

Order 211-16/17

Passage: 9-0 on 4/24/2017

Effective 5/4/2017

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
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JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING AMENDED AND RESTATED LEASE
WITH BAY FERRIES LIMITED
RE: OCEAN GATEWAY FACILITY**

ORDERED, that the attached amended and restated lease with Bay Ferries Limited for Portland to Yarmouth, Nova Scotia ferry service from the Ocean Gateway facility is hereby approved, substantially in the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said document and any other related documents necessary or convenient to carry out the intent of said document.

AMENDED AND
RESTATED LEASE
AGREEMENT BETWEEN
CITY OF PORTLAND AND
BAY FERRIES
LIMITED RE:
OCEAN
GATEWAY

THIS AMENDED AND RESTATED LEASE AGREEMENT dated this 26th____ day of May, 2017 is by and between the City of Portland, Maine, Maine municipal corporation with a principal office at 389 Congress Street, Portland, Maine 04101 (the "Landlord"), and Bay Ferries Limited, a Canadian registered corporation with a principal office at 94 Water Street, Charlottetown, Prince Edward Island, Canada, C1A 7L3 (the "Tenant").

WHEREAS, Landlord and Tenant are parties to a Lease Agreement dated June 1, 2016 (the "Original Lease") for certain space at the Landlord's property known as Ocean Gateway where Tenant operates an international ferry service between Portland, Maine and Yarmouth, Nova Scotia (the "Ferry Service") on a ferry vessel known as "Alakai" (commercially branded as "The Cat"), 106.5 meters in length (the "Vessel"); and

WHEREAS, Landlord and Tenant desire to make substantial amendments to the terms and conditions of the Original Lease and wish to enter into an amended and restated lease agreement to address those amendments; and

NOW THEREFORE, in consideration of the mutual covenants and considerations herein contained, the sufficiency of which is hereby acknowledged, Landlord and Tenant hereby mutually agree that the Original Lease be amended and restated as of the Effective Date (as defined in Section 2 below).

1. Premises: As-Is Condition; Permitted Uses.

Landlord does hereby lease, demise and let unto Tenant, to have and to hold on the terms herein, subject to the reservations and conditions below, the premises identified herein and shown on Exhibit A, attached hereto and incorporated herein. Tenant agrees to accept the premises in "as-is" condition without representation or warranty by Landlord as to its condition or fitness for a particular purpose.

a. **Spaces for exclusive use at certain times.** The following spaces are available for the Exclusive use of Tenant for the hours stated during the Operating Season (as defined below):

i. **Queuing Areas.** The sole areas to be used for marshalling inbound and outbound vehicles and processing of passengers by U.S. Customs and Border Protection ("CBP") are the areas labeled "Outbound Queuing Area" and "Inbound Queuing Area" on Exhibit A (collectively the "Queuing Areas"), as may be

modified to meet CBP requirements. The Outbound Queuing Area is to be used for vehicles and passengers preparing to depart from Portland. The Inbound Queuing Area is to be used for vehicles and passengers arriving in Portland. Said Queuing Areas are to be used by Tenant on a non-exclusive but priority basis during the Operating Season to accommodate its sailing schedule, as outlined below. During the Operating Season, the Inbound Queuing area will only be available to the Tenant for its exclusive use, between the hours of 1:15 P.M. and 3:15 P.M., only on the Service Dates listed on Exhibit D attached hereto (the "Service Dates"), and the Outbound Queuing area will be available to the Tenant for its exclusive use between the hours of 12:00 P.M. (or earlier, if permitted by the City of Portland's Director of Facilities Management or his/her designee (the "Director") and 3:00 P.M. only on the Service Dates. The Queuing Areas may be reduced temporarily by mutual agreement of the Director and the Tenant. Tenant may place in the Queuing area any trailers or other facilities or improvements required by CPB with the prior approval of the Landlord, which may not be unreasonably withheld, and subject to any applicable permits, licenses or approvals required federal, state, and municipal laws, rules, and regulations. No tractor trailer trucks, or other trucks or vehicles with trailers exceeding a total of fifty (50) feet in length, shall be allowed to transit on the Ferry Service or be present in the Queuing Areas.

ii. **Berthing Area**. During the Operating Season, the Berthing Area depicted on Exhibit A will be available to the Tenant for its exclusive use between the hours of 1:30 P.M. and 3:00 P.M., only on the Service Dates. In the event Tenant desires unscheduled berthing, Tenant shall request such berthing with as much advance notice as possible. Landlord shall grant such requests if berthing is available. When off-schedule berthing is not available, the Landlord shall use reasonable efforts to assign a secondary berth to Tenant. Tenant shall be solely responsible for the cost of moving its vessel to off-schedule secondary berthing, including but not limited to any security costs, and Landlord shall have no responsibility for such moving, security or related costs. During the Operating Season, as that term is defined below, Tenant's use of the Berthing Area shall at all times include the exclusive use of the "roll-on, roll-off" ramp facilities at the OG Terminal (the "Ramp") (as depicted on Exhibit A) for vehicle and passenger loading and unloading. During the "Wind Up and Wind Down" Seasons, as those terms are defined below, if Tenant desires unscheduled use of the Ramp, Tenant shall request such use with as much advance notice as possible. It is understood that Tenant may require, although not exclusive, daytime and nighttime use of the ramp in the Wind Up Season for training and preparation purposes and Landlord and Tenant agree to work cooperatively to schedule such usage, if available, and to also enable Landlord's continued generation of berthage revenue from other parties. Tenant's use of the Ramp is at Tenant's sole risk. Unless otherwise agreed to by Landlord, Tenant shall have no right to use the Berthing Area at any time during the Off Season, as that term is defined below. It is further understood between the parties as follows:

- (a) On those days during the Operating Season when there is no cruise ship berthed at the Portland Ocean Terminal, and otherwise no operating restrictions within the Port, Tenant shall be free to berth earlier than 1:30 P.M.; and

(b) On those days within the Operating Season when there is a cruise ship berthed at the Portland Ocean Terminal, the Vessel may be secured at the berthing area prior to 1:30 P.M. provided passengers and vehicles are not released prior to 1:30 P.M. and provided such does not otherwise impede port operations. The parties intend there to be close collaboration and communication at all times so as to facilitate the most efficient operations for all parties.

iii. **Departure Building.** Tenant will have the exclusive use of the Departure Building (depicted on Exhibit A) for the term of this Lease for ticketing, processing of passengers, passenger waiting area, restrooms, and related uses.

iv. **Terminal Building:** The Tenant shall have the right to access the inbound Customs processing facility in the Terminal Building depicted on Exhibit A for processing inbound pedestrian passengers, who shall be moved by the Tenant from the Vessel to the Terminal Building by means acceptable to CBP and the Landlord. Such processing shall be limited to the hours of 1:30 p.m. and 3:00 p.m. on the Service Dates.

- b. **Exterior Common Areas.** The following spaces are available for the non-exclusive use of Tenant during the Operating, Wind Up, and Wind Down Seasons: The walkways, driveways and roadways at the Ocean Gateway may be used by **Tenant** on a non-exclusive basis, in common with others. However, during hours that another vessel (such as a cruise ship) or scheduled event is using the Ocean Gateway Terminal, the **Tenant** and its passengers will only use the area for dropping off of customers and passenger ticketing, and **Tenant** will cooperate with **Landlord** to adequately place personnel for incoming customers and passengers to be aware of this use restriction. No outboard queuing is allowed in the Receiving Building parking lot or any area other than the Outbound Queuing Area.
- c. **Parking.** Landlord will assign a maximum of 10 parking spaces to Tenant for employee parking in the City-owned Thames Street parking lot as generally depicted on Exhibit A (the "Parking Area") during the Operating, Wind Up and Wind Down Seasons of each year of the term of this Lease or any renewal term. No overnight parking will be allowed. Landlord reserves the right at any time during the term of this Lease to assign different parking spaces to Tenant. Landlord will not provide any customer parking. Employee vehicles parked in the Receiving Building Lot (as depicted on Exhibit A) are subject to ticketing if parked beyond posted limits.
- d. **Landlord's Right to Relocate Premises.** The Queuing Areas, Berthing Area, the Ramp, the Departure Building, the Parking Area, and the Exterior Common Areas may be collectively referred to herein as the "Premises". Except for the Departure Building, Landlord reserves the right to change particular locations of the Premises, subject to the condition that such re-location(s) will not unreasonably burden the operations of Tenant. The intent of this reserved right to re-locate is to allow Landlord to continue the ongoing development and enhanced utilization of its limited waterfront real estate in coordination with other parties using or desiring to use nearby locations.

- e. **Use of Premises for Ferry Service.** During the term of this Lease, Tenant is permitted to use the Premises for the sole purpose of conducting an international Ferry Service between Portland, Maine and Yarmouth, Nova Scotia via the Vessel. Tenant agrees to provide four (4) to seven (7) days of service per week during the Operating Season, subject to normal exigencies of the ferry business, including weather and mechanical breakdown, lack of consumer demand, and other events beyond Tenant's control. Should sailings be fewer than seven (7) days per week during the Operating Season, monthly berthage payment shall not be reduced. Sailings shall be only on Service Dates with arrivals at 1:30 p.m. and departures before 3:00 p.m. Should Tenant wish to reduce its schedule of service, Tenant will provide as much notice as reasonably practicable and will provide best efforts to give notice at least fifteen (60) days in advance. Tenant acknowledges that no trade or occupation shall be conducted on or from the Premises or use made thereof that would be unlawful, improper, or offensive, or contrary to any law or any municipal by-law or ordinance.

There shall be no additional charge to the Tenant for overnight berthing in the Berthing Area during the Wind Up and Wind Down seasons, provided, however, that the Berthing Area will not be available overnight on Fridays during those periods.

- f. **Service Dates.** Tenant may only use the Berthing Area, the Terminal Building, and the Queuing Area on the Service Dates.
- g. **Landlord's Right to Relocate.** This Lease Agreement is non-exclusive, and nothing herein shall prevent or prohibit the Landlord from leasing other available space at either the Ocean Gateway or any other facility owned or operated by Landlord, to another Tenant for any purposes Landlord deems suitable, including but not limited to the operation of a similar ferry service. In no event, however, is the Landlord permitted to impair in any way the operations by Tenant. Tenant's use of the Queuing area and all other areas to be used by passengers is subject to any reduction in size or configuration or availability as may be required, at any time, by any security agencies having jurisdiction with respect to such areas.

2. **Term; Seasons.**

- a. **Term.** Except as provided below, the Term of this Lease shall be from June 1, 2016 (the "Effective Date") through October 15, 2017. Provided that Landlord, in its sole discretion, first determines that Tenant is not in default of any term or condition of this Lease, Landlord, in its sole discretion, may renew this Lease for up to one (1) additional year upon terms mutually agreeable to the parties. If Landlord desires to renew this Lease, Landlord shall so notify Tenant on or before September 15, 2017.
- b. **Operating Season; Wind Up and Wind Down Seasons; Off-Season.** Tenant's Operating Season shall be May 31, 2017 to October 15, 2017 (the "Operating Season"). The term "Wind Up Season" shall mean May 26, 2017

to May 30, 2017. The term "Wind Down Season" shall mean no later than October 16, 2017. In the event that Landlord agrees to renew this lease as set forth above, the term "Off Season" shall mean the period between the end of the 2017 Wind Down Season and commencement of the 2018 Wind Up Season.

3. **Rent; Fees; Security Deposit.**

Tenant shall pay all rent and fees, when due, as provided below and on Exhibit B, attached hereto and incorporated herein.

4. **Payment: Statements.**

- a. On or before the fifteenth (15th) day of each month, Tenant shall pay to Landlord the per-passenger and per-vehicle fees on Exhibit B that were incurred in the previous month. Such payment shall be made without the need for an invoice from Landlord and shall be accompanied by Tenant's statement as provided below.
- b. Fees due during the Operating Season in paragraph a. above shall begin as of the first day of the month of said Operating Season. Tenant shall be responsible for payment of personal property taxes which may be payable on their trade fixtures and equipment, and for payment of any federal, state or local fees or taxes which may apply to their operations hereunder.
- c. **Late payment:** Tenant shall make prompt and timely payment of all rentals, fees, and other charges due hereunder as the same may from time to time come due. In the event that any such payment is not made within thirty (30) days of the invoice due date, a penalty of one percent (1%) per month 12% per annum) shall be assessed and paid on all such amounts outstanding.
- d. **Address:** All payments hereunder shall be written to the City of Portland and sent to the attention of: Public Assembly Facilities, Accounting Office, Portland Exposition Building, 239 Park Avenue, Portland, Maine 04102 or such other place as the Director may designate in writing from time to time.

Any invoices shall be sent to Tenant at the following address: Bay Ferries Limited, 94 Water Street, PO Box 634, Charlottetown, Prince Edward Island, Canada, C1A 7L3, Attn: Danny Bartlett, Vice President, Finance and Administration, or such other person or address as Tenant may designate in writing from time to time.

- e. **Tenant Statements:** Tenant shall submit its official manifest or other official documentation (or electronic equivalent) showing the number of passengers and vehicles transported by Tenant both to and from the City of Portland each month when it submits its per passenger and per vehicle fees under Exhibit B. No amount shall be payable to the City of Portland in respect of passengers or vehicles transported by the Tenant on a complimentary basis.

- f. Landlord reserves the right to conduct an audit of Tenant's traffic records, upon reasonable notice and during regular business hours, to determine the accuracy of amounts paid hereunder. In the event such audit discloses an underpayment to Landlord of more than Five Percent (5%) in any year, Tenant shall pay to Landlord, in addition to the amount owed and any applicable late charges, the reasonable cost to Landlord of its audit, including legal, accounting, and consulting fees unless the underpayment shall have been the result of a bona fide mistake or miscalculation.

5. Condition of Premises; Improvements to Premises.

- a. "As is." Tenant has had the full opportunity to inspect the Premises prior to execution of this Lease and takes all such space, specifically including the Ramp, "as is," except as specifically provided herein. Should Tenant's Vessel require modifications to, improvements or replacement of the Ramp, such modifications or replacement shall be solely at Tenant's cost and expense, and subject to all required reviews and permits for such structure, including but not limited to approval of the Director which shall not be unreasonably withheld. Should Tenant require modification or improvements to the Queuing Areas, such modifications or improvements shall be solely at Tenant's cost and expense, and subject to all required reviews and permits for such improvements or modifications, including but not limited to approval of the Director, which shall not be unreasonably withheld.
- b. In the event Tenant wishes to make any improvements to any portion of the Premises, it shall obtain the written approval of Landlord prior to undertaking any such improvements, which approval shall not be unreasonably withheld. All such improvements shall be at Tenant's sole cost and expense, provided, however, that upon submission by Tenant and approval by Landlord of documented expenses for improvements to the Departure Building, Tenant shall be entitled to a credit against rent in the amount of twenty-four thousand dollars (\$25,000.00) for improvements to the Departure Building. Such credit shall be provided in two \$12,500.00 increments against rent due in June and July 2016.
- c. Notwithstanding the foregoing, Landlord agrees that Tenant may install, at Tenant's expense, only at particular locations approved in advance by the Director, its security camera system in order to monitor the docking basin, vehicle inspection or processing booth and waiting areas for security and operational issues; subject to the condition, however, that Tenant will share access with the Landlord to the 'live feed' from such cameras, as well as any recordings from such cameras if and when requested.

6. Obligations of Landlord; Maintenance, Utilities.

Except as otherwise provided herein, the Landlord shall provide for the 'landside' facilities only, at its expense, the following:

- a. Except as otherwise provided in this Lease, Tenant acknowledges and agrees that this Lease is a 'net lease', for the Landlord, and that the Landlord shall not be responsible for any costs, charges, expenses or the like whatsoever arising from or related to the leased Premises or rights, or the business carried on or related to said Premises or rights, and Tenant shall pay all costs, charges, expenses or the like of every nature and kind whatsoever relating to the leased premises or rights, including any passenger or vehicle ramps, unless specifically agreed to in advance in writing by Landlord.
- b. Landlord will provide heat and sewer services to the Departure Building. In addition, Landlord will provide water (including potable water) to the Vessel, at the Rates in Exhibit B.
- c. Landlord shall ensure that the roof, exterior walls, and structure of the Departure Building are secure, water-tight, and allow the Departure Building to be occupied as offices and a public sales facility. Landlord shall also maintain and repair the marine infrastructure (i.e., the passenger bridge, security fencing, and fendering, in the same condition as they are in at the commencement of the term of this Lease or as they may be put in during the term of this Agreement, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance or repair is made necessary by fault or neglect of Tenant or the employees, contractors, agents or invitees of Tenant, in which case such maintenance or repair shall be at the expense of the Tenant and Tenant shall pay all costs therefor.
- d. Maintenance and reasonable cleaning of the Exterior Common Areas, Queuing Area, and Parking Areas available for use by Tenant, its employees and invitees, including snow and ice removal.
- e. After Tenant reconfigures and repaints the travel lanes in the Queuing Areas as set forth below, Landlord may, in its discretion, repaint the lines for the travel lanes, but it has no obligation to do so.
- f. Access to washroom facilities in the Ocean Gateway on an escorted basis (if permitted by CBP) for outbound customers waiting in the Outbound Queuing Areas.

7. Obligations of Tenant.

Tenant covenants that it shall, at its expense:

- a. Provide four (4) to seven (7) days of service per week during the Operating Season in accordance with the schedule set forth in Exhibit D, subject to normal exigencies of the ferry business, including weather and mechanical breakdown, lack of consumer demand, and other events beyond Tenant's control. Any suspension of operation of the vessel in excess of ten (10) consecutive days during the Operating Season, for reasons other than major mechanical failure of the Vessel, shall, at Landlord's option, be deemed to be a default and termination of this Lease. During

any period of suspension, Tenant shall continue to be liable for any rent or utility payments.

- b. Keep Landlord informed of any unavoidable changes to sailing times sufficiently in advance so that Landlord can accommodate its berthing needs, if possible; however, Landlord does not guarantee that any revised sailing times can be accommodated. But for such notice, Landlord may presume the Vessel will arrive at approximately 1:30 P.M, and depart between 2:30 P.M. and 3:00 P.M. on the Service Dates during the Operating Season;
- c. Pay when due, all Rent, Fees and other charges or assessments hereunder;
- d. Pay all costs associated with the ferry operation (except as otherwise stipulated herein), including but not limited to, office and ticketing staff, provision of all office and ticketing equipment, and direct Vessel costs including but not limited to fuel, water, electricity, stevedoring, screening and security staff, staff to direct and supervise vehicle traffic and queuing, trash removal and pilotage. Tenant shall be responsible for the repair, maintenance and cost of its own Vessel and fueling system subject to all applicable federal, state and local regulations.
- e. Be directly and solely responsible for all expenses for electricity, water, sewer, natural gas, heating oil, HVAC, telephone, internet and any other utility or communications services. The rent does not include any utility expenses. Landlord shall install a submeter as needed for electrical service, for which Tenant shall pay Landlord monthly.
- f. Utilize full service stevedores licensed by the City for line handling, loading and unloading luggage and baggage;
- g. Pay all expenses for all installation and periodic charges associated with communications systems, including but not limited to phone systems and services, computer systems and communication services, television and cable access, satellite services, and security and video equipment and services within the exclusive use areas and used, except as provided herein, solely by the Tenant;
- h. Maintain the Premises in such repair as on the commencement of this Agreement, except only for reasonable wear and tear and damage caused by fire or other unavoidable casualty not the fault of Tenant, its employees, contractors, agents or invitees. Tenant shall not injure or deface the Premises or any other property nor permit anyone else to do so. Tenant agrees to report to Landlord promptly, but in any case within 24 hours of when it knew or reasonably should have known of any substantial damage to the Premises or the Ocean Gateway facilities that poses any potential health or safety issue, including but not limited to any water damage or intrusion;
- i. Be solely responsible for all repairs, maintenance, modifications, and replacement of the Ramp, which shall only be undertaken pursuant to a stamped drawing by an appropriately qualified professional engineer. In no event is Tenant responsible for damage of any kind attributable to the non-exclusive use of premises by others in

privity with Landlord;

- j. Properly contain and dispose of all trash and garbage from its operations, including but not limited to all vessel trash and garbage, in containers suitable for pickup by Tenant or Tenant's contractor. Landlord shall provide regular trash pickup for the Exterior Common Areas only;
- k. Maintain in full force and effect the insurance coverage required below, and such fire and extended coverage or business interruption insurance for its own property or benefit as it may deem to be appropriate. Tenant shall hold its property, including fixtures, furniture, equipment and the like, or that of any other owner, on the Premises at Tenant's own risk;
- l. Notify the Landlord in advance of any proposed alterations to the Premises, including but not limited to posting of signage by Tenant. All such alterations are subject to the prior written approval of the Director, which approval shall not be unreasonably withheld;
- m. Pay and discharge punctually all generally applicable taxes and governmental assessments on any of Tenant's activities or property. The parties understand and agree that there are no real estate property taxes to be assessed against the Premises leased hereunder and chargeable to Tenant, but Tenant shall be responsible for payment of any personal property taxes which may be assessed. Tenant reserves the right to contest the imposition or amount of any such taxes or assessments by any means provided by law;
- n. Permit Landlord at reasonable times to inspect the Premises and to permit Landlord to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to said Premises or any part thereof, and during such operations to take into and through said Premises or any part of the Premises all materials required, Landlord agreeing, however, that it will carry out such work in a manner which will cause Tenant minimum inconvenience;
- o. Not permit any employee, agent, contractor or invitee of Tenant to violate any covenant or obligation of Tenant hereunder nor create a nuisance at the Premises or any City owned property;
- p. Keep the Premises equipped with all safety appliances required by law or any public authority to the extent such results from the exclusive use made by the Tenant of the Premises;
- q. Provide all security personnel, and any CPB facilities, utility connections and utilities services for the same, together with any required traffic control, at Tenant's cost and expense, as may be required by, or for compliance with, CPB or the United States Coast Guard operations, and such additional security personnel as may be deemed reasonably necessary by Tenant. It is the mutual intent of the parties that all such requirements be identified prior to the entry into this Lease. All such required facilities and improvements shall be property of Landlord at the end of the lease term;

- r. Should any maintenance or repair of the Premises, the Ocean Gateway terminal building and pier, or the systems serving those facilities require repair or replacement as a result of the negligence or willful act of the Tenant or the Tenant's invitees, agents or contractors, Tenant shall be responsible for the timely repair or replacement of same. Any damage caused to such facilities including but not limited to waiting areas, hallways, stairwells, and restrooms, caused by any of Tenant's employees, contractors, agents or invitees, may be repaired by Landlord, in its sole discretion, and the cost of such repair shall be billed to Tenant at Landlord's cost, and shall be paid by Tenant as additional rent with the next due Rent payment; or, alternatively, taken from any security deposit being held by the Landlord, in which case the Tenant shall replenish that security deposit within ten (10) days of being informed in writing that this is necessary.
- s. After reconfiguring the travel lanes in the Queuing Areas, Tenant shall, at its expense, paint or repaint the lines for the travel lanes to accommodate the Ferry Service.

8. Certain Rights Reserved to the Landlord.

The Landlord reserves the following rights:

- a. To retain and use in appropriate instances keys to all doors within and into the Premises and to change the locks to the Premises if Landlord deems it advisable. No lock shall be changed by Tenant without the prior written consent of Landlord. Landlord shall have the right to access the utility rooms through Tenant's exclusive use space as reasonably necessary;
- b. On reasonable prior notice to Tenant, to exhibit the Premises to prospective Tenants or users of the Ocean Gateway facilities and to others having a legitimate interest at any time during the term;
- c. To adopt reasonable rules and regulations relating to the Premises and the Ocean Gateway facilities from time to time during the Term; provided, however, such rules and regulations shall not materially interfere with Tenant's permitted use of the Premises. Tenant agrees to comply with reasonable rules and regulations from and after the fifteenth (15th) day after Tenant's receipt thereof, unless earlier required by law;
- d. To remove from the Premises, at Tenant's expense, any improvements, alterations, additions, signs, awnings, or the like, not consented to in writing by the Director; and
- e. Landlord reserves the right, in its sole discretion, to berth vessels of any type at and otherwise make use of and allow events at the Ocean Gateway facilities, subject to Tenant's rights under this Lease.

9. Signage.

Tenant shall have the right to have signage on the Premises, including but not limited to outdoor signage, which signage shall be approved by the Director and shall be at Tenant's sole cost. It is the intent of the parties to prominently promote Tenant's Ferry Service. Tenant may also display flags referencing, as applicable, Tenant, the Vessel, the Tenant's Ferry Service, and the Province of Nova Scotia. Installation of such signage and flags may be done by the Landlord, or by the Tenant by a contractor acceptable to the Landlord, at Tenant's expense. All signage and flags shall be installed and maintained in accordance with all applicable local and state governmental codes. Subject to Landlord's approval which shall not be unreasonably withheld, Tenant may, at its expense, place murals and/or photographs and/or graphics on interior and exterior walls of the Departure Building for promotion of the Ferry Service.

Subject to applicable local and state governmental laws and codes, Landlord and Tenant shall cooperate to ensure prominent directional signage within the City of Portland to direct customers to the Ferry Service and to request the State of Maine to provide appropriate signage on its interstate highway system. Tenant acknowledges and agrees that the City of Portland is acting as landlord, and not in its regulatory capacity, in connection with this Lease.

10. Compliance with Laws.

Tenant agrees to comply with all present and future laws, ordinances, orders, rules, regulations and requirements of the federal, state and local governments or any of their departments, bureaus, boards, commissions and officials thereof (collectively, the "Laws") with respect to Tenant's use or occupancy of the Premises, including without limitation, all Laws relating to (i) air emissions, (ii) water discharges, (iii) noise emissions, (iv) air, water or ground pollution, or (v) any other environmental and health matter during the Term in connection with its use and occupancy of the Premises. Tenant shall not be responsible for any compliance attributable to the obligations of Landlord hereunder nor to any event, condition, act, or omission which occurred prior to the execution date or after the expiration date of this Lease Agreement, unless caused by the error or omission of Tenant, its officers, agents, employees, contractors or invitees.

11. Security Rules.

- a. Tenant shall comply with all safety and security requirements in its operations hereunder. Tenant further agrees that its officers, employees and agents shall abide by the provisions of the Water Access Security/Safety Restrictions attached hereto as Exhibit C and incorporated herein, and with any other security directives or policies that may be promulgated from time to time by the Landlord, the State of Maine or by agencies of the Federal Government during the term of this Agreement. The Landlord agrees to provide Tenant with copies of the relevant portions of Landlord's Plan to permit Tenant to comply with its terms.
- b. Tenant shall comply with the lawful directions of the City's Facility Security Officer's directions and commands, with respect to its operations at the OG

Terminal and berthing area. Tenant shall designate a particular person, who must be readily available, as its Security Contact Person, for the purposes of emergency and other communications to, from and with the City's Facility Security Officer.

- c. Tenant shall, to the extent required by law or any agency with jurisdiction, prepare and file its own Facility Security Plan, which shall then become an amendment to Landlord's Facility Security Plan, for Tenant's operations and its use of Landlord's Facilities, and provide a copy of such Plan and amendment to the Landlord.
- d. Transportation Workers Identification Credential Requirement: All persons requiring unescorted access to the secure areas of vessels, facilities, and OCS facilities regulated by parts 104, 105, and 106 of 33 CFR (Code of Federal Regulations) must, to the extent required by law and applicable authorities, possess a TWIC (Transportation Workers Identification Credential) before such access will be granted. A TWIC must be obtained via the procedures established by TSA (Transportation Security Administration) in 49 CFR part 1572.
- e. In addition, Tenant employees working at the OG Facilities shall have Landlord- approved identification badges, including BIW identity badges, displayed at all times when at the OG Facilities, whether within the Premises or the common use space.
- f. In the event that Tenant fails to provide adequate security, Tenant shall pay all reasonable costs and expenses for additional security, associated with the Tenant's use of the facilities, in accordance with the rates set forth in Article 4 Rent and Fees.
- g. In addition, Tenant shall pay all reasonable security costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, which may arise directly out of Tenant's failure to comply with the covenants of this paragraph, and such failure shall be deemed a default under this Agreement. Tenant shall be responsible for obtaining all necessary permits and licenses required for its use and occupancy of the OG Facilities at its own cost and expense.

12. Indemnification.

- a. **General.** To the fullest extent permitted by law, Tenant shall at its own expense defend, indemnify, and hold harmless the Landlord, its officers, agents, and employees, from and against any and all liability, claims, damages, penalties, losses, expenses, including costs of investigation and attorneys' fees, or judgments, just or unjust, arising from injury or death to any person, or damage to, or loss of use of, property sustained by anyone (including but not limited to Landlord's employees or property) and arising, in whole or in part, out of Tenant's use, activities at or on, or occupancy of the OG Facilities, except that such obligation of indemnification shall not include indemnification for claims to the extent such

claim is caused by (i) the acts or omissions of Landlord, its officers, agents, employees or contractors, (ii) the acts or omissions of third parties (including but not limited to other users of the Premises), or (iii) a breach by Landlord of its obligations under this Lease. Tenant shall include Tenant, its officers, agents, employees, contractors, subcontractors and/or invitees.

Tenant shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. In cases in which Landlord is a party, Landlord shall have the right to participate at its own discretion and expense and no such suit or action shall be settled without prior written consent of Landlord. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to Landlord which would otherwise exist.

- b. **Covenant against Liens:** Tenant shall not cause nor permit any lien against the Landlord's property or any improvements thereto to arise out of or accrue from any action or use thereof by Tenant and shall hold the Landlord harmless therefrom; provided, however, that Tenant may in good faith contest the validity of any alleged lien. Upon request of the Landlord, Tenant shall post a bond warranting payment of any such lien, or provide other security acceptable to Landlord, in the event Tenant contests such lien.
- c. As used in this Lease, "Environmental Condition" shall mean any material adverse condition relating to surface water, ground water, drinking water supply, land, surface or subsurface strata or the ambient air, and includes, without limitation, air, land and water pollutants, noise, vibration, light and odors, which may result in a claim of liability under the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), or the Resource Conservation and Recovery Act ("RCRA"), or any claim of violation of the Clean Air Act, the Clean Water Act, the Toxic Substance Control Act ("TSCA"), or any claim of liability or of violation under any federal statute hereafter enacted dealing with the protection of the environment or with the health and safety of employees or members of the general public, or under any rule, regulation, permit or plan under any of the foregoing, or under any law, rule or regulation now or hereafter promulgated by the state in which the Premises are located, or any political subdivision thereof, relating to such matters (collectively, "Environmental Laws"). "Hazardous Materials" shall include, but shall not be limited to, substances requiring investigation, removal or remediation under any federal, state or local statute, regulation, ordinance or policy including substances defined as "hazardous substances" in CERCLA; "toxic substances" TSCA; "hazardous wastes" in RCRA; or radon, asbestos and petroleum products.

Tenant shall, at all times during the term, comply with all environmental laws applicable to the Premises and Tenant's use and occupancy thereof. Except to the extent caused by Landlord or any other tenant at the Premises or attributable in whole or in part to a preexisting environmental condition, Tenant will defend, indemnify and save harmless Landlord and its directors, officers, shareholders,

employees and agents from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' and consultants' fees and expenses) of whatever kind or nature, contingent or otherwise, known or unknown, incurred or imposed, based upon any Environmental Laws or resulting from any Environmental Condition on or about the Premises which is caused by Tenant during the Term of this Lease, which indemnity, in the case of an Environmental Condition caused by Tenant shall include costs incurred by Landlord to remediate such Environmental Condition to clean-up or remediation standards consistent with Tenant's use of the Premises specified in this Lease. In case any action, suit or proceeding is brought against any of the parties indemnified herein by reason of any occurrence described in this section Tenant will, at Tenant's expense, by counsel reasonably approved by Landlord, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended.

- d. **Survival.** The Terms of this section shall expressly survive the expiration or termination of this Lease.

13. Insurance.

- a. Amounts. Without expense to the Landlord, and with no lapse in coverage, Tenant shall procure and maintain, at its own cost, and show evidence to the Landlord of the following insurance to protect the Landlord from claims and damages which may arise from Tenant's operations under this Agreement, whether such operations shall be performed by the Tenant or by anyone directly or indirectly employed by it in the types and minimum amounts set forth below:

<u>Description</u>	<u>Coverage</u>	<u>Each Occurrence</u>
(i) Commercial General Liability, including Broad Form Property Damage	B.I./P.D./ Death	\$5,000,000
(ii) Vehicle Liability, including owned, hired, or non-owned	B.I./P.D./ Death	\$2,000,000
(iii) Workers' Compensation, Including U.S. Longshoremen and Harbor Workers' Coverage, as Applicable	B.I./Death	Statutory
(iv) Protection & Indemnity Insurance Including Federal Maritime and Jones Act Coverage		\$5,000,000
(v) Pollution coverage/Sea to Sea/ Land to Sea/Land to Land		\$5,000,000
(vi) Employers Liability B.I./P.D. including Us. Longshoremen & Harbor Workers, as applicable		\$1,000,000

- b. **Landlord protected.** The Landlord shall be named as an additional insured under items (i) and (ii) above. Item (iii) shall include a waiver of subrogation against Landlord. To the extent that Tenant has any employees who are not covered by the Longshoremen & Harbor Workers, Federal Maritime and Jones Act coverages, Tenant shall provide evidence of Workers Compensation coverage in the statutory amounts, including a waiver of subrogation against Landlord.
- c. Notice to Landlord. All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Landlord. Each liability policy required to be obtained hereunder shall be on an occurrence basis. In the event that policies are not available on an occurrence basis, Tenant shall purchase a "tail" which provides coverage hereunder for a minimum of six (6) years after termination of this Agreement.

All policies required hereunder shall be primary to any insurance or self-insurance which Landlord may maintain for its own benefit. Liability insurance coverage shall also extend to damage, destruction, and injury to Landlord-owned or Landlord-leased property and Landlord personnel, to the extent caused by, or resulting from negligent acts, operations, or omissions of Tenant, its officers,

agents, employees, invitees, and/or contractors.

- d. **Certificates.** Certificates or other evidence of insurance coverages required of Tenant in this Section, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the Landlord prior to use of the Premises. Such certificate or certificates shall at all times while this Lease Agreement is in effect provide Landlord with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier.
- e. **Tenant Property Insurance.** Tenant shall procure and maintain, at its option and election, such all risks fire and casualty insurance covering its property on the Premises as it deems necessary.
- f. Landlord reserves the right to require a commercially reasonable increase in the minimum insurance limits hereunder at the commencement of any Renewal Term of this Lease.

14. Assignment/Subletting.

- a. **By Tenant.** Tenant shall not sublease, transfer or assign this Agreement or the rights granted hereunder at any time during the Term of this Agreement without the prior written approval of Landlord, which may be granted or withheld in Landlord's discretion; except, however, Tenant may, if required by written agreement between Tenant and the Province of Nova Scotia, assign this Agreement and the rights granted hereunder to the Province of Nova Scotia in the event the Tenant is itself unable to continue operating the Service, in which case the Province of Nova Scotia will assume all of the obligations of Tenants herein, as well as the rights of Tenant herein. No such assignment or subletting shall relieve Tenant of any obligations hereunder and any person accepting such assignment shall take the Agreement subject to all prior breaches and shall be liable therefor in the same manner as Tenant.
- b. **By Landlord.** Landlord reserves the right to assign this Lease to a quasi-municipal or State entity, provided, however, that in such event such entity shall agree to assume all of the terms and obligations of the Landlord under this Lease. Landlord shall not assign this Lease to a private party without the prior written approval of Tenant, which may be granted or withheld in Tenant's discretion.

15. Casualty Damage.

- a. If the Premises or any part thereof shall be destroyed or damaged by fire or other unavoidable casualty, so that the same shall be thereby rendered unfit for use, then, and in such case, the Rent hereinabove stated or a just and proportional part thereof, according to the nature and extent of injuries sustained, shall be suspended or abated, until the Premises shall have been put in proper condition for use by Tenant; provided, however, in the event of such destruction or damage, either Landlord or Tenant shall have the right to terminate this Lease

by giving the other party written notice of such termination within thirty (30) days after such damage or destruction, and upon the giving of such notice, the term of this Agreement shall cease and come to an end as of the date of such damage or destruction and any unearned rent shall be returned to Tenant.

- b. Landlord and Tenant each hereby waive any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the property of either party, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the parties, or either of them. Landlord and Tenant shall each be responsible for maintaining such casualty insurance on its property as it deems necessary and such policies shall waive any right of subrogation thereunder against the other party.

16. Default.

- a. Tenant shall be determined to be in default hereunder if it shall fail to perform any obligations or comply with any terms or conditions stated herein within fifteen (15) days after receipt of notice of such failure from the other party or (if the default is of such nature that it cannot be cured within such period) if it shall fail to commence to cure the default within such period and thereafter diligently prosecute the cure to completion within a reasonable time. Upon such default and failure to cure, Landlord shall have the right, at its option, and in addition to any other remedies, to terminate this Lease by giving the party in default written notice thereof and upon the giving of such notice, this Lease and the term hereof shall cease. Upon any termination of this Lease, Tenant shall quit and surrender to Landlord the Demised Premises in accordance with the provisions of this Lease. Further, upon any termination of this Lease, Tenant shall remain liable to Landlord for all rent and fees accrued and unpaid up to the date of such termination. Tenant shall pay all reasonable costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel and consultant fees, incurred by Landlord on account of Tenant's failure to comply with any of the terms of this lease, holding-over, and/or as a result of Tenant's default under this Lease.
- b. In no event shall either party be liable to the other for incidental, special, or consequential damages of any nature claimed as a result of the breach of any term of the termination of this Lease.

17. Return of Premises; Holding Over.

- a. At the expiration or earlier termination of this Lease, Tenant shall promptly ensure that all vessels with which it is in any way affiliated are removed from the Premises and all of Landlord's berthing areas, and will also promptly quit and surrender the Premises to Landlord broom clean and in good order and condition, ordinary wear excepted, and free from debris, trash and waste, and shall cease its operations from the Premises. Tenant shall, if, and only if, so requested by Landlord, remove all trade fixtures, equipment and other personal

property installed or placed by it at its expense in, on or about the Premises; provided, however, all damage caused by or as a result of such removal shall be repaired by Tenant at its sole expense. All trade fixtures, equipment, furniture, furnishings and personal effects not removed by Tenant within thirty (30) days after expiration or termination of this Lease shall, at Landlord's option, be deemed to have been conveyed to Landlord in fee title, and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without obligation to account therefor, or, at Landlord's option, Landlord can have such trade fixtures and items removed and the cost of any such removal and the expense of any repair necessitated by such removal shall be borne by Tenant.

- b. If Tenant or any party claiming through or under Tenant shall remain or continue to be in possession of the Premises or any part thereof after the termination of the Lease or any renewal thereof, without Landlord's consent, then, at Landlord's option, Tenant or such party or both shall be deemed to be illegally retaining possession or, at Landlord's option, shall be deemed to be a month-to-month Tenant of the Premises and subject to all the terms and conditions of this Lease except that the monthly rent hereunder shall be One Hundred and Fifty Percent (150%) of the rent payable during the month prior to such termination. This section shall not be construed as giving Tenant any right to hold over after the expiration of the Term or to limit Landlord's rights to obtain possession of the Premises upon termination by any lawful means available to Landlord if Landlord does not elect to treat the continued possession by Tenant or any party claiming through or under Tenant as a month-to-month tenancy.
- c. Landlord lawfully may upon termination of this Lease Agreement, enter into and upon the said Premises or any part thereof in the name of the whole, and repossess the same as of its former estate, and expel Tenant, and those claiming through or under Tenant, by any lawful means, and remove its or their effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant.

18. Quiet Enjoyment.

So long as Tenant shall observe and perform the covenants and agreements binding on it hereunder, Tenant shall at all times during the term herein granted peacefully and quietly have and enjoy possession of the Premises without any encumbrance or hindrance by, from or through the Landlord.

19. Notices.

Any notice required to be given under this Lease shall be in writing and shall be hand-delivered or sent by U.S. certified mail, return receipt requested, postage prepaid, addressed to the parties as stated below or such other address as either party may designate in writing to which its future notices shall be sent:

To Tenant: Mark MacDonald
Bay Ferries Limited
Suite A201
5855 Spring Garden Road
Halifax, Nova Scotia
Canada B3H 4S2

With a copy to: Danny Bartlett
Bay Ferries Limited
94 Water Street
PO Box 634
Charlottetown, Prince Edward Island
Canada C1A 7L3

To Landlord: Jon P. Jennings, City Manager
City of Portland
389 Congress Street
Portland, Maine 04101

With a copy to: Corporation Counsel
City of Portland
389 Congress Street
Portland, ME 04101

20. Amendment; Authority.

Both parties hereto acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties except such as are expressed herein. The terms of this Lease may be modified or amended by the mutual assent of the parties hereto; provided, however, that no such modification or amendment to this Lease shall be binding until in writing and signed by both parties.

Each party warrants that this Lease Agreement has been signed by a representative duly authorized to bind that party to this Lease Agreement.

21. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Maine. Tenant warrants to Landlord that it is licensed to do business in the State of Maine and has an agent authorized to accept service of process in said State. Tenant shall provide such information upon request to Landlord.

22. Force Majeure.

Neither Tenant nor Landlord shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, war, acts of superior governmental authority or other reason over which it has no control; provided, however, that the suspension of performance shall be no longer than that required by the force majeure and the party prevented from

performance has given written notice thereof to the other party.

23. Non-Waiver.

No waiver of any breach of any one or more of the conditions of this Lease by the Landlord or Tenant shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

24. Maritime Rights Preserved

Nothing in this Lease is intended by Landlord to waive any rights or claims it may have against *The Cat*, or any other vessel utilized by Tenant in performing the Ferry Service, either in rem or in personam, arising under the maritime law of the United States, including, without limitation, rights under The Maritime Lien Act, 46 USC 31341 *et. seq.*, The Suits in Admiralty Act, 46 USC 30901 and 30903 *et seq.*, and/or The Public Vessels Act, 46 USC 781 *et. seq.*

25. Brokers.

Landlord and **Tenant** each represent and warrant to the other that it has not dealt with any agents, brokers or finders in connection with this Agreement. Each party agrees to hold and indemnify the other harmless from and against any losses, damages, costs or expenses (including attorneys' fees) that either party may suffer as a result of claims made or suits brought by any broker in connection with this transaction, the obligated party hereunder to be the party whose conduct gives rise to such claim.

26. Special Right of Termination

In the event of termination or discontinuance of the Ferry Service, or any other material adverse event impacting the Ferry Service, Tenant shall have the right to terminate this Lease without penalty upon providing six (6) months' notice in writing to Landlord. Tenant's obligations applicable to termination of the Lease as set forth herein shall continue to apply.

27. Transition Provision.

Prior to the Effective Date, the rights and obligations of Landlord and Tenant are those described in the Original Lease. On the Effective Date, the Existing Lease shall be deemed amended and restated so as to contain all of the terms of this Lease, and this Lease as amended and restated shall govern all future rights, obligations, duties and liabilities of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed as of the day and year first above written.

WITNESS:

BAY FERRIES LIMITED

By: _____

Mark MacDonald
Its Chairman and CEO

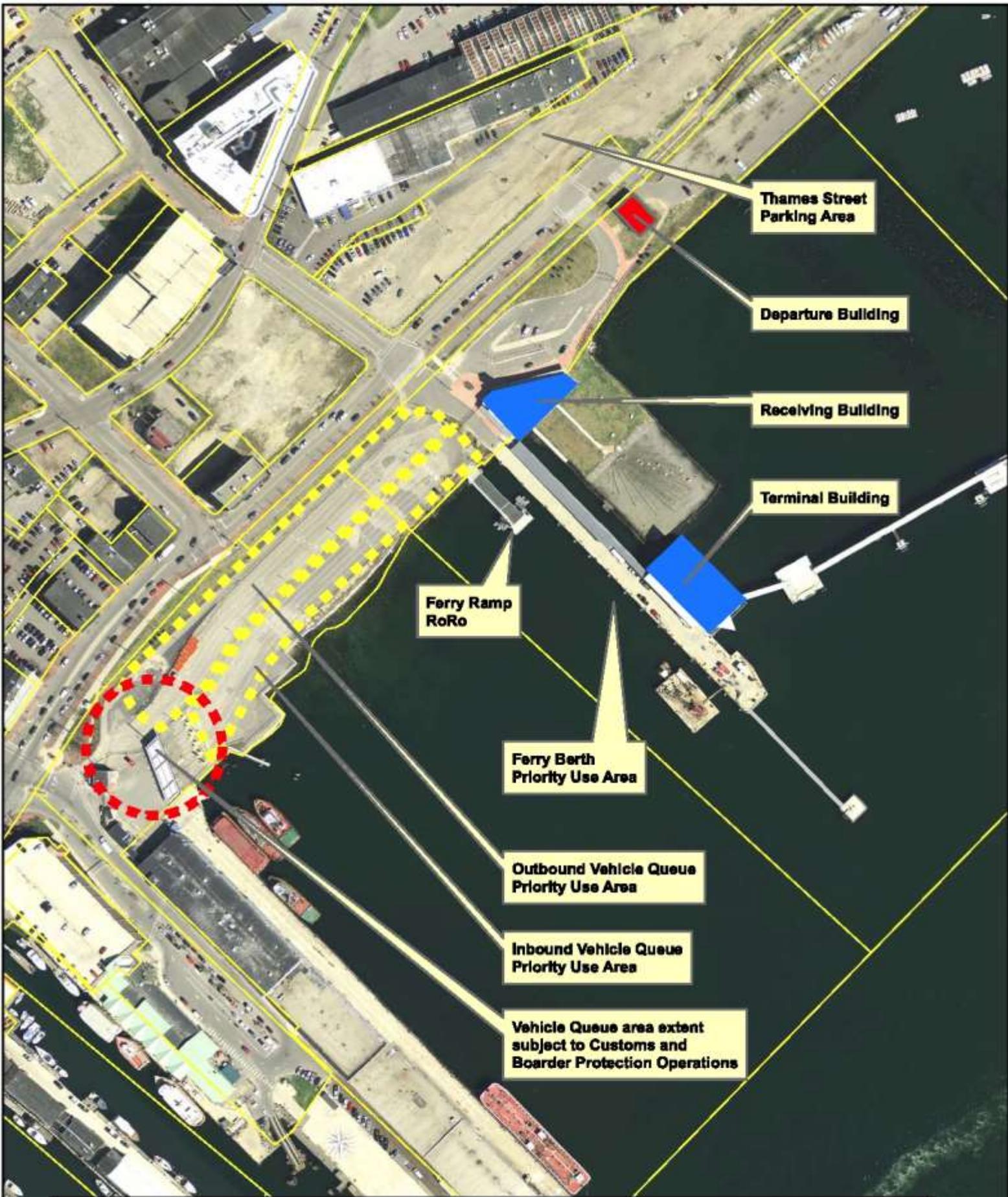
CITY OF PORTLAND

By: _____

Jon P. Jennings
Its City Manager

EXHIBIT A

DIAGRAM OF PREMISES



250 125 0 250 Feet



Ocean Gateway Site and Facilities
 Bay Ferries, Limited
 Lease Exhibit A

Ap12016

**Exhibit B Schedule
of Rent and Fees**

Monthly Rent

May 31, 2017 – September 30, 2017

- Tenant shall make monthly rental payments for the Premises in advance on the 1st day of each month for the period from May 31, 2017 – September 30, 2017 in the amount of **\$16,629.60**; October 1, 2017 – October 15, 2017 monthly rent will be at **\$8,314.80**.

October 1, 2016 – May 30, 2017 and October 16, 2017 – May 30, 2018 (if renewed)

- Tenant shall make monthly rental payments for the Departure Building in advance on the 1st day of each month for the period from October 1, 2016 – May 30, 2017, and October 16, 2017 – May 30, 2018 (if renewed) in the amount of **\$4,000.00**.
- If Tenant requires parking or berthing during this period, it shall be provided, if available, at the rates set forth below.

Passenger and Vehicle Fees

On or before the fifteenth (15th) day of each month, Tenant shall pay to Landlord the following per-passenger and per-vehicle fees that were incurred in the previous month. Such payment shall be made without the need for an invoice from Landlord and shall be accompanied by Tenant's statement as provided below.

- | | |
|---|---------|
| • Passenger (the first 60,000 per Operating Season) | \$ 2.00 |
| • Passenger (over 60,000) | \$ 3.50 |
| • Bicycle | \$ 0.50 |
| • Motorcycle | \$ 1.00 |
| • Passenger Vehicle (the first 60,000 per Operating Season) | \$ 3.00 |
| • Passenger Vehicle (over 60,000) | \$ 5.00 |
| • Passenger Vehicle with Camper/Utility Trailer | \$ 5.00 |
| • Recreational Vehicles/Motor Homes | \$ 5.00 |
| ▪ Straight Trucks | \$10.00 |
| • Tour Busses/Motor Coaches | \$20.00 |

Other Fees

- | | |
|---|---------------|
| • Fuel License, per season | \$100.00 |
| • Daily Parking per space, per month | \$75.00 |
| • Fresh Water, per metric ton | \$ 4.00 |
| • Security Badges, each | \$ 2.50 |
| • Security Badges, replacement, each | \$25.00 |
| • Berthing (other than the exclusive use of the Berthing Area as allowed in section 1(a)(ii)) | \$1.00/ft/day |
| ▪ Electrical Service – sub-meter monthly actual usage charges apply. | |

Exhibit C

Waterfront Access Security/Safety Restrictions

All visitors must check in with the Facility Security Officer ("FSO") or designee upon arrival. All visitors must provide photo identification or a Transportation Workers Identification Credential ("TWIC") card prior to accessing the facility. Vessel must provide an expected visitor list to on site security. All those not on the list will be denied access or Non TWIC'd personal must be escorted by a TWIC'd person. A single TWIC'd person can provide access for up to 5 Non TWIC'd personal, or otherwise directed by the FSO.

Crew must check in with on site security and provide photo identification.

Vessel must provide a crew and/or passenger manifest to the FSO or on site security.

A form of communication between vessel and on site security must be determined upon arrival.

A declaration of security must be signed upon arrival if deemed necessary by the FSO.

All deliveries, packages, crates, etc., must be accompanied by a manifest per US Federal Standards. All items including personal vehicles are subject to random search. All delivery drivers must provide photo identification upon arrival. A list of vendors will need to be provided prior to accepting deliveries.

All passenger buses are subject to a search prior to entering the facility.

No explosive devices, weapons, or open fires will be allowed within the facility at any time.

All fuel transfers must be done in accordance within DEP,EPA, OSHA, Coast Guard regulations. This applies to any quantity of gasoline, diesel, oil etc.

All employees working in or around the facility must meet all OSHA regulations.

"Hot Work" permits are required for work on the pier or vessel. These permits are issued through the Port Director or FSO. Permit costs apply. (\$125.00 each)

At no time will vehicles be left overnight within the facility without prior authorization from the Port Director or FSO.

Emergency vehicles must have a clear pathway at all times to service the entire pier. No objects or vehicles are to be left unattended at any time. Objects and vehicles must be able to be removed immediately upon notice of emergency personnel needing access to the pier.

Vessels must use "Bits and Bollards" only for vessel tie up. No lines are to be laid around steel piles.

No work is to be performed on the vessel's hull without prior authorization by the Port Director or FSO.

No dumping of gray water while alongside of the berth.

All small vessels performing maintenance, security, etc. for a berthed vessel must have prior authorization to do so from the Port Director or FSO.

All gates are to remain locked or staffed by facility trained security personal.

EXHIBIT D

2017 The CAT Schedule

Departing from Yarmouth, Nova Scotia to Portland, Maine

2017 SERVICE DATES	DAYS	TIMES (Atlantic Time Zone)
MAY 31 - JUNE 28	MON, WED, FRI, SAT, SUN	8:30
JUNE 29 - JULY 27	MON, TUE, THU, FRI, SAT, SUN	8:30
JULY 28 - SEPT 2	MON, TUE, WED, THU, FRI, SAT, SUN	8:30
SEPT 3 - OCT 2	MON, WED, THU, FRI, SAT	8:30
OCT 3 - OCT 15	MON, FRI, SAT, SUN	8:30

Departing from Portland, Maine to Yarmouth, Nova Scotia

2017 SERVICE DATES	DAYS	TIMES (Eastern Time Zone)
MAY 31 - JUNE 28	MON, WED, FRI, SAT, SUN	14:30
JUNE 29 - JULY 27	MON, TUE, THU, FRI, SAT, SUN	14:30
JULY 28 - SEPT 2	MON, TUE, WED, THU, FRI, SAT, SUN	14:30
SEPT 3 - OCT 2	MON, WED, THU, FRI, SAT	14:30
OCT 3 - OCT 15	MON, FRI, SAT, SUN	14:30