



McALLISTER TOWING OF VIRGINIA, INC.

914A PEARL STREET, NORFOLK, VA 23523
TEL. (757) 247-7800 NEWPORT NEWS • (757) 627-3651 NORFOLK
FAX: (757) 245-5836
EMAIL: virginia@mcallistertowing.com
WEBSITE: www.mcallistertowing.com

VIRGINIA TOWING CONTRACT

Date

Messrs.....

.....
(hereinafter "Owners")

We hereby agree as agents for and on behalf of McALLISTER TOWING OF VIRGINIA, INC. (and its successors) (hereinafter "McAllister") to perform all the tugboat assistance required by all vessels owned or operated by you on time charter or otherwise, in the Port of Norfolk, Hampton Roads and vicinity, at the rates and upon the terms and conditions as stated herein.

The owner, operator, charterer, agent, representative, or any other person ordering tug services to assist a vessel in accordance with this Contract shall be collectively referred to herein below as "Owner." By signing this Contract, any person or company who orders tug services represents and warrants that they are authorized to do so on behalf of the Owner of the vessel to be assisted. Such person and/or company further agrees to indemnify and hold McAllister harmless from all damages and expenses that may be sustained or incurred by McAllister in the event and in consequence of such person or company not having such authority.

Owner agrees that during the term of this contract, McAllister may issue written notice of an adjustment to the rates, terms and conditions applicable to services provided hereunder to reflect changes in the cost of operations, working hours, conditions or in consequence of any change in law or regulations. It is understood and agreed that said notice of adjustment shall be an agreed amendment to this Contract, without need for additional signatures, unless McAllister receives written notice of rejection of said adjustment at least thirty (30) days before said adjustment is to become effective.

This mutual agreement to remain in effect from and from year to year commencing this date and thereafter until notice of cancellation by either party, by giving thirty (30) days' notice prior to the annual expiration date.

McALLISTER TOWING OF VIRGINIA, INC.

By

EFFECTIVE FEBRUARY 15, 2017

ACCEPTED

.....
Signature of Owners, Charterers or Agents

TERMS: Net 30 days. In the event Owner fails to make payment when due or fails to pay entire balance due under this contract or invoice, Owner will be considered in default and will be responsible for all cost of collection including reasonable attorney's fees and court costs. In addition, Owner agrees to pay 1.5% interest per month on all outstanding balances. Payments received from or on behalf of Owner shall be applied as follows: FIRST to satisfy all fees, costs (including attorney's fees) and interest due and owing on any invoice rendered to Owner commencing with the oldest such invoice and then to each subsequent such invoice and SECOND to satisfy all tug service charges arising hereunder commencing with the oldest open invoice and then to each subsequent invoice. McAllister hereby certifies it is an Affirmative Action Equal Opportunity Employer and complies with the requirements of the Fair Labor Standards Act.

DOCKING AND UNDOCKING CHARGES: Docking and Undocking shall be defined as a service to assist a vessel using its own propelling power from the stream to a dock and from a dock to the stream. The following rates give the single charge for each docking or each undocking of a vessel. The rates are based on the vessel's highest net registered tonnage (NRT) as published in the then current edition of "Lloyd's Register of Ships" in U.S. dollars. Should the vessel type not have an assigned NRT, rates will be provided upon request.

NOTIFICATION: Notice for tug service for Hampton Roads and Southern Branch should be given at least four (4) hours prior to the time the tug is required. The minimum notice time for Norfolk, Newport News and Portsmouth is two (2) hours. The minimum notice time for Yorktown is six (6) hours.

SHIPS WITH POWER: Docking or undocking, not through bridges: \$0.68 per NRT. When transiting through bridges an additional \$.07 per NRT will be charged for each bridge. The above rates are subject to a minimum charge based on 8,500 NRT. Ship rates will apply to tank barges over 80,000 barrels and dry bulk barges over 7,500 DWT.

ADDITIONAL TUGS REQUIRED: When more than two (2) tugs are required to handle a vessel in conditions such as weather, tidal conditions, congestion, difficult berths, USCG mandated regulations, or any other factors required, there will be an additional charge of fifty (50) percent of the normal docking or undocking rate per additional tug.

Any contracted discount only applies to docking/sailing rates as above.

RATES FOR TUGS WORKING BY THE HOUR: (INLAND WATERS ONLY): The hourly rate of \$1,061.00 per hour per tug with a minimum of two (2) hours. Time starts when tug is ordered out from her station and ends when tug returns to her station. Hourly charges shall be prorated to the nearest half (1/2) hour, after the first two (2) hours. Hourly charges are not subject to discount.

Towing or assisting vessels: Towing or assisting vessels between Cape Henry (Lynnhaven) and Hampton Roads or assisting vessels at Richmond, Hopewell, Yorktown, Claremont and Fort Eustis. There shall be an 8-hour minimum charged for each tug.

Transporting Assistance: Assisting a vessel in moving from berth to berth, berth to anchor, anchor to berth and anchor-to-anchor whether or not the tug is made fast to the vessel.

Attendance: Attending a vessel, including service at anchorage, or similar tug services.

Shifting barges: Shifting barges, scows, or lighters for clearing berths whether or not in connection with a docking or a sailing.

TRACTOR TUG: If a tractor tug is specifically requested or required, the rate applicable to that tug shall be an additional 50% of the above scheduled rate(s) and/or any applicable hourly rate.

ESCORTING: If a tug is requested or required to escort a vessel, the rate applicable to that tug shall be \$1,750.00 per hour per tug with a minimum charge of two (2) hours per tug, calculated from the time tug leaves station until it returns to station, prorated to the nearest half (1/2) hour after the first two hours.

TETHERED ESCORT: Any vessel required by some authority to have a tethered escort tug between Cape Henry and Sewell's Point Anchorages, whether inbound or outbound, shall be charged one and one half times the above hourly rate with a two (2) hour minimum per tug, calculated from the time tug leaves station until it returns to station, prorated to the nearest half (1/2) hour after the first two (2) hours.

HOLIDAYS: New Year's Day, Martin Luther King, Jr., Day, Presidents Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and Christmas Day. Any national holiday hereafter proclaimed by the President of the United States. Should any of these holidays fall on Saturday or Sunday, then the following Monday shall be considered as the holiday.

CANCELLED ORDERS: When a tug is ordered and then cancelled, a charge of two-thirds (2/3) of the applicable rate will be made. When an order is cancelled after any tug reports to the location ordered, the charge will be three-quarters (3/4) of the applicable rate. There will be no charge if the orders are cancelled at least four (4) hours prior to the ordered time.

DETENTION: For detention of a tug caused by the vessel not being ready or other conditions beyond our control, the time of the detention will be charged at the rate of \$1,061.00 per hour per tug prorated to the nearest half (1/2) hour. Detention shall also be charged for any undue delay after movement of a vessel has commenced, in proceeding toward berth or in berthing when such delay is caused by circumstances beyond the control of the tugs.

OTHER SERVICES: Prices for services rendered in connection with dead ship tow, salvage, ocean towing, vessels aground or in distress, and when services are performed during heightened Coast Guard port conditions, will be separately quoted upon request. These services, or services not otherwise covered by this Contract, may be governed by the terms and conditions of a BIMCO Contract or such

other contract as may be agreed by the parties. However, in all such cases, all terms and conditions contained in the Contract shall apply to all matters and issues where any such BIMCO Contract or other contract is silent.

TUG INTERESTS: McAllister, its owners, officers, directors, insurers, employees, any tugs providing services pursuant to this Contract, their respective owners, affiliates, operators, charterers, managers, underwriters, masters and crews shall be collectively referred to herein below as "Tug Interests."

FORCE MAJEURE: Tug Interests shall not be responsible or liable for any expense, loss, damage or claim whatsoever caused by or resulting from delays, failures, act or omission hereunder due to strikes, lockouts, labor disturbances, riots, fire, earthquakes, storm, lightning, epidemics, war, disorders, acts of God, acts of the public enemy, terrorists, port congestion, shortage of tugs, mechanical breakdowns, priorities in service, or any other cause whatever beyond their control.

EMPLOYMENT OF OTHER TUGS: All or part of any service performed hereunder may be subcontracted without notice to Owners. Any such subcontractor shall be considered an independent contractor and not an agent, servant or employee of McAllister. If at any time McAllister tugs are not conveniently available for the desired services, McAllister will endeavor to designate or engage other tugs from other sources to provide tug service, but Tug Interests shall not be responsible or liable for damages if McAllister is unable, at any time, for any reason, to furnish such services, either through its own tugs or by engaging tugs from any other source. Any tug designated or engaged by McAllister to perform services under this Contract, and its owners, master and crews shall, while performing any service pursuant to this Contract, have the benefit of all contract provisions herein and shall be considered third party beneficiaries of this Contract and all limitations of liability herein. Further, Tug Interests do not expressly or implicitly warrant the seaworthiness, power, equipment, performance or competency of the Master, crew or any tugs used or engaged by McAllister in the performance of this Contract, but which are otherwise not owned, operated or controlled by Tug Interests. If for any reason, at any time, McAllister is unable or otherwise unwilling, in its sole discretion, to provide tugs to serve Owner's vessel, Owner is at liberty to engage tugs from any other owner or operator. In such circumstance, McAllister shall have no obligation to reimburse Owner for any price differential or any other cost incurred by Owner.

DAMAGE CLAIM TIME LIMITS: Owners shall notify McAllister of any damage to the vessel assisted that allegedly occurred during the performance of services hereunder. Such notice shall be in writing and shall be delivered as soon as practicable, but not later than 48 hours following occurrence. McAllister shall be afforded an opportunity to inspect or survey such damage before commencement of any repairs. Any action in any forum to recover damages from Tug Interests, or any of them, shall be commenced within one year after the occurrence giving rise to the claim, failing which said claim shall be deemed waived.

LIMITATION OF LIABILITY: The furnishing of any service or anything done in connection therewith, shall not be construed to be or give rise to a personal contract, and it is understood that Tug Interests shall have the benefit of all exemptions from and limitations of liability to which an owner of a vessel is entitled under the Limitation of Liability Statutes of the United States. MCALLISTER WARRANTS THE EXERCISE OF REASONABLE CARE IN THE PERFORMANCE OF TUG SERVICES BUT DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF WORKMANLIKE SERVICE.

Unless entitled to immunity or to defenses to, exemptions from and limitations of liability provided under this Contract or under any applicable law, rule or regulation that would reduce their liability to an amount less than that hereinafter set forth, Tug Interests shall be liable only to the extent of their negligence, which negligence shall not be assumed but must be affirmatively proven, for claims, demands, causes of action, liabilities and costs (including third party claims) arising out of or in connection with any occurrence or series of occurrences related to the provision of tug services or line handling pursuant to this Contract up to a maximum aggregate amount of two hundred fifty thousand dollars (U.S.\$250,000.00). Owner understands and agrees that tug services provided hereunder are rendered at all times under the supervision and command of Owner's servants (including the Master of the vessel being assisted and docking pilots), or of State pilots, none of whose actions or inactions may be imputed to Tug Interests. Owner further understands and agrees that the rates charged by or on behalf of McAllister for tug services are predicated upon the limitations of liability and the indemnities set forth in this Contract. Should Owner desire that Tug Interests retain liability in excess of two hundred fifty thousand dollars (U.S. \$250,000.00) it will notify McAllister in writing, whereupon McAllister will quote rates for tug services hereunder predicated on higher liability limits. Any such quote must be accepted by Owner in writing at least twenty-four (24) hours prior to commencement of tug services to the vessel being assisted, failing which the rates and liability limitations otherwise provided herein shall prevail. Nothing herein shall be construed to waive or limit the right of Tug Interests to assert any defenses to liability available to it or to avail itself of any rights of limitation or exemption from liability under any applicable law, rule or regulation. Owner and any vessel assisted hereunder assume all risk of, and shall indemnify Tug Interests from and against, any and all loss or damage sustained by Owner, Tug Interests or by any other vessel, property or person that results from the parting, heaving or sudden movement of any hawser or other line, by whomsoever furnished or howsoever caused. Notwithstanding anything to the contrary in this Contract or elsewhere, Owner understands and agrees that the rates charged hereunder are also predicated on Owner's agreement that Tug Interests shall have no liability for any consequential, punitive, exemplary or special damages of any kind howsoever arising.

Owner agrees to indemnify, defend and hold Tug Interests harmless from and against any and all claims, demands, causes of action, liabilities and costs (including attorney's fees, penalties, fines and third party claims of whatever nature) in excess of the applicable amounts set forth above that are attributable to the acts or omissions, whether or not negligent, of Tug Interests, or any of them, or to unseaworthiness of any tug and which arise out of or in connection with any occurrence or series of occurrences related to the provision of tug services pursuant to this Contract. Except as set forth below, the parties intend for this indemnity to apply in all instances including, without limitation, allisions, collisions, personal injury, fire, explosion, grounding, oil spills and third party claims. Owner warrants that Owner possesses sufficient and adequate insurance on the vessels assisted pursuant to this Contract, including hull and machinery, P&I, cargo and pollution coverage, to comply with all applicable laws and to respond for any losses arising out of or connected in any way with the tug services provided hereunder, with all rights of subrogation for losses under said insurances waived as to Tug Interests and with Tug Interests entitled to all benefits under said insurances of additional or coassureds, as applicable. Nothing herein shall preclude Tug Interests from recovering from any responsible party for any damages sustained by any tugs, or their Masters or crews, providing services hereunder.

PILOTAGE: Tug Interests do not furnish pilots or pilotage to vessels making use of or having available their own propelling power, so that whenever any licensed pilot, or a captain of any tug which is furnished to or is engaged in the services of assisting a vessel making use of or having available her own propelling power at the commencement of such service, participates in directing the navigation of such vessel, or in directing the assisting tugs, from onboard such vessel or from elsewhere, it is agreed that he becomes the borrowed servant of the vessel assisted and her owner, operator and charterer and being subject to the exclusive supervision and control of the vessel's personnel. Any such service performed by any such person is beyond the scope of his employment, if any, for Tug Interests and neither those furnishing the tugs or lending any such person, nor McAllister shall be liable for any act or omission of any such person. For the purposes of this paragraph, vessels making use of or having available their own propelling power shall be deemed to include tug/barge units and vessels of any description having, at any time the service is commenced, another tug in assistance. The provisions of this paragraph may not be changed or modified in any manner whatsoever except by written instrument signed by an officer of McAllister.

With respect to vessels that are not owned by the person or company ordering the tug service, it is understood and agreed that such person or company warrants that it has authority to bind the vessel owners to all the provisions of the preceding paragraph, and agrees to indemnify and hold Tug Interests harmless from all damages and expenses that may be sustained or incurred in the event and in consequence of such person or company not having such authority.

In consideration of McAllister transporting a docking and/or state pilot without charge to and/or from the vessel being assisted hereunder, Owner agrees that it shall indemnify, defend and hold harmless Tug Interests from and against and all claims, demands, causes of action, liabilities and costs (including attorney's fees) incurred in connection with or arising out of any claim by or on behalf of a pilot for personal injury or death sustained while being transported by McAllister to or from the vessel being assisted, excepting only any injury sustained by said pilot to the extent attributable to the gross or willful negligence of McAllister. As used herein, the term "being transported by McAllister" shall include, without limitation, all time when the pilot is (i) present on McAllister shoreside premises enroute to or from the vessel being assisted, and (ii) boarding or disembarking from a tug or other vessel supplied by or on behalf of Tug Interest. As used herein the term "pilot" shall also include any assistant pilot, trainee or other person who may accompany the pilot in any capacity.

MISCELLANEOUS: If any provision of this contract is found void or unenforceable, the remaining terms and conditions shall remain in full force and effect.

FUEL SURCHARGE: All rates published in this schedule are subject to the prevailing fuel surcharge, published elsewhere.

CONTRACT TERMINATION: If at any time during the term hereof, McAllister reasonably concludes that the solvency or financial condition of Owners is threatened it may, in its sole discretion, cancel this Contract, such cancellation to take effect immediately upon receipt by Owners of email or other written notification thereof. If, subsequent to cancelation, Owners provide to McAllister evidence concerning their ability to meet their current and future financial obligations, McAllister may, in its sole discretion, elect to reinstate the Contract effective upon receipt by Owners of email or other written notification thereof.

EFFECTIVE DATE: The above rates, terms and conditions supersede all previously published schedules and are effective from February 15, 2017.