



Towage: Service Provider Requirements

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Introduction

With effect from 23 March 2019, all Towage Operators operating within one or more of the ABP Ports must comply with (and must be able to demonstrate that they comply with) these Service Provider Requirements for towage (the “**Requirements**”).

Additionally, any Proposed Towage Operator will be required to demonstrate its compliance with these Requirements in accordance with paragraph 12 below before being granted the right to provide a Towage Service. Any person wishing to provide a Towage Service in an ABP Port should contact the local Harbour/Dock Master.

All capitalised terms used in these Requirements will have the meanings set out in Appendix A (Definitions and Interpretation).

Towage Requirements

<u>1. Professional Standards and Certification</u>	<p>The Towage Operator must comply with the following requirements on professional standards and certification:</p> <ol style="list-style-type: none">1. All Representatives must be qualified and competent in accordance with the minimum national standards required to perform the work for which they have been engaged by the Towage Operator.2. All Representatives must be fit to carry out the work for which they are engaged.3. All Representatives whose role involves the operation of a Tugboat must be properly and adequately trained to operate the Tugboat in accordance with Good Industry Practice and Applicable Laws.
<u>2. Safety Awareness</u>	<p>The Towage Operator must comply with the following safety requirements:</p> <ol style="list-style-type: none">1. The Towage Operator must comply with all Applicable Law and ABP Regulations relating to health and safety.2. The Towage Operator must work in accordance with its own published safety policy, safe systems of work and risk assessments which have been developed in accordance with Applicable Laws and Good Industry Practice.3. Any Towage Service must be undertaken in accordance with:<ol style="list-style-type: none">(a) the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations;(b) the Guidelines for Safe Harbour Towage Operations as published by the European Tug Association; and(c) the Pilots’ Pocket Guide and Checklist (where applicable),

	(the “Codes”).
<u>3. Tug Boats and Ancillary Equipment</u>	All Tug Boats and any other equipment used by the Towage Operator in the provision of a Towage Service must be fit for purpose, in a good state of repair and maintained in accordance with Good Industry Practice and Applicable Law.
<u>4. Training</u>	<p>All Representatives must be trained in accordance with a structured safety and operational training programme appropriate to the work that they are carrying out.</p> <p>Notwithstanding the generality of this requirement, training for each Representative must include:</p> <ul style="list-style-type: none"> (a) training on the application of the Codes; (b) training on tug types in use; and (c) local knowledge (in circumstances where the Towage Operator is based at the ABP Port or otherwise provides a regular Towage Service at the ABP Port). <p>All Representatives must participate in periodic emergency preparedness drills at the request of ABP.</p>
<u>5. Knowledge of Ports</u>	<p>The Towage Operator must ensure that its Representatives:</p> <ul style="list-style-type: none"> (a) have a working knowledge of local bye-laws, directions, contingency plans and guidelines which are relevant to provision of the Towage Service at each ABP Port where they are engaged; (b) have a working understanding of general marine terminology in order to carry out the Towage Service; (c) are able to accurately read a vessel’s draft marks or dock and lock levels in imperial or metric measure.
<u>6. Security</u>	The Towage Operator is required to adhere strictly to the requirements of the International Ship and Port Security Code (ISPS), as applied by ABP. The Towage Operator will also assist ABP with security requirements in connection with its activities at each ABP Port in accordance with the ISPS Code and any requirements of the United Kingdom Department for Transport or any other Competent Authority.
<u>7. Damage and Incident Reporting Procedures</u>	The Towage Operator must have in place procedures for incident reporting and investigation and must report all damage, accidents and/or incidents of which it becomes aware to the emergency contact at the relevant ABP Port as soon as possible.
<u>8. Personal Protective Clothing and Equipment</u>	<p>The Towage Operator must ensure that, at all times, each of its Representatives wears appropriate PPE for the work he or she is undertaking.</p> <p>The Towage Operator must supply a portable marine radio with multi-channel selection. Radios must be capable of transmitting and receiving on all operational channels used in each ABP Port where the Towage Operator operates.</p>

<p><u>9. Insurance</u></p>	<p>The Towage Operator must have in place and maintain the following policies of insurance (the “Insurance Policies”):</p> <ul style="list-style-type: none"> (a) protection and indemnity insurance in respect of third party liability risks (including cargo damage, pollution and wreck removal) and for levels of covers as would normally be taken out by a prudent towage provider working under the same conditions as the Towage Operator; and (b) such other insurance policies as are required by Applicable Law. <p>The Towage Operator must not take or omit to take any action which would invalidate any of the Insurance Policies in respect of any claim.</p>
<p><u>10. Compliance with Law and ABP Regulations</u></p>	<p>The Towage Operator will comply with and keep itself informed of all Applicable Law and ABP Regulations that apply to its performance of the Towage Service, including:</p> <ul style="list-style-type: none"> (a) all ABP Regulations issued at a local or regional level regarding navigational safety, the use of Tugboats and the performance of a Towage Service based on local/regional requirements; (b) any applicable tug allocation tables / towage guidelines; and (c) all Applicable Law relating to the environment and environmental protection, including the Environmental Protection Act 1990.
<p><u>11. Supervision</u></p>	<p>The Towage Operator will ensure that all Representatives are properly and adequately supervised by the Towage Operator at all times when carrying out the Towage Service. Unless otherwise expressly agreed in writing with ABP, the Towage Operator will be deemed to assume full responsibility for the supervision and conduct of any Towage Service.</p>
<p><u>12. Audit</u></p>	<p>The Towage Operator must keep clear, accurate and up-to-date records and information relating to:</p> <ul style="list-style-type: none"> (a) all matters relating to the Towage Service and its performance for which records must be kept under Applicable Law; and (b) its compliance with these Requirements, including appropriately detailed information regarding: (i) its Tugboats and all other equipment used in connection with the Towage Service; (ii) training carried out by its Representatives; (iii) the Insurance Policies; (iv) all professional qualifications and certificates held by the Towage Operator and its Representatives; and (v) certification and inspection records for equipment used by the Towage Operator. <p>ABP shall be entitled to audit the Towage Operator’s compliance with these Requirements at any time on reasonable prior notice to the Towage Operator. The Towage Operator will comply with ABP during such audit and agrees to give ABP access to all records and information it holds in connection with the Towage Service on</p>

	<p>reasonable prior request and to provide all assistance necessary for ABP to carry out such an audit.</p> <p>ABP shall be entitled to audit any Proposed Towage Operator's compliance with these Requirements prior to the grant of any right permitting the Proposed Towage Operator to provide a Towage Service. The Proposed Towage Operator must provide such records and information as ABP reasonably requires in order to demonstrate the Proposed Towage Operator's compliance with these Requirements.</p>
<p><u>13. General</u></p>	<p>Any deviation from these Requirements by a Towage Operator must be expressly approved in writing by ABP.</p> <p>ABP makes no warranty or representation to any Towage Operator or Proposed Towage Operator that it will be permitted to operate within any ABP Port(s).</p> <p>These Requirements do not affect and are issued without prejudice to:</p> <ul style="list-style-type: none"> (a) any rights or remedies that are available to ABP that arise out of or in connection with a Towage Operator's (or Proposed Towage Operator's) performance of a Towage Service; and (b) the statutory rights of Dock Masters, Pier Masters, Harbour Masters, Marina Masters or Lockkeepers within the prescribed areas in which they exercise their respective statutory jurisdictions.

Appendix A: Definitions and Interpretation

1.1. The following terms shall have the following meanings where used in these Requirements:

“**ABP**” means Associated British Ports;

“**ABP Ports**” means the ABP ports of Immingham, Grimsby, Hull, Goole, Southampton, Newport, Port Talbot, Cardiff, Barry, Swansea, Ipswich, Lowestoft, King’s Lynn, Teignmouth, Plymouth, Garston, Fleetwood, Barrow, Silloth, Troon and Ayr (and “**ABP Port**” shall mean any one of them);

“**ABP Regulations**” means any port rules, byelaws, code of conduct, or other directions or regulations issued by ABP from time to time in connection with any ABP Port;

“**Applicable Law**” means all applicable law and legislation of any jurisdiction including all or any statutes, rules, regulations, statutory guidance, treaties, directives, decisions, directions, recommendations, codes of practice, guidance notes, circulars, bylaws, orders, notices, demands, regulations or official guidance issued by any Competent Authority which are applicable to the Towage Operator, the ABP Port(s) and/or any aspect of compliance with these Requirements;

“**Competent Authority**” means any supranational, national, regional, local or municipal government or regulatory authority, body, agency, court, ministry, inspectorate or department, or any official, public or statutory person or body, police, customs or port authority, in each case acting in accordance with its or their statutory or legal authority in any jurisdiction having authority over the Towage Operator / ABP or having responsibility for the regulation or governance of any aspect of the performance of these Requirements and/or the ABP Port(s) and/or any activities carried out at the ABP Port(s);

“**Good Industry Practice**” means the exercise of that degree of skill, care and diligence which would reasonably and ordinarily be expected of a highly skilled and experienced person carrying out a Towage Service under the same conditions as the Towage Operator;

“**Proposed Towage Operator**” means any person that has applied to provide a Towage Service within any ABP Port(s);

“**Representative**” means any person engaged by the Towage Operator in the provision of a Towage Service;

“**Towage Operator**” means a provider of a Towage Service in any ABP Port(s);

“**Towage Service**” means a service which involves the provision and/or operation of Tugboats for the purpose of towing vessels and/or other objects; and

“**Tugboat**” means any vessel used by the Towage Operator in its provision of the Towage Service.

1.2. In these Requirements:

- (a) the words “include”, “includes” or “including” will be deemed to be followed by the words “without limitation”;
- (b) references to any Applicable Law includes that Applicable Law as from time to time modified or re-enacted or consolidated (whether before or after the date on which these Requirements were last updated) and includes, in the case of legislation, any subordinate legislation made under it; and
- (c) the word “person” includes all forms of legal entity including an individual, company, body corporate (wherever incorporated or carrying on business), unincorporated association, governmental entity and a partnership and, in relation to a party who is an individual, his or her legal personal representative(s).