



# McALLISTER TOWING OF FLORIDA, INC.

4358 APOLLO AVENUE, JACKSONVILLE, FLORIDA 32226  
TEL. (904) 751-6228  
E-MAIL: jacksonville@mcallistertowing.com  
WEBSITE: www.mcallistertowing.com

## JACKSONVILLE TOWING CONTRACT

Date .....

It is hereby agreed between Messrs: \_\_\_\_\_ (hereinafter, called "Owner") and McALLISTER TOWING OF FLORIDA, INC. (and its successors) (hereinafter called "McAllister") that McAllister will furnish Tugs for and attend to all the towage requirements at the Port of Jacksonville and other agreed locations of Vessels owned, managed or controlled by Owner, and Owner agrees to place all of its towage requirements at the Port of Jacksonville and other agreed locations with McAllister in accordance with the then current "Schedule of Rates, Terms and Conditions" as may be amended from time to time.

Owner agrees that McAllister shall have the right at any time, upon thirty (30) days advance notice to Owner, to increase its rates or modify terms or conditions, but if Owner does not consent to such changes, they may cancel this Contract upon thirty (30) days written notice to McAllister.

This Contract shall remain in force from ..... and shall continue thereafter from year to year until cancelled by either party giving to the other thirty (30) days' notice in writing prior to the annual expiration date.

### McALLISTER TOWING OF FLORIDA, INC.

By .....

ACCEPTED

.....  
Authorized Signature

**EFFECTIVE  
SEPTEMBER 15, 2019**

**PAYMENT TERMS:** Net 30 days. In the event Owner fails to make full payment when due, McAllister shall be entitled to recover all costs of collection, including reasonable attorney's fees and court costs, and interest of 1½% per month on all outstanding balances. Payment received by 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. Notwithstanding anything contained herein, in providing Tug Services to the assisted Vessel, McAllister is relying upon the credit of the Vessel, and maintains its right to assert a lien against said Vessel for any amounts due for the Tug Services rendered, including those referenced herein.

**SCHEDULE OF RATES TERMS AND CONDITIONS**  
**Effective September 15, 2019**

UNLESS A VESSEL IS SUBJECT TO A TOWAGE AGREEMENT WITH MCALLISTER, ALL TUG SERVICES REQUESTED BY OR ON BEHALF OF A VESSEL ARE PERFORMED BY MCALLISTER SUBJECT TO ALL THE RATES, TERMS AND CONDITIONS SET FORTH IN THE THEN CURRENT "SCHEDULE OF RATES, TERMS AND CONDITIONS" IN EFFECT ON THE DATE AND PORT FROM WHICH THE SERVICES ARE PROVIDED (WHICH SCHEDULE INCLUDES LIMITATIONS AND DISCLAIMERS WITH RESPECT TO PERFORMANCE OF SAID SERVICES AND OBLIGATIONS AND OPTIONS FOR OWNER). MCALLISTER REJECTS INCORPORATION BY REFERENCE OF OTHER PARTIES' ONLINE TERMS AND CONDITIONS. IF A VESSEL IS SUBJECT TO A TOWAGE AGREEMENT WITH MCALLISTER, THE PERTINENT SCHEDULE OF RATES, TERMS AND CONDITIONS SHALL APPLY WHERE THE AGREEMENT IS SILENT UNLESS OTHERWISE STATED IN THE AGREEMENT. EXCEPT AS PROVIDED HEREIN, NO TERM OR CONDITION OF THE SCHEDULE MAY BE DELETED OR AMENDED UNLESS AGREED TO IN A WRITING SIGNED BY AN OFFICER OF MCALLISTER AND BY OWNER. THE CURRENT SCHEDULE OF RATES, TERMS AND CONDITIONS IS PUBLISHED ON MCALLISTER'S WEBSITE AT WWW.MCALLISTERTOWING.COM.

**DEFINITIONS:** As used herein, the following terms shall mean:

**"Docking/Undocking":** A service rendered to assist a Vessel using its own propelling power from the stream to a dock, bow in, or from a dock to the stream.

**"Escort/Tethered Tugs":** Services in which a Tug is requested or required to attend upon a Vessel during transit and provide services beyond those traditionally associated with docking/undocking of Vessels in the port. Tethering shall mean a Tug's line is attached to the Vessel during this service.

**"McAllister":** McAllister Towing of Florida, Inc., and its successors.

**"Owner":** Collectively, the owner, charterer, operator and manager of the Vessel receiving Tug Services from McAllister.

**"Overtime":** The period between 1600 and 0800 on weekdays and anytime on Saturdays, Sundays and Holidays.

**"Schedule":** The Schedule of Rates, Terms and Conditions for the applicable port that is in effect on the date that Tug Services are rendered to a Vessel. A current copy of the Schedule may be found on McAllister's webpage at [www.mcallistertowing.com](http://www.mcallistertowing.com).

**"Tug or Tugs":** The tugboats provided or arranged by McAllister to perform the requested Tug Services.

**"Tug Interests":** McAllister, the Tugs, their respective owners, officers, directors, employees, affiliates, operators, charterers, managers, underwriters, masters and crews.

**"Tug Station":** The Tug's customary berth at the McAllister facility.

**"Tug Service" or "Tug Services":** Any activities or services which a Tug provides to the Vessel, including but not limited to, docking, undocking, shifting, escorting, tethered escorting, hourly or standby services, line handling or any of the other such actions a Tug may be requested to provide.

**"Vessel":** Shall mean a Vessel that receives Tug Services.

**SCOPE:** The following schedule of rates, terms and conditions applies for each docking or each undocking of a Vessel in the Port of Jacksonville and its tributaries in clear weather and safe berths. This rate is obtained by referring to the Vessel's appropriate NRT and the zone where the work is performed (Monday to Friday 0800 to 1600). ALL RATES ARE IN U.S. DOLLARS, BASED ON THE HIGHEST NET REGISTERED TONNAGE ("NRT") AS PUBLISHED IN THE THEN CURRENT EDITION OF "LLOYD'S REGISTER OF SHIPPING". SHOULD THE VESSEL TYPE NOT HAVE AN ASSIGNED NRT, RATES WILL BE PROVIDED UPON REQUEST.

**RATES FOR DOCKING AND UNDOCKING:**

Zone 1	Main Street Bridge to Talleyrand Terminal . . . . .	\$0.58 per NRT
Zone 2	Chevron Terminal to Trout River. . . . .	\$0.60 per NRT
Zone 3	Below Trout River to Buckeye Terminal . . . . .	\$0.62 per NRT
Zone 4	Below Buckeye Terminal to Blount Island including Northside Generating Station . . . . .	\$0.65 per NRT
Zone 5	Below Blount Island, including USMC Base and BAE Shipyards . . . . .	\$0.69 per NRT

(Minimum charge = 10,500 NRT)

All Tug Services are furnished subject to the rates, terms and conditions set forth in this Contract. Receipt by or on behalf of Owner of any Tug Service described in this Contract shall constitute acceptance by Owner of all the terms and conditions set forth herein. McAllister reserves the right to decline any order for Tug Service hereunder.

**SERVICES DICTATED BY TIDE OR CURRENT:** An additional charge of \$0.23 cents per NRT shall be added to the schedule of rates above.

**ADDITIONAL TUGS REQUIRED:** When more than two (2) tugs are required to handle a Vessel, an additional charge of \$0.30 cents per NRT, per additional Tug shall be added to the schedule of rates above.

Any contracted discount, only applies to docking/undocking rates as above. Hourly charges are not subject to a discount.

Should a Vessel lose her ability to maneuver (power or steering) during the docking or undocking evolution, said Vessel will incur an additional minimum charge of two hours at the hourly rate of \$1,800.00 per hour per tug, prorated to the nearest half (1/2) hour.

**TRACTOR TUG:** If a tractor tug is specifically requested or required, the rate applicable to that Tug shall be increased an additional 50% above the schedule of rates and/or any applicable hourly rates.

**ESCORTING SHIPS OR TOWS:**

From Blount Island to St. Johns Seabuoy or reverse tethered tug . . . . . \$6,200.00 Per Tug  
From Bount Island to St. Johns Seabuoy or reverse non-tethered tug . . . . . \$4,000.00 Per Tug  
From Jacksonville to Blount Island or reverse or within any one zone per tug, per zone, per bridge . . . . . \$1,000.00 Per Tug

**LINE HANDLING:** Should a Tug or Lineboat be requested to perform linehandling services by the Master, Pilot, Agent, Vessel Owner/Operator, Linehandling firm or Terminal, an additional rate of \$1,050.00 shall be assessed in addition to any other charges to the party requesting the service. In addition, McAllister shall not assume any liability and shall be held harmless for conducting such operations.

**SHIFTING SERVICES:** Defined as Tug assistance performed in connection with the movement of a Vessel from berth to anchorage, anchorage to anchorage, anchorage to berth, anchorage to stream or from stream to a dock stern in, whether or not the Tug is made fast to the Vessel. Shifting services shall be charged at one and one-half times the rate of the higher zone.

**RATE FOR TUGS WORKING BY THE HOUR:** For Tug Services not covered above, the rate of \$1,200.00 per Tug per hour (prorated to the nearest half (1/2) hour), including running time to and from the Tug Station, shall apply. There shall be a four (4) hour minimum per Tug.

**OVERTIME:** Any docking, shifting or undocking of a Vessel performed during Overtime shall be charged an additional rate of \$695.00 per hour, per tug, prorated to the nearest half (1/2) hour with a minimum charge of one (1) hour. When the docking or undocking are performed during an Overtime period and are not completed until after termination of the Overtime period, the Vessel shall continue to be charged at the Overtime rate. When the docking or undocking are performed during the regular period and are not completed until after the Overtime period has commenced, the Vessel shall be charged the additional Overtime rate.

**HOLIDAYS:** New Year's Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day and any national holiday hereafter proclaimed by the President of the United States. In the event any of the above holidays fall on Saturday or Sunday, the following Monday will be observed as such holiday.

For Tug Services performed on a Holiday (as defined above), there will be an additional charge of \$1,000.00 per Tug per hour, with a one (1) hour minimum added to the schedule of rates above. When Tug Service is performed on a Holiday and is not completed until after the expiration of the Holiday, the Vessel shall continue to be charged at the Holiday rate. When Tug Service is performed during the regular period and is not completed until after a Holiday has commenced, the Vessel shall be charged the additional Holiday rate.

**NOTIFICATION FOR TUG SERVICE:** Four (4) hours of definite notice is required.

**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 a Tug reports to the location ordered, the charge will be three-quarters (3/4) of the applicable rate, plus any detention incurred. 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 McAllister's control, the time of detention will be charged at the rate of \$900.00 per hour per Tug, prorated to the nearest one-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 Tug 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 Tug Services, or Tug 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 this Contract shall apply to all matters and issues where any such BIMCO Contract or other contract is silent.

**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 or omissions in the performance of Tug Services arising from or related to strikes, lockouts, labor disturbances, riots, fire, earthquakes, storm, lightning, epidemics, war, disorders, civil commotions, acts of God, acts of the public enemy, acts of government or public authority, terrorists, port congestion (including terminal delays), 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 Owner. 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 required 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 arrange such services. Any non-McAllister Tug designated or engaged by McAllister to perform services under this Contract, and its owners, master and crews shall, while performing such services, have the benefit of all contract provisions herein or otherwise agreed between McAllister and Owner, 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 Tug Owner 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.

#### **CLAIM TIME LIMITS:**

- a. Owners shall notify McAllister of any claim, including damage to the vessel assisted, that allegedly occurred during performance of the requested tug services hereunder. Such notice shall be in writing and shall be delivered as soon as practicable, but not later than 48 hours following the alleged occurrence. McAllister shall be afforded an opportunity to inspect or survey any alleged damage before commencement of any repairs. Notwithstanding any statute or rule of law providing for a longer period within which to file suit, any action in any forum to recover damages or any other forms of redress from Tug Interests, or any of them, shall be commenced within one (1) year after the occurrence giving rise to the claim, failing which said claim shall be deemed waived.
- b. This Contract shall be governed by and construed in accordance with the Maritime Law of the United States and, to the extent not in conflict therewith, by the law of the state of New York, excluding its conflict of laws rules. The parties agree that any proceeding involving this Contract or the tug services performed hereunder shall be brought in the United States District Court for the Southern District of New York or, if said court shall not have jurisdiction thereof, then in a state court of competent jurisdiction sitting in New York County, New York.
- c. Tug Interests and Owners irrevocably waive their right to trial by jury with respect to any claim or dispute arising in whole or in part out of the terms and conditions of this contract or the provision of tug services to a vessel.

#### **LIMITATION OF LIABILITY:**

- a. 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.
- b. 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.
- c. Unless entitled to immunity or to defenses to, exemptions from, and/or 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 any and all 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 the requested 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 apply. Nothing stated herein shall be construed to waive or limit the right of Tug Interests to assert any defenses to liability available to them or to avail themselves of any rights of limitation or exemption from liability under any applicable law, rule or regulation.
- d. Owner and any vessel assisted hereunder assume all risk of, and shall defend and indemnify Tug Interests from and against, any and all loss or damage sustained by Owner, the vessel assisted, Tug Interests or by any other vessel, property or person that results from the parting, heaving, pulling on as directed, or sudden movement of any hawser or other line, by whomsoever furnished or howsoever caused.
- e. 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.
- f. 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

limitation 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. 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 requested, 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.

- g. 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:**

- a. 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.
- b. 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.
- c. 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 Interests. As used herein the term "pilot" shall also include any assistant pilot, trainee or other person who may accompany the pilot in any capacity.

**CHANGE IN CONDITIONS:** Notwithstanding anything to the contrary herein, should the U.S. Coast Guard or any other U.S. state or government agency, port authority, terminal or association (including any pilot or pilot association), or any designee of any of the foregoing, issue any regulation or requirement that obligates McAllister to make capital improvements to the Tugs, to provide Tugs with higher horsepower or different operational capabilities or that obligates McAllister to operate the Tugs in a different manner or with a different crew complement that increases its operating costs, McAllister shall have the right to unilaterally amend the Rates, Terms and Conditions set forth in this Schedule, without notice to the Owner or Vessel, in order to reflect the new requirements and, as applicable, mitigate the costs thereof.

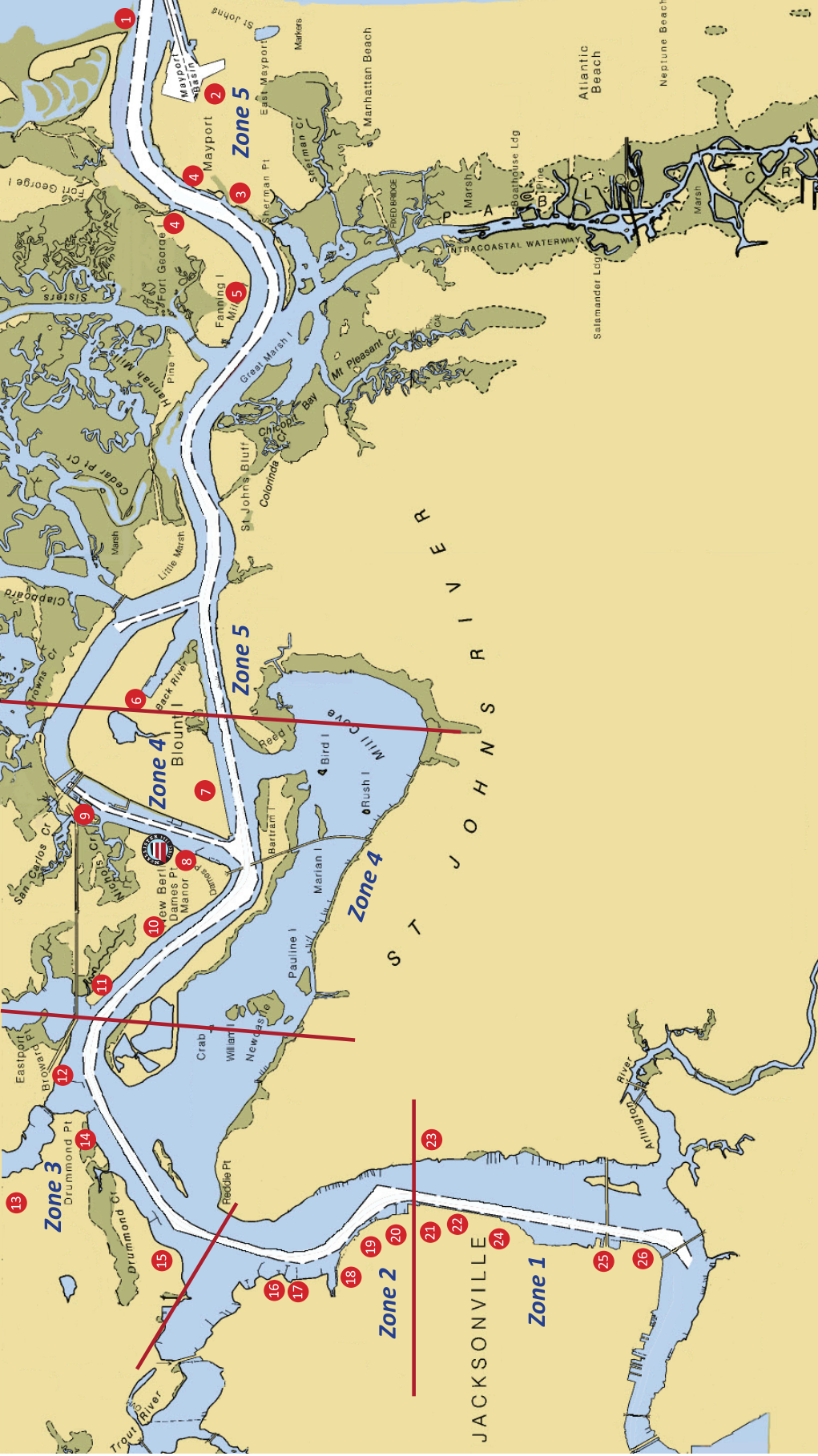
**FUEL SURCHARGE:** All rates published in this Contract are subject to the prevailing fuel surcharges, which are available upon request and may change at any time without prior notice.

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

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

**EFFECTIVE DATE:** The above rates, terms and conditions supersede all previously published Contracts and are effective from September 15, 2019.





**LEGEND**

- |                          |                             |                            |                             |                              |
|--------------------------|-----------------------------|----------------------------|-----------------------------|------------------------------|
| 1) JETTY ENTRANCE        | 7) JAXPORT BLOUNT ISLAND    | 13) IMESON INDUSTRIAL PARK | 19) TRANSMONTAIGNE          | 25) COMMODORE POINT TERMINAL |
| 2) MAYPORT NAVAL STATION | 8) JAX LNG                  | 14) MARATHON TERMINAL      | 20) CENTERPOINT             | 26) NORTH FLORIDA SHIPYARD   |
| 3) U.S. COAST GUARD      | 9) JEA NORTHSIDE            | 15) US NAVY FUEL           | 21) JAXPORT OFFICE BUILDING |                              |
| 4) MAYPORT FERRY         | 10) DAMES POINT TERMINAL    | 16) U.S. GYPSUM            | 22) JAXPORT TALLEYRAND      |                              |
| 5) BAE SHIPYARD          | 11) JAXPORT CRUISE TERMINAL | 17) NUSTAR TERMINAL        | 23) JACKSONVILLE UNIVERSITY |                              |
| 6) BIC-USMC              | 12) BUCKEYE TERMINAL        | 18) KEYSTONE TERMINAL      | 24) TMT-CROWLEY MARINE      |                              |

