

## SERVICES CONSIDERED TO BE “CUSTOMARY AND EXPECTED” IN THE PROVISION OF PORT AGENCY SERVICES\*

Terms such as “customary”, “expected” or “standard” are often used, without further qualification, during discussions between a Principal and a Ship Agent to describe the level of port agency service to be provided by the Agent to the vessel for the agreed agency fee. Inevitably, some variance between the expectations of both parties can occur as a result of the loose terminology and this can lead to subsequent disagreement.

The FONASBA Agency Appointment Agreement (AAA) and the General Agency Agreement (GAA) provide some general guidance in this respect but in order to provide more clarity and detail as to what services an Agent might reasonably provide in return for the agreed fee, FONASBA offers the following summary.

\*The provision of “Port Agency” is broadly defined as comprising the services described as “Inward and Outward Clearance of the Vessel”, “Cargo Operations” and “Husbandry” in Part II of the AAA and paragraphs (a) to (d) in Part II, Section 2 (Activities) of the GAA.

**On this basis, and unless otherwise specified, it would be reasonable to expect the Agent, when so appointed, to provide the following services to the vessel in return for the agreed fee:**

### **Inward and Outward Clearance of the Vessel:**

- Making all necessary pre-arrival preparations, including sending pre-arrival information to the Master, the Principal and to all relevant and appropriate third parties including shore authorities, the port and terminal operators and port service contractors
- Regularly updating the Master and Principal on any changes to pre-arrival information in relation to the vessel concerned and any other vessels that may be competing for the same berth or facility
- Maintaining regular contact with the Master and Principal to ensure they are fully advised of any changes to the vessels expected arrival, berthing, cargo handling and sailing programme so that they can take informed decisions based thereon and, if appropriate, suggesting other options to ensure an efficient port call
- Ensuring that the Master and Principal are fully aware of all the information required prior to, during and after the port call, the timelines for the provision of that information and, where appropriate contact details for recipients of any information sent directly by the vessel. So far as he is able, the Agent will also monitor the accuracy of information received from the vessel and notify the Master and Principal of any perceived inaccuracies. The Agent will monitor despatch of the information to the appropriate recipient and ensure that all reporting deadlines are maintained
- Ensuring that all relevant information required by the vessel from shore authorities, port service providers is received in good time and accurate and is provided to the Master and Principal in a timely manner

### **Cargo Operations:**

- Maintaining regular contact with the port and terminal operators and port service providers to ensure they are aware of any changes to the vessel’s arrival, berthing cargo handling and sailing programme and can plan accordingly
- If necessary or appropriate, discussing with the port and terminal operators and port service providers alternative strategies to ensure an efficient port call
- Liaise with the Master and Principal to ensure that all cargo documentation is completed correctly and accurately and at all times in accordance with the instructions of the Master, Principal and any other duly authorised person(s).
- Ensuring that any discrepancies, errors or omissions in relation to cargo or other documentation are rectified as soon as possible in accordance with the instructions of the Master and Principal thus avoiding any delay to, or claims against, the vessel

**Husbandry:**

- Attending to the husbandry requirements of the master and crew including, where required, arranging cash to the master, organising the supply of stores, victuals and other provisions, arranging for the crew to visit healthcare providers and to seamen's centres and organising the on- and off-signing of crew members

**Financial:**

- Providing the Principal with an accurate and realistic proforma disbursements account in advance of the vessel's arrival and agreeing any prefunding arrangements
- Ensuring that the Principal's funds are accounted separately from those of the Agent
- Ensuring that the Principal is aware of any payment timelines and ensuring that funds are received in good time to make payment and avoid any delay to the vessel or cargo operations
- Checking all invoices and making timely payments to appropriate shore authorities, the port and terminal operators and port service contractors in accordance with the Principal's instructions. In addition the Agent will ensure that all shore authorities, the port and terminal operators and port service contractors render their invoices in a timely manner and take prompt action to obtain any that are not.
- Immediately notifying the Principal should any unexpected expenses arise and agreeing a clear procedure for funding those additional expenses
- As promptly as possible issuing to the Principal the Final Disbursements account supported by all relevant invoices and other supporting documentation

**The information provided above is indicative only. Depending on the circumstances of a particular appointment, the exact level and scope of port agency services provided by the Agent to the vessel may vary considerably. For the avoidance of doubt, the exact nature of the appointment, and the duties rendered by the Agent to the vessel should be agreed between both parties at the time the agency appointment is accepted.**

The agreed fee for providing these services shall be detailed in the remuneration provisions of the AAA or GAA as appropriate. Notwithstanding the agreed fee however, the Agent shall have the right, should the need arise, to charge an additional fee for time and costs incurred due to unexpected occurrences creating additional work or delay to the vessel.

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