Port Authority

The obligation to pay port fees and charges remains irrespective of any claims based on other legal grounds the HPA may have against a Port User, which arise out of or in connection with the use of the port.

2.4 Amount of port fees and charges payable / Schedule of Port Fees and Charges

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

2.5 Obligation to pay value-added tax

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

2.6 Basis to calculate the port fees and charges

The port fees and charges are calculated based on the various bases of assessment listed in the Schedule of Port Fees and Charges.

If the amount of the port fees and charges to be paid is based on the load-carrying capacity of watercrafts and if these watercrafts are measured based on their cubic capacity, or if the amount of the port fees and charges to be paid is based on the cubic capacity and the watercrafts is measured based on its load-carrying capacity (reference tonnes), 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 (reference tonnes).

The assessment criterion to **calculate the port fee handling component** for cargo vessels deployed in maritime shipping is their handling volumes measured in tonnes during a call at the port, multiplied by the handling fee allocated to the respective price category. For statistical reasons, the volumes handled within the cargo groups handled per each price category are subdivided in accordance with the reporting criteria listed in sub-clause 4.1.2. Handling volumes are measured in tonnes, including packaging material (tare weight), separated into loading and unloading volumes.

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 weights per TEU [twenty foot equivalent unit] apply in the price categories 31, 33, 34 and 37. Containers the length of which is shorter than or equivalent to 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 number (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 Statistikamt Nord [statisti-

cal office] applicable to this period. The reference period the HPA will base on to determine the average weight from 01 January 2017 onwards is the year of 2015.
The HPA reserves the right to adjust the t-to-TEU conversion factor.

As to the tariffs of the price categories 31, 33, 34 and 37 the handling component

- in 2017 measures the handling volumes of **loaded** containers based on a lump-sum weight of **12,032 tonnes/TEU**. The handling weights of empty containers are included in this lump-sum figure;
- measures non-containerised cargo handled in tonnes.

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.

2.7 Duty to co-operate: transmission of the relevant data / reporting criteria

Duties to notify at a glance

Types of watercraft and/or types of traffic	Notifications/declaration to be submitted	Notification office	Time limit
Seagoing vessels	Port fee declaration	Port fees office	Immediately, latest within 5 working days after leaving the port area
Inland vessels and watercrafts operating in the port	Notice of arrival / Notice of departure	Fees office in charge of inland and port shipping	Immediately and, until 31 December 2017, latest within 7 working days after entering the port area coming from the previous port and/or after leaving the port area

Port Users must submit the following declarations, classified by shipping area. In the event of doubt and irrespective of the transmission option chosen, the HPA reserves the right to request Port Users to submit, at their expense, suitable documents to prove the correctness of the data provided such as, for instance, actual loading and unloading volume lists, original manifests / manifest data, ship drawings, documents based on which rebates/discounts or exemption will be granted or other appropriate documentation.

2.7.1 “Port fee declaration” for seagoing vessels and watercrafts

Port Users have to submit a “port fee declaration” for **seagoing vessels and seagoing watercrafts** (see chapter 1, sub-clause 1.5., Interpretation and Definition of Terms). Independent of transmission options and the remaining data required, a copy must be submitted of the

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

The port fee declaration must be submitted to the HPA **immediately** after leaving the port area, **latest however within 5 working days** of departure.

Port fee declarations must be transmitted electronically (see 1.5.7). The HPA offers “MUST-HAVE”, the web portal for seagoing vessels, to transmit electronic port fee declarations. Users can register with and their data are managed by the HPA. The **Terms and Conditions of Use of the web portal for seagoing vessels** are available for inspection on the web portal.

The following transmission options are available:

1. HPA web portal for seagoing vessels with data transfer from the IMP [import message platform]

This transmission option allows Port Users who participate in the IMP procedure to use the data already available in such a way that only the data required for the port fee declaration are transmitted to the HPA - mostly automatically - however Port Users are able to access the web portal.

2. HPA web portal for seagoing vessels with data transfer from the client-maintained file transfer

This transmission option is available to Port Users who want to communicate data to the interface of a data communications provider (e.g. DAKOSY AG) via EDI. The provider will then serve the web portal on behalf of the Port User, whereby the Port User is able to access the web portal.

3. HPA web portal for seagoing vessels - manual entry

Port Users can use the web portal without having to go via a data communications provider. The Port User must then manually enter the data needed for the port fee declaration in the web portal.

Notes on data transmission via the data communications system operated by Dakosy AG or via data communications systems offered by other data communications providers

By calling the port and by entering their data into the systems offered by the provider, Port Users who, on the grounds of a separate legal relationship, transmit data via the communications systems operated by a data communications provider (e.g. Dakosy AG) authorise the provider to transmit the data to the HPA electronically in a legible format.

In duly substantiated exceptional cases Port Users may submit the port fee declaration to the HPA manually instead of electronically if Port Users (agent or seagoing vessel) call at the Port of Hamburg not more than twice a calendar year. This option is available until 31 December 2017.

Upon request the port fees office will provide the manual port fee declaration form.

In addition to port fees and charges, the HPA will charge a **processing fee** (see Schedule of Port Fees and Charges) for manually submitted port fee declarations. No discount applies to the processing fee.

2.7.2 “Notice of arrival” and “notice of departure” / declaration of the use of the port to be submitted for inland vessels, vessels operating in the port and inland watercrafts when they enter or leave the port area

The duty to notify arrivals and departures in accordance with section 7(1) and (4) of the Hamburg Port Traffic Ordinance as amended on 07 May 2013 applies.

Until 31 December 2017 Port Users must notify the fees office in charge of inland and port shipping immediately, latest however within 7 working after arrival / departure, each time an inland vessel / port-operating vessel and/or an inland watercraft / port-operating watercraft enters or leaves the port area.

More information is available in the “notice of arrival/notice of departure” forms (see <http://www.hamburg-port-authority.de/de/Documents/An-%20und%20Abmeldungen.pdf>) and/or will be published on the ELBA web portal for inland vessels.

The notification deadlines also apply to vessels and watercrafts that pay annual port dues if they cross the port boundary.

No duty to notify arrivals and departures applies to inland vessels and watercrafts deployed in inland shipping if they are in **transit**. This is the case if the watercraft crosses the port area between marker 607.5 and marker 639 without berthing or transshipping/handling cargo in the port. If the travelling time of inland cargo vessels and other inland vessels that do not carry passengers is 300 minutes (~ 5 hours) and longer and that of inland passenger vessels 180 minutes (~ 3 hours) and longer, they are deemed not to have been in transit. It is not deemed transit if the Port User crosses the same border area when entering and leaving the port area.

Electronic submission of arrival and departure notices (see 1.5.7):

The HPA is planning to introduce “**ELBA**”, a **web portal for the submission of notices of arrival / departure for inland vessels** in 2017. The Port Users concerned will be provided more information about the portal in due time. Users are registered with and their data managed by the HPA. The **terms and conditions of use of the web portal** are available for inspection on the web portal.

The HPA is planning to charge a **processing fee** for manually submitted notices of arrival/departure in addition to port fees and charges when the AGB are next amended following the launch of the ELBA web portal.

After the AGB have been amended for a second time following the launch of the ELBA web portal, it will only be possible to electronically transmit arrival / departure notices via the ELBA web portal.

2.7.3 Additional duty to notify applicable to watercrafts that operate in the port area

Port Users, whose watercrafts predominantly operate or are stationed in the port, must notify the fees office in charge of inland and port shipping **prior to using** the port area, latest however within 7 working days after a watercraft called at the port for the first time in each calendar year.

2.7.4 Duty to notify applicable to seagoing cruise ships

Seagoing cruise ships that require a berth in the port area must send an application to Cruise Gate Hamburg GmbH (“CGH”), Neuer Wandrahm 4, 20457 Hamburg. The use of the berths and the associated infrastructure is chargeable. Payment must be made to CGH that will also process the application.

2.8 Penalties in the event of a breach of duty to notify

The HPA will impose a penalty if declarations/notices (port fee declaration / notice of arrival and notice of departure) are submitted late or not at all and/or in the event of a breach of the duty to notify applicable to watercrafts that operate in the port area and/or wrong statements based on to determine the port fees.

If Port Users,

- who are obligated to submit a port fee declaration (see 2.7.1), do not submit it in full or not at all within the time limit set (5 working days upon leaving the port area),
- who are obligated to submit to the HPA a notice of arrival and/or notice of departure (see 2.7.2), do not submit it/them in full or not at all within the time limit set or if Port Users, whose
- watercrafts predominantly operate or are stationed in the port area, do not notify the fees office in charge of inland and port shipping within seven working days after a watercraft first called at the port (see 2.7.3),

Port Users will be requested to submit in full within the time limit set in the letter the declaration they are obligated to submit or – with regard to the duty to notify – to promptly contact the fees office in charge of inland and port shipping.

Port Users who have not met their duty to co-operate are liable to pay to the HPA a penalty in accordance with the Schedule of Port Fees and Charges unless they are not responsible for the breach of duty to co-operate.

A penalty in accordance with the Schedule of Port Fees and Charges may also be imposed if Port Users submit wrong data to calculate the port fees and charges unless they are not responsible for the submission of the wrong information.

Penalties will be charged separately each and every time Port Users fail to meet their duty to co-operate. For each breach of duty the fees set forth in the Schedule of Port Fees and Charges, Part E each, “other fees and charges” apply.

The HPA reserves the right to claim damages in addition to imposing a penalty. Penalties will however be deducted from any such claims for damages. If the HPA accepts a declaration or notice that has been corrected or submitted late, the HPA reserves the right to bill the penalty together with the port fees and charges.

If the Port User does not comply with

- the duty to submit the port fee declaration,
- the duty to submit the notice of arrival and notice of departure or the
- duty to notify the fees office in charge of inland and port shipping

within the time limit set in the letter or if the Port User does not correct the wrong data submitted, the HPA will calculate the port fees and charges

- for **seagoing vessels** and watercrafts deployed in **maritime shipping** on the basis of the highest tariff of the price category. As to the *port fees* this will be the tramp vessel tariff listed under “other maritime traffic“, and for ships carrying liquid bulks on the basis of oil tankers; as to the handling component, the weight of a full ship load, loaded and unloaded, will be assumed and based on, measured based on tonnage (tdw.); and as to the public-berth fees a quayside berth will be based on.

- for **inland vessels** and watercrafts deployed in inland shipping on the basis of the highest tariff of the respective price category with a HPA quayside berth as berth and a berthing time at this berth of 14 days.
- for vessels and watercrafts that exclusively operate in the port area on the basis of the highest tariff of the respective tariff category, however at least on the basis of the tariff applicable to inland vessels and watercrafts deployed in inland shipping.

3 Rebates and Discounts on Port Fees and Charges

If a Port User is eligible for several special tariffs under a type of fees/charges (e.g. port fees, demurrage charges, etc.), a fees/charges component (GT, cargo handling) and within one price category comprising several types of fees, the special tariffs will be calculated based on the relevant subtotal in the sequence as stated below.

If, for example, a “double-hulled oil tanker” makes a “second call” under special tariff 450, the GT that will be based on to calculate the port fees is the GT determined based on special tariff 420. Any potential Green Award as per special tariff 470 would then refer to this subtotal as per special tariff 420 and special tariff 450.

3.1 Discounts

3.1.1 Discounts to reward particularly environmentally conscious behaviour

To reward Port Users that display environmentally conscious behaviour, to protect the climate and to improve the quality of life of Hamburg’s citizens, the HPA is reducing the port fees and/or demurrage charges calculated based on GT if the requirements to be eligible for the respective environmental discount have been met.

In addition the HPA will reduce the port fee GT component and the demurrage charges GT component respectively if the requirements to be eligible for the respective environmental discount have been met

1. **ESI discount:** see Schedule of Port Fees and Charges, special tariff 460. This discount on port fees is granted for seagoing ships that are particularly low on emissions based on the Environmental Ship Index (ESI). To be eligible for the ESI discount, the Port User needs to have the respective ship registered in a database established by the IAPH. Current ESI scores take account of onboard shore power equipment and the verifiable use of scrubbers and/or SCR systems.

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 Harbors), within the scope of work of the WPCI (World Ports Climate Initiative), on a website (ESI website) at www.environmentalshipindex.org or <http://wpci.iaphworldports.org>, for example. The registration of the respective ship in the database mentioned above does not constitute a contractual relationship with the HPA. Rather, by registering their ships the respective users of the port 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 use the data up 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. The ESI discount will not be granted if a discount for vessels solely powered by LNG (special tariff 461) is granted.

2. Discount for **vessels solely powered by LNG:** see Schedule of Port Fees and Charges, special tariff 461. This discount on port fees is granted for seagoing vessels that are fully powered by LNG, only use LNG for their own electricity needs and have an ESI SO_x score of > 99. To be eligible for the discount, the relevant ship’s papers and documents stating the ESI score must be submitted together with the port fee declaration.

3. **Port power discount:** see Schedule of Port Fees and Charges, special tariff 462 or Li 462. This discount is granted on top of the conditions stated under the special tariffs above, namely for seagoing vessels on port fees and demurrage charges and for inland vessels on demurrage charges, if Port Users submit proof together with the port fee declaration (seagoing vessels) or the notice of departure (inland vessels) that while berthing in the port area, most of their onboard electricity needs were for most of the time met
- using power taken directly from the local grid or shore power supplied via converter substations or
 - using shore power indirectly supplied from a (mobile) non-onboard source, such as e.g. PowerPacs or
 - using waterside-supplied power, such as e.g. power barges.

If shore power has been used, proof must be provided that it came from 100% renewable energy sources, i.e. documents must state the supply source, the quantity supplied, the period of supply and the type of energy carrier used. The alternative eco-friendly fuels currently eligible are LNG and methanol.

4. **Green Award discount:** see Schedule of Port Fees and Charges, special tariff 470. This discount on port fees is granted for Green Award certified seagoing vessels that fall under price categories 11 and 12. To be eligible for the discount, a valid certificate issued by the Green Award Foundation must be submitted together with the port fee declaration.
5. **Blue Angel discount:** see Schedule of Port Fees and Charges, special tariff 471. This discount on port fees is granted for seagoing vessels that have been certified to RAL-UZ 110 for particularly “environmentally friendly ship operations”. To be eligible for the discount, a valid certificate issued by the Federal Environment Agency or RAL gGmbH must be submitted together with the port fee declaration. The HPA will only accept certificates that have been issued in accordance with the Guidelines as amended in 2015.

The following information applies to all environmental discounts mentioned in clauses 1- 5 above:

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 in 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.

The HPA will not take into account any ESI scores to calculate the port fees until the IAPH transmits new ESI scores for the respective ship to the HPA.

Green Award certificates and Blue Angel ecolabels will only be considered in the port fee calculation during the period they are valid.

Limitation of liability:

The contents and the efficiency of the websites mentioned in 3.1.1. are the responsibility of the respective operator. The HPA cannot be held liable for any harm suffered by the Port User in relation to the quality and efficiency of the ESI, Green Award or Blue Angel websites. In other respects, the terms of chapter 6 of these AGB apply.

Termination:

The HPA may, at any time and for any reason, temporarily stop the continuation of or permanently terminate the environmental incentive schemes or the extent of the incentives. This may in particular be the case if the ESI, Green Award or Blue Angel websites are discontinued, different index values or assessment criteria are based on or if potential budgets, originally reserved for this particular incentive, are depleted early.

3.1.2 Reductions in the event of special circumstances

The port fees and charges 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 HPA to decide if a reduction will be granted. A reduction will only be granted if the HPA is informed in writing immediately upon occurrence of the circumstances justifying an application on factual grounds and proof is submitted, latest however within 1 week after receipt of the invoice for the fees and/or charges. The application for the reduction must be submitted in writing.

3.2 Rebates

3.2.1 Additional-traffic rebates

Prerequisites to be eligible for the rebates:

Reduced port fees for cargo vessels of the price categories 31 and 32, 34 and 35 as well as for scheduled liner services of the price category 37 will apply to additional traffic movements which Port Users have towards the Port of Hamburg within one calendar year because they deployed additional or bigger ships ("additional traffic movements") if the requirements listed below have been met.

The above rebate will be granted only if the traffic movements in one calendar year – measured in GT - exceed those in any other calendar year of the previous 10 calendar years. The rebate will only be granted for the portion of the traffic movements in excess of the so far highest eligible number of traffic movements (GT) in the calendar year with the so far highest number of traffic movements.

If several Port Users merge as set forth in the Act 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.

Only the additional-traffic movements of the traffic within one price category and one shipping area per each Port User will be determined and taken into account in as far as and if the Port User as the beneficiary of the rebate had been liable to pay port fees in the previous years to be considered. The beneficiary of the rebate will be shown separately on each invoice for port fees. With regard to the previous years to be taken into account traffic movements of possible legal predecessors will also be included.

Calculation of additional-traffic rebates 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 for the GT component pursuant to the Schedule of Port Fees and Charges will be reduced. Fees will be reduced to the extent that the traffic movements of this calendar year, determined on the basis of the gross tonnage, exceed the traffic movements of the calendar year with the most traffic movements in the past ten calendar years, maximally however by 30% of the port fees due without the rebate granted for additional-traffic movements.

If the calculation includes calls for which the port fee has been calculated based on the special tariffs 410 (cap) and/or 430 (open top), the GT which the port fee calculation was based on will be relevant.

Calls for which the port fee has been reduced based on the special tariffs 480 (no cargo handling), 482 (repair) or 483 (time in the shipyard) or calls not made for profit-making purposes will not be taken account of in the calculation.

If a Port User meets the requirements to be granted both a transshipment rebate (see Schedule of Port Fees and Charges) and an additional-traffic rebate, the additional-traffic rebate will be determined based on the subtotal reduced by the transshipment rebate. If the Port User is eligible for an exceptionally large vessel discount, this will also be deducted from the port fees calculated based on the GT component prior to calculating the additional-traffic rebate.

Additional-traffic rebates will only be granted if the subtotal is positive after the abovementioned rebates/discounts have been deducted, i.e. if in the calendar year ended the amount of port fees paid was higher than the amounts paid in the reference year (calendar year with the most traffic movements).

3.2.2 Frequency rebates

Prerequisites to be eligible for and calculation of frequency rebates for ships under price category “36KS cruise ships/ passenger cabin ships deployed in maritime shipping”:

Principally, cruise shipping companies will be granted, in retrospect, a rebate (**frequency rebate**) on the port fees payable or paid in accordance with the Schedule of Port Fees and Charges from the **ninth** call made by ships of their cruise liner fleet within one calendar year of

- 10 % on all calls made within the relevant calendar year. The rebate will be
- 15% from the **twelfth** call for all calls made within the relevant calendar year, and
- 20% from the **thirtieth** call for all calls made, and
- 25% from the **seventy-fifth** call for all calls made within the relevant calendar year.

Calls for which the port fee has been reduced based on the special tariffs 480 (no carriage of passengers), 482 (repair) or 483 (time in the shipyard) or calls not made for profit-making purposes will not be taken account of in the calculation.

Calls at the port will be determined **on a case-to-case basis separately** for each cruise shipping company per each calendar year in as far as and if the shipping company as the beneficiary of the rebate had been liable to pay in this period. The beneficiary of the rebate will be shown separately on each invoice for port fees.

The separate determination also applies if the ships are part of an economic unit or any other type of co-operation that operates more than one cruise shipping company or brand.

Prerequisites to be eligible for and calculation of frequency rebates for ships under price category 33 “ConRo ships”:

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

Calls for which the port fee has been reduced based on the special tariffs 480 (no cargo handling), 482 (repair) or 483 (time in the shipyard) or calls not made for profit-making purposes will not be taken account of in the calculation.

3.2.3 Transshipment rebate

The HPA is promoting loaded transshipment container trade, see Schedule of Port Fees and Charges, special tariff 510.

Area of validity / eligible price categories:

The special tariff solely applies to the subsequent price categories

- 31 Ü (full container trade in scheduled liner service under “other maritime traffic”),
- 33 Ü (ConRo ships under “other maritime traffic”) for their share in container trade and
- 37 ÜL (other cargo vessels and types of traffic under “other maritime traffic” and in scheduled liner service).

Content and extent of the reduction:

For the purposes of this special tariff “container operators” means natural or legal entities that either transport transshipment containers of the type TSR 1 or TSR 2 (see chapter 1, sub-clause 1.5, Interpretation and Definition of Terms) themselves or offer transshipment containers to third parties for transport.

Eligible are transshipment containers of the type TSR 1 and TSR 2, the number of which exceeds the limit of a 5% share of transshipment volumes in the total number of containers handled by the container operator in the Port of Hamburg during the assessment period.

The rebate will be granted retrospectively to container operators who, in the assessment period, were Port Users and paid port fees to the HPA for calls listed as eligible in the price categories. The amount of the rebate paid out is limited to 10% of the port fees paid in the respective price categories during the assessment period.

Containers that are shorter than or exactly 20’ long are considered TEU (20’); containers longer than 20’ are considered FEU (40’).

Only loaded containers are eligible.

Procedure

Participation is possible only via the Import Message Platform (IMP) provided by DAKOSY AG.

Every container operator that enters its manifest data in the IMP has the option to have the relevant data transmitted to the HPA. Principally, the data of all containers must be sent to the IMP. This includes the data of both import and export containers as well as local cargo such as, e.g. containers loaded as part of an export procedure.

The calculation of the rebate will solely be based on the cargo handling data DAKOSY AG transmits to the HPA. The data can be called up in the respective IMP account under the menu item "transshipment statistics".

To process the application for rebate, the HPA requires the following information:

- Container operator / haulier, import
- Container operator / haulier, export
- Container number
- Type of container as per ISO
- Loading state code (loaded/empty)
- Port of loading, import
- Port of discharge, export
- Date of on-carriage
- IMO number of the ship
- Name of the ship

The HPA will use the information provided solely to process the application for rebate.

Interested container operators / ship operators will notify the HPA and DAKOSY AG one time prior to their participation. Simultaneously they must authorise DAKOSY AG, Mattentwiete 2, 20457 Hamburg in writing to electronically transmit to the HPA all the data required to process the application from a certain date onwards to be agreed upon. Any potentially arising costs will have to be borne by the Port User. Container operators / ship owners must send the written authorisation to the port fees office of the HPA as stated below. The HPA must have received the authorisation latest by the time the application is submitted.

Authorisation

We, [Name of the container operator / shipping company], herewith authorise the HPA to verify the data transmitted by us, individually or as a whole, in relation to the application for a transshipment rebate (special tariff 510, AGB Applicable to Civil-Law Agreements on the General Use of the Port of Hamburg) held by DAKOSY AG, Mattentwiete 2, 20457 Hamburg.

DAKOSY AG is hereby authorised to disclose to the HPA the data requested by the HPA in relation to the application for a transshipment rebate."

3.2.4 Application to be granted reductions

Additional-traffic or frequency rebate: In order to be granted a reduction in port fees, the Port User must notify the HPA - port fees office - in writing. The notification must reach the HPA between January 1st and May 31st of the following year.

Such notifications must state all the facts that prove that the requirements for a reduction in port fees have been met. If several Port Users have merged, 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).

Transshipment rebate: The rebate will be granted retrospectively for one calendar year (assessment period). It must be applied for in writing with the HPA - port fees office - between January 1st and March 31st of the following year by sending an e-mail to: hafengeldstelle@hpa.hamburg.de.

If container operators or Port Users have merged as set forth in the Act on the Transformation of Companies the application must contain information about the traffic movements of the container operators and Port Users involved.

3.3 Refund of reductions and potential offsetting of annual dues

The annual port dues paid in advance will not be refunded unless proof is submitted to the HPA that the respective watercraft has been sold. In such a case, one twelfth of the annual port dues are payable for each month or part thereof in which the watercraft was deployed or stationed in the port area.

Reductions in other fees and charges paid in advance such as, e.g. repairs, time in the shipyard, floating ice, will only be granted as listed in the Schedule of Port Fees and Charges.

Applications for a refund stating the reasons for the application must be submitted in writing to the HPA - fees office in charge of inland and port shipping promptly, latest however within one month after the Port User became eligible for a discount/rebate or refund. Upon request by the HPA Port Users must submit proof of the actual period of use at their own expense.

In as far as the port fees and charges 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 clause has been granted, the HPA will refund the Port User the amount overpaid. The right of the HPA to offset this amount against other amounts owed by the relevant Port User remains unaffected.

4 Classification Criteria / Assessment Criteria applicable to Port Fees and Charges

The use of the port and its facilities is subject to fees and charges pursuant to the price categories set forth in the Schedule of Port Fees and Charges. A minimum fee is due for each call at the port that is subject to port fees and/or demurrage charges unless it is fully exempted.

4.1 Port fees

Port fees are charged for the use of the water areas within the port area by watercrafts that are deployed in maritime shipping or inland shipping.

The **price category** a watercraft will be classified in is determined based on the criteria listed in the Schedule of Port Fees and Charges and in accordance with the information below.

4.1.1 Assessment criteria

The following criteria, items 1.1 – 3.9, apply to **seagoing vessels** and watercrafts:

1. Ships carrying liquid bulks

1.1 Oil tankers

The classification into this category is based on shipping areas independent of the type of traffic. 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-clauses 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.

Moreover in order to be eligible for a rebate/discount in accordance with the Schedule of Port Fees and Charges, ships of the price categories 11 Ü and 11 N must submit an ITC that proves the eligibility. Double-hulled tankers must be certified as such by flag states or other authorised institutions. Proof must usually be provided in the form of a recognised certificate (International Oil Pollution Prevention Certificate - IOPP) issued by the competent maritime safety authority, certifying that the ship has a double hull. The double hull must be built in compliance with regulation 19(3) of the revised Annex I to the protocol of 1978 of the International Convention for the Prevention of Pollution from Ships (MARPOL Convention). In order for double-hulled oil tankers built prior to the introduction of regulation 19(3) to be eligible for a reduction, proof must be provided that the regulations applicable to double-hulled oil tankers in force at the time building started have been complied with. Oil tankers that do not meet the IOPP certification requirements must hold a certificate equivalent to an IOPP certificate to prove that the double-hull requirement has been met.

In particular, these are crude oil tankers, product carriers and combination carriers.

1.2 **Ships carrying other, mostly liquid bulks, chemicals and liquefied gases**

The classification into this category is based on shipping areas independent of the type of traffic. This category comprises, for instance, cargo vessels carrying chemicals, gases and other liquid cargoes, which are not classified as “oil tankers” and predominantly carry liquid bulks.

In particular these are ships predominantly carrying liquid bulks, 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 bulks / bulkers**

The classification into this category is based on shipping areas independent of the type of traffic. 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 cargo, e.g. oil/bulk/ore – ships (OBO) if the goods are predominantly dry.

3. **General cargo vessels, passenger / cruise ships and other ships**

3.1 **Full container ships in scheduled 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 430 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 loaded or unloaded exclusively by rolling it through bow ports, side doors or stern flaps. These vessels are fitted with closed decks which are not usually sub-divided and generally run the entire length of the ship.

The type-relevant requirements 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 general cargoes are loaded or unloaded vertically (LoLo procedure) with deck or quay cranes.

The type-relevant requirements 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 general cargo is loaded or unloaded vertically (LoLo procedure).

The type-relevant requirements 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) in scheduled liner service

Classification is independent of shipping areas in maritime traffic.

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, including rail-bound wagons to cross waterways.

3.6 Passenger ships / cruise ships

Classification is independent of the type of traffic and shipping areas.

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 journey and/or voyage itself generally takes place for touristic purposes. These ships transport cargo regularly only to provide for their passengers.

Passenger ships are not usually equipped with passenger cabins; cruise ships usually have passenger cabins and are also known as passenger cabin ships.

North Sea resorts traffic: scheduled liner service passenger ships that are deployed to carry passengers from / to Hamburg to the German North Sea resorts beyond the sea border, Helgoland or the East Frisian and North Frisian Islands. They are, in part, ocean-going, in particular travelling to and from Helgoland, however they are not specifically built for the high seas. Only watercrafts are eligible that are not equipped with passenger cabins and whose cargo – excluding hand luggage and mail – weighs below 10 tonnes.

3.7 Other cargo vessels and types of traffic

This category contains all the types of cargo vessels and types of traffic that are not listed in the categories 1 – 3.6.

Classification is based on types of traffic and shipping areas.

This category comprises, for instance:

- Reefer ships: carriers equipped with permanently installed cooling aggregates
- Heavy-cargo carriers without RoRo facilities
- Pallet carriers or barge carriers
- Fishing boats
- Load-carrying / transport barges
- Load-carrying / transport pontoons
- Inland vessels that cross the sea border

3.8 Other commercial watercrafts / offshore shipping

Watercrafts listed under this category are crafts that are no cargo vessels or passenger ships and that are deployed in maritime shipping. These may be electricity-generating watercrafts or they may be deployed in offshore shipping or in the offshore industry and serve to install and supply offshore wind farms or oil platforms. Their profit-making purpose is not the same as that of common commercial vessels. If they carry passengers, their profit-making purpose is not of a touristic nature but exploration, the transport of crews.

In particular this category comprises

- **Installation watercrafts.** This includes in particular self-propelled special ships or platforms such as, for instance, installation vessels, crane ships, drill ships, offshore watercrafts, etc.
- **Auxiliary installation watercrafts.** This includes, e.g., floating cranes, equipment towed by push convoys or tug convoys such as work pontoons, work barges, etc.
- **Operation and service watercrafts.** These usually are multi-functional watercrafts that can be deployed independent of their actual purpose. Types of deployment are, e.g., exploration, securing, supply, repair, transport of materials and persons.
- **Seagoing tug boats and push boats.** This category comprises watercrafts that are not stationed in the port and not subject to annual port dues, including e.g.
 - deep-sea tug boats (deployed, e.g., to tow disabled ships)
 - anchor-handling tug boats (e.g. to tow or supply oil platforms)
 - salvage tug boats (e.g. operating as emergency tow vessels)
 - harbour tug boats, tug boats to manoeuvre ships and tug boats providing assistance (e.g. to tow, push and press ships, pontoons or barges) with a bollard pull of at least 15 tonnes.

- **Electricity-generating watercrafts.** Only watercrafts that generate electricity from alternative eco-friendly fuels (see 3.1.1) fall under this category.

3.9 Sports and recreational boats / yachts

Watercrafts will be classified into this category to calculate the port fees if they are seagoing.

4.1.2 Reporting criteria

The **reporting criteria** contained in the latest Port Fee Declaration form are relevant to calculate the handling component for ships of the types listed under 1-3.7.

To calculate the handling component, cargo is divided into the following cargo groups:

- Liquid bulks
 1. Crude oil (tonnes)
 2. Refined products (tonnes)
 3. Chemicals / liquefied gases (tonnes)
 4. Other liquids (tonnes)
- Dry bulks
 1. Coal (tonnes)
 2. Iron ores / broken ores (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 dry bulks (tonnes) (e.g. metal scrap, grab goods)
- Containerised general cargo
 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 general cargo / 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 general / bagged cargoes (tonnes)

4.2 Demurrage Charges

Demurrage charges are due for the use of the water areas within the port area by watercrafts deployed in maritime shipping or inland shipping or that operate in the port. For watercrafts for which port fees are due for the same call at the port, demurrage charges will be payable only if a pre-defined period has been exceeded.

For **seagoing vessels** or other seagoing watercrafts as well as for **inland vessels** or **inland watercrafts** that do not pay annual port dues and use the port area for more than 120 hours (equivalent to 5 * 24) from the time they entered and the time they left the port area, are subject to demurrage charges for any use of the port area in excess of this period of time. Non-profit vessels or watercrafts or those deployed for a similar purpose (see 1.5. Interpretation and Definition of Terms) are exempted.

Any interruption in the use that lasts less than 24 hours will be taken into account only if the interruption caused commercial activities to stop and if, on the request of the HPA, appropriate proof has been submitted.

4.3 Annual port dues

Watercrafts that are no seagoing vessels and that predominantly (at least 183 calendar days within one calendar year) operate or are stationed in the port must pay annual port dues.

Port Users must provide proof of the actual period of use to the HPA at their own expense. If Port Users do not reach the required dwelling time in the port in one calendar year, they must pay demurrage charges - even retrospectively.

4.4 Berth fees and annual berth fees

Berth fees are charged on a pay-by-use basis or annually for the indirect and direct use of the quay facilities, jetties, piers and dolphins operated by the HPA for the purpose of handling cargo or - if permitted - for the embarking and disembarking of passengers (passenger turnaround) as well as for the use of berths designated by the HPA as waiting berths only (no handling of cargo).

The berth fees do not cover the use of a berth as permanent berth or permanent overnight berth and the use of the Überseebrücke pontoon by seagoing cruise ships.

Annual berth fees are payable for

- inland passenger vessels and day-trip boats that carry passenger for consideration, and
- seagoing vessels, that carry passenger for consideration within the North Sea resorts traffic

in as far as they exclusively (if operators hold a port-operating watercraft certificate) or predominantly (if operators do not hold a port-operating watercraft certificate) operate or are stationed in the port on at least 183 calendar days within one calendar year.

They may be exempted from the duty to pay demurrage charges, including the duty to notify their arrival/departure, if they meet the respective requirements and instead pay annual berth fees.

Port Users must provide proof of the actual period of use to the HPA at their own expense. If Port Users do not reach the required dwelling time in the port in one calendar year, they must pay by-use berth fees - even retrospectively.

4.5 Combined fee (planned to be introduced in 2018)

The combined fee is planned to be introduced in 2018. It applies to inland vessels, inland watercrafts and watercrafts operating in the port and is charged for

- the use of the water areas including the indirect and direct use of the quay facilities, jetties, piers and dolphins operated by the HPA for the purpose of handling cargo or
- the embarking and disembarking of passengers (passenger turnaround) if permitted as well as
- the use of berths designated by the HPA as waiting berths only (no handling of cargo).

This fee combines port fees, demurrage charges and berth fees.

The current plans provide for Port Users to choose whether they prefer to pay the combined fee separately for each call - meaning one call and stay in the port area of up to 168 hours (~ 7 days) - or for an unlimited number of calls within a defined period of time.

The combined fee will not cover the use of quay facilities, jetties, piers and dolphins as permanent berth or permanent overnight berth.

Certain specified types of ships and/or price categories will be eligible for reductions if Port Users do not use any quay facilities, jetties, piers and dolphins operated by the HPA or if they use dolphins but no quay facilities, jetties, piers operated by the HPA throughout the period of time defined and to be defined.

4.6 Other fees and charges

4.6.1 Individual berth services

The use of berths and the associated infrastructure by seagoing cruise ships (price category 36 K) is subject to a fee in accordance with the general terms and conditions of Cruise Gate Hamburg GmbH ("CGH").

Fees/charges payable for the use of other individual services in connection with the use of HPA berths, which are not listed in the Schedule of Port Fees and Charges, will be imposed by the HPA on a case-to-case basis in line with the type and scope of services rendered. Enquiries should be addressed to the HPA, Property Management, Neuer Wandrahm 4, 20457 Hamburg (immobilienservice@hpa.hamburg.de). Such services are, e.g. the erection and use of mobile fences, security and surveillance services, leasing out of equipment, etc., in particular in connection with the use as ISPS berth.

4.6.2 Reimbursement of expenses

Expenses are incurred if the Port User does not submit any notice of arrival and/or notice of departure and/or gives a wrong invoice address and/or if correspondence and invoices cannot be delivered. The Port User will be charged the fees/expenses charged by third parties such as, for example, the registrar of ships [in Germany: district courts], registration office, registrar of companies, Federal Waterways and Shipping Administration.

5 Terms of Payment, Late Payment

5.1 Due date

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

5.2 Meeting the obligation to pay

The payment obligation of the Port User is considered met only when the HPA 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 € 5.00 to re-process the direct debit.

Upon request the Port User may take part in the SEPA direct debit procedure in the form of a SEPA direct debit order.

5.3 Entitlement to offset / retain payments

The Port User is only entitled to offset and retain payments against the entitlement of the HPA to port fees and charges if the counterclaims of the Port User are undisputed or have been recognised by declaratory judgment.

5.4 Late payment

If the Port User delays payment of an invoice, the HPA has the right to charge a lump sum fee of 40 euros in addition to default interest as set forth in section 288 BGB [German Civil Code]. This does not exclude the right to claim further damages for default. The lump sum mentioned in sentence 1 will be deducted from damages owed in as far as the harm was caused in connection with the assertion of the claim.

5.5 Lien

In order to secure the entitlement of the HPA to receive payment of port fees and charges, the HPA has a legal lien on the relevant ship in accordance with the statutory provisions on maritime liens.

5.6 Defence against invoices for port fees and charges

If Port Users disagree with the invoice amount, they have to object to the HPA in writing within one month of 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 HPA will specifically point out the time limit to lodge an objection 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 must lodge their objection within two weeks after the problem has been rectified at the latest. Any other statutory

claims the Port User may have with regard to reasonable objections raised after the time limit set has expired remain unaffected.

6 Limitation of Liability

6.1 Port Users use the port at their own risk. Subject to sub-clauses 6.2 and 6.3 hereof, the HPA as well as its employees, staff, representatives and vicarious agents are only liable for damage caused by port facilities, damage due to the violation of the duty to ensure public safety or damage which can be attributed to the HPA in any other way - irrespective of the legal nature of the claim asserted and independent of the kind of breach of obligation - if the damage is due to wilfulness and gross negligence.

6.2 In the event of a breach of material contract obligations, the HPA will be liable for any act of negligence; however its liability is limited to the damage typical of the type of agreement and foreseeable damage. Material contract obligations are obligations that are material for the purpose of the contract execution and that the contractual partner relies on and may regularly rely on to be complied with. Claims of the Port User arising out of third-party claims for damages, claims for lost profits as well as claims for compensation of other pecuniary damage or indirect and consequential damage are excluded.

6.3 The above-mentioned liability limitations and exclusions do not apply to damage caused by loss of life or injury to body/limb or health.

6.4 The HPA cannot be held liable for damage caused by an act of God or the elements.

7 Data Protection

With the conclusion of the contract the Port User agrees that the HPA may store and keep any Port User data obtained in connection with the contractual relationship, in particular data to calculate the port fees and charges collected through the forms and via the web portal, and use them for statistical and planning purposes.

The HPA will pass on data not made anonymous to third parties only with the consent of the Port User concerned.

8 Final Provisions, Entry into Force

8.1 Publication

These AGB as well as any subsequent amendments to these AGB will be published as set forth in sub-clause 1.3 hereof.

8.2 Invalidity or unenforceability

The invalidity or unenforceability of one or several provisions of these AGB does not affect the validity of the remaining provisions.

8.3 Place of performance, governing law, jurisdiction

The place of performance for all services to be rendered in accordance with these AGB is Hamburg. The contractual relations between the HPA and the Port User are governed by German law. The courts in Hamburg shall have exclusive jurisdiction over any disputes arising from or in connection with the contractual relationship between the HPA and the Port User.

8.4 Entry into force

These AGB enter into force on 1 January 2017. They apply to all contracts and agreements on the use of the port entered into on or after that date. With regard to Annex 1 (Schedule of Port Fees and Charges) the periods of validity as mentioned therein apply.

9 Annex: Schedule of Port Fees and Charges

Reference is made to the Schedule of Port Fees and Charges, Annex to the General Terms and Conditions (“AGB”) of the Hamburg Port Authority (“HPA”), a public-law institution, applicable to civil-law agreements on the general use of the Port of Hamburg, effective as of 1 January 2017.

1. Ships carrying liquid bulks

Price category 11: Oil tankers

Price category 12: Ships carrying other, mostly liquid bulks, chemicals and liquefied gases

2. Ships mostly carrying dry bulks

Price category 21: Bulkers

3. General cargo vessels, passenger / cruise ships and other commercial ships

Price category 31: Full container ships in scheduled liner service

Price category 32: Car carriers

Price category 33: RoRo container ships (ConRo)

Price category 34: Other RoRo ships / multi-purpose carriers

Price category 35: Combined passenger and RoRo ferries (RoPAX) in scheduled liner service

Price category 36: Passenger ships / cruise ships

Price category 37: Other cargo vessels and types of traffic

Price category 38: Other commercial watercrafts / offshore shipping

Price category 39: Sports and recreational boats / yachts

Price category: Inland vessels and watercrafts deployed in the port area