

Hong Kong Pilots Association Ltd.

Standard Terms and Conditions for the Pilotage Services

The engagement of Pilotage Services is subject to the following Standard Terms and Conditions:

Definitions

1. For the purposes of this Standard Terms and Conditions :-
 - (a) “**HKPA**” means Hong Kong Pilots Association Ltd.
 - (b) “**Applicant**” means the person who requests for and/or engages the Pilotage Services.
 - (c) “**Ordinance**” means the Hong Kong Pilotage Ordinance (Cap. 84) and its schedules and orders (as the same may be amended, replaced or re-enacted from time to time).
 - (d) “**Owner(s)**” means the vessel, the master, the owners and/or (as applicable) the demise charterers of the vessel for which the Pilotage Services are requested and/or engaged.
 - (e) “**Pilotage Services**” means the pilotage services provided to the Owner(s) by a licensed pilot or pilot who is licensed under the Ordinance while navigating in the pilotage area in Hong Kong.

Application

2. In arranging for the Pilotage Services, the Applicant and the Owners jointly acknowledge that HKPA acts as an agent only for the Applicant and the pilot and assumes no liability, whether in contract, tort or otherwise, in relation to the Pilotage Services provided.
3. Unless HKPA otherwise agrees, these are the only Standard Terms and Conditions which the engagement of the Pilotage Services is subjected to. The Applicant agrees that these Standard Terms and Conditions will in all circumstances prevail over any other document, order or other terms, including the Applicant’s own terms and conditions (if any).
4. HKPA reserves the right to amend or replace any aspect of these Standard Terms and Conditions at his sole discretion and without prior notice.

Parties

5. The Applicant confirms that it is requesting for and/or engaging the Pilotage Services in its own name and on its own behalf and warrants that it is duly and irrevocably authorized to request and/or engage the Pilotage Services on behalf of the Owners.
6. Each of the Applicant and the Owners shall be jointly and severally liable for the pilotage dues.

Booking of Pilotage Services

7. The Applicant shall :-
 - (a) submit his request for Pilotage Services and place his order on the Pilot Booking Form (the “**Form**”) by fax or submit online by HKPA’s Electronic Pilotage Booking System (the “**E-Booking**”) to HKPA as early as possible preferably during daytime, but in any event at least [6 hours] prior to the scheduled Pilotage Service.
 - (b) fill in one individual Form for each Pilotage Service request; and
 - (c) confirm each order by telephone 30 minutes after the Form is submitted by fax or E-Booking.
8. HKPA has discretion to accept or reject any Pilotage Service request, any variation or any modification requested by the Applicant. Without limitation, HKPA may reject a Pilotage Service request if the time between its receipt by HKPA and the scheduled Pilotage Service is in HKPA’s view, is insufficient.
9. The Applicant may place a request to vary a scheduled Pilotage Service or request a cancellation of the same without incurring additional charges or surcharges provided that the Applicant provides HKPA with at least the same amount of notice as set out in Clause (8) above. HKPA has discretion to accept or reject any variation or cancellation request by the Applicant.
10. In case a variation or cancellation request is accepted by HKPA on less than the required notice, the Applicant will be liable for any loss or expense incurred by HKPA in respect of that Pilotage Service request (including payment for any services ordered by HKPA from its contractors relating to that Pilotage Service request).
11. HKPA shall endeavour to make arrangement with the pilots for the provision of the Pilotage Services but HKPA accepts no responsibility if a pilot cannot be arranged for reasons beyond control of HKPA.

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12. A Pilotage Service booking will be deemed cancelled if:
- (a) the Applicant fails to provide accurate information when making the booking;
 - (b) the arranging for the Pilotage Service by HKPA to the Applicant is delayed from the scheduled time for a period of at least [1] hour; or
 - (c) HKPA does not accept a variation request in relation to the scheduled Pilotage Service engaged by the Applicant.
13. Without limiting any other provision of these Standard Terms and Conditions, HKPA will not be liable for any loss resulting from HKPA exercising its discretion to reject any booking or any variation of a booking requested by the Applicant, or for any delay associated with a deemed cancellation.

Information

14. The Applicant is responsible for ensuring that all the information and data provided under this Form is filled in accurately and properly. The Applicant must provide HKPA with all the information as HKPA requires.
15. HKPA will not be responsible for any recording errors.
16. The Applicant shall :-
- (a) indemnify HKPA and the pilot for all loss and expenses; and
 - (b) pay all reasonable fees and/or charges for all additional work performed and/or time spent by the pilot and/or all additional administrative work performed by HKPA;

shall the delay be caused by the inaccuracy and/or the insufficiency of the information provided by the Applicant in the Form.

Arrangement of berth

17. The Applicant shall procure that the destined berth is clear and available before the vessel's arrival at that berth.

Safety

18. The Applicant must ensure that it and the vessel are at all times compliant with all applicable laws, regulations and safety standards and that the pilot is provided with safe access to the vessel and a safe operating environment while undertaking the Pilotage Services on the vessel.
19. The Applicant is at all times responsible for the safety and wellbeing of the pilot whilst the pilot is discharging the Pilotage Services; and the Applicant acknowledges that the provision of the Pilotage Services is subject to the Applicant's compliance with this provision.

Duration of Pilotage Services / additional pilotage dues

20. The pilot shall endeavour to render his Pilotage Services for the intended trip booked by the Applicant, EXCEPT that :-
- (1) If within 30 minutes after the pilot has boarded the vessel, the terminal is unable to confirm to the pilot that the destined berth is clear and available, the pilot may decide in consultation with the master:-
 - (a) To discontinue the intended trip and divert the vessel to an anchorage. Upon safe placement of the vessel at the anchorage, the Pilotage Service shall be deemed to have been duly completed and all the obligations of the pilot shall be deemed to have been discharged, and the pilot shall be at liberty to leave the vessel; or
 - (b) To continue with the intended trip in which case an additional pilotage due for detention under *Pilotage (Dues) Order, Part II of the Schedule to the Ordinance* is payable from the expiry of 30 minutes after the pilot has boarded the vessel until the terminal confirms to the pilot that the berth is clear and available. However, the pilot reserves his right under sub-paragraph (a) to discontinue the intended trip at any time before the terminal confirms to the pilot that the berth is clear and available.

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- (2) If the pilot in consultation with the master decides that it is unsafe or impracticable to continue with the intended trip, the pilot may discontinue the intended trip and divert the vessel to an anchorage whereupon:
- (a) If the trip is discontinued for reasons relating to the vessel or its cargo, or for reasons for which the Applicant and/or the Owners is/are responsible the Pilotage Service shall be deemed to have been duly completed and all of the duties of the pilot shall be deemed to have been discharged, and the pilot shall be at liberty to leave the vessel; or
 - (b) If the trip is discontinued solely for reasons for which the Applicant and/or the Owners are not responsible (i.e. for reasons unrelated to the vessel or its cargo including but not limited to fog, weather conditions, closure of fairways and city power failure) then :-
 - (i) if the trip is resumed within 1 hour 30 minutes of anchoring, the Pilotage Service shall continue to form part of the original Pilotage Service; and
 - (ii) upon the expiry of 1 hour and 30 minutes after anchoring, the Pilotage Service shall be deemed to have been duly completed and all the duties of the pilot shall be deemed to have been discharged, and the pilot shall be at liberty to leave the vessel.
21. When the vessel has been diverted to an anchorage and the Pilotage Service is deemed to have been duly completed under Clause (20) hereof then if the Applicant and/or the Owners request the pilot to stay on board the vessel to stand by for a new pilotage service (the "**New Pilotage Service**"), the New Pilotage Service shall be deemed to have commenced upon the receipt of such request and the pilot shall be entitled to an additional pilotage due for detention until the vessel sets off on the new intended trip. However, if a New Pilotage Service for the vessel is requested within 3 hours after anchoring, the additional pilotage due for services requested on short notice under *Pilotage (Dues) Order , Part II of Schedule to the Ordinance* shall not be payable. The Pilot shall endeavour to return to the vessel in about 1.5 hours upon request.
22. Where a vessel arrives late at the pilot boarding station, an additional pilotage due for detention is payable. At its sole discretion, HKPA may allow a grace period of 30 minutes.
23. Where an inbound vessel arrives late at the Urmstom Road pilot boarding station, an additional pilotage due for detention is payable. At its sole discretion, HKPA may allow a grace period of 15 minutes.
24. Where a vessel departs late, an additional pilotage due for detention is payable. At its sole discretion, HKPA may allow a grace period of 30 minutes for delay solely caused by traffic congestion or weather, and a grace period of 15 minutes for delay solely caused by cargo and/or ship operations.
25. Where an outbound vessel arrives Urmstom Road pilot boarding station on pre-arranged time, but the relieving pilot from Shenzhen arrived late, an additional pilotage due for detention is payable. At its sole discretion, HKPA may allow a grace period of 15 minutes from the pre-arranged time.
26. A pilotage service with a duration of more than five (5) hours is, at HKPA's discretion, subject to change / relief of another pilot for every period of five (5) hours. Upon change / relief of another pilot, the original pilotage service is deemed to be completed, and a new pilotage service is deemed to be commenced. For the avoidance of doubt, every relief pilot / new pilotage service is entitled to pilotage dues under the *Pilotage (Dues) Order*.

Payment of pilotage dues

27. HKPA will invoice the Applicant for the engagement of the Pilotage Services. The Applicant shall settle all invoices for the pilotage dues together with all other amount(s) payable under these Standard Terms and Conditions within seven (7) days from the date of the invoices.
28. Interest shall accrue on any overdue pilotage dues and/or all amounts payable under these Standard Terms and Conditions from the due date until full payment is received by HKPA at a rate of 2% per cent per month or part of a month.
29. HKPA at its sole discretion may require payment in advance of the pilotage dues from the Applicant as a condition for the arranging the Pilotage Services where: -
- (1) the Applicant and/or the Owners :-
 - (a) is/are indebted to HKPA for overdue pilotage dues; or
 - (b) habitually delay payment of pilotage dues; or
 - (2) HKPA considers that the Applicant or the Owners may default on payment of the pilotage dues.

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30. The Applicant agrees to bear all costs incurred by HKPA in collecting any overdue amounts, including collector agency fees, legal fees on a full indemnity basis and court costs.
31. The Applicant must not offset any amount owing by HKPA to the Applicant against any amount owing to HKPA by the Applicant.

Exclusion of liability

32. Except as provided or implied by law, HKPA provides no warranty, guarantee or similar right in respect of the Pilotage Services.
33. To the full extent permitted by law, HKPA excludes any warranty, guarantee or similar right provided or implied by law. If any warranty, guarantee or similar right provided or implied by law applies to the arranging of the Pilotage Services to the Applicant and cannot be excluded, to the full extent permitted by law HKPA limits its liability to supplying the Pilotage Services again or to the payment of the cost of having the Pilotage Services supplied again.
34. Nothing in these Standard Terms and Conditions excludes, restricts or modifies any warranty, guarantee or similar right provided or implied by law which cannot be excluded, restricted or modified.

Indemnity

35. HKPA accepts no liability to any third party in connection with the arranging of the Pilotage Services to the Applicant.
36. The Applicant will indemnify HKPA and keep HKPA harmless from any loss arising from any claim by any third party in connection with the arranging of the Pilotage Services, including any delay or failure on part of the pilot to provide the Pilotage Services to the Applicant, whether in contract, tort or otherwise.

Waiver

37. Waiver by HKPA of a breach of any of these terms and conditions or of any right or power arising on a breach of these terms and conditions must be in writing and signed by HKPA. A right or power created or arising on a breach of these terms and conditions is not waived by any failure to exercise or delay in exercising, or a partial exercise of, that or any other right or power.

Severability

38. If any of these terms and conditions or part thereof becomes invalid, illegal or unenforceable, such terms and conditions or part thereof shall, to the extent of such invalidity, illegality or unenforceability be deemed severable, be read down to such extent as may be necessary to ensure that they are not invalid, illegal or unenforceable and the remaining terms and conditions shall remain unaffected and continue in full force and effect.

Governing law

39. Nothing in these Standard Terms and Conditions shall affect the pilot's rights under the Ordinance.
40. This Standard Terms and Conditions shall be governed by and construed under Hong Kong law and each party irrevocably, generally and unconditionally submits any dispute arising hereunder to the non-exclusive jurisdiction of the Hong Kong courts.