

Schedule 1

RATES AND CHARGES

PART 1 — BERTHAGE

[By-law 86]

1. Berthage rates

- (1) Subject to subclause (2) the berthage dues payable in respect of any vessel is 1.8 cents for each tonne of the gross registered tonnage of the vessel for each 6 hours or part thereof during which the vessel occupies a berth.
- (2) The minimum charge for each vessel is as for 12 hours.

PART 2 — TOWAGE RATES, FORMS AND CONDITIONS OF TOWAGE

Division 1 — Ore Wharf

[By-law 89 (2)]

2. Towage rates

The towage rates set out in the Table to this clause are payable in respect of towage services at the Ore Wharf.

TABLE

Summer DWT (Metric)	Towage Charge (In and Out inclusive) \$
Under 40 000	12 981
at least 40 000 and under 50 000	13 437
at least 50 000 and under 60 000	15 159
at least 60 000 and under 70 000	16 759
at least 70 000 and under 80 000	19 838
at least 80 000 and under 100 000	23 000
at least 100 000 and under 120 000	35 000
at least 120 000 and under 160 000	38 000
at least 160 000 and under 200 000	41 000
at least 200 000 and under 240 000	41 159
at least 240 000	42 589

3. Tug Hire

The rate per tug exclusive of towage is —

\$1 700 per hour or part thereof with a minimum charge as for 2 hours.

4. Cancellation fees

- (1) When ordered for 0830-1600 hours, Monday-Friday (excluding Public Holidays) — \$2 700.
- (2) All other times — \$5 500.

Division 2 — Service Wharf

[By-law 89 (3)]

5. Towage rates

The towage rates set out in the Table to this clause are payable in respect of towage services at the Service Wharf.

TABLE

Gross tonnage	Towage Charge Per tug per hour (min. hire 2 hours)
	\$
Under 5 000	800
at least 5 000 and under 8 000	1 000
at least 8 000 and under 11 000	1 100
at least 11 000 and under 14 000	1 200
at least 14 000 and under 17 000	1 300
at least 17 000 and under 20 000	1 500
at least 20 000	1 700

6. Tug hire

The rate per tug exclusive of towage is \$1 700 per hour or part thereof with a minimum charge as for 2 hours.

7. Cancellation fees

- (1) When ordered for 0830-1600 hours, Monday-Friday (excluding Public Holidays) — \$800.
- (2) All other times — \$1 700.

Division 3 — Forms

Form 1

APPLICATION FOR SERVICES OF TUG

*IRON ORE (ROBE RIVER) CAPE LAMBERT ORE AND SERVICE WHARVES
BY-LAWS 1995*

[By-law 90 (1)]

Shipment No.

Progressive No.

I/We hereby apply for the services of the Company's tug(s)

.....for the purpose of towing the vessel.

..... on. 19 at a.m. p.m.

If this application is accepted by the Company I/We must pay its charges as set out in the current rate schedule, viz. \$and be bound by all the conditions contained in the *Iron Ore (Robe River) Cape Lambert Ore and Service Wharves By-laws 1995*. Any agent signing this application is deemed authorized by the Master and the owner of the vessel to do so and any Master signing this application is deemed authorized by the owner of the vessel to do so.

MASTER, OWNER OR AGENT

NAME OF VESSEL

Division 4 — Conditions of towage

*IRON ORE (ROBE RIVER) CAPE LAMBERT ORE AND SERVICE WHARVES
BY-LAWS 1995*

[By-law 90 (2)]

TOWAGE CONDITIONS

Towage is undertaken only under the Towage Conditions (being the United Kingdom Standard Conditions for Towage and Other Services (Revised 1983)) printed hereunder and application for or use of a tug is deemed to constitute acceptance of the conditions as follows —

1. (a) The agreement between the Company and the Hirer is and shall at all times be subject to and include each and all of the conditions hereinafter set out;
- (b) For the purpose of these conditions —
 - (i) **“towing”** is any operation in connection with the holding, pushing, pulling, moving, escorting or guiding of or standing by the Hirer’s vessel, and the expressions **“to tow”**, **“being towed”** and **“towage”** shall be defined likewise;
 - (ii) **“vessel”** shall include any vessel, craft or object of whatsoever nature (whether or not coming within the usual meaning of the word **“vessel”**) which the Company agrees to tow or to which the Company agrees at the request, express or implied, of the Hirer, to render any service of whatsoever nature other than towing;
 - (iii) **“tender”** shall include any vessel, craft or object of whatsoever nature which is not a tug but which is provided by the Company for the performance of any towage or other service;
 - (iv) the expression **“whilst towing”** shall cover the period commencing when the tug or tender is in a position to receive orders direct from the Hirer’s vessel to commence holding, pushing, pulling, moving, escorting, guiding or standing by the vessel or to pick up ropes, wires or lines, or when the towing line has been passed to or by the tug or tender, whichever is the sooner, and ending when the final orders from the Hirer’s vessel to cease holding, pushing, pulling, moving, escorting, guiding or standing by the vessel or to cast off ropes, wires or lines has been carried out, or the towing line has been finally slipped,

whichever is the later, and the tug or tender is safely clear of the vessel;

- (v) any service of whatsoever nature to be performed by the Company other than towing shall be deemed to cover the period commencing when the tug or tender is placed physically at the disposal of the Hirer at the place designated by the Hirer, or, if such be at a vessel, when the tug or tender is in a position to receive and forthwith carry out orders to come alongside and shall continue until the employment for which the tug or tender has been engaged is ended. If the service is to be ended at or off a vessel the period of service shall end when the tug or tender is safely clear of the vessel or, if it is to be ended elsewhere, then when any persons or property of whatsoever description have been landed or discharged from the tug or tender and/or the service for which the tug or tender has been required is ended;
- (vi) the word **“tug”** shall include **“tugs”**, the word **“tender”** shall include **“tenders”**, the word **“vessel”** shall include **“vessels”**, the word **“Company”** shall include **“Companies”** and the word **“Hirer”** shall include **“Hirers”**;
- (vii) the expression **“Company”** shall include any person or body (other than the Hirer or the owner of the vessel on whose behalf the Hirer contracts as provided in Clause 2) who is a party to this agreement whether or not he in fact owns any tug or tender, and the expression **“other Company”** contained in Clause 5 shall be construed likewise.

2. If at the time of making this agreement or of performing the towage or of rendering any service other than towing at the request, express or implied, of the Hirer, the Hirer is not the Owner of the vessel referred to herein as **“the Hirer’s vessel”**, the Hirer expressly represents that he is authorized to make and does make this agreement for and on behalf of the owner of the said vessel subject to each and all of these conditions and agrees that both the Hirer and the Owner are bound jointly and severally by these conditions.
3. Whilst towing or whilst at the request, express or implied, of the Hirer, rendering any service other than towing, the Master and crew of the tug or tender shall be deemed to be the servants of the Hirer and under the control of the Hirer and/or his servants and/or his agents, and anyone on board the Hirer’s vessel who may be employed and/or paid by the Company shall likewise be deemed to be the servant of the Hirer and the Hirer shall accordingly be vicariously liable for any act

or omission by any such person so deemed to be the servant of the Hirer.

4. Whilst towing, or whilst at the request, either expressed or implied, of the Hirer rendering any service of whatsoever nature other than towing —
- (a) the Company shall not (except as provided in Clause 4 (c) and (e)) be responsible for or be liable for;
 - (i) damage of any description done by or to the tug or tender, or done by or to the Hirer's vessel or done by or to any cargo or other thing on board or being loaded on board or intended to be loaded on board the Hirer's vessel or the tug or tender or to any other object or property; or
 - (ii) loss of the tug or tender or the Hirer's vessel or of any cargo or other thing on board or being loaded on board or intended to be loaded on board the Hirer's vessel or the tug or tender or any other object or property; or
 - (iii) any claim by a person not a party to this agreement for loss or damage of any description whatsoever, arising from any cause whatsoever, including (without prejudice to the generality of the foregoing) negligence at any time of the Company, its servants or agents, unseaworthiness, unfitness or breakdown of the tug or tender, its machinery, boilers, towing gear, equipment, lines, ropes or wires, lack of fuel, stores, speed and otherwise; and
 - (b) the Hirer shall (except as provided in Clauses 4 (c) and (e)) be responsible for, pay for and indemnify the Company against and in respect of any loss or damage and any claims of whatsoever nature or howsoever arising or caused, whether covered by the provisions of Clause 4 (a) or not, suffered by or made against the Company and which shall include, without prejudice to the generality of the foregoing, any loss of or damage to the tug or tender or any property of the Company even if the same arises from or is caused by the negligence of the Company or its servants or agents;
 - (c) the provisions of Clauses 4 (a) and 4 (b) shall not be applicable in respect of any claims which arise in any of the following circumstances —
 - (i) all claims which the Hirer shall prove to have resulted directly and solely from the personal failure of the Company to exercise reasonable care to make the tug or tender seaworthy for navigation at the commencement of the towing or other service. For

the purpose of this Clause the Company's personal responsibility for exercising reasonable care shall be construed as relating only to the person or persons having the ultimate control and chief management of the Company's business and to any servant (excluding the officers and crew of any tug or tender) to whom the Company has specifically delegated the particular duty of exercising reasonable care and shall not include any other servant of the Company or any agent or independent contractor employed by the Company;

- (ii) all claims which arise when the tug or tender, although towing or rendering some service other than towing, is not in a position of proximity or risk to or from the Hirer's vessel or any other craft attending the Hirer's vessel and is detached from and safely clear of any ropes, lines, wire cables or moorings associated with the Hirer's vessel.

Provided always that, notwithstanding the foregoing, the provisions of Clauses 4 (a) and 4 (b) shall be fully applicable in respect of all claims which arise at any time when the tug or tender is at the request, whether express or implied, of the Hirer, his servants or his agents, carrying persons or property of whatsoever description (in addition to the Officers and crew and usual equipment of the tug or tender) and which are wholly or partly caused by or arise out of the presence on board of such persons or property or which arise at any time when the tug or tender is proceeding to or from the Hirer's vessel in hazardous conditions or circumstances;

- (d) notwithstanding anything hereinbefore contained, the Company shall under no circumstances whatsoever be responsible for or be liable for any loss or damage caused by or contributed to or arising out of any delay or detention of the Hirer's vessel or of the cargo on board or being loaded on board or intended to be loaded on board the Hirer's vessel or of any other object or property or of any person, or any consequence thereof, whether or not the same shall be caused or arise whilst towing or whilst at the request, either express or implied, of the Hirer rendering any service of whatsoever nature other than towing or at any other time whether being during or after the making of this agreement;
- (e) notwithstanding anything contained in Clauses 4 (a) and (b) hereof the liability of the Company for death or personal injury resulting from negligence is not excluded or restricted thereby.

5. The Company shall at any time be entitled to substitute one or more tugs or tenders for any other tug or tender or tugs or tenders. The Company shall at any time (whether before or after the making of this agreement between the company and the Hirer) be entitled to contract with any other company (hereinafter referred to as **“the other company”**) to hire the other company’s tug or tender and in any such event it is hereby agreed that the Company is acting (or is deemed to have acted) as the agent for the Hirer, notwithstanding that the Company may in addition, if authorized whether expressly or impliedly by or on behalf of the other company, act as agent for the other company at any time and for any purpose including the making of any agreement with the Hirer, in any event should the Company as agent for the Hirer contract with the other company for any purpose as aforesaid it is hereby agreed that such contract is and shall at all times be subject to the provisions of these conditions so that the other company is bound by the same and may as a principal sue the Hirer thereon and shall have the full benefit of these conditions in every respect expressed or implied herein.
6. Nothing contained in these conditions shall limit, prejudice or preclude in any way any legal rights which the Company may have against the Hirer including, but not limited to, any rights which the Company or its servants or agents may have to claim salvage remuneration or special compensation for any extraordinary services rendered to vessels or any thing aboard vessels by any tug or tender. Furthermore, nothing contained in these conditions shall limit, prejudice, or preclude in any way any right which the Company may have to limit its liability.
7. The Company will not in any event be responsible or liable for the consequences of war, riots, civil commotions, acts of terrorism or sabotage, strikes, lockouts, disputes, stoppages or labour disturbances (whether it be a party thereto or not) or anything done in contemplation or furtherance thereof or delays of any description howsoever caused or arising, including by the negligence of the Company or its servants or agents.
8. The Hirer of the tug or tender engaged subject to these conditions undertakes not to take or cause to be taken any proceedings against any servant or agent of the Company or other company (as referred to in clause 5), whether or not the tug or tender substituted or hired or the contract or any part thereof has been sublet to the owner of the tug or tender, in respect of any negligence or breach of duty or other wrongful act on the part of such servant or agent which, but for this present provision, it would be competent for the Hirer so to do and the owners of such tug or tender shall hold this undertaking for the benefit of their servants and agents.

PART 3 — WHARFAGE

Division 1 — Ore Wharf

[By-law 93 (1)]

8. Wharfage rates

- (1) For petroleum products in bulk, inwards or outwards, wharfage is payable at the rate of \$2.65 per Metric Tonne (1 000 kg).
- (2) For all other cargo, except iron ore, iron ore product or iron ore concentrate, wharfage is payable at the rate of \$2.00 per Metric Tonne, computed on a weight basis or on a measurement basis, whichever computation produces the greater result. (A tonne weight consisting of 1 000 kilograms, and a tonne measurement consisting of one cubic metre.)

Division 2 — Service Wharf

[By-law 93 (2)]

9. Wharfage rates

- (1) Wharfage is payable at \$4.00 per tonne or per cubic metre, whichever is the greater, of cargo handled or shipped — minimum charge — \$100.00.
- (2) For petroleum products in bulk wharfage is payable at \$4.00 per tonne — minimum charge — \$100.00.

PART 4 — MISCELLANEOUS CHARGES

Division 1 — Ore Wharf

[By-law 97 (1)]

10. Miscellaneous charges payable at the Ore Wharf

The following charges are payable for the various services described below at the Ore Wharf —

- (a) mooring and unmooring labour — \$1 000 per vessel;
- (b) workboat —
 - (i) (lines, launch and crew) — \$1 200 per vessel;
 - (ii) for work other than berthing/unberthing — \$300 per hour or part thereof with a minimum charge as for 2 hours and with no provision for cancellation;
- (c) watchman as required under by-law 71 (1) (b) (or for any other reason) — \$31.31 per man-hour or part thereof; and
- (d) water at \$2.58 per kilolitre.

11. Miscellaneous charges payable at the Service Wharf

The following charges are payable for the various services described below at the Service Wharf —

- (a) Service Wharf lighting — \$26.00 per night or part thereof;
- (b) water — \$2.58 per kilolitre;
- (c) gangway — \$26.00 per day or part thereof;
- (d) workboat —
 - (i) (lines launch and crew) — \$1 200 per vessel;
 - (ii) for work other than berthing/unberthing — \$300 per hour or part thereof with a minimum charge as for 2 hours and with no provision for cancellation;
- (e) watchman as required under by-law 71 (1) (b) (or for any other reason) — \$45.00 per hour or part thereof;
- (f) communication charge — \$45.00 (fee applicable to vessels at the Service Wharf which do not have local agents); and
- (g) mooring and unmooring labour — \$1 000 per vessel.

PART 4A — PILOTAGE CHARGES

[By-laws 96A-96E)]

1.	Charge under by-law 96A	Gross registered tonnage of vessel	Charges for inward or outward pilotage
		Up to 1 499	1 516
		1 500 — 3 000	2 030
		3 001 — 5 000	2 752
		5 001 — 10 000	3 561
		10 001 — 20 000	4 062
		20 001 — 30 000	4 812
		30 001 — 40 000	5 635
		40 001 — 50 000	6 077
		50 001 — 60 000	6 578
		60 001 — 70 000	7 077
		70 001 — 80 000	7 489
		80 001 — 90 000	7 857
		90 001 — 100 000	8 373
		100 001 — 115 000	8 755
		115 000 — 130 000	9 137
		Exceeding 130 000	9 639

2. Charge under \$499

by-law 96B

- 3. Charge under by-law 96C \$497 per hour (or part thereof)
- 4. Charge under by-law 96D \$3 030 is the maximum charge
- 5. Charge under by-law 96E \$74 per hour \$499 is the minimum charge and \$1295 is the maximum charge in any 24 hour period

Part 5 — FORM OF GUARANTEE

*Iron Ore (Robe River) Cape Lambert Ore and Service Wharves
By-laws 1995*

[By-law 85(1)]

GUARANTEE BY AGENT

In relation to provision at the port of Walcott, Western Australia, of certain services and/or facilities to the vessel (which vessel is at present at the Cape Lambert Wharf) —

- (a) I hereby guarantee and warrant to you that all dues charged or payable under the *Iron Ore (Robe River) Cape Lambert Ore and Service Wharves By-laws 1995* in respect of or in connection with the vessel will be paid within 14 days after the departure of the vessel from the Berth;
- (b) I also acknowledge and agree that, should I fail to make payment by that date, then I am bound to pay interest on the unpaid amount at the rate of 10% per annum, the interest being calculated from the 15th day after departure of the vessel from the port up to and including the day on which payment is made;
- (c) I shall not be released from this guarantee by any arrangement made between you and the owner or owners or Master of the vessel (either with or without my assent) or by any alteration to the said by-laws or of the nature or extent of any obligation to pay such dues or by any forbearance whether as to payment, time, performance or otherwise.

Dated

Signed by

.....
(Signature of agent for and on behalf of
principal/guarantor company)

.....
(Name of agent — print)

.....
(Name of principal/guarantor company — print)

In the presence of

.....
(Signature of witness)

.....
(Name of witness — print)

*[Schedule 1 amended in Gazette 31 Mar 1995 p.1175; 13 May 2003
p. 1667-8.]*