

STANDARD TERMS AND CONDITIONS

These standard Terms & Conditions apply between Westport Harbour (“WH”) and each customer who uses the services of WH. The attached First Schedule (“Schedule 1”) outlines the customer details (the owner of the vessel), services to be provided, the period for provision of the services and commencement date.

1. SERVICES PROVIDED

1.1 WH may agree to provide any of the following services to the customer:

- a) Dredging services
- b) Pilotage
- c) Towage
- d) Berthing
- e) Fresh water, power, and waste oil
- f) Cement shipping facilities
- g) Coal handling, shipping and storage facilities (including mobile cranes)
- h) Crew and store transfers
- i) Uncovered storage areas

1.2 WH at its discretion is entitled to refuse to allow a vessel to berth and moor, or may at any time instruct a vessel to cease loading and unloading, and/or require a vessel to leave a berth upon written notice from WH to the customer in the following circumstances:

- a) A suitable berth is not available, or
- b) The customer is otherwise in material breach of these Terms & Conditions

2. COMMENCEMENT AND TERMINATION

The commencement date of these Terms & Conditions and the schedules is the date stated in schedule 1. However, by berthing at the wharf the Operator of the vessel and the vessel Owner are deemed to accept the Terms & Conditions, whether schedule 1 is signed or not. The Terms & Conditions and schedules will remain in effect until terminated by either party giving one month’s written notice to the other.

3. RULES AND BYLAWS

The customer agrees to familiarise themselves and comply with all the obligations in the Westport Harbour Information Pack (“Schedule 2”) and the Buller District Council Westport Harbour Navigation and Safety Bylaws 2008. The Bylaws can be accessed from the Westport Harbour website (westportharbour.co.nz) or the Buller District Council website (bullerdc.govt.nz).

4. FEES/RENTAL

4.1 The attached Fees Schedule (“Schedule 3”) is the current fees and rental fees that apply to this agreement.

4.2 Schedule 2 may be altered by WH by giving the customer one month’s written notice.

4.3 The fees and charges will be invoiced monthly by WH. The terms of payment are by the 20th of the following month.

4.4 If the account is unpaid after the 20th of the following month interest will be charged on the amount owing at a rate of 2% per month until the account and all of the interest due is paid in full.

4.5 All additional legal and collection costs arising from the collection of the account and any interest will be payable by the customer.

5. RESTRICTION ON USE

The customer shall only use the berth for accommodating the vessel named in Schedule 1. Recreational berths shall not be used for commercial purposes.

6. NO SUBLETTING

The customer is not permitted to sublet or authorise the use of the berth to any other vessel.

7. CUSTOMERS INDEMNITY

The customer will indemnify WH against any loss, damage, expenses, claims, legal liability incurred by WH as a result of:

- a) The customer's acts or omissions;
- b) Acts or omissions of others to which the customer has contributed; or
- c) Acts or omissions of any persons invited to the Marina by the customer.

8. CUSTOMER TO INSURE

The customer will at all times have current insurance policies sufficient to cover all of the customer's obligations, warranties and indemnities that arise (or may arise) from this agreement.

9. DEFAULT IN COMPLYING

9.1 If the customer fails to comply with any obligations under this agreement WH may give written notice to the customer to remedy the default within seven (7) days. If the customer has failed to pay their account, written notice will be given when the account has been outstanding for three (3) months.

9.2 If the default is not remedied within seven (7) days WH may proceed with any one or more of the following actions:

- a) Make deductions from the customer's fish sales
- b) Terminate this agreement and require the customer's vessel to be removed from the Port forthwith
- c) WH may remove the customer's vessel and recover the costs from the customer
- d) If, after one month of the customer's vessel being removed from the Port by WH the vessel has not been claimed and the account paid in full, WH may, at any time thereafter offer any part or all of the vessel for sale and apply the proceeds of any sale in satisfaction of the amount owing.

10. PERSONAL GUARANTEE

If the customer is a Body Corporate, WH will require a personal guarantee signed by a Director.

11. AGENCY OR OWNERS REPRESENTATIVE

If these Terms & Conditions are entered into by an agent or representative of the customer, that agent or representative warrants to WH that it has authority from the customer to enter into these Terms & Conditions with WH and shall indemnify WH for any loss or damage suffered as a result of the agent's lack of authority, and shall be personally liable as if it were the customer.