



MEMBERSHIP APPLICATION

Half Moon Bay Seafood Marketing Association ("Association")

1. Name _____

2. Address _____

City _____ State _____ Zip _____

3. Phone
(Home) _____ (Bus) _____ (Cell) _____

I agree to receive Text messages from Association yes/no (circle one). If yes, you authorize the Association to send notices by text message using the following number until changed or revoked in writing _____

4. Email _____ (**Email address **required** for notices from Association regarding member meetings and other important Association communications**)

5. Type of seafood caught (check all that apply): Salmon ___ Dungeness Crab ___
Other ___ (if other, describe) _____

6. Commercial Fishing License # _____

7. Vessel Name _____

8. Any other applicable state or federal permits _____

9. Primary Working Port(s) _____

10. Do you participate in off-the-boat sales direct to the public? _____

11. Please initial that you have read and agree to the HMBSMA Code of Conduct

12. The Association's mailing address for notices from members, payment of membership fees and other communications from members is P.O. Box 872, Half Moon Bay, CA 94019, which the Association may change from time to time at its discretion. The Association's email address is hmbmboard@gmail.com.
13. Membership in the Association is a privilege granted in the sole discretion of the Association's Board of Directors (the "Board"). You may be a member in the Association only if you:
 - (a) Remain at all times a qualified fisherperson or harvester of Salmon or Dungeness Crab, including, without limitation, maintaining a current, valid California Commercial Fishing License, and either (i) a current California Salmon Vessel Permit, or (ii) a current California Dungeness Crab Permit;
 - (b) Sign and comply with any membership agreement deemed applicable by the Board;
 - (c) Pay an annual membership fee, initially set at \$100;
 - (d) Meet all other conditions as may be prescribed by the Board, or by the Association's articles of incorporation, bylaws, membership agreement, any rules or regulations, any fishery agreements with local, state, or federal regulatory agencies, or any local, state, or federal laws and regulations.

I hereby apply for membership in Half Moon Bay Seafood Marketing Association, Inc., and agree to abide by the Association's existing and future articles of incorporation, bylaws, rules and regulations, any membership or marketing agreement, and any fishery agreements with local, state, or federal regulatory agencies. I certify that I am a bona fide and licensed commercial fisherman and have disclosed any and all relationships that I have with fish processors above and have truthfully completed the above Application. I will immediately notify the Association if any of the information provided or facts attested to in this Application changes.

Signature _____ Dated: _____

Print Name _____



HALF MOON BAY SEAFOOD MARKETING ASSOCIATION MEMBERSHIP AGREEMENT

Member Name: _____ Boat Name: _____

Association: Half Moon Bay Seafood Marketing Association, Inc.

Recitals

- A. Association is a California nonprofit fish marketing association organized and operating under the California Fish Marketing Act (Cal. Corps. §§ 13200 et seq.), further operating under the Federal Fishermen's Collective Marketing Act (U.S.C. §§ 521-522), and tax exempt under section 501(c)(5) of the Internal Revenue Code.
- B. Member commercially fishes for Dungeness Crab and/or Salmon, holds a current California Commercial Fishing License, and holds at least one of the following: (i) a current California Salmon Vessel Permit, or (ii) a current California Dungeness Crab Vessel Permit.
- C. Member desires to fish, harvest and market all Dungeness Crab and/or Salmon ("Products") harvested by Member in accordance with prices and standards established by Association.

Agreement

Therefore, in consideration of the above recitals, which are incorporated by reference, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Association Documents.** Member assents to, adopts, approves, and ratifies all those certain provisions set forth and contained in this Membership Agreement ("Agreement"), the Application for Membership ("Application"), and the Articles of Incorporation, Bylaws, Code of Conduct, any fishery agreements with local, state, or federal regulatory agencies, and any standards or rules and regulations of Association, all as are now in effect and as may be amended by Association from time to time and all of which are incorporated into this Agreement by reference (the "Association Documents"). Member acknowledges Association Documents are available on request. Member acknowledges that the Association Documents constitute the entire agreement between the Parties.
2. **Term.** In the event that Member is accepted into membership, this Agreement, together with the Application, shall constitute Member's Certificate of Membership in Association and expire on December 31st of the year of acceptance or until Member's membership is earlier terminated pursuant to the Association Documents. This Agreement is effective upon the occurrence of each of the following: (a) its execution by Member; (b) its execution (after due authorization) by Association; and (c) Member's payment of the applicable Membership Fee in the manner provided in Section 5 below. Member must renew its membership in Association annually by submitting a new Application in a form adopted by Association's Board of Directors (the "Board"), unless such Application is waived by the Board in accordance with the Bylaws. Each annual renewal and application for membership in Association is subject to acceptance or denial by the Board. At the Board's discretion, all renewal terms shall remain subject to this Agreement unless and until the Board requires Member to sign a new Membership Agreement as a condition to continue membership.
3. **Marketing, Collective Bargaining, and Powers of Association.**
 - (a) Association shall have the exclusive authority, right and power during the term of this Agreement, without taking title to Member's Products, to negotiate, establish and fix the price at which Member shall sell Products during a given fishing season or catch year. Member agrees that the price for all Products shall apply equally to all Association members and shall be determined by Association in such form and manner and at such price level as Association deems for the best advantage of all members. Member agrees not to sell or deliver Products subject to this Agreement for a price that in any way differs from the applicable price negotiated and established by Association.
 - (b) Association shall also have the exclusive authority to vote, establish and adopt additional standards and rules of Association that reasonably govern activities in connection with the marketing, selling, harvesting, processing, manufacturing, packing, grading, storing, handling, or utilization of Products, including, without limitation, determinations not to leave port or otherwise fish, harvest, market or sell any Products until Association determines via majority vote that such activities are allowed. Member shall abide by all such votes, standards and rules, which Association shall apply uniformly to all Association members and as Association deems for the best advantage of all members. As such, Member specifically agrees not to harvest Products unless and until Association has established that all Association members will harvest, regardless of price.
4. **Voting.** As further described in the Association Documents, Member shall be entitled to one (1) vote provided Member remains active and in good standing with Association. If Member fails to pay any Membership Fees or assessments by Association, fails to maintain a current California Salmon Vessel or California Dungeness Crab Permit, or otherwise fails to comply with the Association Documents or any standards or rules of Association (including failure to adhere to the pricing standards established by Association or decisions by Association to limit output of Products), Member shall immediately lose its right to vote, participate in any

Association meetings (whether individually or through an authorized representative or proxy), and may be expelled from Association in accordance with the Bylaws.

5. **Fees and Assessments.** Member shall pay to Association an annual membership fee initially fixed at \$100 (the "Membership Fee") as a condition of membership. This Membership Fee is payable upon joining and, thereafter, by January 15th of each year upon Member's application for renewal and acceptance into a new membership term by the Board. Failure to timely pay the Membership Fee shall automatically terminate Member's membership in Association regardless of whether the Board previously approved Member for a new term. Member may apply or re-apply for membership at any time during the year but shall not be entitled to pay a prorated Membership Fee if and when accepted into membership. Member agrees and acknowledges that the Membership Fee is subject to change at any time at the sole discretion of the Board, as provided in the Bylaws. Member shall also pay any fees, service charges, assessments, or other payments that Association deems necessary, in its sole discretion, to carry on the business of Association, in accordance with the Association Documents. Member authorizes Association to hold, manage, and distribute such funds in accordance with the Association Documents. Member shall not be entitled to a refund of any portion of the Membership Fee should Member withdraw from Association or should Association terminate Member's membership in accordance with the Association Documents.
6. **Member's Authority.** Member represents and warrants that Member is fully entitled to apply for and accept membership in Association, and to assume, perform, and receive all duties and privileges arising from or incident to membership in Association.
7. **Board Authority.** Association's affairs shall be managed by the Board in accordance with the Association Documents. References to any actions, determinations or authority of Association in this Agreement shall be subject to this general rule of governance and do not confer upon Member any rights greater than those provided in the Association Documents or under applicable law. Member acknowledges that, unless specifically reserved to the membership in the Association Documents or under applicable law, the Board has full authority to act on behalf of Association, including the ability to approve or refuse admission to any person or entity as a member, and to expel members pursuant to the Bylaws.
8. **Assignment.** Transfers of the interests represented by the Application and this Agreement are further subject to the restrictions, terms, and conditions in the Association Documents. In general, under Section 4.10 of the Bylaws, transfers of memberships are prohibited, whether voluntarily, involuntarily, or by operation of law, without Association's prior written approval.
9. **Antitrust.** Member represents and warrants that Member and each of Member's authorized representatives or proxies (if any) are "engaged in the fishing industry, as fishermen, catching, collecting, or cultivating aquatic products," as contemplated within the meaning of the Federal Fishermen's Collective Marketing Act; holds a California Commercial Fishing License; and does not (and will not) engage in any activities or have (or will have) any affiliations which could cause Association to be considered a conspiracy or combination in restraint of trade or an illegal monopoly, or result in Association otherwise losing protection from related prosecution granted to qualified fishers' cooperative marketing associations under federal and state law. Neither Member nor Association shall have the right to use coercive force against a non-member fishermen, harvester or dealer to persuade them to join in any Association tie-up, determination on price, or other matter collectively agreed upon by Association's members.
10. **Liquidated Damages.** Member has agreed to fish, harvest and market all Products in accordance with the Association Documents. Should Member in any way neglect, refuse or fail to fish, harvest or market Products in accordance with the vote or determination of Association or its Board (including selling Products for a price other than the applicable price negotiated and established by Association, or failing to comply with an Association tie-up, determination when to leave port or otherwise reasonably limit output from Association's members), Member acknowledges that the estimate of the actual damages which Association and its other members would incur in the case of such breach would be extremely impractical or difficult to ascertain. Therefore, the Parties agree that Association shall be entitled to \$10,000 as liquidated damages, upon demand by the Board, and not as a penalty, and as Association's exclusive remedy against Member for such breach of this Agreement. This amount set forth above as liquidated damages has been specifically agreed upon and the Parties agree that it represents a reasonable estimate of the damages Association would incur in the event of such breach by Member. By initialing below, Member and Association agree to abide by the terms of this paragraph concerning liquidated damages in the event of such default by Member.

Association's initials

Member's initials

11. **Dispute Resolution.** Subject to Section 9 above, all disputes of any nature between Member and Association regarding the interpretation or enforcement of the Association Documents that cannot be resolved by negotiations between them will, at the written request of either Member or Association, be resolved by binding arbitration conducted in accordance with the Title 9 of the California Code of Civil Procedure (Sections 1280, et. seq.). Such arbitration shall take place in San Mateo County, California. Further, the Parties may conduct discovery (including, but not limited to, taking depositions) in accordance with the California Discovery Act without application to, or permission of, the arbitrator. To the extent Title 9 has requirements or limitations not contained in the Discovery Act, the provisions of the Discovery Act will control. Notwithstanding the foregoing, neither Party will be prevented from seeking temporary or permanent injunctive relief in a court of competent jurisdiction for any claims regardless of whether they are beyond the scope of authority of arbitrators under the Title 9 of the California Code of Civil Procedure.
12. **Indemnity.** Member will indemnify, defend, and hold harmless Association and its other members, and each of their respective officers, directors, equity holders, owners, partners, members, managers, trustees, beneficiaries, agents, employees, successors, and assigns, from and against any and all claims, demands, causes of action, damages, costs, expenses, and liabilities of any kind or nature (including, without limitation, the investigation and defense thereof and reasonable attorneys', paralegals', and other

professionals' fees and costs) by whomever asserted arising from, relating to, or attributable to: (i) the admission of Member to membership in Association, (ii) the provision of services by Association to Member (including any price negotiations conducted on Member's behalf), or (iii) any breach or default by Member of any covenant, warranty, guarantee, or provision of any kind contained in the Association Documents.

13. **Local, State, and Federal Laws and Regulations.** Member shall comply with all applicable local, state, and federal laws and regulations during the term of this Agreement. Failure to comply with any applicable law or regulation shall constitute a breach of this Agreement and the Association Documents.
14. **Notices.** All notices, consents, demands, and other communications from one Party to the other that are given under this Agreement shall be in writing and will be deemed to have been fully given when delivered, including delivery by commercial delivery services, email, or facsimile transmission, or if deposited in the United States mail, certified or registered, postage prepaid, when received or refused. The Parties shall address all notices, consents, demands, and other communications to each other at the addresses provided in the Application, or to another person or place as one Party may designate in a written notice to the other.
15. **Successors.** Subject to the restrictions on assignment provided in the Association Documents, the terms, covenants, and conditions of this Agreement are binding upon and will inure to the benefit of the heirs, executors, administrators, and assignees of the respective parties.
16. **Headings.** The subject headings of the sections and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of the provisions in this Agreement.
17. **Governing Law.** This Agreement, all documents provided for in this Agreement, the Association Documents, and the rights and obligations of the Parties shall be governed in all respects, including validity, interpretation, and effect, by the laws of the State of California. Subject to Section 10 above, in the event of any litigation between the Parties arising out of this Agreement, the Parties agree to submit the matter to the appropriate state or federal court sitting in San Mateo County, California, and the parties agree to submit to the exclusive venue and jurisdiction of such courts.
18. **Waiver.** A waiver of any breach of this Agreement by any Party shall not constitute a continuing waiver, or of any subsequent breach of the same, or of any breach of another provision of this Agreement.
19. **Further Acts.** Each Party agrees to do all acts and things and to make, execute, and deliver such written instruments as shall be reasonably necessary to carry out the terms and provisions of this Agreement and to complete the transactions contemplated herein.
20. **Time.** Time is of the essence of this Agreement.
21. **Counterparts; Electronic Transmission.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. Signatures may be delivered via email, facsimile or other electronic transmission with the same force and effect as delivery of original signatures.

In witness whereof, Member has executed this Agreement as of the date written below:

Signature of Member _____

Print Name _____

Title (if applicable) _____

Dated: _____

The foregoing Membership Agreement for _____ Fishing Vessel _____ is accepted by Association and is effective dated: _____, 20____.

Half Moon Bay Seafood Marketing Association, Inc., a California nonprofit fish marketing association.

By _____
Its President

By _____
Its Secretary



CODE OF CONDUCT

Half Moon Bay Seafood Marketing Association (HMBSMA) is a non-profit organization of commercial fishermen in Half Moon Bay who have come together to provide a unified and professional voice for their local industry.

Members are harvesters of all local target species and represent all sizes of fishing businesses working out of Pillar Point Harbor. Fishermen members share a strong commitment to productively engaging with the diverse issues and complex decision-making processes that impact their businesses, community and marine environment, and to protecting their commercial fishing heritage.

This code of conduct outlines expectations for all those who choose to be members of HMBSMA. In addition to adhering to the Membership Agreement:

It is expected that all HMBSMA members:

- Remember that HMBSMA discussions/emails and correspondence are for members only
- Encourage and direct non-members that are interested in more information to join HMBSMA
- Hold to decisions made by majority vote of the membership on price and fishing activity
- Represent the Association in a positive and professional manner
- Bring any concerns to a board member in person, phone or through email
- Exercise consideration, and respect in your speech and actions
- Attempt collaboration before conflict
- Tell the truth, maintain an open mind and consider all perspectives
- Attempt to find outcomes that serve the best interest of the entire local fishing industry not only your own personal interests
- Refrain from demeaning, discriminatory, or harassing behavior and speech

The following behaviors are unacceptable:

- Sharing HMBSMA information outside of a meeting or forwarding HMBSMA emails to non-members
- Misrepresenting the position of HMBSMA or HMBSMA members in discussions, correspondence or on social media
- Selling for a price lower than the price agreed to by a vote of HMBSMA membership
- Fishing when others are not fishing as agreed to by a vote of HMBSMA membership
- A social media presence that is disrespectful or harmful to the fishing community of Half Moon Bay, HMBSMA or other HMBSMA members
- Deliberate intimidation, stalking or following (online or in person)
- Continued refusal to collaborate, have an open mind or to consider positions other than your own

If a member fails to comply with this or any part of the membership agreement or engages in unacceptable behavior, HMBSMA Board may take any action they deem appropriate, up to and including a temporary or permanent revocation of HMBSMA membership.