



# Office of the City Clerk



O2013-803

Office of the City Clerk

## City Council Document Tracking Sheet

<b>Meeting Date:</b>	2/13/2013
<b>Sponsor(s):</b>	Emanuel, Rahm (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	License agreement with Mercury Skyline Yacht Charters, Inc.(d/b/a Chicago First Lady Cruises) and Wendella Sightseeing Co., Inc. for docking of tour boats on Chicago River
<b>Committee(s) Assignment:</b>	Committee on License and Consumer Protection


Chicago, March 13, 2013

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration an ordinance introduced by Mayor Emanuel at the request of the Commissioner of Transportation (which was referred on February 13, 2013), authorizing a license extension for tour boats, begs leave to recommend that Your Honorable Body **pass** the ordinance which is transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the committee on March 7, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Emma Mitts", written over a horizontal line.

EMMA MITTS  
CHAIRMAN, COMMITTEE ON  
LICENSE AND CONSUMER  
PROTECTION

LIC.



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

February 13, 2013

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance authorizing the execution of tour boat operations license agreements.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

## **ORDINANCE**

**WHEREAS**, the City of Chicago ("City") is a home rule unit of government as defined in Article VII, Section 6(a) of the Constitution of the State of Illinois; and

**WHEREAS**, pursuant to Section 4-250-08, the Department of Transportation may, subject to approval of the city council, enter into license agreements for the use of City-owned property along the Chicago River to conduct a commercial passenger vessel business; and

**WHEREAS**, the City solicited proposals for the operation of tour boats on the Chicago River at City-owned locations 1 and 2, as described in the attached Exhibits 1 and 2; and

**WHEREAS**, the CDOT Commissioner has determined that Mercury Skyline Yacht Charters, Inc. d/b/a Chicago First Lady Cruises and Wendella Sightseeing Company, Inc. were highly qualified and submitted the proposals most advantageous to the City for locations 1 and 2, respectively; and

**WHEREAS**, the City and Licensee desire to enter into license agreements for the tour boat operations, pursuant to Section 4-250-08; **Now, Therefore,**

**Be It Ordained by the City Council of the City of Chicago:**

**SECTION 1.** The above recitals are hereby incorporated by reference as if fully set forth herein.

**SECTION 2.** The Commissioner of the Department of Transportation ("Commissioner") is authorized to execute, on behalf of the City, license agreements with Mercury Skyline Yacht Charters, Inc. d/b/a Chicago First Lady Cruises, for Location 1, and Wendella Sightseeing Company, Inc., for Location 2 in substantially the forms attached to this Ordinance as Exhibits 1 and 2, with such changes to these terms as are reasonably acceptable to the Commissioner, provided such changes do not decrease the license fee or increase the contract term as set forth in Exhibits 1 and 2.

**SECTION 3.** The Commissioner and such other City officials as may be required are hereby authorized to take such other actions and execute such other documents as may be necessary or desirable to implement the intent of this ordinance.

**SECTION 4.** This ordinance will be in full force and effect from and after the date of its passage.

APPROVED  
*Mark R. Allen*  
CORPORATION COUNSEL

APPROVED  
*Robert Emmett SPP*  
3/18/13  
Mayor

**LICENSE AGREEMENT**

**BETWEEN**

**THE CITY OF CHICAGO  
DEPARTMENT OF TRANSPORTATION**

**AND**

**MERCURY SKYLINE YACHT CHARTERS, INC. AND  
MERCURY SIGHTSEEING BOATS, INC.**



**FOR**

**DOCKING OF TOUR BOATS  
ON THE CHICAGO RIVER**

**RAHM EMANUEL  
MAYOR**

# **LICENSE AGREEMENT**

## **TABLE OF CONTENTS**

RECITALS .....	-1-
TERMS AND CONDITIONS .....	-4-
ARTICLE 1. DEFINITIONS .....	-4-
1.1 Definitions .....	-4-
1.2 Interpretation .....	-5-
1.3 Incorporation of Exhibits .....	-6-
ARTICLE 2. SCOPE OF LICENSEE AGREEMENT AND CONDITIONS GOVERNING LICENSEE'S ACTIVITIES .....	-6-
2.1 License Granted .....	-6-
2.2 Rights Retained by City in Granting License Agreement .....	-7-
2.3 Restrictions and Obligations Related to Operation at the Location .....	-8-
2.4 Non-Liability of Public Officials .....	-12-
2.5 Licensee's Tour Boat Operations and Maintenance Obligations .....	-12-
2.6 Minority and Women's Business Enterprises Commitment .....	-17-
2.7 Insurance .....	-17-
2.8 Indemnification .....	-17-
2.9 Letter of Credit .....	-19-
2.10 Assignments and Subcontracts .....	-19-
2.11 No Damages for Delay .....	-20-
ARTICLE 3. TERM OF LICENSE .....	-20-
3.1 Initial Term .....	-20-
3.2 License Agreement Extension Option .....	-20-
ARTICLE 4. COMPENSATION .....	-20-
4.1 Compensation .....	-20-
4.2 Taxes and Other License Costs .....	-21-
4.3 Late Payment, Material Underpayment or Nonpayment .....	-21-
ARTICLE 5. DISPUTES .....	-21-
ARTICLE 6. COMPLIANCE WITH ALL LAWS .....	-22-
6.1 Compliance with All Laws Generally .....	-22-

6.2	Nondiscrimination.....	-22-
6.3	Inspector General .....	-25-
6.4	MacBride Ordinance .....	-25-
6.5	Business Relationships with Elected Officials .....	-25-
6.6	Chicago "Living Wage" Ordinance .....	-26-
6.7	Prohibition on Certain Contributions.....	-27-
6.8	Firms Owned or Operated by Individuals with Disabilities .....	-28-
6.9	Ineligibility to do Business with City .....	-29-
6.10	Deemed Inclusion .....	-29-
ARTICLE 7.	SPECIAL CONDITIONS .....	-29-
7.1	Warranties and Representations.....	-29-
7.2	Ethics.....	-31-
7.3	Joint and Several Liability .....	-31-
7.4	Business Documents .....	-31-
7.5	Conflicts of Interest.....	-32-
7.6	Non-Liability of Public Officials .....	-32-
7.7	EDS/Certification Regarding Suspension and Debarment .....	-32-
7.8	Waiver of Forcible Entry and Detainer Act.....	-32-
ARTICLE 8.	EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET.....	-33-
8.1	Events of Default Defined .....	-33-
8.2	Remedies.....	-34-
8.3	Early Termination .....	-35-
8.4	Suspension .....	-36-
ARTICLE 9.	GENERAL CONDITIONS .....	-37-
9.1	Entire Agreement .....	-37-
9.2	Counterparts .....	-38-
9.3	Amendments .....	-38-
9.4	Governing Law and Jurisdiction.....	-38-
9.5	Severability .....	-38-
9.6	Assigns.....	-39-
9.7	Cooperation.....	-39-
9.8	Waiver.....	-39-
9.9	Independent Contractor.....	-39-



ARTICLE 10. NOTICES.....	-41-
ARTICLE 11. AUTHORITY .....	-42-
SIGNATURE PAGE(S).....	-43-

#### **List of Exhibits**

Exhibit 1	Location, Tour Boats and Yearly License Fees
Exhibit 2	Service Facilities
Exhibit 3	Insurance Requirements and Certificate of Insurance
Exhibit 4	Form of Letter of Credit
Exhibit 5	Economic Disclosure Statement and Affidavit
Exhibit 6	Other Licenses, Permits and/or Certifications
Exhibit 7	Special Conditions Regarding MBE/WBE Participation (Including Schedules C-1 and D-1)
Exhibit 8	Public Works Provisions

## LICENSE AGREEMENT

This License Agreement (the "**License Agreement**") is entered into effective as of the 10 day of March, 2013 ("**Effective Date**"), by and between Mercury Skyline Yacht Charters and Mercury Sightseeing Boats, Inc., Illinois corporations, authorized to do business in the State of Illinois (collectively, "**Licensee**"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois ("**City**"), acting through its Chicago Department of Transportation ("**Department**"). City and Licensee agree as follows:

## TERMS AND CONDITIONS

### **ARTICLE 1. DEFINITIONS**

#### **1.1 Definitions**

The following words and phrases have the following meanings for purposes of this License Agreement:

"**Chief Procurement Officer**" means the Chief Procurement Officer of the City and any representative duly authorized to act on his behalf.

"**City Council**" means the City Council of the City.

"**City Regulations**" means all applicable City Ordinances, Mayoral Executive Orders, provisions of the Municipal Code and rules and regulations promulgated by the appropriate City department, divisions or sections pursuant to the requirements of the Municipal Code.

"**Comptroller**" means the Chief Executive of the Department of Finance of the City and any individual authorized in writing to act on his behalf.

"**Commissioner**" means the Commissioner of the Chicago Department of Transportation and any representative duly authorized to act on the Commissioner's behalf in connection with this License Agreement.

"**Gross Revenues**" means the sum of (1) all amounts collected, billed by or due to the Licensee [and to the Chicago Architecture Foundation] to be paid in cash (including stolen or lost cash), credits or property of any kind or nature arising from or attributable to, directly or indirectly, or in anyway derived from, the use of the Location, whether or not such amounts are actually collected and (2) any other revenues arising from the possession by the Licensee of its rights to use the Location under this Agreement. Gross Revenues will be determined without any deduction on account of the cost of providing the Tour Service, the cost of materials used, labor or service costs or any other expense whatever. Gross Revenues will not include taxes billed to or paid by the users of the Tour Services. No other expenses or allowances will be deducted from Gross Revenues.

**"License Agreement"** means this agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

**"Location"** means the site on the Chicago River designated by the City as a docking area for Licensee's Tour Boats and the adjacent land, which site is described in detail in Exhibit 1 of this License Agreement. The Location may include Service Facilities as set forth in Exhibit 2. The Location licensed to the Licensee is specified in Article 2 of this License Agreement.

**"Municipal Code"** means the Municipal Code of Chicago as amended from time to time.

**"Ordinance"** means the ordinance passed on March 10, 2013 by the City Council of the City, which ordinance appears at pages \_\_\_\_\_ - \_\_\_\_\_ of the Journal of the Proceedings of the City Council of the City of Chicago, and which authorizes the Commissioner to enter into agreements granting the privilege of docking Tour Boats on the Chicago River.

**"Service Facilities"** means the facilities that may be provided by the City, at the City's discretion, for the use of Licensee in providing Tour Service (as defined below) at the Location, which facilities may include a service building, a utility center, an ascending/descending staircase, and dock/riverwall protection, as set forth in Exhibit 2.

**"Subcontractor"** means any person or entity with whom the Licensee contracts to provide any portion of the Tour Services and or any related services under this License Agreement, including Subcontractors of any tier, suppliers and materialmen whether or not in privity with the Licensee.

**"Tour Boat"** means any boat, ship or other vessel listed in Exhibit 1 (as amended from time to time to reflect new or replacement vessels) to be used in giving tours or charters to passengers or in providing on the Chicago River and Lake Michigan.

**"Tour Service"** means a service offered to the public generally, wherein members of the public may purchase tickets for regularly scheduled tours of the Chicago River and Lake Michigan, for which tours the members of the public will be picked up and dropped off at the single Location.

**"U.S.C.G."** means the United States Coast Guard, a federal governmental agency.

## **1.2 Interpretation**

(a) The term **"include"** (in all its forms) means "include, without limitation" unless the context clearly states otherwise.

(b) All references in this License Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this License Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this License Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this License Agreement, nor do they affect the meaning, construction or effect of this License Agreement.

(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

### **1.3 Incorporation of Exhibits**

The following attached Exhibits are made a part of this License Agreement:

Exhibit 1	Location, Tour Boats and Yearly License Fees
Exhibit 2	Service Facilities
Exhibit 3	Insurance Requirements and Certificate of Insurance
Exhibit 4	Form of Letter of Credit
Exhibit 5	Economic Disclosure Statement and Affidavit
Exhibit 6	Other Licenses, Permits and/or Certifications
Exhibit 7	Special Conditions Regarding MBE/WBE Participation (Including Schedules C-1 and D-1)
Exhibit 8	Public Works Provisions

## ARTICLE 2. SCOPE OF LICENSEE AGREEMENT AND CONDITIONS GOVERNING LICENSEE'S ACTIVITIES

### 2.1 License Granted

(a) The City grants to the Licensee permission to use docking space, for the purpose of docking Tour Boats to be used for Tour Services on the Chicago River and Lake Michigan at the Location specified in the attached Exhibit 1 ("**License**"). Additional services and activities may be added to this License agreement with the prior written consent of the Department and within the general scope of the original request for proposal as issued by the City.. "**Docking**" will be deemed to take place when a Tour Boat is attached, affixed or tied to the Location for any period of time in any manner, for any purpose.

(b) This License Agreement does not limit the ability of the City to grant any other person or other party the right to use the Location specified in Exhibit 1 of this License Agreement or any other Location, with the sole exception that the City may not issue a license to another party to operate a Tour Service from the Location specified in Exhibit 1 if the issuance of such license would materially interfere with the License issued here.

(c) The City makes no representations regarding the surface or the subsurface condition of the Location and the land adjacent to the Location. The City makes no guaranties, either expressed or implied, and the City assumes no responsibility with respect to the sufficiency or accuracy of any information conveyed, pertaining to the condition of the Location and adjacent land. If it becomes necessary for repairs to the structural integrity of the dock, the City will assume this responsibility and the Licensee must cooperate. The Licensee will immediately reimburse the City for damage to the dock and adjacent land.

(d) Nothing in this License is intended, or will be deemed, to give rise to a lease of real estate by the City to the Licensee. This License constitutes a license agreement, which permits the Licensee to operate its business at the Location specified in this License Agreement. The City has not conveyed any leasehold interest of any to the Licensee in this License Agreement. Neither the Licensee nor anyone acting for the Licensee may file this License Agreement or any copy of it, or any statement, paper or affidavit which in any manner refers to this License Agreement, in the Office of the Recorder of Deeds of Cook County, Illinois, or in any other public office: if any such document is so filed, this License Agreement and every provision in it may, in the sole discretion of the City, be declared null and void, and, additionally, the City may in such circumstance declare such filing to be an event of default under this License Agreement.

### 2.2 Rights Retained by the City in Granting License

(a) The Licensee acknowledges and agrees that this License Agreement is subject to

and subordinate to any existing or future agreement(s) of any kind between the City and any other person or party pertaining to the use, development, construction, operation and/or maintenance of the Chicago River, the Location, or the adjoining dockwalls, wharf areas, roadways and walkways. The City reserves the right, at its sole discretion, to further develop, improve, maintain, modify and repair the dockwalls, wharf areas, roadways and walkways connected to them at any time without interference or hindrance by the Licensee.

(b) The City reserves the right to relocate the Location and to cause the Licensee to relocate the Tour Boat and/or the Tour Service to another location either on a temporary basis or permanently, for any reason whatsoever, including if relocation is necessitated by any work, development or other public purpose pertaining to any part of the Chicago River and Lake Michigan, the Location, or the adjoining dockwalls, wharf area, or Michigan Avenue bridge.

(c) The Commissioner will provide written notice to the Licensee that the City is exercising any of its rights under this Section 2.2. No later than 30 days from the receipt of such notice, the Licensee shall remove, modify, replace, relocate, or vacate its facilities, as directed by the Commissioner, in his or her sole discretion, at the sole Licensee's expense. If the Licensee fails to comply within the time period provided, the City may relocate Licensee's Tour Boat and any appurtenances at the Licensee's expense. Licensee must pay the City within 10 days of receipt of invoice from the City. In an emergency, as determined by the Commissioner, the City may order the Licensee to remove or relocate its Tour Boat(s) and/or any appurtenances immediately.

### **2.3 Restrictions and Obligations Related to Operation at the Location**

#### **(a) City Access to Location:**

The City, its representatives and employees will at all times have free access to the Location for purposes necessary, incidental to or connected with the performance or exercise of the City's governmental functions. If Licensee violates this subsection 2.3(a), liquidated damages shall be assessed in the amount of \$1000 per occasion. Nothing in this subsection 2.3(a) is intended to limit the City's rights to gain entry to the Location granted under any law or by this Agreement.

#### **(b) Location and Facilities:**

The location, size, and Service Facilities available at the Location are set forth in Exhibit 1 to this License Agreement. Subject to the restrictions found in this License Agreement, Licensee will be allowed to operate either a Tour Service from the Location only. For all such regular Tour and Charter Services, Licensee will be prohibited from loading and/or unloading passengers at any public property (including other locations) other than the Location licensed to the Licensee. If the Licensee seeks to load or unload passengers at other

locations it must give prior notice to the Department and ensure that any required permits and permissions are secured by the Licensee or interested third parties. Licensee is responsible for managing dock facilities and Tour Boats from the Location. Licensee must perform Tour Services in a manner sensitive to the residents who live along side the Chicago River and Lake Michigan and its natural habitat.

Licensee must provide at its own cost and expense the following for the Location:

(i) Development of entertainment and recreational activities appropriate for the Location, which activities must be approved in writing by the Commissioner prior to commencement.

(ii) Development and implementation of an environmentally friendly plan of daily operations, including recycling program for the Location and aboard the Tour Boats, and the implementation of energy efficient Tour Boats.

(iii) Maintenance of the Location in an orderly, clean and safe fashion and a plan that makes use of environmentally friendly methods of operations, cleaning and activities in order to protect the Chicago River and Lake Michigan and its wildlife.

(iv) Collection and disposal of all trash and recycling including providing receptacles for recycling and picking up all loose or blowing trash.

(v) Landscaping where possible that provides a natural and green setting in an urban context.

The Department has the authority to review and approve all improvements proposed by the Licensee. These improvements may include: dock improvements, kiosk placement, landscaping, ornamental lights, and railings. The Licensee must install the finishes necessary and complete the utility connections for its operation.

(c) Maintenance:

No Tour Boat maintenance activities of any kind are allowed at the Location. Prohibited maintenance activities include all engine maintenance, all preventive maintenance, all painting, and any and all other maintenance of the Tour Boat.

The Licensee may perform only minor cleaning of the decks and public portions of the Tour Boat at the Location, provided that Licensee may only use biodegradable detergent and water to clean the Tour Boat.

Emergency maintenance and/or reasonably unforeseeable maintenance of the Tour Boat, which is or becomes necessary in order to assure the safety of the public, or in order to prevent the Tour Boat from becoming a hazard to navigation or otherwise from constituting a burden on the Chicago River and Lake Michigan, may be conducted at the Location.

The Licensee will be allowed to fuel the Tour Boat at its Location only in the manner and at the times that the City permits. Unless otherwise specified by the City in writing, the Licensee may fuel the Tour Boat at the location between the hours of 12 p.m. and 7:30 a.m. Fueling at other times, whether from land or water, is an event of default.

The Licensee is responsible for the routine maintenance of the Location and of the Service Facilities at the Location. However, if the Licensee's use of a Location causes damage to the Location or to any of the Service Facilities, the City may repair the Location or Service Facilities at the sole expense of the Licensee or require the Licensee to perform the repairs. Any repairs made by the Licensee or Subcontractor(s) must be done in accordance with the terms of Exhibit 8.

(d) Parking:

The Licensee, and all of the Licensee's agents, employees, invitees, passengers, and all other persons coming on to the Location, are prohibited from parking at the Location. Licensee shall inform all of its agents, employees, invitees, passengers, and all other persons coming on to the Location of this parking restriction. Any violation of this Section may result in the removal of any illegally parked vehicle at the sole cost and expense of the Licensee.

(e) No Habitation on Tour Boat:

No person may use any Tour Boat as a residence for any period of time while the Tour Boat is docked at any Location. However, this provision is not intended to prevent the Licensee from posting individuals on a Tour Boat as required to ensure the security of the Tour Boat.

(f) No Announcements or Disruptive Noise:

Licensee may not broadcast announcements or any other disruptive sounds from any Tour Boat or the Location. Such restrictions, however, do not prevent the Licensee from making any announcements or broadcasts required by U.S.C.G. or other regulations, nor will the restrictions set forth above prevent the Licensee from using a Tour Boat's public address system to convey information relating to sights on this tour to passengers while the Tour Boat is not docked at the Location. Amplified music on the Chicago River after 8:30 PM is prohibited.

(g) No Additions to the Location; No Advertising:



The Licensee may not attach, affix, or permit to be attached or affixed upon the Location any flags, placards, signs, poles, wires, aerials, antennae, improvements or fixtures of any kind without prior written consent of the Commissioner.

The Licensee may not place any advertisements on their Tour Boats, on the Location or on any public way without the written consent of the Commissioner.

(h) Sanitary Conditions:

The Licensee, at its own expense, must maintain and keep the Location, as well as the surrounding area, in a safe, clean, and sanitary condition during any time it is operating the Tour and Charter Services or performing other services pursuant to this License. If the Location and areas are not so maintained by the Licensee, then the City may terminate this License Agreement, or enter upon the Location and take all actions necessary to restore the Location to the condition required in this License Agreement at the Licensee's sole expense. The cost and expense to the City for any measures taken pursuant to this section will be charged to and must be paid immediately by the Licensee.

The Licensee must clean up and properly dispose of all refuse, waste, surplus materials and sanitary toilet waste on or about the Location on a daily basis during the term of this License Agreement. If the Licensee fails to commence performance of the tasks described in this paragraph within 5 business days after receiving written notice from the City to do so, the City may arrange to have the work performed by City employees or third parties and may charge the Licensee for all costs associated with the work, reserves the right to draw against the Letter of Credit for all such associated costs all as set forth in Section 2.9(a) herein, and may terminate the License Agreement.

(i) Suspension or Revocation of Permit:

If the Licensee violates the terms of any permit required by this License Agreement or which is otherwise required for the operation of the Tour Service, the Commissioner of the City permit-issuing Department may suspend or revoke such permit, or may take any action the Commissioner deems necessary, including ordering the Licensee to cease operation of the Tour Service until the violation has been corrected to the Commissioner's satisfaction.

(j) Utilities:

Licensee shall be responsible for all expenses related to utilities, including all electricity, telephone and water supply. The Licensee will be solely responsible for all utility charges incurred during the term of this License Agreement and any extension periods to it. The City will provide a three-phase electrical supply to the Location. The Licensee will be required to provide

at its own expense all equipment necessary to transform the three-phase electricity to any other form of current required for their Tour Services. The City will not include sewage hook-up as part of the Service Facilities. The City will install all general lighting at the Location: Licensee is responsible for providing all lighting on the Tour Boats and any gangways or similar accessways, as and if such lighting is necessary for the safety of the public. The Licensee is required to open utility accounts as required for its operations including with ComEd, SBC, and the City's Department of Water Management.

The Licensee may not construct, install or otherwise modify any utility access facilities, or any other facilities, without the prior written consent of the Commissioner. If the Commissioner issues such consent, then the Licensee must comply with all conditions and/or requirements contained in the consent as to the construction or installation of the facilities and the provisions in Exhibit 8 of this License Agreement. The construction, installation or modification of any utility or other facilities without the express written consent of the Commissioner may be deemed an event of default under Article 8 of this License Agreement. In addition, the Licensee bears the full burden and expense of removing or replacing to original condition the facility added to or modified.

(k) Season:

Tour Boats are not allowed to dock at the Location between January 15 and March 1 of any year. Between January 15 and March 1 of any year, any Tour Boat docked at a Location is subject to removal by the City at the Licensee's sole expense. Licensee shall notify the City as to its seasonal operation start and end dates on an annual basis prior to getting access to the site for the operation of its Tour Boat or Charter Boat services.

(l) Rentals of Smaller Vessels:

The Licensee is not allowed to lease or dock human-powered craft, including stand-up paddle boards, canoes, kayaks and water bikes, or powered or other craft, including jet skis or motor operated boats. All vessels are subject to the approval of the Commissioner.

(m) Violation of No Wake:

The Licensee must comply with the No Wake Zones of the Chicago River and Lake Michigan. If the Licensee is observed violating the No Wake Zones of the Chicago River and Lake Michigan, the Licensee is subject to fines from the Chicago Police Department. If repeated incidents occur, the City may elect to terminate the License Agreement.

(n) Signs, Canpoies, Awnings:

Licensee must provide to the City for any approval a proposed sign, canopy, or awning located in the public way to indicate the identity of the Licensee operating the Tour Service from the Location. The City will, in its sole discretion, determine the size, appearance and location of any sign, canopy, or awning and no additional signs, canopies, or awnings will be allowed on any portion of the Location for any purpose without the prior written consent of the City.

#### **2.4 Non-Liability of Public Officials**

Licensee and any assignee or Subcontractor of Licensee must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this License Agreement or because of the City's execution, attempted execution or any breach of this License Agreement.

#### **2.5 Licensee's Tour Boat Operation and Maintenance Obligations**

##### **(a) Compliance with Law and Industry Standards:**

The Licensee must comply with all laws, including all applicable federal, state and local laws, rules, regulations, decrees, orders and judgments; applicable requirements of the Municipal Code; applicable written standards of the City's Departments of Transportation and Buildings; manufacturers' specifications; and the standards set forth in the National Electric Code.

##### **(b) Tour Boat Compliance with Maritime and Other Regulations:**

The Licensee must comply with all applicable U.S.C.G. regulations. Further, each Tour Boat and all equipment associated with it must comply with applicable laws, including without limitation U.S.C.G. and Illinois Commerce Commission regulations and other requirements, including U.S.C.G. certification and registration, if applicable, of the Tour Boats. The Licensee must furnish copies of U.S.C.G. certifications of all Tour Boats to the City for inclusion in Exhibit 6 of this License Agreement. The City reserves the right to inspect any Tour Boat and all Service Facilities, as well as maintenance procedures and facilities related to the docking, operation and maintenance of the Tour Boat. If the inspection discloses that the Tour Boat does not comply with the terms of this License Agreement, the City will give written notice to the Licensee of its non-compliance. Such non-compliance will constitute an event of default under this License Agreement. Any dispute as to matters covered in this section must be submitted for dispute resolution in accordance with Article 5 of this License Agreement.

##### **(c) Size of Tour Boats and Drawbridge Access:**

Licensee must utilize vessels that do not require lifting of bridges, regardless of the water level of the Chicago River.

Further, the Tour Boat is limited to a length reasonably commensurate with the dock footage of the Location at which the Tour Boat is operated. The Commissioner, in the Commissioner's sole discretion, will determine whether the length of the proposed Tour boat is appropriate for the proposed Location.

(d) Safety Considerations:

The Licensee must at all times exercise reasonable care and comply with all applicable provisions of federal, state and local laws, rules and regulations to prevent accidents and/or injuries, and to avoid damage to and/or loss affecting City facilities, the Chicago River and Lake Michigan, the Location, the Service Facilities, and the property of third parties in connection with the docking, operation and maintenance of the Tour Boat and the Location. The Licensee must erect and properly maintain at all times all necessary safeguard barriers, flags and lights for the protection of the Licensee's and its Subcontractors' employees, City employees, and the public, which become necessary due to a later-occurring defect in the structure of the Location or any of the Service Facilities. If any such defect develops, the Licensee must notify the City immediately, and must maintain all necessary safety precautions until such time as the City rectifies the defect.

The Licensee must report to the Department any damage on, about, under or adjacent to the Chicago River and Lake Michigan, the Location, City property or the property of third persons, whether such damage is a result of the Licensee's operation of the Tour Boat or is unrelated to it.

(e) Restoration of Damaged Property:

If the Licensee causes damage to public or private property along the river or the lakefront, the Location, City facilities, or other property in connection with the activities contemplated by this License Agreement, the Licensee must, at its own expense and in a manner approved by the City and/or the owner of the private property, rebuild, restore and repair the Chicago River and Lake Michigan, City property or facilities or private property to a condition equal to the condition of the property before the incident that caused such damaged property or facilities. If the Licensee fails to perform such rebuilding, replacement or restoration within 5 business days of the disturbance (unless public safety is affected in which case such shorter time as the City will request), the City or the owner, after written notice to the Licensee, has the right to do so at the sole expense of the Licensee.

(f) Tour Boat Documentation:

The Licensee must provide the Commissioner for his approval a full description of the appearance and features of each Tour Boat. The specific requirements for such descriptions are

further set forth in Exhibit 1. The Licensee may not add or remove any Tour Boat from service or replace a Tour Boat with another Tour Boat without the prior written approval of the Commissioner. Such addition, removal or replacement of a Tour Boat without written approval of the Commissioner will be an event of default under this License Agreement.

(g) Seaworthiness:

The Licensee must at all times take all actions necessary to assure the seaworthiness of its Tour Boats. This includes compliance with all applicable U.S.C.G. and U.S. Corps of Engineers rules and regulations. The Licensee represents and warrants that all Tour Boats to be used to provide any Tour Service of any kind will be seaworthy and safe at all times.

(h) Commissioner's Right to Order Removal of Tour Boat:

The Licensee enters into this License Agreement with full knowledge and acceptance that the Commissioner may at any time determine that a particular Tour Boat is non-compliant with the terms and requirements of this License Agreement. The Commissioner may, at any time, identify a particular Tour Boat and either (1) order its removal from the Location, the Chicago River, and Lake Michigan, or (2) order the Licensee to cease operating the Tour Boat. If the Commissioner exercises such right, and/or the Tour Boat is not removed within 14 days from the date on which the removal of that Tour Boat is ordered by the Commissioner, the Tour Boat will be subject to immediate removal by the City at the owner's expense.

(i) Tour Boat Enhancements:

The Licensee must notify the Department of any proposed enhancements to or upgrades or replacements of any Tour Boat at least 60 days before making any such enhancement. For the purpose of this section "enhancements" includes any modifications to the appearance or function of the Tour Boat, without limitation. The Licensee must provide the City with written notice indicating the specific Tour Boat on which it would like to make a particular enhancement or upgrade. No enhancement of any kind may be made without the prior written consent of the Commissioner, and the enhancements must be made at no cost to the City. Enhancements must comply with all applicable laws. Any dispute under this section must be resolved in accordance with the dispute resolution provisions set forth in Article 5 of this License Agreement.

(j) Licenses and Permits

The Licensee bears responsibility for and, in a timely manner consistent with its obligations under this License Agreement, must secure and maintain at its sole expense such permits, licenses, authorizations and approvals as are necessary for the Licensee to operate the Tour Boats on the public water ways in accordance with this License Agreement.

(k). In the Event of Fire or Other Destruction of Location

If the Location, or any portion of the Location, is destroyed or damaged by fire or other disaster so as to prevent the use of the Location for the purposes and during the periods specified in this License Agreement, the City is not obligated to repair or rebuild the Location. The City may, however, in the City's sole discretion, elect to repair the Location. If the City elects not to repair the Location, then this License Agreement terminates, and the Licensee waives any claim against the City for damages, including lost profits, by reason of the termination. If the City elects to repair the Location, this License Agreement does not terminate, but is suspended until such time as the Commissioner issues written notice to the Licensee that the Licensee may resume Tour Services. The Yearly License Fee will be adjusted for the actual number of days the dock was open. The term of this License Agreement will not be extended.

If it becomes necessary for any reason in the judgment of the City to remove or modify any part of the Location's Service Facilities and the Licensee incurs any loss as a result, the Licensee may not bring any claim or charge against the City for restoration or replacement of the Service Facilities or any losses.

(l). Restrictions on Solicitations and Sales

(i) Central Location for the Dissemination of Information about Tour Boats:

Unless otherwise approved by the Commissioner, the Licensee is allowed to hand out or otherwise disseminate information about Tour Services only at two sites on the Location: (1) from inside the Service Facilities provided by the City at the Location; and (2) on the Tour Boats themselves. The Licensee is not allowed to hand out or otherwise disseminate information about Tour Services at any other public location, including on the public way along upper and lower Wacker Drive from Lake Shore Drive to the intersection of Wacker Drive and Washington Street.

(ii). Ticket Sales:

Unless otherwise agreed in writing by the City, the Licensee is allowed to sell tickets for the Tour Services online, via hotel concierges, the Chicago Architecture Foundation and other venues that are not on the public way, or at two areas on the Location. Licensee may have up to two people promoting the tours and ticket sales at the top of the stairs; any changes or additional persons must be approved by the Commissioner. Tickets may be sold at the Service Facilities provided at the Location by the City, and tickets may be sold on the Tour Boat. The Licensee is not allowed to sell tickets on the public way,

including along the upper and lower Wacker Drive from Lake Shore Drive to the intersection of Wacker Drive and Washington Street.

(iii). Hawking:

In addition to the restrictions set forth above in sub paragraphs (i) and (ii) of this section, ticket sales or solicitations of business of any description along any public way in the City are subject to all applicable restrictions of such activities contained in the Municipal Code and as governed by the "Rules and Regulations Pertaining to Tour Boats and Water Taxis" as issued by the Department of Consumer Services or such amendments thereto.

In addition to any penalties that the Licensee may incur for violations of any ordinance, if the Commissioner determines that the Licensee has engaged in ticket sales, solicitation of business or dissemination of information in any of the areas set forth above, then, upon the third such occurrence, and upon any subsequent occurrence, the Commissioner may elect to terminate the License or pursue any other remedy afforded to the City by the terms of Article 8 of this License Agreement.

## **2.6 Minority and Women's Business Enterprises Commitment**

In the performance of this License Agreement, Licensee must abide by the minority and women's business enterprise commitment requirements set for by the Commissioner. The Licensee must utilize MBEs and WBEs at the levels of participation described below.

It is the policy of the City of Chicago that Local Businesses certified as Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in accordance with Section 2-92-410 et seq. of the Municipal Code of Chicago and Regulation Governing Certification of Minority and Women-owned Businesses, and all other Regulation promulgated under the aforementioned section of the Municipal Code shall have the maximum opportunity to participate fully in the performance of this agreement. Therefore, the Licensee shall not discriminate against any person or business on the basis of race, color, national origin or sex, and shall take affirmative action to ensure that women and minority businesses shall have the maximum opportunity to compete for and perform subcontracts for supplies and services.

The Commissioner has established a goal of awarding not less than 25% to MBE and 5% to WBE for any outside services contracted out by the Licensee of the Location.

In the event that the Licensee elects to perform improvements to the Location, upon approval by the Department, the Commissioner has established a goal of awarding not less than 25% to MBE and 5% to WBE for the total value of the improvement project.

Every year that this License Agreement is in effect, prior to the first day of operations, the Licensee must submit to the Department a revised summary of the MBE/WBE participation for the year. The financial report required as part of the supplemental income must also include a statement to the Department showing (i) a calculation of the proposed MBE/WBE participation for the year based on Licensee's projections (DPS Schedule C-1 and D-1's will be accepted), and (ii) a calculation of the actual MBE/WBE utilization that Licensee achieved.

Licensee will be required to provide a certified financial statement from a CPA no later than January 15th of each year documenting the previous seasons activity to determine the annual gross revenue and Supplement Revenue Fees due. In addition, this report should include a section showing compliance with the MBE/WBE requirements established by the Commissioner including; identifying each MBE/WBE firm, the firms certification of compliance with the program and contract amount goals and actual expenditures.

If an improvement project is being completed between two seasons, the Licensee can determine which year the percentages can be applied but must notify the Department in writing prior to beginning the project.

If the Licensee fails to meet the participation goals established by the Commissioner in any year, then the City may, in its sole discretion, treat such failure as an event of default or may allow the Licensee to increase its proposed MBE/WBE participation levels in the year immediately succeeding the year of deficiency in order to compensate fully for the deficiency.

## **2.7 Insurance**

Licensee must provide and maintain at Licensee's own expense, during the term of this License Agreement and any time period following expiration if Licensee is required to return and perform any of the Services or Additional Services under this License Agreement, the insurance coverages and requirements specified in Exhibit 3 of this License Agreement, insuring all operations related to this License Agreement.

## **2.8 Indemnification**

(a) Licensee must protect, defend, indemnify, and hold the City, its officers, officials, representatives, and employees (collectively the "**Indemnitees**"), harmless from and against any and all claims, damages, demands, injury or death, in consequence of granting this License Agreement or arising out of or being in any way connected with Licensee's performance under this License Agreement except for matters shown by final judgment to have been caused by or attributable to the negligence of Indemnitees. This indemnification obligation is effective



to the maximum extent permitted by applicable law. This indemnity extends to all legal costs, including attorney fees, costs, liens, judgments, settlements, penalties, professional fees, and other expenses incurred by the City, including fines and penalties imposed by public bodies, and the reasonable settlement of such claims. This indemnification obligation is not limited by any amount of insurance required under this License Agreement or the Letter of Credit required in Section 2.9 of this License Agreement. Further, the indemnification obligation contained in this section will survive the expiration or termination of this License Agreement.

(b) At the City Corporation Counsel's option, Licensee must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Licensee of any of its obligations under this License Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

(c) To the extent permissible by law, Licensee waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any Losses, including any claim by any employee of Licensee that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

(d) The Licensee waives the right to receive the benefits of or to invoke the protection afforded by all maritime statutory limitations of liability, including the Limitation of Vessel Owner's Liability Act, 48 U.S.C. §183 *et seq.*, that could act to diminish the liability of the Licensee for any harm or damage arising from the operation of any Tour Boats under this License Agreement in any manner, or for all Losses or other costs arising from or occasioned by the operation by the Licensee of any Tour Boats on the Chicago River or on Lake Michigan. This provision is not intended to avoid or waive federal jurisdiction under applicable admiralty laws. This waiver extends only to the City, and not to third parties seeking recovery for Losses or other costs solely against the Licensee.

(f) Without limiting its waiver, the Licensee specifically consents to pay all sums in respect of any Losses or other costs arising from or occasioned by the use of any Tour Boat on the Chicago River or on Lake Michigan; this indemnification includes the following:

(i) Loss or damage to any other ship, vessel or boat caused proximately or otherwise by the Licensee's Tour Boat, or loss of the cargo of such other ship, vessel or boat;

(ii) Loss of life or personal injury, or for any cost of life salvage;

(ii) Loss or damage to any harbor, dock, building, graving or otherwise, slipway, pontoon, pier, quay, tunnel, jetty, stage, buoy, cables of any kind, or other fixed or movable object or property whatsoever;

(iv) The cost of the removal, raising or destruction of the wreck of any Tour Boat employed by the Licensee in performing the Tour Services;

(v) If a Tour Boat is disabled or otherwise, the cost of towage or other salvage of the Tour Boat employed by the Licensee in performing the Tour Services;

(vi) Loss or damage to the Location as defined in this License Agreement; and

(vii) Loss or damage to the bottom or banks of the Chicago River, or to the shoreline of Lake Michigan.

## **2.9 Letter of Credit**

### **(a) Terms of the Letter of Credit**

The Licensee must provide the City with an irrevocable, unconditional, standby letter of credit ("**Letter of Credit**") in an amount equal to \$100,000. If the Licensee fails to furnish the Letter of Credit pursuant to the requirements set forth in this Section 2.9, then the Commissioner may terminate the License Agreement. The Letter of Credit must be renewed for the Location each year during the term of the License Agreement and for 12 months beyond the term.

The Letter of Credit must be in the form set forth in Exhibit 4 to this License Agreement. The Letter of Credit will be used to ensure the faithful performance by the Licensee of all provisions of this License Agreement and compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the City having jurisdiction over the Licensee's acts or defaults under this License Agreement and for payment by the Licensee of any costs, liens, claims and taxes due the City which arise by reason of the Licensee's acts in accordance with this License Agreement.

The City will be entitled to draw on the Letter of Credit if the Licensee: (i) has failed to pay the City in whole or in part any of the fees or other charges set forth in this License Agreement within the time fixed in this License Agreement; (ii) has failed to repay the City in whole or in part within 10 days for any damages, expenses or costs which the City has suffered or is compelled to pay by reason of the Licensee's acts or omissions under this License Agreement; or (iii) has failed, after 5 days notice to the Licensee of such failure, to comply with any provision of this License Agreement which the Commissioner has reasonably determined can be remedied by a draw on the Letter of Credit. The City will also be entitled to draw on any

Letter of Credit which expires (either by its terms or because of non-renewal) on a date prior to the termination date of this License Agreement unless proof of renewal of such Letter of Credit or a replacement Letter of Credit in form and substance satisfactory to the City's Corporation Counsel has been furnished to the City's Corporation Counsel at least 30 days prior to the expiration date of the Letter of Credit. Upon the sole condition of delivery by the City to the issuer of the Letter of Credit of a demand for payment, purportedly signed by the Commissioner or the Comptroller, whether acting or actual, the City can immediately draw up to the amount outstanding. After such draw, the City will notify the Licensee of the amount and date of the draw and will include in the notice the basis pursuant to which the City's right to draw has been exercised. If amounts are drawn under the Letter of Credit, the Licensee will take such actions as may be necessary to maintain the Letter of Credit at full amount within 5 days of the City's notice of draw and must cause it to be maintained at that full amount for 12 months beyond the expiration or termination of the License Agreement, whichever is later. The rights reserved to the City under the Letter of Credit will be in addition to any rights it may have under this License Agreement, at law or in equity.

(b) Qualified Issuers

The Letter of Credit must be issued by a company or financial institution that is authorized to do business in the State of Illinois, is acceptable to the City Comptroller and has an office in the City of Chicago where the City may draw on the Letter of Credit.

(c) Right to Require Replacement Letter of Credit

If the financial condition of the issuer of a Letter of Credit materially and adversely changes, the City may, at any time, require that the Letter of Credit be replaced with a Letter of Credit consistent with the requirements set forth in this section.

(d) No Excuse from Performance

None of the provisions contained in this Section 2.9 nor the Letter of Credit required by this Section 2.9 will be construed to excuse the faithful performance by Licensee of the terms and conditions of this License Agreement or limit the liability of the Licensee under this License Agreement for any and all damages in excess of the amounts of the Letter of Credit.

## **2.10 Assignments and Subcontracts**

(a) Licensee shall not assign, delegate or otherwise transfer all or any part of its rights or obligations under this License Agreement: (i) unless otherwise provided for elsewhere in this License Agreement; or (ii) without the express written consent of the Commissioner. The absence of such a provision or written consent voids the attempted assignment, delegation or

transfer and is of no effect as to the Services or this License Agreement. No approvals given by the Commissioner, including approvals for the use of any Subcontractors, operate to relieve Licensee of any of its obligations or liabilities under this License Agreement.

(b) All Subcontractors are subject to the prior approval of the Commissioner. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this License Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this License Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this License Agreement by Licensee personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this License Agreement under no circumstances operates to relieve Licensee of any of its obligations or liabilities under this License Agreement.

(c) Licensee, upon entering into any agreement with a Subcontractor, must furnish upon request of the Commissioner or the Department a copy of its agreement. Licensee must ensure that all subcontracts contain provisions that require the Services be performed in strict accordance with the requirements of this License Agreement, provide that the Subcontractors are subject to all the terms of this License Agreement and are subject to the approval of the Department and the Commissioner. If the agreements do not prejudice any of the City's rights under this License Agreement, such agreements may contain different provisions than are provided in this License Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) The City reserves the right to assign or otherwise transfer all or any part of its interests under this License Agreement to any successor.

## **2.11 Disclaimer**

Licensee acknowledges that the City or its contractors may engage in public improvement projects in the vicinity of the Chicago river, including, without limitation, the riverwalk. Licensee shall cooperate with the City and its contractors to facilitate such work. City hereby disclaims all liability for all consequential, incidental, special, punitive, and indirect damages, including all liability for lost profits, for any reason whatsoever, including but not limited to any alleged losses caused by such projects. Without limiting the foregoing, Licensee agrees that it will make no claims against the City for damages, charges, additional costs or fees or any lost profits or costs incurred by reason of delays or hindrances by the City or its contractors in the operation of the Tour Service pursuant to this License Agreement.

## **ARTICLE 3. TERM OF LICENSE AGREEMENT**

### **3.1 Initial Term**

Unless earlier terminated in accordance with any provision of this License Agreement, this License Agreement will continue for ten years from the Effective Date.

### **3.2 License Agreement Extension Option**

The Commissioner may at any time before this License Agreement expires elect to extend the term of this License Agreement for up to eight additional, consecutive 5 year terms, under the same terms and conditions as this original License Agreement by written notice to the Licensee.

## **ARTICLE 4. COMPENSATION**

### **4.1 Compensation**

(a) Each year, the Licensee must pay to the City the fees set forth in Exhibit 1 of this License Agreement. As set forth in Exhibit 1, each year the Licensee will pay the City a Minimum Annual Guarantee and a Supplemental Revenue Fee.

(b) The Minimum Annual Guarantee for any year is due and payable in two installments by the Licensee. The first payment of 50% of the Minimum Annual Guarantee is due on or before the April 1 of such year, and the remaining 50% of the yearly License fee is due on or before the August 1 of such year.

(c) The Supplemental Revenue Fee for each year is due and payable no later than 45 days after the end of that year.

### **4.2 Taxes and other Licensee Costs**

(a) The Licensee must pay any assessments and taxes of any kind which arise as a result of or in connection with this License and the uses of the Location.

(b) The Licensee must obtain, and must pay any and all fees necessary to obtain federal, state and local licenses, permits and authorizations required for docking and operating each Tour Boat including inspection fees required in connection with obtaining electrical wiring permits from the City. This includes each of the following as may be required or may become applicable to the Licensee or the licensed Tour Boat and must be attached to Exhibit 6 of this License Agreement: a certificate of inspection, a certificate of documentation, and any and all other licenses or certifications required by the U.S.C.G.; a great lakes radiotelephone license certificate of the Federal Communications Commission; a State of Illinois registration or title; and all other vessel and operation licenses required by the State of Illinois or the City.

(c) Notwithstanding the foregoing, the Licensee may claim a credit against any amounts due under this License Agreement equal to the amount of the Chicago Boat Mooring Tax paid by the Licensee pursuant to section 3-16-030 of the Municipal Code of Chicago.

#### **4.3 Late Payment, Material Underpayment or Nonpayment**

If the Licensee fails to make its yearly payments when due, or makes an underpayment in any annual payment period of more than 5% of the amount due for such annual payment period, then the City may charge the Licensee interest on the amount due of 1.25% for each month said amount remains due and owing. Interest on the amount of the underpayment due will accrue from the date on which the original payment should have been made. If any payment owed pursuant to this License Agreement remains past due for more than 30 business days, the Commissioner may declare a breach of this License Agreement and terminate the License Agreement upon 30 days' written notice to the Licensee.

#### **4.4 Records and Audit**

The Licensee [and the Chicago Architecture Foundation] must maintain books and records related to the operation of the Tour Service, including cash and non-cash revenues generated and ticket sales. All books and records must be maintained in a manner consistent with generally accepted accounting principles and practice.

No later than the date for payment of the Supplemental Revenue Fee as described in Section 4.1(c), the Licensee must supply to the Commissioner an audit, conducted by an independent certified public accountant, in form and substance acceptable to the Commissioner, certifying as to the Gross Revenues from the Location [for both Licensee and the Chicago Architecture Foundation], and calculating the Supplemental Revenue Fee due to the City for the prior year pursuant to the Agreement. If Licensee fails to timely furnish to the Commissioner the annual statement required under this Agreement or if the independent certified public accountant's opinion is qualified or conditioned in any manner, the Commissioner has the right (but is not obligated) without notice, to conduct an audit of Licensee's books and records and to prepare the statements at Licensee's expense. In any event, the City, upon 10 days' written notice to the Licensee, may perform or have performed by a City consultant, an audit and review of the records serving as the basis for the Licensee's annual statement. If the City's independent audit determines that the compensation paid to the City was underpaid in the prior calendar year by more than 5%, the Contractor will bear the cost of the City's audit in addition to paying the City the underpayment, plus interest as set forth in Section 4.3. This provision survives the termination or expiration of this Agreement.

[Licensee acknowledges and covenants that it has an agreement with the Chicago Architecture Foundation to enable compliance with this subsection.]

## **ARTICLE 5. DISPUTES**

Except as otherwise provided in this License Agreement, Licensee must and the Commissioner may bring any dispute arising under this License Agreement which is not resolved by the parties to the Commissioner for decision based upon the written submissions of the parties. The Commissioner will issue a written decision and send it to the Licensee by mail. The decision of the Commissioner is final and binding. The sole and exclusive remedy to challenge the decision of the Commissioner is judicial review by means of a common law writ of certiorari.

## **ARTICLE 6. COMPLIANCE WITH ALL LAWS**

### **6.1 Compliance with All Laws Generally**

(a) Licensee must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 6, and Licensee must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Licensee must require all Subcontractors to do so, also. Further, Licensee must execute an Economic Disclosure Statement and Affidavit ("EDS") in the form attached to this Agreement as Exhibit 4. Notwithstanding acceptance by the City of the EDS, Licensee's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Licensee must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate. Licensee agrees that Licensee's failure to maintain current throughout the term and any extensions of the term, the disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, shall constitute an event of default.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

### **6.2 Nondiscrimination**

#### **(a) Licensee**

Licensee must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups. If this Agreement is federally funded in whole or in part, additional provisions related to nondiscrimination may be set forth in Exhibit 8.

**(i) Federal Requirements**

Licensee must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting, segregating or classifying Licensee's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Licensee must comply with, and the procedures Licensee utilizes and the Services Licensee provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. ' ' 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. ' ' 621-34; Rehabilitation Act of 1973, 29 U.S.C. ' ' 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. ' 12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

**(ii) State Requirements**

Licensee must comply with, and the procedures Licensee utilizes and the Services Licensee provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code ' 750 Appendix A. Furthermore, Licensee must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

**(iii) City Requirements**

Licensee must comply with, and the procedures Licensee utilizes and the Services Licensee provides under this Agreement must comply with, the Chicago Human Rights



Ordinance, ch. 2-160, Section 2-160-010 *et seq.* of the Municipal Code of Chicago (1990), as amended, and all other applicable City ordinances and rules.

**(b)Subcontractors**

Licensee must incorporate all of this Section 6.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Licensee must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

**6.3 Inspector General**

It is the duty of any bidder, proposer or Licensee, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Licensee, Subcontractor or such applicant to cooperate with the Legislative Inspector General or the Inspector General in any investigation or hearing, if applicable, undertaken pursuant to Chapters 2-55 or 2-56, respectively, of the Municipal Code. Licensee understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

**6.4 MacBride Ordinance**

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Licensee conducts any business operations in Northern Ireland, the Licensee must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 6.4 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply

with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

## **6.5 Business Relationships with Elected Officials**

Pursuant to MCC Sect. 2-156-030(b), it is illegal for any elected official, or any person acting at the direction of such official, to contact either orally or in writing any other City official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

Violation of MCC Sect. 2-156-030 by any elected official with respect to this contract will be grounds for termination of this contract. The term financial interest is defined as set forth in MCC Chapter 2-156.

## **6.6 Chicago "Living Wage" Ordinance**

(a) Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers ("**Covered Employees**"). Accordingly, pursuant to Section 2-92-610 and regulations promulgated under it:

- (i) If Licensee has 25 or more full-time employees, and
- (ii) If at any time during the performance of this License Agreement, Licensee and/or any Subcontractor or any other entity that provides any portion of the Services (collectively "**Performing Parties**") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then
- (iii) Licensee must pay its Covered Employees, and must ensure that all other Performing Parties pay their Covered Employees, not less than the

minimum hourly rate as determined in accordance with this provision (the "**Base Wage**") for all Services performed under this License Agreement.

(b) Licensee's obligation to pay, and to ensure payment of, the Base Wage will begin at any time during the term of this License Agreement when the conditions set forth in (a)(i) and (a)(ii) above are met, and will continue until the end of the term of this License Agreement.

(c) As of July 1, 2012, the Base Wage is \$11.53 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this License Agreement, Licensee and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for Services done under this License Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then Licensee and all other Performing Parties must pay the prevailing wage rates.

(d) Licensee must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. Licensee agrees to provide the City with documentation acceptable to the Commissioner demonstrating that all Covered Employees, whether employed by Licensee or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit Licensee and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this License Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

(e) Not-for-Profit Corporations: If Licensee is a corporation having federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of subsections (a) through (d) above do not apply.

## **6.7 Prohibition on Certain Contributions**

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract,

including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Licensee, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Licensee represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Licensee or the date the Licensee approached the City, as applicable, regarding the formulation of this Contract, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Licensee shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Licensee violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the CPO may reject Licensee's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Licensee and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

#### **6.8 Firms Owned or Operated by Individuals with Disabilities**

The City encourages Licensees to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

#### **6.9 Ineligibility to do Business with City.**

Failure by the Licensee or any Controlling Person (defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code shall render this Contract voidable or subject to termination, at the option of the Chief Procurement Officer. Licensee agrees that Licensee's failure to maintain eligibility (or failure by Controlling Persons to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

#### **6.10 Deemed Inclusion**

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this License Agreement are deemed inserted in this License Agreement whether or not they appear in this License Agreement or, upon application by either party, this License Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this License Agreement is signed prevent its enforcement.

### **ARTICLE 7. SPECIAL CONDITIONS**

#### **7.1 Warranties and Representations**

In connection with signing and carrying out this License Agreement, Licensee:

- (a) warrants that Licensee has all appropriate permits and licenses as required by federal, state and local laws to perform the Tour Services required under this License Agreement and will perform no Services for which a license is required by law and for which Licensee is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this License Agreement; and Licensee is legally authorized to execute and perform or cause to be performed this License Agreement under the terms and conditions stated in this License Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of its Services under this License Agreement;

(d) warrants that Licensee and its Subcontractors are not in default at the time this License Agreement is signed, and have not been deemed by the Chief Procurement Officer or any other City official to have, within 5 years immediately preceding the date of this License Agreement, been found to be in default on any contract awarded by the City ;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this License Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this License Agreement; this License Agreement is feasible of performance in accordance with all of its provisions and requirements, and Licensee warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this License Agreement;

(f) represents that Licensee and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of § 2-92-320 of the Municipal Code , and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1; and

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this License Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 8.2 and 8.3 of this License Agreement.

(h) warrants and represents that it has in effect and will maintain in effect during the term of this License Agreement a valid certificate of service authority to operate a Tour Service granted by the U.S.C.G., a copy of which is attached in Exhibit 6.

(i) represents that it has inspected in detail the designated Location and has familiarized itself with all of the local conditions of the docking areas and adjacent land affecting the provision of Tour Services at the Location and Section 2.3(b) services. The Licensee is solely responsible for all errors in the Licensee's proposal or losses subsequently incurred by the Licensee as a result of the Licensee's failure to adequately inspect the Location, the License Agreement; and

(j) warrants that it will operate a Tour Service in accordance with all applicable

provisions and requirements of the Department of Homeland Security;

(j) warrants and represents that it has examined the Location and appurtenant land prior to the submission of Licensee's proposal, and further, the Licensee agrees that the Location are in a safe condition and in good repair; and

(l) The Licensee warrants and represents that neither the Licensee nor any Affiliate of Licensee appears on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

"Affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

## **7.2 Ethics**

(a) In addition to the foregoing warranties and representations, Licensee warrants:

(i) no officer, agent or employee of the City is employed by Licensee or has a financial interest directly or indirectly in this License Agreement or the compensation to be paid under this License Agreement except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code.

(ii) no payment, gratuity or offer of employment will be made in connection with this License Agreement by or on behalf of any Subcontractors to Licensee or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(b) Licensee further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 is voidable as to the City.

## **7.3 Joint and Several Liability**

If Licensee, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this License Agreement, each and without limitation every obligation or undertaking in this License Agreement to be fulfilled or performed by Licensee is the joint and several obligation or undertaking of each such individual or other legal entity. \_\_\_\_\_, are jointly and severally liable under this License Agreement.

#### **7.4 Business Documents**

At the request of the City, Licensee must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

#### **7.5 Conflicts of Interest**

(a) No member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this License Agreement pertains is permitted to have any personal interest, direct or indirect, in this License Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee is allowed to be admitted to any share or part of this License Agreement or to any financial benefit to arise from it.

(b) Licensee represents that it, and to the best of its knowledge, its Subcontractors if any (Licensee and Subcontractors will be collectively referred to in this Section 7.5 as "**Licensee Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this License Agreement.

(c) Further, Licensee Parties must not assign any person having any conflicting interest to perform any services under this License Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Licensee Parties' services for others conflict with the Services that Licensee Parties are to render for the City under this License Agreement, Licensee Parties must terminate such other services immediately upon request of the City.

#### **7.6 Non-Liability of Public Officials**

Licensee and any assignee or Subcontractor of Licensee must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

#### **7.7 EDS / Certification Regarding Suspension and Debarment**



Licensee certifies, as further evidenced in the EDS attached as Exhibit 5, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Licensee further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Licensee or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

#### **7.8 Waiver of Forcible Entry and Detainer Act**

Notwithstanding any interpretation that may be imposed upon this License Agreement, the Licensee understands and hereby agrees to forego and waive all provisions of the Forcible Entry and Detainer Act, 735 ILCS 5/9-101 *et seq.* as it might apply to the Location, and the Service Facilities.

### **ARTICLE 8. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET**

#### **8.1 Events of Default Defined**

The following constitute events of default:

(a) Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Licensee to the City.

(b) Licensee's failure to perform any of its obligations under this License Agreement including the following:

(i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;

(ii) Failure to have and maintain all licenses required by law to perform the Tour Services;

(iii) Failure to timely perform the Services;

(iv) Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;

- (v) Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
  - (vi) Discontinuance of the Services for reasons within Licensee's reasonable control;
  - (vii) Failure to comply with Section 6.1 in the performance of the License Agreement;
  - (viii) Failure promptly to update EDS(s) furnished in connection with this License Agreement when the information or responses contained in it or them is no longer complete or accurate;
  - (ix) Failure to furnish and maintain a Letter of Credit pursuant to the requirements set forth in Section 2.9;
  - (x) Failure to comply with any other material term of this License Agreement, including the provisions concerning insurance and nondiscrimination; and
  - (xi) Any other acts specifically stated in this License Agreement as constituting an act of default.
- (c) Any change in ownership or control of Licensee, without the prior written approval of the Commissioner (when such prior approval is permissible by law), which approval the Commissioner will not unreasonably withhold.
- (d) Default by Licensee under any other agreement either entity or both entities may presently have or may enter into with the City for the duration of this License Agreement. Licensee acknowledges that in the event of a default under this License Agreement the City may also declare a default under any other agreements.
- (e) Licensee's violation of City ordinance(s) unrelated to performance under the License Agreement such that, in the opinion of the Commissioner, it indicates a willful or reckless disregard for City laws and regulations.

## **8.2 Remedies**

- (a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Licensee in default. The Commissioner may in his sole discretion give Licensee an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the Commissioner. Whether to declare Licensee in default is within the sole discretion of the Commissioner and neither that decision nor the factual

basis for it is subject to review or challenge under the Disputes provision of this License Agreement.

The Commissioner will give Licensee written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Commissioner gives a Default Notice, he will also indicate any present intent he may have to terminate this License Agreement, and the decision to terminate is final and effective upon giving the notice. If the Commissioner decides not to terminate, this decision will not preclude him from later deciding to terminate the License Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Commissioner may give a Default Notice if Licensee fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 8.2 and Article 10, Licensee must discontinue any Tour Services, unless otherwise directed in the notice.

(b) **Exercise of Remedies.** After giving a Default Notice, the City may invoke any or all of the following remedies:

- (i) The right to terminate this License Agreement, in whole or in part;
- (ii) The right of specific performance, an injunction or any other appropriate equitable remedy;
- (iii) The right to money damages;
- (iv) The right to deem Licensee non-responsible in future contracts to be awarded by the City;
- (v) The right to draw on the Letter of Credit.

(c) **City's Reservation of Rights.** If the Commissioner considers it to be in the City's best interests, he may elect not to declare default or to terminate this License Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the Commissioner permits Licensee to continue to provide the Tour Services despite one or more events of default, Licensee is in no way relieved of any of its responsibilities, duties or obligations under this License Agreement, nor does the City waive or relinquish any of its rights.

(d) **Non-Exclusivity of Remedies.** The remedies under the terms of this License Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor

acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

### **8.3 Early Termination**

(a) In addition to termination under Sections 8.1 and 8.2 of this License Agreement, the Commissioner may terminate this License Agreement, at any time by giving 15 days' prior written notice to the Licensee, if, in the sole discretion of the Commissioner, the Commissioner determines that such termination is in the best interest of the City. If the Commissioner elects to terminate this entire License Agreement, the Licensee must terminate all Tour Services within 10 business days after the issuance of such notice and remove Tour Boats from the Location.

(b) Payment to the City of any sums remaining to be paid under this License Agreement must be made by the Licensee on a pro-rata basis: calculation of the pro-rata share will be predicated upon the season during which the Licensee is licensed to operate on the Chicago River and Lake Michigan, as specified in Section 4.1 of this License Agreement.

(c) Any License fees and compensation previously received by the City will be retained by the City.

(d) Upon termination of this License Agreement the Licensee must at once surrender possession of the Location. If possession is not immediately surrendered, the City may take possession of the Location and expel or remove the Licensee and those claiming by, through, or under it, without civil or criminal liability.

(e) The Licensee must pay and discharge all costs, expenses, and attorneys' fees which might be incurred by the City in enforcing the terms and conditions of this License Agreement.

(f) Licensee must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Licensee will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Licensee or the City.

(g) If the City's election to terminate this License Agreement for default under Sections 8.1 and 8.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 8.3.

### **8.4 Suspension**

The City may at any time request that Licensee suspend its Services, or any part of them, by giving 15 days prior written notice to Licensee or upon informal oral, or even no notice, in the event of emergency. Licensee must promptly resume its performance of the Services under the same terms and conditions as stated in this License Agreement upon written notice by the Commissioner and such equitable extension of time as may be mutually agreed upon by the Commissioner and Licensee when necessary for continuation or completion of Tour Services. The City will not be liable for any additional costs or expenses actually incurred by Licensee as a result of recommencing the Tour Services.

No suspension of this License Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this License Agreement. If the total number of days of suspension exceeds 45 days, Licensee by written notice to the City may treat the suspension as an early termination of this License Agreement under Section 8.3.

## **ARTICLE 9. GENERAL CONDITIONS**

### **9.1 Entire Agreement**

#### **(a) General**

This License Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this License Agreement that are not addressed in this License Agreement.

#### **(b) No Collateral Agreements**

Licensee acknowledges that, except only for those representations, statements or promises contained in this License Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Licensee to enter into this License Agreement or has been relied upon by Licensee, including any with reference to: (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this License Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this License Agreement; (iv) the general conditions which may in any way affect this License Agreement or its performance; (v) the compensation provisions of this License Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this License

Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

**(c) No Omissions**

Licensee acknowledges that Licensee was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this License Agreement before signing this License Agreement in order that it might request inclusion in this License Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Licensee did so review those documents, and either every such statement, representation, promise or provision has been included in this License Agreement or else, if omitted, Licensee relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this License Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

**9.2 Counterparts**

This License Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

**9.3 Amendments**

Except as provided in Section 3.2 of this License Agreement, no changes, amendments, modifications or discharge of this License Agreement, or any part of it are valid unless in writing and signed by the authorized agent of Licensee and by the Commissioner or their respective successors and assigns. The City incurs no liability for Additional Services without a written amendment to this License Agreement under this Section 9.3.

Whenever under this License Agreement Licensee is required to obtain the City's prior written approval, the effect of any approval that may be granted pursuant to Licensee's request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.

**9.4 Governing Law and Jurisdiction**

This License Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois without regard to choice of law.

Licensee irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this License Agreement.

Service of process on Licensee may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this License Agreement, by registered or certified mail addressed to the office actually maintained by Licensee, or by personal delivery on any officer, director, or managing or general agent of Licensee. If any action is brought by Licensee against the City concerning this License Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

#### **9.5 Severability**

If any provision of this License Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this License Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this License Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this License Agreement does not affect the remaining portions of this License Agreement or any part of it.

#### **9.6 Assigns**

The Licensee may not assign this License Agreement without prior written consent of the City. Assignment without prior written consent of the City is deemed an event of default under Article 8 of this License Agreement.

#### **9.7 Cooperation**

Licensee must at all times cooperate fully with the City and act in the City's best interests. If this License Agreement is terminated for any reason, or if it is to expire on its own terms, Licensee must make every effort to ensure an orderly transition to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the Department in connection with the termination or expiration.

#### **9.8 Waiver**

Nothing in this License Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this License Agreement the City by a proper authority waives Licensee's performance in any respect or waives a requirement or condition to either the City's or Licensee's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this License Agreement regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Licensee in writing.

## **9.9 Independent Contractor**

(a) This License Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Licensee and the City. The rights and the obligations of the parties are only those set forth in this License Agreement. Licensee must perform under this License Agreement as an independent contractor and not as a representative, employee, agent, or partner of the City.

(b) This License Agreement is between the City and an independent contractor and, if Licensee is an individual, nothing provided for under this License Agreement constitutes or implies an employer-employee relationship such that:

(i) The City will not be liable under or by reason of this License Agreement for the payment of any compensation award or damages in connection with the Licensee performing the Services required under this License Agreement.

(ii) Licensee is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave, or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

(iii) The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Licensee.

(c)(i) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the June 24, 2011 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Licensee is aware that City policy prohibits City employees from directing any individual to apply for a position with Licensee, either as an employee or as a subcontractor, and



from directing Licensee to hire an individual as an employee or as a subcontractor. Accordingly, Licensee must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Licensee under this Agreement are employees or subcontractors of Licensee, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Licensee.

(iii) Licensee will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity; political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(iv) In the event of any communication to Licensee by a City employee or City official in violation of Section (ii) above, or advocating a violation of Section (iii) above, Licensee will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement. Licensee will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract.

#### **ARTICLE 10. NOTICES**

Notices provided for in this License Agreement, unless provided for otherwise in this License Agreement, must be given in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

If to the City:  
Department of Transportation  
30 N. LaSalle Street  
Suite 1100  
Chicago, Illinois 60610

Attention: Commissioner

With Copies to: Department of Law  
Room 600, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporation Counsel

If to Licensee: Mercury Cruiselines  
1242 Northwest Highway  
Palatine, IL 60067

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 10. Notices delivered by mail are considered received three days after mailing in accordance with this Article 10. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

#### **ARTICLE 11. AUTHORITY**

The signature(s) of each person signing on behalf of the Licensee have been made with complete and full authority to commit the Licensee to all terms and conditions of this License Agreement, including each and every representation, certification and warranty contained herein, including without limitation such representations, certifications and warranties collectively attached hereto and incorporated by reference herein.

*[Signature Pages, Exhibits and Schedules follow.]*

**SIGNATURE PAGE**  
**SIGNED at Chicago, Illinois:**

By: CITY OF CHICAGO  
Commissioner of Transportation

**LICENSEE**

By: Holly H. Agre Robert L. Agre  
Its: President President  
Attest: Mercury Mercury  
Skyline Yacht Sightseeing  
Charters, Inc. Boats, Inc.

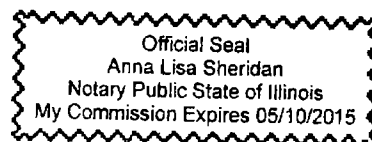
State of  
County of

This instrument was acknowledged before me on Feb 11, 2013 (date) by  
(name/s of person/s) as Anna Lisa Sheridan (type of authority, e.g., officer, trustee, etc.) of  
(name of party on behalf of whom instrument was executed).

(Signature of Notary Public)

Anna Lisa Sheridan

Seal:



# **EXHIBIT 1**

## **Location, Tour Boats and yearly License Fees**

In exchange for the privilege to dock and operate a Tour Service at the Location herein specified in accordance with the terms and conditions of this License Agreement, the Licensee must operate the Tour Service as Follows:

For Location:       #1       which is       737       feet in length

And which is located at:

The area located on the south bank of the Chicago River east of the Michigan Avenue Bridge.

**The Licensee will operate a Tour Service utilizing the following vessels:**

**Chicago's First Lady:** 96' long, 22' beam (wide), 6' draft (depth in the water) 18' tall, two deck, twin diesel engine powered, steel hull & deck U.S.C.G. inspected subchapter "K" passenger charter/tour boat built in 1991 by Steiner Shipyard in Bayou La Batre, AL., licensed for 200 passengers with an open upper deck and a temperature controlled enclosed main deck modeled after the Presidential yacht "Sequoia".

**Chicago's Little Lady:** 68' long, 23' beam (wide), 5' draft (depth in the water) 17.5' tall, two deck, twin diesel engine powered, steel hull & deck U.S.C.G. inspected subchapter "T" passenger charter/tour boat built in 1999 by Freeport Shipbuilding Inc. in Freeport, FL., licensed for 149 passengers with an open upper deck and a temperature controlled enclosed main deck modeled after Chicago's First Lady.

**Chicago's Fair Lady:** 79 ft. long x 23 ft. wide x 17 ft. tall. Two decks - an open air upper deck and an enclosed deck with air conditioning, handicapped restrooms, service bar, carpeting, tables and chairs. Steel construction hull & two Detroit diesel engines. USCG certified for 149 passengers and a crew of 4. Built in Warren, RI at Blount Marine and refurbished in Mobile, AL in 2005-06. Inspected by Mobile, AL USCG and Chicago USCG - Re-Certified by USCG August 3, 2006.

**Chicago's Leading Lady:** Boat Description: 98' long, 32' beam (wide), 5' draft (depth in water), 17' tall, with two decks; one open-air upper deck and one enclosed climate controlled salon deck, with handicapped accessible restrooms, service bar, carpet, dining tables and chairs. The vessel is powered by 2-Caterpillar C12 diesel engines and is US Coast Guard approved for 299 passengers and a crew of 5. Built in Manitowac, Wisconsin by Burger Boat Company in 2011, inspected and approved by US Coast Guard Group Milwaukee as a subchapter-K vessel, put into operation in Chicago on July 1, 2011.

**Skyline Queen:** 65' long, 18' beam (wide), 5' draft (depth in the water) 16' tall, single deck, twin diesel engine powered, steel hull & deck U.S.C.G. inspected subchapter "T" passenger tour boat built in 1959 by Henry C. Grebe & Co., Inc. yacht yard in Chicago, IL. licensed for 109 passengers with open fore & after decks with a canopy behind the deckhouse.

**Skyline Princess:** 65' long, 17' beam (wide), 5' draft (depth in the water) 16' tall, single deck, twin diesel engine powered, steel hull & deck U.S.C.G. inspected subchapter "T" passenger tour boat built in 1956 by Olson Marine Construction in Chicago, IL. licensed for 87 passengers with an open fore deck & an enclosed after deck.

**Lady Grebe:** 48' long, 14' beam (wide), 4' draft (depth in the water) 15' tall, single deck, twin diesel engine powered, mahogany wood hull & teak wood deck U.S.C.G. documented "6 Pack" antique passenger charter boat built in 1961 by Henry C. Grebe & Co., Inc. yacht yard in Chicago, IL. carrying up to six passengers with an open fore deck and enclosed (with side curtains) cockpit.

**For the use of which location, for each year of the Agreement, the Licensee must pay the following g minimum Annual Guarantee and Supplemental Revenue Fee in accordance with the Article 4 of this License Agreement.**

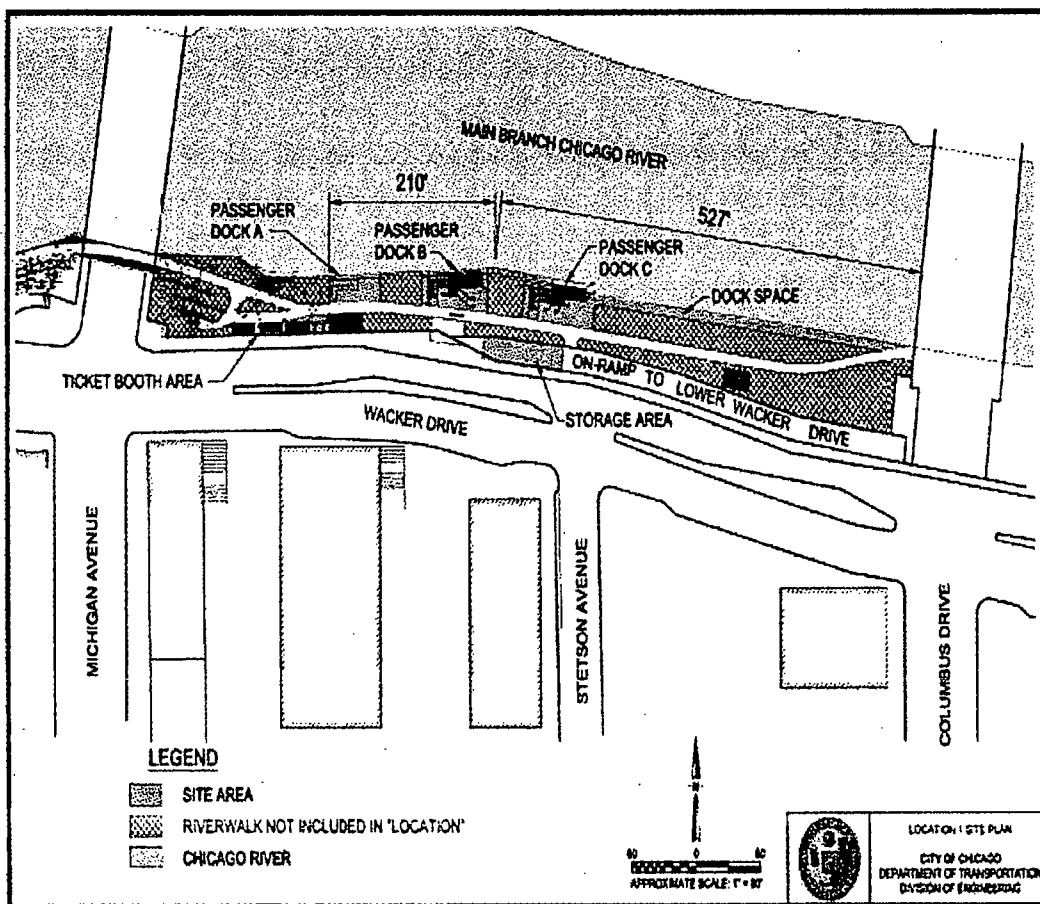
Minimum Annual Guarantee = \$ 700,000 for year one and shall be increased by 3% each year of the Agreement.

Supplemental revenue Fee = 5% of Gross Rcvcnues

## EXHIBIT 2

### Service Facilities

#### LOCATION 1



## EXHIBIT 3

[020605]

## **Insurance Requirements and Certificate of Insurance**

[020605]

**EXHIBIT 4**  
**Form of Letter of Credit**

(Date)

City of Chicago  
c/o Commissioner of Department of Transportation  
Room 107  
121 North LaSalle Street  
Chicago, Illinois 60602

**APPLICANT:**  
**Gentlemen:**

We hereby issue Unconditional, Irrevocable Stand-By Letter of Credit No in your favor up to an aggregate amount of Dollars (\$\_\_\_\_\_). This Letter of Credit is issued, presentable and payable at our offices at \_\_\_\_\_.

Funds under this Credit are available to you unconditionally against your sight drafts for any sum or sums not exceeding a total of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) drawn on us mentioning our Letter of Credit No. \_\_\_\_\_ purportedly signed by the Commissioner of the Department of \_\_\_\_\_ or the City Comptroller of the City of Chicago (whether acting or actual).

Our obligations hereunder are primary obligations to the City of Chicago (City) and shall not be affected by the performance or non-performance by \_\_\_\_\_ [insert name and address of applicant] ("Applicant") under any agreement with the City or by any bankruptcy or other insolvency proceeding initiated by or against Applicant. Applicant is not the owner of or beneficiary under this Letter of Credit and possesses no interest whatsoever in this Letter of Credit or proceeds of same. We engage with you that any draws under this Letter of Credit shall be duly honored on sight if presented to us on or before \_\_\_\_\_, 200\_\_.

Partial and multiple drawings are permitted.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for an additional 12 month period from the present or any future expiration date hereof, unless at least 30 days prior to any such date we notify you by certified mail that we elect not to consider this Letter of Credit renewed for any such additional period.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce publication No. 500 (IUCP) and to the Uniform Commercial Code - Letters of Credit, 810 ILCS 5/5-101 et seq. as amended and as in effect in the State of Illinois (UCC). To the extent the provisions of the IUCP and the UCC conflict, the provisions of the UCC shall control.



(authorized signature)

**EXHIBIT 5**

**Economic Disclosure Statement and Affidavit**

## **EXHIBIT 6**

### **Other Licenses, Permits and/or Certifications**

**EXHIBIT 7**

**Special Conditions Regarding MBE and WBE Participation  
(Including Schedules C-1 and D-1)**

## **EXHIBIT 8**

### **Public Works Provisions**

#### Employment of Illinois Laborers on Public Works Projects

Licensee must use only Illinois laborers in the performance of this License Agreement to the extent (i) required by the Employment of Illinois Laborers on Public Works Projects Act, 30 ILCS, 570/0.01, as amended from time to time and (ii) otherwise permitted by law.

#### Disposal of Materials, Construction Debris, Soil and Waste

Licensee is responsible for the proper disposal of all materials, construction debris, soil and other waste. Hauling and disposal by a Subcontractor does not relieve the Licensee from responsibility for proper disposal. Disposal of all materials, construction debris, soil, and other wastes must be at a disposal site that is properly licensed and permitted to accept the particular materials, construction debris, soil and other wastes delivered to it in accordance with all Environmental Laws. The Licensee must identify the disposal site(s) or transfer station(s) to which the Licensee has contractual access and for which proper, sanitary landfill permits and/or licenses have been obtained.

#### Steel Products

To the extent permitted by law, this License Agreement is subject to all provisions of the "Steel Products Procurement Act," 30 ILCS 565/1 *et seq.* as it may be amended from time to time. Knowing violation of this law may result in the filing and prosecution of a complaint by the Attorney General of the State of Illinois and will subject violators to a fine of the greater of \$5,000 or the payment price received as a result of such violation.

#### Americans with Disabilities Act

Licensee must perform all construction or alteration that it undertakes in connection with this License Agreement in compliance with all federal, state and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including: American with Disabilities Act, P.L. 101-336 (1990) and the Uniform Federal Accessibility Standards ("UFAS") or the American with Disabilities Act ("ADA") and; the Illinois Environmental Barriers Act, 410 ILCS 25/1 *et seq.* (1991), and the regulations promulgated with them. If the above cited standards are inconsistent, the Licensee must comply with the standard providing greater accessibility.

#### Prevailing Wage Rates

In the performance of the work, Licensee is fully responsible for paying not less than the prevailing rate of wages as determined by the Illinois Department of Labor, which must be paid to all laborers, mechanics, and other workers performing work under this License Agreement.

Licensee's attention is called to the generally prevailing hourly rate of wages, as determined by the Illinois Department of Labor, which are incorporated into the License Agreement and set forth in Attachment 8-A. These wage rates are also the prevailing wage rates for the City of Chicago, as determined by the Department as of the date of execution of this License Agreement.

The wage rates set forth in this License Agreement were the rates in effect at the time this License Agreement was executed. If the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid for the work before completion of the project, the revised rate applies to this License Agreement from the effective date of the revision, but the revision does not entitle Licensee to any increased compensation under the terms of this License Agreement.

As a condition of making payment to Licensee, the City may require Licensee to submit an affidavit to the effect that not less than the prevailing hourly wage rate is being paid to laborers, mechanics, and other workers employed under this License Agreement in accordance with Illinois law.

#### Chicago Residency Requirements

If the funding under this License Agreement is \$100,000 or more, and unless otherwise prohibited by law, Licensee and all Subcontractors that perform work on the site of the construction project undertaken under this License Agreement must comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago specified in Section 2-92-330 of the Municipal Code (at least 50% of the total worker hours must be performed by actual residents of the City of Chicago). In addition to complying with this requirement, Licensee and all Subcontractors must make good faith efforts to utilize qualified residents of the City of Chicago in both unskilled and skilled labor positions.

1. "Actual residents of the City of Chicago" means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment
2. Licensee may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-920-330 in accordance with standards and procedures developed by the Chief Procurement Officer of the City of Chicago ("**Chief Procurement Officer**").
  - a) Licensee must provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the project. Licensee and Subcontractors must maintain copies of personal documents supportive of every Chicago employee's actual record of residence.
  - b) Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) which must be submitted to the Commissioner in triplicate, must clearly identify the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the company hired the employee should be written in after the employee's name.
  - c) Licensee and Subcontractors must grant full access to Licensee and the Subcontractor's employment records to the Chief Procurement Officer, the Commissioner of the supervising department, the Superintendent of the Chicago Police Department, the Inspector General, or their duly authorized representatives. Licensee and Subcontractors must maintain

all relevant personnel data and records for a period of at least three years after Final Completion and Acceptance of the work.

- d) At the direction of the supervising department, Licensee must furnish affidavits and other supporting documentation to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.
3. Good faith efforts on Licensee's part to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) does not suffice to replace the actual, verified achievement of the requirements of this section concerning the worker hours performed by actual Chicago residents.
4. When the work is completed, if the City has determined that Licensee failed to fulfill the requirements of this section concerning worker hours performed by actual Chicago Residents or failed to report in the manner as indicated above, the City will be damaged in that it thereby failed to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this section. Therefore, in such a case of noncompliance, Licensee must pay to the City 1/20th of 1%, 0.0005, of the approved Yearly License Fee for this License Agreement to the City in payment for each percentage of shortfalls toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no Chicago residents were employed. The willful falsification of statements in the certification of payroll data may subject Licensee or Subcontractors or employee to prosecution.

Nothing provided in this section may be construed to be a limitation upon the "Notice of Requirements For Affirmative Action To Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246" or other affirmative action required for equal opportunity under the provisions of this License Agreement. Licensee must include this provision in all subcontracts.

#### Performance and Payment Bonds

Licensee must, before performing the work, deliver to the City a performance and payment bond in an amount determined solely by the Commissioner of the Chicago Department of Transportation. Any performance bond that Licensee provides must comply with the provisions of 30 ILCS 550/1 *et seq.*, as amended, and of Chapter 2, § 2-92-030 of the Municipal Code, as amended. It must also be in the form of the performance and payment bond attached as Attachment 8-B. The surety or sureties issuing the bond must be acceptable to the City and must have a Best's Key Rating Guide of "B+," Class XI or greater and be listed in the most recently published "Listing of Approved Sureties" of the U.S. Department of the Treasury Circular 570, with underwriting limitations in excess of the Yearly License Fee. The bond must cover the warranty period required by the City.

In case of Licensee's neglect, failure, or refusal to provide satisfactory sureties when so directed within 10 days after such notification, the Commissioner may declare this License Agreement forfeit, but such forfeiture will not release Licensee or Licensee's surety or sureties from any liability that may have accrued before the date of the forfeiture.

If at any time the surety or sureties, or any one of them, upon the bond become insolvent, or are, in the sole opinion of the City, unsatisfactory, or unable to respond to damages in case of liability on such

bond, the Commissioner will notify Licensee and direct that Licensee furnish a bond issued by a satisfactory surety or sureties forthwith.

**Multi Project Labor Agreement (PLA)**

The City has entered into the PLA with various trades regarding projects involving construction, demolition, maintenance, rehabilitation, and/or renovation work, as described in the PLA, a copy of which may be found on the City's website at:

<http://www.cityofchicago.org/dam/city/depts/dps/RulesRegulations/Multi-ProjectLaborAgreement-PLAandSignatoryUnions.pdf>.

To the extent that this Contract involves a project that is subject to the PLA, Licensee acknowledges familiarity with the requirements of the PLA and its applicability to any Work under this Agreement, and shall comply in all respects with the PLA.

Attachment 8-A

Prevailing Wage Rates

**Prevailing Wage Rates**

If this Contract calls for the construction of a "public work," within the meaning of Illinois Prevailing Wage Act, 820 ILCS 130/01 et seq. ("the Act"), the Act requires Contractors and Subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the "prevailing rate of wages" (hourly wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website at: [www.state.il.us/agency/idol/rates/rates.HTM](http://www.state.il.us/agency/idol/rates/rates.HTM). All Contractors and Subcontractors rendering services under a Contract for the construction of a public work must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties.

The term general prevailing hourly rate, when used in this requirement will mean the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

As a condition of making payment to the Contractor, the City may require the Contractor to submit an affidavit to the effect that not less than the prevailing hourly wage rate is being paid to laborers, mechanics and other workmen employed on this Contract in accordance with Illinois or federal law, as applicable.



**Attachment 8-B**

**Performance and Payment Bond**

**LICENSE AGREEMENT**

**BETWEEN**

**THE CITY OF CHICAGO DEPARTMENT OF  
TRANSPORTATION**

**AND**

**WENDELLA SIGHTSEEING COMPANY, INC.**



**FOR**

**DOCKING OF TOUR BOATS  
ON THE CHICAGO RIVER**

**RAHM EMANUEL  
MAYOR**

# **LICENSE AGREEMENT**

## **TABLE OF CONTENTS**

RECITALS .....	-1-
TERMS AND CONDITIONS .....	-4-
ARTICLE 1. DEFINITIONS.....	-4-
1.1 Definitions.....	-4-
1.2 Interpretation.....	-5-
1.3 Incorporation of Exhibits .....	-6-
ARTICLE 2. SCOPE OF LICENSEE AGREEMENT AND CONDITIONS GOVERNING LICENSEE'S ACTIVITIES .....	-6-
2.1 License Granted .....	-6-
2.2 Rights Retained by City in Granting License Agreement .....	-7-
2.3 Restrictions and Obligations Related to Operation at the Location.....	-8-
2.4 Non-Liability of Public Officials.....	-12-
2.5 Licensee's Tour Boat Operations and Maintenance Obligations .....	-12-
2.6 Minority and Women's Business Enterprises Commitment .....	-17-
2.7 Insurance.....	-17-
2.8 Indemnification .....	-17-
2.9 Letter of Credit.....	-19-
2.10 Assignments and Subcontracts .....	-19-
2.11 No Damages for Delay.....	-20-
ARTICLE 3. TERM OF LICENSE.....	-20-
3.1 Initial Term .....	-20-
3.2 License Agreement Extension Option .....	-20-
ARTICLE 4. COMPENSATION .....	-20-
4.1 Compensation .....	-20-
4.2 Taxes and Other License Costs.....	-21-
4.3 Late Payment, Material Underpayment or Nonpayment .....	-21-
ARTICLE 5. DISPUTES.....	-21-
ARTICLE 6. COMPLIANCE WITH ALL LAWS.....	-22-
6.1 Compliance with All Laws Generally.....	-22-
6.2 Nondiscrimination.....	-22-

6.3	Inspector General .....	-25-
6.4	MacBride Ordinance .....	-25-
6.5	Business Relationships with Elected Officials .....	-25-
6.6	Chicago "Living Wage" Ordinance .....	-26-
6.7	Prohibition on Certain Contributions .....	-27-
6.8	Firms Owned or Operated by Individuals with Disabilities .....	-28-
6.9	Ineligibility to do Business with City .....	-29-
6.10	Deemed Inclusion .....	-29-
ARTICLE 7.	SPECIAL CONDITIONS .....	-29-
7.1	Warranties and Representations .....	-29-
7.2	Ethics .....	-31-
7.3	Joint and Several Liability .....	-31-
7.4	Business Documents .....	-31-
7.5	Conflicts of Interest .....	-32-
7.6	Non-Liability of Public Officials .....	-32-
7.7	EDS/Certification Regarding Suspension and Debarment .....	-32-
7.8	Waiver of Forcible Entry and Detainer Act .....	-32-
ARTICLE 8.	EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET .....	-33-
8.1	Events of Default Defined .....	-33-
8.2	Remedies .....	-34-
8.3	Early Termination .....	-35-
8.4	Suspension .....	-36-
ARTICLE 9.	GENERAL CONDITIONS .....	-37-
9.1	Entire Agreement .....	-37-
9.2	Counterparts .....	-38-
9.3	Amendments .....	-38-
9.4	Governing Law and Jurisdiction .....	-38-
9.5	Severability .....	-38-
9.6	Assigns .....	-39-
9.7	Cooperation .....	-39-
9.8	Waiver .....	-39-
9.9	Independent Contractor .....	-39-
ARTICLE 10.	NOTICES .....	-41-

ARTICLE 11. AUTHORITY .....-42-

SIGNATURE PAGE(S).....-43-

**List of Exhibits**

Exhibit 1	Location, Tour Boats and Yearly License Fees
Exhibit 2	Service Facilities
Exhibit 3	Insurance Requirements and Certificate of Insurance
Exhibit 4	Form of Letter of Credit
Exhibit 5	Economic Disclosure Statement and Affidavit
Exhibit 6	Other Licenses, Permits and/or Certifications
Exhibit 7	Special Conditions Regarding MBE/WBE Participation (Including Schedules C-1 and D-1)
Exhibit 8	Public Works Provisions

## LICENSE AGREEMENT

18  
MW 11<sup>th</sup> day of ~~February~~<sup>March</sup>, 2013 ("Effective Date"), by and between Wendella Sightseeing Company, Inc., an Illinois corporation, authorized to do business in the State of Illinois (collectively, "Licensee"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois ("City"), acting through its Chicago Department of Transportation ("Department"). City and Licensee agree as follows:

## TERMS AND CONDITIONS

### ARTICLE 1. DEFINITIONS

#### 1.1 Definitions

The following words and phrases have the following meanings for purposes of this License Agreement:

"**Chief Procurement Officer**" means the Chief Procurement Officer of the City and any representative duly authorized to act on his behalf.

"**City Council**" means the City Council of the City.

"**City Regulations**" means all applicable City Ordinances, Mayoral Executive Orders, provisions of the Municipal Code and rules and regulations promulgated by the appropriate City department, divisions or sections pursuant to the requirements of the Municipal Code.

"**Comptroller**" means the Chief Executive of the Department of Finance of the City and any individual authorized in writing to act on his behalf.

"**Commissioner**" means the Commissioner of the Chicago Department of Transportation and any representative duly authorized to act on the Commissioner's behalf in connection with this License Agreement.

"**Gross Revenues**" means the sum of (1) all amounts collected, billed by or due to the Licensee to be paid in cash (including stolen or lost cash), credits or property of any kind or nature arising from or attributable to, directly or indirectly, or in anyway derived from, the use of the Location, whether or not such amounts are actually collected and (2) any other revenues arising from the possession by the Licensee of its rights to use the Location under this Agreement. Gross Revenues will be determined without any deduction on account of the cost of providing the Tour Service, the cost of materials used, labor or service costs or any other expense whatever. Gross Revenues excludes taxes billed to or paid by the users of the Tour Services. No other expenses or allowances will be deducted from Gross Revenues.

**"License Agreement"** means this agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

**"Location"** means the site on the Chicago River designated by the City as a docking area for Licensee's Tour Boats and the adjacent land, which site is described in detail in Exhibit 1 of this License Agreement. The Location may include Service Facilities as set forth in Exhibit 2. The Location licensed to the Licensee is specified in Article 2 of this License Agreement.

**"Municipal Code"** means the Municipal Code of Chicago as amended from time to time.

**"Ordinance"** means the ordinance passed on <sup>March 18</sup> ~~February 13~~, 2013 by the City Council of the City, which ordinance appears at pages \_\_\_\_\_ - \_\_\_\_\_ of the Journal of the Proceedings of the City Council of the City of Chicago, and which authorizes the Commissioner to enter into agreements granting the privilege of docking Tour Boats on the Chicago River.

**"Service Facilities"** means the facilities that may be provided by the City, at the City's discretion, for the use of Licensee in providing Tour Service (as defined below) at the Location, which facilities may include a service building, a utility center, an ascending/descending staircase, and dock/riverwall protection, as set forth in Exhibit 2.

**"Subcontractor"** means any person or entity with whom the Licensee contracts to provide any portion of the Tour Services and or any related services under this License Agreement, including Subcontractors of any tier, suppliers and materialmen whether or not in privity with the Licensee.

**"Tour Boat"** means any boat, ship or other vessel listed in Exhibit 1 to be used in giving tours to passengers or in providing on the Chicago River and Lake Michigan.

**"Tour Service"** means a service offered to the public generally, wherein members of the public may purchase tickets for private charters and regularly scheduled tours of the Chicago River and Lake Michigan, for which tours the members of the public will be picked up and dropped off at the single Location, and also includes water taxi services.

**"U.S.C.G."** means the United States Coast Guard, a federal governmental agency.

## **1.2 Interpretation**

(a) The term **"include"** (in all its forms) means "include, without limitation" unless the context clearly states otherwise.

(b) All references in this License Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this License Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this License Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this License Agreement, nor do they affect the meaning, construction or effect of this License Agreement.

(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

### **1.3 Incorporation of Exhibits**

The following attached Exhibits are made a part of this License Agreement:

Exhibit 1	Location, Tour Boats and Yearly License Fees
Exhibit 2	Service Facilities
Exhibit 3	Insurance Requirements and Certificate of Insurance
Exhibit 4	Form of Letter of Credit
Exhibit 5	Economic Disclosure Statement and Affidavit
Exhibit 6	Other Licenses, Permits and/or Certifications
Exhibit 7	Special Conditions Regarding MBE/WBE Participation (Including Schedules C-1 and D-1)
Exhibit 8	Public Works Provisions

## **ARTICLE 2. SCOPE OF LICENSEE AGREEMENT AND CONDITIONS GOVERNING LICENSEE'S ACTIVITIES**

### **2.1 License Granted**

(a) The City grants to the Licensee permission to use docking space, for the purpose of docking Tour Boats to be used for Tour Services on the Chicago River and Lake Michigan at the



Location specified in the attached Exhibit 1 ("**License**"), and for no other purpose whatsoever. "**Docking**" will be deemed to take place when a Tour Boat is attached, affixed or tied to the Location for any period of time in any manner, for any purpose.

(b) This License Agreement does not limit the ability of the City to grant any other person or other party the right to use the Location specified in Exhibit 1 of this License Agreement or any other Location, with the sole exception that the City may not issue a license to another party to operate a Tour Service from the Location specified in Exhibit 1 if the issuance of such license would materially interfere with the License issued here.

(c) The City makes no representations regarding the surface or the subsurface condition of the Location and the land adjacent to the Location. The City makes no guaranties, either expressed or implied, and the City assumes no responsibility with respect to the sufficiency or accuracy of any information conveyed, pertaining to the condition of the Location and adjacent land. If it becomes necessary for repairs to the structural integrity of the dock, the City will assume this responsibility and the Licensee must cooperate. The Licensee will immediately reimburse the City for damage to the dock and adjacent land.

(d) Nothing in this License is intended, or will be deemed, to give rise to a lease of real estate by the City to the Licensee. This License constitutes a license agreement, which permits the Licensee to operate its business at the Location specified in this License Agreement. The City has not conveyed any leasehold interest of any to the Licensee in this License Agreement. Neither the Licensee nor anyone acting for the Licensee may file this License Agreement or any copy of it, or any statement, paper or affidavit which in any manner refers to this License Agreement, in the Office of the Recorder of Deeds of Cook County, Illinois, or in any other public office: if any such document is so filed, this License Agreement and every provision in it may, in the sole discretion of the City, be declared null and void, and, additionally, the City may in such circumstance declare such filing to be an event of default under this License Agreement.

## **2.2 Rights Retained by the City in Granting License**

(a) The Licensee acknowledges and agrees that this License Agreement is subject to and subordinate to any existing or future agreement(s) of any kind between the City and any other person or party pertaining to the use, development, construction, operation and/or maintenance of the Chicago River, the Location, or the adjoining dockwalls, wharf areas, roadways and walkways. The City reserves the right, at its sole discretion, to further develop, improve, maintain, modify and repair the dockwalls, wharf areas, roadways and walkways connected to them at any time without interference or hindrance by the Licensee.

(b) The City reserves the right to relocate the Location and to cause the Licensee to relocate the Tour Boat and/or the Tour Service to another location either on a temporary basis or permanently, for any reason whatsoever, including if relocation is necessitated by any work,

development or other public purpose pertaining to any part of the Chicago River and Lake Michigan, the Location, or the adjoining dockwalls, wharf area, or Michigan Avenue bridge.

(c) The Commissioner will provide written notice to the Licensee that the City is exercising any of its rights under this Section 2.2. No later than 30 days from the receipt of such notice, the Licensee shall remove, modify, replace, relocate, or vacate its facilities, as directed by the Commissioner, in his or her sole discretion, at the sole Licensee's expense. If the Licensee fails to comply within the time period provided, the City may relocate Licensee's Tour Boat and any appurtenances at the Licensee's expense. Licensee must pay the City within 10 days of receipt of invoice from the City. In an emergency, as determined by the Commissioner, the City may order the Licensee to remove or relocate its Tour Boat(s) and/or any appurtenances immediately.

### **2.3 Restrictions and Obligations Related to Operation at the Location**

#### **(a) City Access to Location:**

The City, its representatives and employees will at all times have free access to the Location for purposes necessary, incidental to or connected with the performance or exercise of the City's governmental functions. If Licensee violates this subsection 2.3(a), liquidated damages shall be assessed in the amount of \$1000 per occasion. Nothing in this subsection 2.3(a) is intended to limit the City's rights to gain entry to the Location granted under any law or by this Agreement.

#### **(b) Location and Facilities:**

The location, size, and Service Facilities available at the Location are set forth in Exhibit 1 to this License Agreement. Subject to the restrictions found in this License Agreement, Licensee will be allowed to operate either a Tour Service, private charter services, or water taxi services ("Services") from the Location only. For all such routine Services, Licensee will be prohibited from loading and/or unloading passengers at any public property (including other locations) other than the Location licensed to the Licensee. If the Licensee seeks to load or unload passengers at other locations it must give prior notice to the Department and ensure that any required permits and permissions are secured by the Licensee or interested third parties. Licensee is responsible for managing dock facilities and Tour Boats from the Location. Licensee must perform Tour Services in a manner sensitive to the residents who live along side the Chicago River and Lake Michigan and its natural habitat.

Licensee must provide at its own cost and expense the following for the Location:

(i) Development of entertainment and recreational activities appropriate for the Location, which activities must be approved in writing by the Commissioner prior to commencement.

(ii) Development and implementation of an environmentally friendly plan of

daily operations, including recycling program for the Location and aboard the Tour Boats, and the implementation of energy efficient Tour Boats.

(iii) Maintenance of the Location in an orderly, clean and safe fashion and a plan that makes use of environmentally friendly methods of operations, cleaning and activities in order to protect the Chicago River and Lake Michigan and its wildlife.

(iv) Collection and disposal of all trash and recycling including providing receptacles for recycling and picking up all loose or blowing trash.

(v) Landscaping where possible that provides a natural and green setting in an urban context.

The Department has the authority to review all improvements proposed by the Licensee. These improvements may include: dock improvements, kiosk placement, landscaping, ornamental lights, and railings. The Licensee must install the finishes necessary and complete the utility connections for its operation.

(c) Maintenance:

No Tour Boat maintenance activities of any kind are allowed at the Location. Prohibited maintenance activities include all engine maintenance, all preventive maintenance, all painting, and any and all other maintenance of the Tour Boat.

The Licensee may perform only minor cleaning of the decks and public portions of the Tour Boat at the Location, provided that Licensee may only use biodegradable detergent and water to clean the Tour Boat.

Emergency maintenance and/or reasonably unforeseeable maintenance of the Tour Boat, which is or becomes necessary in order to assure the safety of the public, or in order to prevent the Tour Boat from becoming a hazard to navigation or otherwise from constituting a burden on the Chicago River and Lake Michigan, may be conducted at the Location.

The Licensee will be allowed to fuel the Tour Boat at its Location only in the manner and at the times that the City permits. Unless otherwise specified by the City in writing, the Licensee may fuel the Tour Boat at the location between the hours of 12 p.m. and 7:30 a.m. Fueling at other times, whether from land or water, is an event of default.

The Licensee is responsible for the routine maintenance of the Location and of the Service Facilities at the Location. However, if the Licensee's use of a Location causes damage to the Location or to any of the Service Facilities, the City may repair the Location or Service Facilities at the sole expense of the Licensee or require the Licensee to perform the repairs. Any repairs made by the Licensee or Subcontractor(s) must be done in

accordance with the terms of Exhibit 8.

(d) Parking:

The Licensee, and all of the Licensee's agents, employees, invitees, passengers, and all other persons coming on to the Location, are prohibited from parking at the Location. Licensee shall inform all of its agents, employees, invitees, passengers, and all other persons coming on to the Location of this parking restriction. Any violation of this Section may result in the removal of any illegally parked vehicle at the sole cost and expense of the Licensee.

(e) No Habitation on Tour Boat:

No person may use any Tour Boat as a residence for any period of time while the Tour Boat is docked at any Location. However, this provision is not intended to prevent the Licensee from posting individuals on a Tour Boat as required to ensure the security of the Tour Boat.

(f) No Announcements or Disruptive Noise:

Licensee may not broadcast announcements or any other disruptive sounds from any Tour Boat or the Location. Such restrictions, however, do not prevent the Licensee from making any announcements or broadcasts required by U.S.C.G. or other regulations, nor will the restrictions set forth above prevent the Licensee from using a Tour Boat's public address system to convey information relating to sights on this tour to passengers while the Tour Boat is not docked at the Location. Amplified music on the Chicago River after 8:30 PM is prohibited.

(g) No Additions to the Location; No Advertising:

The Licensee may not attach, affix, or permit to be attached or affixed upon the Location any flags, placards, signs, poles, wires, aerials, antennae, improvements or fixtures of any kind without prior written consent of the Commissioner.

The Licensee may only place any advertisements on their Tour Boats, on the Location or on any public way, with the prior written consent of the Commissioner.

(h) Sanitary Conditions:

The Licensee, at its own expense, must maintain and keep the Location, as well as the surrounding area, in a safe, clean, and sanitary condition. If the Location and areas are not so maintained by the Licensee, then the City may terminate this License Agreement, or enter upon the Location and take all actions necessary to restore the Location to the condition required in this License Agreement at the Licensee's sole expense. The cost and expense to the City for any measures taken pursuant to this section will be charged to and must be paid immediately by the Licensee.

The Licensee must clean up and properly dispose of all refuse, waste, surplus materials and sanitary toilet waste on or about the Location on a daily basis during the term of this License Agreement. If the Licensee fails to commence performance of the tasks described in this paragraph within 5 business days after receiving written notice from the City to do so, the City may arrange to have the work performed by City employees or third parties and may charge the Licensee for all costs associated with the work, reserves the right to draw against the Letter of Credit for all such associated costs all as set forth in Section 2.9(a) herein, and may terminate the License Agreement.

(i) Suspension or Revocation of Permit:

If the Licensee violates the terms of any permit required by this License Agreement or which is otherwise required for the operation of the Tour Service, the Commissioner of the City permit-issuing Department may suspend or revoke such permit, or may take any action the Commissioner deems necessary, including ordering the Licensee to cease operation of the Tour Service until the violation has been corrected to the Commissioner's satisfaction.

(j) Utilities:

Licensee shall be responsible for all expenses related to utilities, including all electricity, telephone and water supply. The Licensee will be solely responsible for all utility charges incurred during the term of this License Agreement and any extension periods to it. The City will provide a three-phase electrical supply to the Location. The Licensee will be required to provide at its own expense all equipment necessary to transform the three-phase electricity to any other form of current required for their Tour Services. The City will not include sewage hook-up as part of the Service Facilities. The City will install all general lighting at the Location: Licensee is responsible for providing all lighting on the Tour Boats and any gangways or similar accessways, as and if such lighting is necessary for the safety of the public. The Licensee is required to open utility accounts as required for its operations including with ComEd, SBC, and the City's Department of Water Management.

The Licensee may not construct, install or otherwise modify any utility access facilities, or any other facilities, without the prior written consent of the Commissioner. If the Commissioner issues such consent, then the Licensee must comply with all conditions and/or requirements contained in the consent as to the construction or installation of the facilities and the provisions in Exhibit 8 of this License Agreement. The construction, installation or modification of any utility or other facilities without the express written consent of the Commissioner may be deemed an event of default under Article 8 of this License Agreement. In addition, the Licensee bears the full burden and expense of removing or replacing to original condition the facility added to or modified.

(k) Season:

Tour Boats are not allowed to dock at the Location between January 15 and March 1 of any year. Between January 15 and March 1 of any year, any Tour Boat docked at a Location is subject to removal by the City at the Licensee's sole expense. Licensee shall notify the City as to its seasonal operation start and end dates on an annual basis prior to getting access to the site for the operation of its Tour Boat or Charter Boat services.

(l) Rentals of Smaller Vessels:

The Licensee is not allowed to lease or dock human-powered craft, including stand-up paddle boards, canoes, kayaks and water bikes, or powered or other craft, including jet skis or motor operated boats. All vessels are subject to the approval of the Commissioner.

(m) Violation of No Wake:

The Licensee must comply with the No Wake Zones of the Chicago River and Lake Michigan. If the Licensee is observed violating the No Wake Zones of the Chicago River and Lake Michigan, the Licensee is subject to fines from the Chicago Police Department. If repeated incidents occur, the City may elect to terminate the License Agreement.

(n) Signs, Canopies, Awnings:

Licensee must provide to the City for any approval a proposed sign, canopy, or awning located in the public way to indicate the identity of the Licensee operating the Tour Service from the Location. The City will, in its sole discretion, determine the size, appearance and location of any sign, canopy, or awning and no additional signs, canopies, or awnings will be allowed on any portion of the Location for any purpose without the prior written consent of the City.

**2.4 Non-Liability of Public Officials**

Licensee and any assignee or Subcontractor of Licensee must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this License Agreement or because of the City's execution, attempted execution or any breach of this License Agreement.

**2.5 Licensee's Tour Boat Operation and Maintenance Obligations**

(a) Compliance with Law and Industry Standards:

The Licensee must comply with all laws, including all applicable federal, state and local laws, rules, regulations, decrees, orders and judgments; applicable requirements of the Municipal Code; applicable written standards of the City's Departments of Transportation and Buildings;

manufacturers' specifications; and the standards set forth in the National Electric Code.

(b) Tour Boat Compliance with Maritime and Other Regulations:

The Licensee must comply with all applicable U.S.C.G. regulations. Further, each Tour Boat and all equipment associated with it must comply with applicable laws, including without limitation U.S.C.G. and Illinois Commerce Commission regulations and other requirements, including U.S.C.G. certification and registration, if applicable, of the Tour Boats. The Licensee must furnish copies of U.S.C.G. certifications of all Tour Boats to the City for inclusion in Exhibit 6 of this License Agreement. The City reserves the right to inspect any Tour Boat and all Service Facilities, as well as maintenance procedures and facilities related to the docking, operation and maintenance of the Tour Boat. If the inspection discloses that the Tour Boat does not comply with the terms of this License Agreement, the City will give written notice to the Licensee of its non-compliance. Such non-compliance will constitute an event of default under this License Agreement. Any dispute as to matters covered in this section must be submitted for dispute resolution in accordance with Article 5 of this License Agreement.

(c) Size of Tour Boats and Drawbridge Access:

Licensee must utilize vessels that do not require lifting of bridges, regardless of the water level of the Chicago River.

Further, the Tour Boat is limited to a length reasonably commensurate with the dock footage of the Location at which the Tour Boat is operated. The Commissioner, in the Commissioner's sole discretion, will determine whether the length of the proposed Tour boat is appropriate for the proposed Location.

(d) Safety Considerations:

The Licensee must at all times exercise reasonable care and comply with all applicable provisions of federal, state and local laws, rules and regulations to prevent accidents and/or injuries, and to avoid damage to and/or loss affecting City facilities, the Chicago River and Lake Michigan, the Location, the Service Facilities, and the property of third parties in connection with the docking, operation and maintenance of the Tour Boat and the Location. The Licensee must erect and properly maintain at all times all necessary safeguard barriers, flags and lights for the protection of the Licensee's and its Subcontractors' employees, City employees, and the public, which become necessary due to a later-occurring defect in the structure of the Location or any of the Service Facilities. If any such defect develops, the Licensee must notify the City immediately, and must maintain all necessary safety precautions until such time as the City rectifies the defect.

The Licensee must report to the Department any damage on, about, under or adjacent to the Chicago River and Lake Michigan, the Location, City property or the property of third persons,

whether such damage is a result of the Licensee's operation of the Tour Boat or is unrelated to it.

(e) Restoration of Damaged Property:

If the Licensee causes damage to public or private property along the river or the lakefront, the Location, City facilities, or other property in connection with the activities contemplated by this License Agreement, the Licensee must, at its own expense and in a manner approved by the City and/or the owner of the private property, rebuild, restore and repair the Chicago River and Lake Michigan, City property or facilities or private property to a condition equal to the condition of the property before the incident that caused such damaged property or facilities. If the Licensee fails to perform such rebuilding, replacement or restoration within 5 business days of the disturbance (unless public safety is affected in which case such shorter time as the City will request), the City or the owner, after written notice to the Licensee, has the right to do so at the sole expense of the Licensee.

(f) Tour Boat Documentation:

The Licensee must provide the Commissioner for his approval a full description of the appearance and features of each Tour Boat. The specific requirements for such descriptions are further set forth in Exhibit 1. The Licensee may not add or remove any Tour Boat from service or replace a Tour Boat with another Tour Boat without the prior written approval of the Commissioner. Such addition, removal or replacement of a Tour Boat without written approval of the Commissioner will be an event of default under this License Agreement.

(g) Seaworthiness:

The Licensee must at all times take all actions necessary to assure the seaworthiness of its Tour Boats. This includes compliance with all applicable U.S.C.G. and U.S. Corps of Engineers rules and regulations. The Licensee represents and warrants that all Tour Boats to be used to provide any Tour Service of any kind will be seaworthy and safe at all times.

(h) Commissioner's Right to Order Removal of Tour Boat:

The Licensee enters into this License Agreement with full knowledge and acceptance that the Commissioner may at any time determine that a particular Tour Boat is non-compliant with the terms and requirements of this License Agreement. The Commissioner may, at any time, identify a particular Tour Boat and either (1) order its removal from the Location, the Chicago River, and Lake Michigan, or (2) order the Licensee to cease operating the Tour Boat. If the Commissioner exercises such right, and/or the Tour Boat is not removed within 14 days from the date on which the removal of that Tour Boat is ordered by the Commissioner, the Tour Boat will be subject to immediate removal by the City at the owner's expense.

(i) Tour Boat Enhancements:



The Licensee must notify the Department of any proposed enhancements to or upgrades of any Tour Boat at least 60 days before making any such enhancement. For the purpose of this section "enhancements" includes any modifications to the appearance or function of the Tour Boat, without limitation. The Licensee must provide the City with written notice indicating the specific Tour Boat on which it would like to make a particular enhancement or upgrade. No enhancement of any kind may be made without the prior written consent of the Commissioner, and the enhancements must be made at no cost to the City. Enhancements must comply with all applicable laws. Any dispute under this section must be resolved in accordance with the dispute resolution provisions set forth in Article 5 of this License Agreement.

(j) Licenses and Permits

The Licensee bears responsibility for and, in a timely manner consistent with its obligations under this License Agreement, must secure and maintain at its sole expense such permits, licenses, authorizations and approvals as are necessary for the Licensee to operate the Tour Boats on the public water ways in accordance with this License Agreement.

(k). In the Event of Fire or Other Destruction of Location

If the Location, or any portion of the Location, is destroyed or damaged by fire or other disaster so as to prevent the use of the Location for the purposes and during the periods specified in this License Agreement, the City is not obligated to repair or rebuild the Location. The City may, however, in the City's sole discretion, elect to repair the Location. The Licensee may, with permission from the City, elect to repair the Location. If neither the City nor Licensee elects to repair the Location, then this License Agreement terminates, and the Licensee waives any claim against the City for damages, including lost profits, by reason of the termination. If the City or Licensee elects to repair the Location, this License Agreement does not terminate, but is suspended until such time as the Commissioner issues written notice to the Licensee that the Licensee may resume Tour Services. The Yearly License Fee will be adjusted for the actual number of days the dock was open. The term of this License Agreement will not be extended.

If it becomes necessary for any reason in the judgment of the City to remove or modify any part of the Location's Service Facilities and the Licensee incurs any loss as a result, the Licensee may not bring any claim or charge against the City for restoration or replacement of the Service Facilities or any losses.

(l). Restrictions on Solicitations and Sales

(i) Central Location for the Dissemination of Information about Tour Boats:

The Licensee is allowed to hand out or otherwise disseminate information about Tour Services only at two sites on the Location: (1) from inside the Service

Facilities provided by the City at the Location; and (2) on the Tour Boats themselves. The Licensee is not allowed to hand out or otherwise disseminate information about Tour Services at any other public location, including on the public way along upper and lower Wacker Drive from Lake Shore Drive to the intersection of Wacker Drive and Washington Street. The City may change the location of the Information Site at any time.

(ii). Ticket Sales:

Unless otherwise agreed in writing by the City, the Licensee is allowed to sell tickets for the Tour Services online, and at two areas on the Location. The Licensee is not allowed to sell tickets at any other location on the public way, including along the upper and lower Wacker Drive from Lake Shore Drive to the intersection of Wacker Drive and Washington Street.

(iii). Hawking:

In addition to the restrictions set forth above in sub paragraphs (i) and (ii) of this section, ticket sales or solicitations of business of any description along any public way in the City are subject to all applicable restrictions of such activities contained in the Municipal Code.

In addition to any penalties that the Licensee may incur for violations of any ordinance, if the Commissioner determines that the Licensee has engaged in ticket sales, solicitation of business or dissemination of information in any of the areas set forth above, then, upon the third such occurrence, and upon any subsequent occurrence, the Commissioner may elect to terminate the License or pursue any other remedy afforded to the City by the terms of Article 8 of this License Agreement.

## **2.6 Minority and Women's Business Enterprises Commitment**

In the performance of this License Agreement, Licensee must abide by the minority and women's business enterprise commitment requirements set for by the Commissioner. The Licensee must utilize MBEs and WBEs at the levels of participation described below.

It is the policy of the City of Chicago that Local Businesses certified as Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in accordance with Section 2-92-410 et seq. of the Municipal Code of Chicago and Regulation Governing Certification of Minority and Women-owned Businesses, and all other Regulation promulgated under the aforementioned section of the Municipal Code shall have the maximum opportunity to

participate fully in the performance of this agreement. Therefore, the Licensee shall not discriminate against any person or business on the basis of race, color, national origin or sex, and shall take affirmative action to ensure that women and minority businesses shall have the maximum opportunity to compete for and perform subcontracts for supplies and services.

The Commissioner has established a goal of awarding not less than 25% to MBE and 5% to WBE for any outside services contracted out by the Licensee of the Location.

In the event that the Licensee elects to perform improvements to the Location, upon approval by the Department, the Commissioner has established a goal of awarding not less than 25% to MBE and 5% to WBE for the total value of the improvement project.

Every year that this License Agreement is in effect, prior to the first day of operations, the Licensee must submit to the Department a revised summary of the MBE/WBE participation for the year. The financial report required as part of the supplemental income must also include a statement to the Department showing (i) a calculation of the proposed MBE/WBE participation for the year based on Licensee's projections (DPS Schedule C-1 and D-1's will be accepted), and (ii) a calculation of the actual MBE/WBE utilization that Licensee achieved.

Licensee will be required to provide a certified financial statement from a CPA no later than January 15th of each year documenting the previous seasons activity to determine the annual gross revenue and Supplement Revenue Fees due. In addition, this report should include a section showing compliance with the MBE/WBE requirements established by the Commissioner including; identifying each MBE/WBE firm, the firms certification of compliance with the program and contract amount goals and actual expenditures.

If an improvement project is being completed between two seasons, the Licensee can determine which year the percentages can be applied but must notify the Department in writing prior to beginning the project.

If the Licensee fails to meet the participation goals established by the Commissioner in any year, then the City may, in its sole discretion, treat such failure as an event of default or may allow the Licensee to increase its proposed MBE/WBE participation levels in the year immediately succeeding the year of deficiency in order to compensate fully for the deficiency.

## **2.7 Insurance**

Licensee must provide and maintain at Licensee's own expense, during the term of this License Agreement and any time period following expiration if Licensee is required to return and perform any of the Services or Additional Services under this License Agreement, the insurance coverages and requirements specified in Exhibit 3 of this License Agreement, insuring all operations related to this License Agreement.

## 2.8 Indemnification

(a) Licensee must protect, defend, indemnify, and hold the City, its officers, officials, representatives, and employees (collectively the "**Indemnitees**"), harmless from and against any and all claims, damages, demands, injury or death, in consequence of granting this License Agreement or arising out of or being in any way connected with Licensee's performance under this License Agreement except for matters shown by final judgment to have been caused by or attributable to the negligence of Indemnitees. This indemnification obligation is effective to the maximum extent permitted by applicable law. This indemnity extends to all legal costs, including attorney fees, costs, liens, judgments, settlements, penalties, professional fees, and other expenses incurred by the City, including fines and penalties imposed by public bodies, and the reasonable settlement of such claims. This indemnification obligation is not limited by any amount of insurance required under this License Agreement or the Letter of Credit required in Section 2.9 of this License Agreement. Further, the indemnification obligation contained in this section will survive the expiration or termination of this License Agreement.

(b) At the City Corporation Counsel's option, Licensee must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Licensee of any of its obligations under this License Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

(c) To the extent permissible by law, Licensee waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any Losses, including any claim by any employee of Licensee that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

(d) The Licensee waives the right to receive the benefits of or to invoke the protection afforded by all maritime statutory limitations of liability, including the Limitation of Vessel Owner's Liability Act, 48 U.S.C. §183 *et seq.*, that could act to diminish the liability of the Licensee for any harm or damage arising from the operation of any Tour Boats under this License Agreement in any manner, or for all Losses or other costs arising from or occasioned by the operation by the Licensee of any Tour Boats on the Chicago River or on Lake Michigan. This provision is not intended to avoid or waive federal jurisdiction under applicable admiralty laws. This waiver extends only to the City, and not to third parties seeking recovery for Losses or other costs solely against the Licensee.

(f) Without limiting its waiver, the Licensee specifically consents to pay all sums in respect of any Losses or other costs arising from or occasioned by the use of any Tour Boat on the Chicago River or on Lake Michigan; this indemnification includes the following:

(i) Loss or damage to any other ship, vessel or boat caused proximately or otherwise by the Licensee's Tour Boat, or loss of the cargo of such other ship, vessel or boat;

(ii) Loss of life or personal injury, or for any cost of life salvage;

(iii) Loss or damage to any harbor, dock, building, graving or otherwise, slipway, pontoon, pier, quay, tunnel, jetty, stage, buoy, cables of any kind, or other fixed or movable object or property whatsoever;

(iv) The cost of the removal, raising or destruction of the wreck of any Tour Boat employed by the Licensee in performing the Tour Services;

(v) If a Tour Boat is disabled or otherwise, the cost of towage or other salvage of the Tour Boat employed by the Licensee in performing the Tour Services;

(vi) Loss or damage to the Location as defined in this License Agreement; and

(vii) Loss or damage to the bottom or banks of the Chicago River, or to the shoreline of Lake Michigan.

## **2.9 Letter of Credit**

### **(a) Terms of the Letter of Credit**

The Licensee must provide the City with an irrevocable, unconditional, standby letter of credit ("**Letter of Credit**") in an amount equal to \$100,000. If the Licensee fails to furnish the Letter of Credit pursuant to the requirements set forth in this Section 2.9, then the Commissioner may terminate the License Agreement. The Letter of Credit must be renewed for the Location each year during the term of the License Agreement and for 12 months beyond the term.

The Letter of Credit must be in the form set forth in Exhibit 4 to this License Agreement. The Letter of Credit will be used to ensure the faithful performance by the Licensee of all provisions of this License Agreement and compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the City having jurisdiction over the Licensee's acts or defaults under this License Agreement and for payment by the Licensee of any costs, liens, claims and taxes due the City which arise by reason of the Licensee's acts in accordance with this License Agreement.

The City will be entitled to draw on the Letter of Credit if the Licensee: (i) has failed to pay the City in whole or in part any of the fees or other charges set forth in this License Agreement within the time fixed in this License Agreement; (ii) has failed to repay the City in whole or in part within 10 days for any damages, expenses or costs which the City has suffered or is compelled to pay by reason of the Licensee's acts or omissions under this License Agreement; or (iii)

has failed, after 5 days notice to the Licensee of such failure, to comply with any provision of this License Agreement which the Commissioner has reasonably determined can be remedied by a draw on the Letter of Credit. The City will also be entitled to draw on any Letter of Credit which expires (either by its terms or because of non-renewal) on a date prior to the termination date of this License Agreement unless proof of renewal of such Letter of Credit or a replacement Letter of Credit in form and substance satisfactory to the City's Corporation Counsel has been furnished to the City's Corporation Counsel at least 30 days prior to the expiration date of the Letter of Credit. Upon the sole condition of delivery by the City to the issuer of the Letter of Credit of a demand for payment, purportedly signed by the Commissioner or the Comptroller, whether acting or actual, the City can immediately draw up to the amount outstanding. After such draw, the City will notify the Licensee of the amount and date of the draw and will include in the notice the basis pursuant to which the City's right to draw has been exercised. If amounts are drawn under the Letter of Credit, the Licensee will take such actions as may be necessary to maintain the Letter of Credit at full amount within 5 days of the City's notice of draw and must cause it to be maintained at that full amount for 12 months beyond the expiration or termination of the License Agreement, whichever is later. The rights reserved to the City under the Letter of Credit will be in addition to any rights it may have under this License Agreement, at law or in equity.

(b) Qualified Issuers

The Letter of Credit must be issued by a company or financial institution that is authorized to do business in the State of Illinois, is acceptable to the City Comptroller and has an office in the City of Chicago where the City may draw on the Letter of Credit.

(c) Right to Require Replacement Letter of Credit

If the financial condition of the issuer of a Letter of Credit materially and adversely changes, the City may, at any time, require that the Letter of Credit be replaced with a Letter of Credit consistent with the requirements set forth in this section.

(d) No Excuse from Performance

None of the provisions contained in this Section 2.9 nor the Letter of Credit required by this Section 2.9 will be construed to excuse the faithful performance by Licensee of the terms and conditions of this License Agreement or limit the liability of the Licensee under this License Agreement for any and all damages in excess of the amounts of the Letter of Credit.

**2.10 Assignments and Subcontracts**

(a) Licensee shall not assign, delegate or otherwise transfer all or any part of its rights or obligations under this License Agreement: (i) unless otherwise provided for elsewhere in this License Agreement; or (ii) without the express written consent of the Commissioner. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of

no effect as to the Services or this License Agreement. No approvals given by the Commissioner, including approvals for the use of any Subcontractors, operate to relieve Licensee of any of its obligations or liabilities under this License Agreement.

(b) All Subcontractors are subject to the prior approval of the Commissioner. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this License Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this License Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this License Agreement by Licensee personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this License Agreement under no circumstances operates to relieve Licensee of any of its obligations or liabilities under this License Agreement.

(c) Licensee, upon entering into any agreement with a Subcontractor, must furnish upon request of the Commissioner or the Department a copy of its agreement. Licensee must ensure that all subcontracts contain provisions that require the Services be performed in strict accordance with the requirements of this License Agreement, provide that the Subcontractors are subject to all the terms of this License Agreement and are subject to the approval of the Department and the Commissioner. If the agreements do not prejudice any of the City's rights under this License Agreement, such agreements may contain different provisions than are provided in this License Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) The City reserves the right to assign or otherwise transfer all or any part of its interests under this License Agreement to any successor.

## **2.11 Disclaimer**

Licensee acknowledges that the City or its contractors may engage in public improvement projects in the vicinity of the Chicago river, including, without limitation, the riverwalk. Licensee shall cooperate with the City and its contractors to facilitate such work. City hereby disclaims all liability for all consequential, incidental, special, punitive, and indirect damages, including all liability for lost profits, for any reason whatsoever, including but not limited to any alleged losses caused by such projects. Without limiting the foregoing, Licensee agrees that it will make no claims against the City for damages, charges, additional costs or fees or any lost profits or costs incurred by reason of delays or hindrances by the City or its contractors in the operation of the Tour Service pursuant to this License Agreement.

## **ARTICLE 3. TERM OF LICENSE AGREEMENT**

### **3.1 Initial Term**

Unless earlier terminated in accordance with any provision of this License Agreement, this License Agreement will continue for ten years from the Effective Date.

### **3.2 License Agreement Extension Option**

The Commissioner may at any time before this License Agreement expires elect to extend the term of this License Agreement for up to eight additional, consecutive 5 year terms, under the same terms and conditions as this original License Agreement by written notice to the Licensee.

## **ARTICLE 4. COMPENSATION**

### **4.1 Compensation**

(a) Each year, the Licensee must pay to the City the fees set forth in Exhibit 1 of this License Agreement. As set forth in Exhibit 1, each year the Licensee will pay the City a Minimum Annual Guarantee and a Supplemental Revenue Fee.

(b) The Minimum Annual Guarantee for any year is due and payable in two installments by the Licensee. The first payment of 50% of the Minimum Annual Guarantee is due on or before the April 1 of such year, and the remaining 50% of the Minimum Annual Guarantee is due on or before August 1 of such year.

(c) The Supplemental Revenue Fee for each year is due and payable no later than 45 days after the end of that year.

### **4.2 Taxes and other Licensee Costs**

(a) The Licensee must pay any assessments and taxes of any kind which arise as a result of or in connection with this License and the uses of the Location.

(b) The Licensee must obtain, and must pay any and all fees necessary to obtain federal, state and local licenses, permits and authorizations required for docking and operating each Tour Boat including inspection fees required in connection with obtaining electrical wiring permits from the City. This includes each of the following as may be required or may become applicable to the Licensee or the licensed Tour Boat and must be attached to Exhibit 6 of this License Agreement: a certificate of inspection, a certificate of documentation, and any and all other licenses or certifications required by the U.S.C.G.; a great lakes radiotelephone license certificate of the Federal Communications Commission; a State of Illinois registration or title; and all other vessel and operation licenses required by the State of Illinois or the City.

(c) Notwithstanding the foregoing, the Licensee may claim a credit against any amounts due under this License Agreement equal to the amount of the Chicago Boat Mooring Tax paid by the



Licensee pursuant to section 3-16-030 of the Municipal Code of Chicago.

#### **4.3 Late Payment, Material Underpayment or Nonpayment**

If the Licensee fails to make its yearly payments when due, or makes an underpayment in any annual payment period of more than 5% of the amount due for such annual payment period, then the City may charge the Licensee interest on the amount due of 1.25% for each month said amount remains due and owing. Interest on the amount of the underpayment due will accrue from the date on which the original payment should have been made. If any payment owed pursuant to this License Agreement remains past due for more than 30 business days, the Commissioner may declare a breach of this License Agreement and terminate the License Agreement upon 30 days' written notice to the Licensee.

#### **4.4 Records and Audit**

The Licensee must maintain books and records related to the operation of the Tour Service, including cash and non-cash revenues generated and ticket sales. All books and records must be maintained in a manner consistent with generally accepted accounting principles and practice.

No later than the date for payment of the Supplemental Revenue Fee as described in Section 4.1(c), the Licensee must supply to the Commissioner an audit, conducted by an independent certified public accountant, in form and substance acceptable to the Commissioner, certifying as to the Gross Revenues from the Location, and calculating the Supplemental Revenue Fee due to the City for the prior year pursuant to the Agreement. If Licensee fails to timely furnish to the Commissioner the annual statement required under this Agreement or if the independent certified public accountant's opinion is qualified or conditioned in any manner, the Commissioner has the right (but is not obligated) without notice, to conduct an audit of Licensee's books and records and to prepare the statements at Licensee's expense. In any event, the City, upon 10 days' written notice to the Licensee, may perform or have performed by a City consultant, an audit and review of the records serving as the basis for the Licensee's annual statement. If the City's independent audit determines that the compensation paid to the City was underpaid in the prior calendar year by more than 5%, the Contractor will bear the cost of the City's audit in addition to paying the City the underpayment, plus interest as set forth in Section 4.3. This provision survives the termination or expiration of this Agreement.

### **ARTICLE 5. DISPUTES**

Except as otherwise provided in this License Agreement, Licensee must and the Commissioner may bring any dispute arising under this License Agreement which is not resolved by

the parties to the Commissioner for decision based upon the written submissions of the parties. The Commissioner will issue a written decision and send it to the Licensee by mail. The decision of the Commissioner is final and binding. The sole and exclusive remedy to challenge the decision of the Commissioner is judicial review by means of a common law writ of certiorari.

## **ARTICLE 6. COMPLIANCE WITH ALL LAWS**

### **6.1 Compliance with All Laws Generally**

(a) Licensee must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 6, and Licensee must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Licensee must require all Subcontractors to do so, also. Further, Licensee must execute an Economic Disclosure Statement and Affidavit ("**EDS**") in the form attached to this Agreement as Exhibit 4. Notwithstanding acceptance by the City of the EDS, Licensee's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Licensee must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate. Licensee agrees that Licensee's failure to maintain current throughout the term and any extensions of the term, the disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, shall constitute an event of default.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

### **6.2 Nondiscrimination**

#### **(a) Licensee**

Licensee must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups. If this Agreement is federally funded in whole or in part, additional provisions related to nondiscrimination may be set forth in Exhibit 8.

#### **(i) Federal Requirements**

Licensee must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age,

handicap/disability or national origin; or (2) limiting, segregating or classifying Licensee's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Licensee must comply with, and the procedures Licensee utilizes and the Services Licensee provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. " 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. "621-34; Rehabilitation Act of 1973, 29 U.S.C. " 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. " 12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

**(ii) State Requirements**

Licensee must comply with, and the procedures Licensee utilizes and the Services Licensee provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code " 750 Appendix A. Furthermore, Licensee must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

**(iii) City Requirements**

Licensee must comply with, and the procedures Licensee utilizes and the Services Licensee provides under this Agreement must comply with, the Chicago Human Rights Ordinance, ch. 2-160, Section 2-160-010 *et seq.* of the Municipal Code of Chicago (1990), as amended, and all other applicable City ordinances and rules.

**(b) Subcontractors**

Licensee must incorporate all of this Section 6.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Licensee must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

### **6.3 Inspector General**

It is the duty of any bidder, proposer or Licensee, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Licensee, Subcontractor or such applicant to cooperate with the Legislative Inspector General or the Inspector General in any investigation or hearing, if applicable, undertaken pursuant to Chapters 2-55 or 2-56, respectively, of the Municipal Code. Licensee understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

### **6.4 MacBride Ordinance**

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Licensee conducts any business operations in Northern Ireland, the Licensee must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 6.4 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

### **6.5 Business Relationships with Elected Officials**

Pursuant to MCC Sect. 2-156-030(b), it is illegal for any elected official, or any person acting at the direction of such official, to contact either orally or in writing any other City official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in

any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

Violation of MCC Sect. 2-156-030 by any elected official with respect to this contract will be grounds for termination of this contract. The term financial interest is defined as set forth in MCC Chapter 2-156.

#### **6.6 Chicago "Living Wage" Ordinance**

(a) Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers ("**Covered Employees**"). Accordingly, pursuant to Section 2-92-610 and regulations promulgated under it:

(i) If Licensee has 25 or more full-time employees, and

(ii) If at any time during the performance of this License Agreement, Licensee and/or any Subcontractor or any other entity that provides any portion of the Services (collectively "**Performing Parties**") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then

(iii) Licensee must pay its Covered Employees, and must ensure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the "**Base Wage**") for all Services performed under this License Agreement.

(b) Licensee's obligation to pay, and to ensure payment of, the Base Wage will begin at any time during the term of this License Agreement when the conditions set forth in (a)(i) and (a)(ii) above are met, and will continue until the end of the term of this License Agreement.

(c) As of July 1, 2012, the Base Wage is \$11.53 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this License Agreement, Licensee and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for Services done under this License Agreement, and the

prevailing wages for Covered Employees are higher than the Base Wage, then Licensee and all other Performing Parties must pay the prevailing wage rates.

(d) Licensee must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. Licensee agrees to provide the City with documentation acceptable to the Commissioner demonstrating that all Covered Employees, whether employed by Licensee or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit Licensee and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this License Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

(e) Not-for-Profit Corporations: If Licensee is a corporation having federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of subsections (a) through (d) above do not apply.

#### **6.7 Prohibition on Certain Contributions**

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Licensee, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Licensee represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Licensee or the date the Licensee approached the City, as applicable, regarding the formulation of this Contract, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Licensee shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Licensee violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the CPO may reject Licensee's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Licensee and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

#### **6.8 Firms Owned or Operated by Individuals with Disabilities**

The City encourages Licensees to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

#### **6.9 Ineligibility to do Business with City.**

Failure by the Licensee or any Controlling Person (defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code shall render this Contract voidable or subject to termination, at the option of the Chief Procurement Officer. Licensee agrees that Licensee's failure to maintain eligibility (or failure by Controlling Persons to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

## **6.10 Deemed Inclusion**

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this License Agreement are deemed inserted in this License Agreement whether or not they appear in this License Agreement or, upon application by either party, this License Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this License Agreement is signed prevent its enforcement.

## **ARTICLE 7. SPECIAL CONDITIONS**

### **7.1 Warranties and Representations**

In connection with signing and carrying out this License Agreement, Licensee:

(a) warrants that Licensee has all appropriate permits and licenses as required by federal, state and local laws to perform the Tour Services required under this License Agreement and will perform no Services for which a license is required by law and for which Licensee is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this License Agreement; and Licensee is legally authorized to execute and perform or cause to be performed this License Agreement under the terms and conditions stated in this License Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of its Services under this License Agreement;

(d) warrants that Licensee and its Subcontractors are not in default at the time this License Agreement is signed, and have not been deemed by the Chief Procurement Officer or any other City official to have, within 5 years immediately preceding the date of this License Agreement, been found to be in default on any contract awarded by the City ;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this License Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this License Agreement; this License Agreement is feasible of performance in accordance with all of its provisions and requirements, and Licensee warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this License Agreement;

(f) represents that Licensee and, to the best of its knowledge, its Subcontractors are not



in violation of the provisions of § 2-92-320 of the Municipal Code, and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1; and

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this License Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 8.2 and 8.3 of this License Agreement.

(h) warrants and represents that it has in effect and will maintain in effect during the term of this License Agreement a valid certificate of service authority to operate a Tour Service granted by the U.S.C.G., a copy of which is attached in Exhibit 6.

(i) represents that it has inspected in detail the designated Location and has familiarized itself with all of the local conditions of the docking areas and adjacent land affecting the provision of Tour Services at the Location and Section 2.3(b) services. The Licensee is solely responsible for all errors in the Licensee's proposal or losses subsequently incurred by the Licensee as a result of the Licensee's failure to adequately inspect the Location, the License Agreement; and

(j) warrants that it will operate a Tour Service in accordance with all applicable provisions and requirements of the Department of Homeland Security;

(j) warrants and represents that it has examined the Location and appurtenant land prior to the submission of Licensee's proposal, and further, the Licensee agrees that the Location are in a safe condition and in good repair; and

(l) The Licensee warrants and represents that neither the Licensee nor any Affiliate of Licensee appears on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

"Affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

## **7.2 Ethics**

(a) In addition to the foregoing warranties and representations, Licensee warrants:

(i) no officer, agent or employee of the City is employed by Licensee or has a financial interest directly or indirectly in this License Agreement or the compensation to be paid under this License Agreement except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code.

(ii) no payment, gratuity or offer of employment will be made in connection with this License Agreement by or on behalf of any Subcontractors to Licensee or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(b) Licensee further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 is voidable as to the City.

### **7.3 Joint and Several Liability**

If Licensee, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this License Agreement, each and without limitation every obligation or undertaking in this License Agreement to be fulfilled or performed by Licensee is the joint and several obligation or undertaking of each such individual or other legal entity. Licensee or its successors or assigns are jointly and severally liable under this License Agreement.

### **7.4 Business Documents**

At the request of the City, Licensee must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

### **7.5 Conflicts of Interest**

(a) No member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this License Agreement pertains is permitted to have any personal interest, direct or indirect, in this License Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee is allowed to be admitted to any share or part of this License Agreement or to any financial benefit to arise from it.

(b) Licensee represents that it, and to the best of its knowledge, its Subcontractors if any (Licensee and Subcontractors will be collectively referred to in this Section 7.5 as "**Licensee Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this License Agreement.

(c) Further, Licensee Parties must not assign any person having any conflicting interest to perform any services under this License Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Licensee Parties' services for others conflict with the Services that Licensee Parties are to render for the City under this License Agreement, Licensee Parties must terminate such other services immediately upon request of the City.

#### **7.6 Non-Liability of Public Officials**

Licensee and any assignee or Subcontractor of Licensee must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

#### **7.7 EDS / Certification Regarding Suspension and Debarment**

Licensee certifies, as further evidenced in the EDS attached as Exhibit 5, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Licensee further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Licensee or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

#### **7.8 Waiver of Forcible Entry and Detainer Act**

Notwithstanding any interpretation that may be imposed upon this License Agreement, the Licensee understands and hereby agrees to forego and waive all provisions of the Forcible Entry and Detainer Act, 735 ILCS 5/9-101 *et seq.* as it might apply to the Location, and the Service Facilities.

### **ARTICLE 8. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET**

#### **8.1 Events of Default Defined**

The following constitute events of default:

- (a) Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Licensee to the City.
- (b) Licensee's failure to perform any of its obligations under this License Agreement.

including the following:

- (i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
  - (ii) Failure to have and maintain all licenses required by law to perform the Tour Services;
  - (iii) Failure to timely perform the Services;
  - (iv) Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
  - (v) Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
  - (vi) Discontinuance of the Services for reasons within Licensee's reasonable control;
  - (vii) Failure to comply with Section 6.1 in the performance of the License Agreement;
  - (viii) Failure promptly to update EDS(s) furnished in connection with this License Agreement when the information or responses contained in it or them is no longer complete or accurate;
  - (ix) Failure to furnish and maintain a Letter of Credit pursuant to the requirements set forth in Section 2.9;
  - (x) Failure to comply with any other material term of this License Agreement, including the provisions concerning insurance and nondiscrimination; and
  - (xi) Any other acts specifically stated in this License Agreement as constituting an act of default.
- (c) Any change in ownership or control of Wendella Sightseeing Company, Inc., without the prior written approval of the Commissioner (when such prior approval is permissible by law), which approval the Commissioner will not unreasonably withhold.
- (d) Default by Wendella Sightseeing Company, Inc. under any other agreement either entity or both entities may presently have or may enter into with the City for the duration of this License Agreement. Wendella Sightseeing Company, Inc. acknowledges that in the event of a

default under this License Agreement the City may also declare a default under any other agreements.

(e) Licensee's violation of City ordinance(s) unrelated to performance under the License Agreement such that, in the opinion of the Commissioner, it indicates a willful or reckless disregard for City laws and regulations.

## **8.2 Remedies**

(a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Licensee in default. The Commissioner may in his sole discretion give Licensee an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the Commissioner. Whether to declare Licensee in default is within the sole discretion of the Commissioner and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this License Agreement.

The Commissioner will give Licensee written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Commissioner gives a Default Notice, he will also indicate any present intent he may have to terminate this License Agreement, and the decision to terminate is final and effective upon giving the notice. If the Commissioner decides not to terminate, this decision will not preclude

him from later deciding to terminate the License Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Commissioner may give a Default Notice if Licensee fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 8.2 and Article 10, Licensee must discontinue any Tour Services, unless otherwise directed in the notice.

(b) Exercise of Remedies. After giving a Default Notice, the City may invoke any or all of the following remedies:

- (i) The right to terminate this License Agreement, in whole or in part;
- (ii) The right of specific performance, an injunction or any other appropriate equitable remedy;
- (iii) The right to money damages;
- (iv) The right to deem Licensee non-responsible in future contracts to be awarded by the City;
- (v) The right to draw on the Letter of Credit.

(c) City's Reservation of Rights. If the Commissioner considers it to be in the City's best interests, he may elect not to declare default or to terminate this License Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the Commissioner permits Licensee to continue to provide the Tour Services despite one or more events of default, Licensee is in no way relieved of any of its responsibilities, duties or obligations under this License Agreement, nor does the City waive or relinquish any of its rights.

(d) Non-Exclusivity of Remedies. The remedies under the terms of this License Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

### **8.3 Early Termination**

(a) In addition to termination under Sections 8.1 and 8.2 of this License Agreement, the Commissioner may terminate this License Agreement, at any time by giving 15 days' prior written notice to the Licensee, if, in the sole discretion of the Commissioner, the Commissioner determines

that such termination is in the best interest of the City. If the Commissioner elects to terminate this entire License Agreement, the Licensee must terminate all Tour Services within 10 business days after the issuance of such notice and remove Tour Boats from the Location.

(b) Payment to the City of any sums remaining to be paid under this License Agreement must be made by the Licensee on a pro-rata basis: calculation of the pro-rata share will be predicated upon the season during which the Licensee is licensed to operate on the Chicago River and Lake Michigan, as specified in Section 4.1 of this License Agreement.

(c) Any License fees and compensation previously received by the City will be retained by the City.

(d) Upon termination of this License Agreement the Licensee must at once surrender possession of the Location. If possession is not immediately surrendered, the City may take possession of the Location and expel or remove the Licensee and those claiming by, through, or under it, without civil or criminal liability.

(e) The Licensee must pay and discharge all costs, expenses, and attorneys' fees which might be incurred by the City in enforcing the terms and conditions of this License Agreement.

(f) Licensee must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Licensee will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Licensee or the City.

(g) If the City's election to terminate this License Agreement for default under Sections 8.1 and 8.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 8.3.

#### **8.4 Suspension**

The City may at any time request that Licensee suspend its Services, or any part of them, by giving 15 days prior written notice to Licensee or upon informal oral, or even no notice, in the event of emergency. Licensee must promptly resume its performance of the Services under the same terms and conditions as stated in this License Agreement upon written notice by the Commissioner and such equitable extension of time as may be mutually agreed upon by the Commissioner and Licensee when necessary for continuation or completion of Tour Services. The City will not be liable for any additional costs or expenses actually incurred by Licensee as a result of recommencing the Tour Services.

No suspension of this License Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this License Agreement. If the total number of days of suspension exceeds 45 days, Licensee by written notice to the City may treat the suspension as an early termination of this License Agreement under Section 8.3.

## **ARTICLE 9. GENERAL CONDITIONS**

### **9.1 Entire Agreement**

#### **(a) General**

This License Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this License Agreement that are not addressed in this License Agreement.

#### **(b) No Collateral Agreements**

Licensee acknowledges that, except only for those representations, statements or promises contained in this License Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Licensee to enter into this License Agreement or has been relied upon by Licensee, including any with reference to: (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this License Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this License Agreement; (iv) the general conditions which may in any way affect this License Agreement or its performance; (v) the compensation provisions of this License Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this License Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

#### **(c) No Omissions**

Licensee acknowledges that Licensee was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this License Agreement before signing this License Agreement in order that it might request inclusion in this License Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Licensee did so review those documents, and either every such statement, representation, promise or provision has been included in this License Agreement or else, if omitted, Licensee



relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this License Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

## **9.2 Counterparts**

This License Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

## **9.3 Amendments**

Except as provided in Section 3.2 of this License Agreement, no changes, amendments, modifications or discharge of this License Agreement, or any part of it are valid unless in writing and signed by the authorized agent of Licensee and by the Commissioner or their respective successors and assigns. The City incurs no liability for Additional Services without a written amendment to this License Agreement under this Section 9.3.

Whenever under this License Agreement Licensee is required to obtain the City's prior written approval, the effect of any approval that may be granted pursuant to Licensee's request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.

## **9.4 Governing Law and Jurisdiction**

This License Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois without regard to choice of law.

Licensee irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this License Agreement. Service of process on Licensee may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this License Agreement, by registered or certified mail addressed to the office actually maintained by Licensee, or by personal delivery on any officer, director, or managing or general agent of Licensee. If any action is brought by Licensee against the City concerning this License Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

## **9.5 Severability**

If any provision of this License Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all

cases because it conflicts with any other provision or provisions of this License Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this License Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this License Agreement does not affect the remaining portions of this License Agreement or any part of it.

#### **9.6 Assigns**

The Licensee may not assign this License Agreement without prior written consent of the City, which shall not be unreasonably withheld. Assignment without prior written consent of the City is deemed an event of default under Article 8 of this License Agreement.

#### **9.7 Cooperation**

Licensee must at all times cooperate fully with the City and act in the City's best interests. If this License Agreement is terminated for any reason, or if it is to expire on its own terms, Licensee must make every effort to ensure an orderly transition to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the Department in connection with the termination or expiration.

#### **9.8 Waiver**

Nothing in this License Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this License Agreement the City by a proper authority waives Licensee's performance in any respect or waives a requirement or condition to either the City's or Licensee's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this License Agreement regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Licensee in writing.

#### **9.9 Independent Contractor**

(a) This License Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business

association or organization of any kind between Licensee and the City. The rights and the obligations of the parties are only those set forth in this License Agreement. Licensee must perform under this License Agreement as an independent contractor and not as a representative, employee, agent, or partner of the City.

(b) This License Agreement is between the City and an independent contractor and, if Licensee is an individual, nothing provided for under this License Agreement constitutes or implies an employer-employee relationship such that:

(i) The City will not be liable under or by reason of this License Agreement for the payment of any compensation award or damages in connection with the Licensee performing the Services required under this License Agreement.

(ii) Licensee is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave, or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

(iii) The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Licensee.

(c)(i) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the June 24, 2011 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in Shakman v. Democratic Organization of Cook County, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Licensee is aware that City policy prohibits City employees from directing any individual to apply for a position with Licensee, either as an employee or as a subcontractor, and from directing Licensee to hire an individual as an employee or as a subcontractor. Accordingly, Licensee must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Licensee under this Agreement are employees or subcontractors of Licensee, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Licensee.

(iii) Licensee will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership

in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(iv) In the event of any communication to Licensee by a City employee or City official in violation of Section (ii) above, or advocating a violation of Section (iii) above, Licensee will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement. Licensee will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract.

#### ARTICLE 10. NOTICES

Notices provided for in this License Agreement, unless provided for otherwise in this License Agreement, must be given in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

If to the City:  
Department of Transportation  
30 N. LaSalle Street  
Suite 1100  
Chicago, Illinois 60610  
Attention: Commissioner

With Copies to: Department of Law  
Room 600, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporation Counsel

If to Licensee: WENDELLA SIGHTSEEING CO.  
405 N Wabash, Suite P2-E  
Chicago, Illinois 60611

Attention: MICHAEL BORGSTROM - PRESIDENT

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 10. Notices delivered by mail are considered received three days after mailing in accordance with this Article 10. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

#### **ARTICLE 11. AUTHORITY**

The signature(s) of each person signing on behalf of the Licensee have been made with complete and full authority to commit the Licensee to all terms and conditions of this License Agreement, including each and every representation, certification and warranty contained herein, including without limitation such representations, certifications and warranties collectively attached hereto and incorporated by reference herein.

*[Signature Pages, Exhibits and Schedules follow.]*

**SIGNATURE PAGE**  
**SIGNED at Chicago, Illinois:**

By: CITY OF CHICAGO  
Commissioner of Transportation

LICENSEE

By: Michael Borgstrom

Its: President

Attest: [Signature]

State of Illinois  
County of Cook

This instrument was acknowledged before me on Feb 11, 2013 (date) by  
(name/s of person/s) as MICHAEL Borgstrom, President (type of authority, e.g., officer, trustee, etc.) of  
(name of party on behalf of whom instrument was executed). Wenolls Sign Systems, Inc.

(Signature of Notary Public)

Seal:

[Signature]

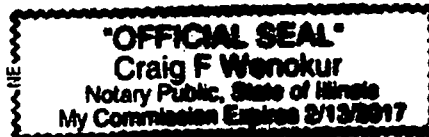


EXHIBIT 1

(1 OF 2)

**Location, Tour Boats and Yearly License Fees**

In exchange for the privilege to dock and operate a Tour Boat service at the Location herein specified in accordance with the terms and conditions of this License Agreement, the Licensee must operate the Tour Boat Service as follows:

For Location 2, which is 119 feet + 65 feet,  
(Location #)

And which is located at the area located on the north bank of the Chicago River west of the Michigan Avenue Bridge and the dock at Rush Street;

The Licensee will operate a Tour Boat Service utilizing the following vessels:

the LILA, a  
(name of the Tour Boat)

2 deck, 340 passenger vessel, white hull, 86 feet in length; and  
(description of the Tour Boat, including length)

the LINNEA, a  
(name of the Tour Boat)

2 deck, 340 passenger vessel, white hull, 86 feet in length; and  
(description of the Tour Boat, including length)

the WENDELLA, a  
(name of the Tour Boat)

2 deck, 340 passenger vessel, white hull, 86 feet in length;  
(description of the Tour Boat, including length)

the OUILMETTE, a  
(name of the Tour Boat)

2 deck, 207 passenger vessel, white hull, 65 feet in length; and  
(description of the Tour Boat, including length)

the WENDELLA LTD., a  
(name of the Tour Boat)

2 deck, 150 passenger vessel, yellow hull, 65 feet in length; and  
(description of the Tour Boat, including length)

the SUNLINER, a  
(name of the Tour Boat)

single deck, 97 passenger vessel, yellow hull, 62 feet in length;  
(description of the Tour Boat, including length)

the BRAVO, a  
(name of the Tour Boat)

single deck, 97 passenger vessel, yellow hull, 50 feet in length; and  
(description of the Tour Boat, including length)

the ALPHA, a  
(name of the Tour Boat)

single deck, 56 passenger vessel, yellow hull, 38 feet in length.  
(description of the Tour Boat, including length)



**For the use of which Location, for each year of the Agreement, the Licensee must pay the following Minimum Annual Guarantee and Supplemental Revenue Fee in accordance with Article 4 of this License Agreement:**

Minimum Annual Guarantee = \$681,450.00 for year one and shall be increased by 3% each year of the Agreement.

Supplemental Revenue Fee = 3% of Gross Revenues through 2027; 2.25% thereafter.

## Service Facilities

The plan shows a section of the Main Branch Chicago River flowing from the bottom left towards the top right. To the west of the river is Rush St. To the east is Michigan Avenue. A bridge crosses the river near the center. Various buildings and structures are labeled, including a Police House, Storage Facility, and Dock Wall. The plan also indicates areas where the riverwalk was not included in the location.

**LEGEND**

- [Stippled Area] SITE AREA
- [Cross-hatched Area] RIVERWALK NOT INCLUDED IN LOCATION
- [White Area] CHICAGO RIVER

**LOCATION 2 SITE PLAN**

CITY OF CHICAGO  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF ENGINEERING

## **EXHIBIT 3**

### **Insurance Requirements and Certificate of Insurance**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/11/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Alliant Insurance Services, Inc. 200 S. Wacker Drive #3030 Chicago IL 60606	CONTACT NAME: Mary Kay Mongoven	FAX (A/C No.): 312-546-5620	
	PHONE (A/C No. Ext.): 312-546-5614	E-MAIL: mmongoven@alliantinsurance.com	
INSURED Wendella Sightseeing Company, Inc. 405 N. Wabash, Suite P2-E Chicago IL 60611	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: RLI Insurance Company		0
	INSURER B: Hartford Underwriters Ins Co		30104
	INSURER C: Commerce & Industry Ins Co		19410
	INSURER D: Underwriters At Lloyd's		32727
	INSURER E: New York Marine & General Ins.		2569
INSURER F:			

## COVERAGES

CERTIFICATE NUMBER: 577385856

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC		MRP0700109	10/15/2012	10/15/2013	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/CP AGG \$1,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALLOWED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		83UECPF2159	10/15/2012	10/15/2013	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
E	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$25,000		ML100645/12	10/15/2012	10/15/2013	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	WC051751584	5/15/2012	5/15/2013	<input checked="" type="checkbox"/> WC STATU <input checked="" type="checkbox"/> TOTH-TORY LIMITS E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Liquor Liability		LIQ/103355 02	10/15/2012	10/15/2013	\$1,000,000 CSL

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Evidence of Insurance with respect to Tour Boat Operators License Agreement vessels: Ouilmette, Bravo, Alpha, Wendella Ltd., Wendella, 2007 Wendella, Sunliner, Linnea and Lila.  
Additional Insured(s) & Waiver of Subrogation (Blanket) form is attached to the Marine General Liability policy and applies, if required by written contract or agreement. Coverage for Protection & Indemnity as well as Jones Act is also included on this policy with the Umbrella following the underlying forms.

## CERTIFICATE HOLDER

## CANCELLATION

City of Chicago Department of Transportation  
Division of Engineering  
30 N. LaSalle St., Suite #400  
Chicago IL 60602

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

**EXHIBIT 4**  
**Form of Letter of Credit**

(Date) \_\_\_\_\_

City of Chicago  
c/o Commissioner of Department of Transportation  
Room 107  
121 North LaSalle Street  
Chicago, Illinois 60602

**APPLICANT:**  
Gentlemen:

We hereby issue Unconditional, Irrevocable Stand-By Letter of Credit No in your favor up to an aggregate amount of Dollars (\$\_\_\_\_\_). This Letter of Credit is issued, presentable and payable at our offices at \_\_\_\_\_.

Funds under this Credit are available to you unconditionally against your sight drafts for any sum or sums not exceeding a total of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) drawn on us mentioning our Letter of Credit No. \_\_\_\_\_ purportedly signed by the Commissioner of the Department of \_\_\_\_\_ or the City Comptroller of the City of Chicago (whether acting or actual).

Our obligations hereunder are primary obligations to the City of Chicago (City) and shall not be affected by the performance or non-performance by \_\_\_\_\_ [insert name and address of applicant] ("Applicant") under any agreement with the City or by any bankruptcy or other insolvency proceeding initiated by or against Applicant. Applicant is not the owner of or beneficiary under this Letter of Credit and possesses no interest whatsoever in this Letter of Credit or proceeds of same. We engage with you that any draws under this Letter of Credit shall be duly honored on sight if presented to us on or before \_\_\_\_\_, 200\_\_.

Partial and multiple drawings are permitted.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for an additional 12 month period from the present or any future expiration date hereof, unless at least 30 days prior to any such date we notify you by certified mail that we elect not to consider this Letter of Credit renewed for any such additional period.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce publication No. 500 (IUCP) and to the Uniform Commercial Code - Letters of Credit, 810 ILCS 5/5-101 et seq. as amended and as in effect in the State of Illinois (UCC). To the extent the provisions of the IUCP and the UCC conflict, the provisions of the UCC shall control.

(authorized signature)  
[020605]



**A M E N D M E N T #10**  
**IRREVOCABLE STANDBY LETTER OF CREDIT NO. 2014(SR)**  
**REPLACEMENT LETTER OF CREDIT NO 2014 (S)**

February 6, 2013

**Letter of Credit: #2014(sr)**  
**Date: February 6, 2013**  
**Original amount: \$40,000.00**  
**Amended amount: \$100,000.00**  
**Expiration: December 3, 2013**

**BENEFICIARY:**

City of Chicago  
c/o Commissioner of Department of Transportation  
Suite 400  
30 N. LaSalle St.  
Chicago, IL 60602-2570

**APPLICANT:**

Wendella Sightseeing Co. Inc.  
Attn: Michael Borgstrom, President  
405 N. Wabash Avenue, Suite P2E  
Chicago, IL 60611

Gentleman/Madam:

We hereby amend our Irrevocable Letter of Credit No. 2014 (S) issued in favor of the City of Chicago c/o Commissioner of Department of Transportation to increase the amount from \$40,000.00 to \$100,000.00.

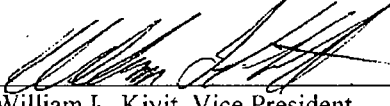
The original and amendments to this Letter of Credit must accompany all drawings. All other terms and conditions remain the same.

In order for us to comply with the United States Treasury and the United States Department of Commerce, Office of Foreign Assets Control Regulations, any transfer under this credit will only be effected after verification that the transferee does not appear on the United States Treasury List of Blocked and/or designated nations. If this credit is transferred, evidence of such transfer shall be approved by the bank and must be accompanied by loan documents.

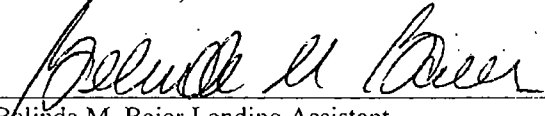
This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits, (1993 Revision) of the International Chamber of Commerce Publication No. 500, (UCP) and to the Uniform Commercial Code - Letters of Credit, 810 ILCS 5/5 101 et seq., as amended, as in effect in the State of Illinois (UCC). To the extent the provisions of the UCP and the UCC conflict, the provisions of the UCP shall control.

NorthSide Community Bank:

By:

  
William L. Kivit, Vice President

By:

  
Belinda M. Baier Lending Assistant

WWW.NSCOMBANK.COM

5103 Washington St.  
Gurnee, IL 60031  
847-244-5100  
fax 847-244-5175

1155 Milwaukee Ave.  
Riverwoods, IL 60015  
847-279-1155  
fax 847-279-1110

800 N. Route 83  
Mundelein, IL 60060  
847-837-8883  
fax 847-837-8333

8060 Oakton St.  
Niles, IL 60714  
847-692-7500  
fax 847-692-7517

205 W. Wacker  
Chicago, IL 60606  
312-781-0670  
fax 312-781-0671

**EXHIBIT 5**

**Economic Disclosure Statement and Affidavit**

## **Economic Disclosure Statement and Affidavit (EDS)**

### **Online EDS Filing Required Prior To Proposal Due Date**

The Respondent must prepare an online EDS prior to the Proposal Due Date.

**A RESPONDENT THAT DOES NOT PREPARE AN ELECTRONIC EDS PRIOR TO THE BID OPENING WILL BE FOUND NON-RESPONSIVE AND ITS BID WILL BE REJECTED.**

#### **NOTE:**

1. Filing an "EDS Information Update" does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
2. Filing an EDS in a hard copy or paper copy form does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
3. Filing an EDS for another mater (different bid, contract, etc.) does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
4. When completing the online EDS, please choose the Department of Procurement Services as the City agency or department that is requesting the EDS.

### **Online EDS Web Link**

The web link for the Online EDS is [webapps.cityofchicago.org/EDSWeb](http://webapps.cityofchicago.org/EDSWeb).

### **Online EDS Number**

Upon completion of the online EDS submission process, the Respondent will be provided an EDS number. Respondents should provide this number here:

EDS Number: 39814

### **Online EDS Certification of Filing**

Upon completion of the online submission process, the Respondent will be able to print a hard copy Certificate of Filing. The Respondent should submit the signed Certificate of Filing with its bid. **Please insert your Certification of Filing following this page.**

A Respondent that does not include a signed Certificate of Filing with its bid must provide it upon the request of the Chief Procurement Officer.





CERTIFICATE OF FILING FOR  
CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT

EDS Number: 39814

Certificate Printed on: 01/04/2013

Date of This Filing: 01/04/2013 03:41 PM

Original Filing Date: 01/04/2013 03:41 PM

Disclosing Party: Wendella Sightseeing  
Company, Inc.

Title: President

Filed by: Mr. Michael Borgstrom

Matter: RFP FOR CHICAGO TOUR BOAT

SERVICES Specification No. 103855

Requisition No. 66648

Applicant: Wendella Sightseeing Company,  
Inc.

Specification #: 103855

Contract #:

The Economic Disclosure Statement referenced above has been electronically filed with the City. Please provide a copy of this Certificate of Filing to your city contact with other required documents pertaining to the Matter. For additional guidance as to when to provide this Certificate and other required documents, please follow instructions provided to you about the Matter or consult with your City contact.

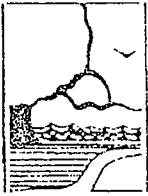
A copy of the EDS may be viewed and printed by visiting

<https://webapps.cityofchicago.org/EDSWeb> and entering the EDS number into the EDS Search.

Prior to contract award, the filing is accessible online only to the disclosing party and the City, but is still subject to the Illinois Freedom of Information Act. The filing is visible online to the public after contract award.

## **EXHIBIT 6**

### **Other Licenses, Permits and/or Certifications**



Illinois  
Department of  
Natural Resources

## PASSENGER BOAT LICENSE

P13000025

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC(ALPHA)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

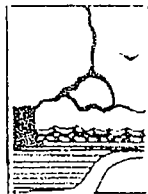
- ☒ Lake Michigan
- ☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540

COPY



Illinois  
Department of  
Natural Resources

## PASSENGER BOAT LICENSE

P13000020

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC (BRAVO)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

- ☒ Lake Michigan
- ☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540



**Illinois**  
Department of  
**Natural Resources**

**PASSENGER BOAT LICENSE**

**P13000022**

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC (LILA)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

- ☒ Lake Michigan
- ☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540

COPY



**Illinois**  
Department of  
**Natural Resources**

**PASSENGER BOAT LICENSE**

**P13000019**

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC (LINNEA)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

- ☒ Lake Michigan
- ☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540



Illinois  
Department of  
Natural Resources

## PASSENGER BOAT LICENSE

P13000024

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC (OUILMETTE)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

- ☒ Lake Michigan
- ☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540

COPY



Illinois  
Department of  
Natural Resources

## PASSENGER BOAT LICENSE

P13000026

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC (SUNLINER)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

- ☒ Lake Michigan
- ☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540

This job was printed by

**125146**

DATE: 3/27/2013

TIME: 10:56:18 AM

JOB:#174



**Illinois**  
Department of  
**Natural Resources**

## PASSENGER BOAT LICENSE

P13000023

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC(WENDELLA)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY: More than 6 passengers

FOR OPERATION ON:

- ☒ Lake Michigan  
☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540

COPY



**Illinois**  
Department of  
**Natural Resources**

## PASSENGER BOAT LICENSE

P13000021

EXPIRES MARCH 1, 2014

WENDELLA SIGHTSEEING CO INC (WENDELLA LTD)  
405 N WABASH AVE P2E  
CHICAGO, IL 60611

This is to certify that the above named is hereby licensed to engage in the business of operating a boat or boats carrying passengers for hire under provisions of the Illinois Compiled Statutes, Chapter 625, Boat Registration and Safety Act, Article VII. This license must be prominently displayed upon the watercraft and available for inspection at all times.

LICENSED TO CARRY:

FOR OPERATION ON:

- ☒ Lake Michigan  
☒ Other Water(s) chicago river

ISSUED: January 15, 2013



IL 422-0540

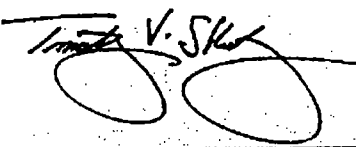


## UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME ALPHA		OFFICIAL NUMBER 1081233	IMO OR OTHER NUMBER CNL38011C999	YEAR COMPLETED 1999	
HAILING PORT CHICAGO IL		HULL MATERIAL FRP (FIBERGLASS)		MECHANICAL PROPULSION YES	
GROSS TONNAGE 10 GRT	NET TONNAGE 8 NRT	LENGTH 38.0	BREADTH 10.8	DEPTH 3.0	
PLACE BUILT FT LAUDERDALE FL					
OWNERS WENDELLA SIGHTSEEING CO INC			OPERATIONAL ENDORSEMENTS COASTWISE		
MANAGING OWNER WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE 405 N WABASH AVE SUITE P2E CHICAGO IL 60611					
RESTRICTIONS NONE					
ENTITLEMENTS NONE					
REMARKS NONE					
ISSUE DATE NOVEMBER 19, 2012		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES DECEMBER 31, 2013					



4044220284404





# UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

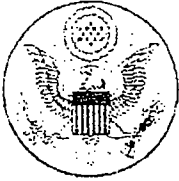
NATIONAL VESSEL DOCUMENTATION CENTER

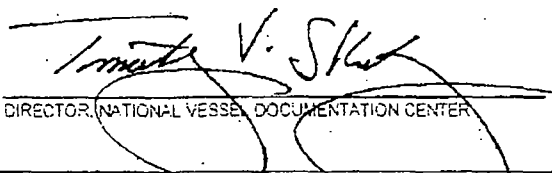

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME BRAVO		OFFICIAL NUMBER 1117105	IMO OR OTHER NUMBER 1281	YEAR COMPLETED 2001	
HAILING PORT CHICAGO IL		HULL MATERIAL ALUMINUM		MECHANICAL PROPULSION YES	
GROSS TONNAGE  36 GRT	NET TONNAGE  28 NRT	LENGTH  50.0	BREADTH  18.0	DEPTH  6.0	
PLACE BUILT  LOREAUVILLE LA					
OWNERS WENDELLA SIGHTSEEING COMPANY INC			OPERATIONAL ENDORSEMENTS COASTWISE		
MANAGING OWNER WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE 405 N WABASH AVE SUITE P2E CHICAGO IL 60611					
RESTRICTIONS NONE					
ENTITLEMENTS NONE					
REMARKS NONE					
ISSUE DATE NOVEMBER 19, 2012		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES DECEMBER 31, 2013					



CLASSIFICATION

**UNITED STATES OF AMERICA****DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD****NATIONAL VESSEL DOCUMENTATION CENTER*****CERTIFICATE OF DOCUMENTATION***

VESSEL NAME		OFFICIAL NUMBER	IMO OR OTHER NUMBER	YEAR COMPLETED	
LILA		1238675	W-337	2012	
HAILING PORT		HULL MATERIAL		MECHANICAL PROPULSION	
CHICAGO, IL		STEEL		YES	
GROSS TONNAGE	NET TONNAGE	LENGTH	BREADTH	DEPTH	
143 GT ITC 77 GRT	76 NT ITC 52 NRT	85.5	30.0	7.1	
PLACE BUILT WARREN, RI					
OWNERS WENDELLA SIGHTSEEING CO INC			OPERATIONAL ENDORSEMENTS COASTWISE		
<b>COPY</b>					
MANAGING OWNER WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO, IL 60611					
RESTRICTIONS NONE					
ENTITLEMENTS NONE					
REMARKS NONE					
ISSUE DATE JULY 16, 2012		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES JULY 31, 2013					
BLP 1543JPG					

**UNITED STATES OF AMERICA****DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD****NATIONAL VESSEL DOCUMENTATION CENTER****CERTIFICATE OF DOCUMENTATION**

VESSEL NAME <b>LINNEA</b>		OFFICIAL NUMBER <b>1225630</b>	IMO OR OTHER NUMBER <b>330</b>	YEAR COMPLETED <b>2010</b>	
HAILING PORT <b>CHICAGO, IL</b>		HULL MATERIAL <b>STEEL</b>		MECHANICAL PROPULSION <b>YES</b>	
GROSS TONNAGE <b>143 GT ITC 77 GRT</b>	NET TONNAGE <b>76 NT ITC 52 NRT</b>	LENGTH <b>85.5</b>	BREADTH <b>30.0</b>	DEPTH <b>7.1</b>	
PLACE BUILT <b>WARREN, RI</b>					
OWNERS <b>WENDELLA SIGHTSEEING CO INC</b>			OPERATIONAL ENDORSEMENTS <b>COASTWISE</b>		
<b>COPY</b>					
MANAGING OWNER <b>WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE 405 N WABASH AVE SUITE P2F CHICAGO, IL 60611</b>					
RESTRICTIONS <b>NONE</b>					
ENTITLEMENTS <b>NONE</b>					
REMARKS <b>NONE</b>					
ISSUE DATE <b>MAY 09, 2012</b>		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES <b>JUNE 30, 2013</b>					
VDS 15127508					

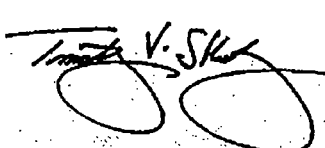


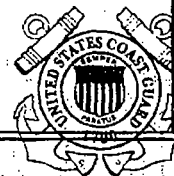
# UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME OUILMETTE		OFFICIAL NUMBER 1110462	IMO OR OTHER NUMBER 307	YEAR COMPLETED 2001	
HAILING PORT CHICAGO IL		HULL MATERIAL STEEL		MECHANICAL PROPULSION YES	
GROSS TONNAGE 43 GRT	NET TONNAGE 34 NRT	LENGTH 65.0	BREADTH 22.0	DEPTH 4.5	
PLACE BUILT WARREN RI					
OWNERS WENDELLA SIGHTSEEING COMPANY INC			OPERATIONAL ENDORSEMENTS COASTWISE		
MANAGING OWNER WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE F2E CHICAGO IL 60611					
RESTRICTIONS NONE					
ENTITLEMENTS NONE					
REMARKS NONE					
ISSUE DATE NOVEMBER 30, 2012		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES DECEMBER 31, 2013					

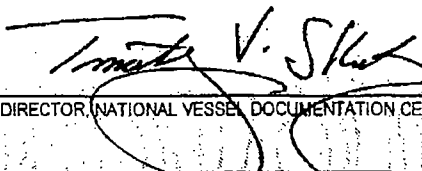



814SS0666204

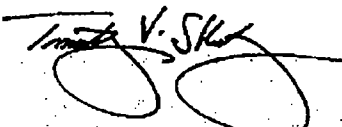
**UNITED STATES OF AMERICA****DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD****NATIONAL VESSEL DOCUMENTATION CENTER****CERTIFICATE OF DOCUMENTATION**

VESSEL NAME		OFFICIAL NUMBER	IMO OR OTHER NUMBER	YEAR COMPLETED	
SUNLINER		285077	315	1961	
HAILING PORT		HULL MATERIAL		MECHANICAL PROPULSION	
CHICAGO, IL		STEEL		YES	
GROSS TONNAGE	NET TONNAGE	LENGTH	BREADTH	DEPTH	
35 GRT	23 NRT	62.0	14.4	6.4	
PLACE BUILT DUBUQUE, IA					
OWNERS WENDELLA SIGHTSEEING COMPANY INCORPORATED			OPERATIONAL ENDORSEMENTS COASTWISE REGISTRY		
MANAGING OWNER WENDELLA SIGHTSEEING COMPANY 400 N MICHIGAN AVENUE CHICAGO, IL 60611					
RESTRICTIONS NONE					
ENTITLEMENTS NONE					
REMARKS NONE					
ISSUE DATE MAY 17, 2012		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES JUNE 30, 2013					
VDS 15175/39					

**UNITED STATES OF AMERICA****DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD****NATIONAL VESSEL DOCUMENTATION CENTER****CERTIFICATE OF DOCUMENTATION**

VESSEL NAME <b>WENDELLA</b>		OFFICIAL NUMBER <b>1194977</b>	IMO OR OTHER NUMBER <b>320</b>	YEAR COMPLETED <b>2007</b>	
HAILING PORT <b>CHICAGO, IL</b>		HULL MATERIAL <b>STEEL</b>		MECHANICAL PROPULSION <b>YES</b>	
GROSS TONNAGE <b>143 GT ITC 77 GRT</b>	NET TONNAGE <b>76 NT ITC 52 NRT</b>	LENGTH <b>85.5</b>	BREADTH <b>30.0</b>	DEPTH <b>7.1</b>	
PLACE BUILT <b>WARREN, RI</b>					
OWNERS <b>WENDELLA SIGHTSEEING COMPANY INC</b>			OPERATIONAL ENDORSEMENTS <b>COASTWISE</b>		
<b>COPY</b>					
MANAGING OWNER <b>WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO, IL 60611</b>					
RESTRICTIONS <b>NONE</b>					
ENTITLEMENTS <b>NONE</b>					
REMARKS <b>NONE</b>					
ISSUE DATE <b>APRIL 19, 2012</b>		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES <b>MAY 31, 2013</b>					
VDS 15043766					

**UNITED STATES OF AMERICA****DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD****NATIONAL VESSEL DOCUMENTATION CENTER****CERTIFICATE OF DOCUMENTATION**

VESSEL NAME <b>WENDELLA LTD.</b>		OFFICIAL NUMBER <b>980988</b>	IMO OR OTHER NUMBER <b>BQX00185D292</b>	YEAR COMPLETED <b>1992</b>	
HAILING PORT <b>CHICAGO IL</b>		HULL MATERIAL <b>ALUMINUM</b>		MECHANICAL PROPULSION <b>YES</b>	
GROSS TONNAGE <b>71 GRT</b>	NET TONNAGE <b>56 NRT</b>	LENGTH <b>64.9</b>	BREADTH <b>20.2</b>	DEPTH <b>8.1</b>	
PLACE BUILT <b>LOREAUVILLE LA</b>					
OWNERS <b>WENDELLA SIGHTSEEING COMPANY INCORPORATED</b>			OPERATIONAL ENDORSEMENTS <b>REGISTRY COASTWISE</b>		
MANAGING OWNER <b>WENDELLA SIGHTSEEING COMPANY 400 N MICHIGAN AVENUE CHICAGO IL 60611</b>					
RESTRICTIONS <b>NONE</b>					
ENTITLEMENTS <b>NONE</b>					
REMARKS <b>NONE</b>					
ISSUE DATE <b>NOVEMBER 19, 2012</b>		 <b>DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER</b>			
THIS CERTIFICATE EXPIRES <b>DECEMBER 31, 2013</b>					

**ELASSTAEADDA**



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 29 Mar 2012  
Expiration Date: 29 Mar 2017  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Vessel Name <b>ALPHA</b>	Official Number <b>1081233</b>	Call Sign <b>WCZ3140</b>	Service <b>Passenger (Inspected)</b>
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>FRP (Fiberglass)</b>	Horsepower <b>308</b>	Propulsion <b>Diesel Reduction</b>
Place Built <b>FT LAUDERDALE, FL UNITED STATES</b>	Delivery Date <b>03Mar1999</b>	Date Keel Laid <b>03Mar1999</b>	Gross Tons <b>R-10</b> Net Tons <b>R-8</b> DWT <b>L</b> Length <b>R-38</b> <b>L</b>
Owner <b>WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE SUITE P2E CHICAGO IL 60611 UNITED STATES</b>	Operator <b>WENDELLA SIGHTSEEING CO INC 405 N WABASH AVE SUITE P2E CHICAGO IL 60611 UNITED STATES</b>		

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.

1 Master	Master & 1st Class pilot	Radio Officer(s)	Chief Engineer	QMED/Rating
Chief Mate	Mate & 1st Class Pilot	Able Seamen/ROANW	1st Asst. Engr/2nd Engr.	Others
2nd Mate/OICNW	Lic. Mate/OICNW	Ordinary Seamen	2nd Asst. Engr/3rd Engr.	
3rd Mate/OICNW	1st Class Pilot	1 Deckhand	3rd Asst. Engr.	
			Lic. Engr.	

COPY

In addition, this vessel may carry 56 passengers, 0 other persons in crew, 0 persons in addition to crew, and no others. Total persons allowed: 58

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

LAKE MICHIGAN UNDER THE FOLLOWING CONDITIONS:

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER WITHIN ONE (1) NAUTICAL MILE FROM SHORE.

DURING COLD WATER PERIOD OF 01 OCTOBER TO 14 JUNE, WITHIN ONE (1) NAUTICAL MILE FROM SHORE, NOT TO EXTEND NORTH BEYOND THE NORTH AVENUE JETTY LIGHT (41-55 N, 087-36 W) OR SOUTH BEYOND THE ADLER PLANETARIUM DOME (41-52 N, 087-35 W).

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at Chicago, IL, the Officer in Charge, Marine Inspection, Marine Safety Unit Chicago certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This certificate issued by:  <b>ROBERT E. BAILEY, CDR, USCG, BY DIRECTION</b> Officer in Charge, Marine Inspection  <b>Marine Safety Unit Chicago</b> Inspection Zone
Date	Zone	A/P/Q	Signature	
-	-	-	-	
-	-	-	-	
-	-	-	-	
-	-	-	-	





United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 15 Mar 2012  
Expiration Date: 15 Mar 2017  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Vessel Name <b>BRAVO</b>	Official Number <b>1117105</b>	Call Sign <b>WDA5940</b>	Service <b>Passenger (Inspected)</b>
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>Aluminum</b>	Horsepower <b>240</b>	Propulsion <b>Diesel Reduction</b>
Place Built <b>LOREAUVILLE, LA UNITED STATES</b>	Delivery Date <b>29Nov2001</b>	Date Keel Laid	Gross Tons <b>R-36</b> Net Tons <b>R-28</b> DWT <b>-</b> Length <b>R-50</b> <b>-</b>
Owner <b>WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE CHICAGO, IL 60611 UNITED STATES</b>	Operator <b>WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE CHICAGO, IL 60611 UNITED STATES</b>		

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.

1 Master	Master & 1st Class pilot	Radio Officer(s)	Chief Engineer	QMED/Rating
Chief Mate	Mate & 1st Class Pilot	Able Seamen ROANW	1st Asst. Engr/2nd Engr.	Oilers
2nd Mate/OICNW	Lic. Mate/OICNW	Ordinary Seamen	2nd Asst. Engr/3rd Engr.	
3rd Mate/OICNW	1st Class Pilot	Deckhands	3rd Asst. Engr.	
			Lic. Engr.	

In addition, this vessel may carry 95 passengers, 0 other persons in crew, 0 persons in addition to crew, and no others. Total persons allowed: 97

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

LAKE MICHIGAN UNDER THE FOLLOWING CONDITIONS:

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER WITHIN ONE (1) NAUTICAL MILE FROM SHORE.

DURING COLD WATER PERIOD OF 01 OCTOBER TO 14 JUNE, WITHIN ONE (1) NAUTICAL MILE FROM SHORE, NOT TO EXTEND NORTH BEYOND THE NORTH AVENUE JETTY LIGHT (41-55N, 087-36W) OR SOUTH BEYOND THE ADLER PLANETARIUM DOME (41-52N, 087-35W).

THIS VESSEL IS EQUIPPED WITH EXTENDED-SIZE LIFE PRESERVERS. THE MINIMUM NUMBER OF

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at Chicago, IL, the Officer in Charge, Marine Inspection, Marine Safety Unit Chicago certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This certificate issued by  <b>ROBERT E. BAILEY, CDR, USCG, BY DIRECTION</b> Officer in Charge, Marine Inspection  <b>Marine Safety Unit Chicago</b> Inspection Zone
Date	Zone	A/P/Q	Signature	
-	-	-	-	
-	-	-	-	
-	-	-	-	
-	-	-	-	



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 24 Jul 2012  
Expiration Date: 24 Jul 2017  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.  
Ex.Name NEW CONSTRUCTION

Vessel Name <b>LILA</b>	Official Number <b>1238675</b>	Call Sign <b>WDG2997</b>	Service <b>Passenger (Inspected)</b>			
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>Steel</b>	Horsepower <b>680</b>	Propulsion <b>Diesel Reduction</b>			
Place Built <b>WARREN, RI UNITED STATES</b>	Delivery Date <b>24Jul2012</b>	Date Keel Laid <b>26Oct2011</b>	Gross Tons <b>R-77 I-143</b>	Net Tons <b>R-52 I-78</b>	DWT <b></b>	Length <b>R-85.5 I-85.5</b>
Owner <b>WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO, IL 60611 UNITED STATES</b>		Operator <b>WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO, IL 60611 UNITED STATES</b>				

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be  
**0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.**

1 Master	0 Master & 1st Class pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seamen/ROANW	0 1st Asst. Engr/2nd Engr.	0 Oilers
0 2nd Mate/OICNW	1 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	2 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr.	

In addition, this vessel may carry 340 passengers, 0 other persons in crew, 0 persons in addition to crew, and no others.  
Total persons allowed: 344

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER WITHIN 1 NAUTICAL MILE FROM SHORE.

DURING COLD WATER PERIOD OF 01 OCTOBER TO 14 JUNE, WITHIN 1 NAUTICAL MILE FROM SHORE, NOT TO EXTEND NORTH BEYOND THE NORTH AVENUE JETTY LIGHT (41-55 N, 087-36 W) OR SOUTH BEYOND THE ADLER PLANETARIUM DOME (41-52 N, 087-35 W).

IF THE VESSEL IS AWAY FROM THE DOCK, OR PASSENGERS ARE ONBOARD OR HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING 12 HOURS IN A 24-HOUR PERIOD, AN ALTERNATE CREW SHALL BE PROVIDED.

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at Warren, RI, the Officer in Charge, Marine Inspection, Sector Southeastern New England certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This certificate issued by:  U.B. GIFFORD, Chief of Sector Officer in Charge, Marine Inspection Sector Southeastern New England Inspection Zone
Date	Zone	A/P/Q	Signature	
-	-	-	-	
-	-	-	-	
-	-	-	-	



Department of Homeland Security  
United States Coast Guard

# *Certificate of Inspection*

Certification Date:  
24 Jul 2012

LILA

Qty	Class Type
1	A-II
1	B-I
2	B-II

\*\*\*END\*\*\*



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 20 Jul 2010  
Expiration Date: 20 Jul 2015  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation VI/14, is a SAFE MANNING DOCUMENT.

Vessel Name <b>LINNEA</b>	Official Number <b>1225630</b>	Call Sign <b>WDF3649</b>	Service <b>Passenger (Inspected)</b>			
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>Steel</b>	Horsepower <b>705</b>	Propulsion <b>Diesel Reduction</b>			
Place Built <b>WARREN, RI UNITED STATES</b>	Delivery Date <b>20Jul2010</b>	Date Keel Laid <b>13Oct2009</b>	Gross Tons <b>R-77 I-143</b>	Net Tons <b>R-52 I-76</b>	DWT <b>R-85.5 I-85.5</b>	Length <b>R-85.5 I-85.5</b>
Owner <b>WENDELLA SIGHTSEEING CO INC 400 N MICHIGAN AVE CHICAGO IL 60611 UNITED STATES</b>	Operator <b>WENDELLA SIGHTSEEING CO INC 405 N WABASH AVE STE P2E CHICAGO IL 60611 UNITED STATES</b>					

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.

1 Master	0 Master & 1st Class Pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seaman/ROANW	0 1st Asst. Engr/2nd Engr.	0 Oilers
0 2nd Mate/OICNW	1 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	0 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr	

In addition, this vessel may carry 340 passengers, 0 other persons in crew, 0 persons in addition to crew, and no others.  
Total persons allowed: 344

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER WITHIN 1 NAUTICAL MILE FROM SHORE.

DURING COLD WATER PERIOD OF 01 OCTOBER TO 14 JUNE, WITHIN 1 NAUTICAL MILE FROM SHORE, NOT TO EXTEND NORTH BEYOND THE NORTH AVENUE JETTY LIGHT (41-55 N, 087-36 W) OR SOUTH BEYOND THE ADLER PLANETARIUM DOME (41-52 N, 087-35 W).

IF THE VESSEL IS AWAY FROM THE DOCK, OR PASSENGERS ARE ONBOARD OR HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING 10 HOURS IN A 24-HOUR PERIOD, AN ALTERNATE CREW SHALL BE PROVIDED.

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at Warren, RI, the Officer in Charge, Marine Inspection, Sector Southeastern New England certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This certificate issued by:  <b>P. R. LATTANZI, CDR, USCG</b>  Officer in Charge Marine Inspection  Sector Southeastern New England  Inspection Zone
Date	Zone	A/P/Q	Signature	
5/21/12	1	1	[Signature]	
7/11/12	1	1	[Signature]	
-	-	-	-	
-	-	-	-	



Department of Homeland Security  
United States Coast Guard

## *Certificate of Inspection*

Certification Date:  
20Jul2010

LINNEA

\*Fire Extinguishers - hand portable and semi-portable\*

Qty

Class Type

1

B-I

2

B-II

\*\*\*END\*\*\*



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 20 Apr 2011  
Expiration Date: 20 Apr 2016  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Vessel Name <b>OUILMETTE</b>	Official Number <b>1110462</b>	Call Sign <b>WDB2591</b>	Service <b>Passenger (Inspected)</b>			
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>Steel</b>	Horsepower <b>235</b>	Propulsion <b>Diesel Reduction</b>			
Place Built <b>WARREN, RI UNITED STATES</b>	Delivery Date <b>15 Jun 2001</b>	Date Keel Laid <b>01 Aug 2000</b>	Gross Tons <b>R-43</b>	Net Tons <b>R-34</b>	DWT <b>24</b>	Length <b>R-85</b>
Owner <b>WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO, IL 60611 UNITED STATES</b>	Operator <b>WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO, IL 60611 UNITED STATES</b>					

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.

1 Master	0 Master & 1st Class pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seamen/ROANW	0 1st Asst. Engr/2nd Engr.	0 Oilers
0 2nd Mate/OICNW	1 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	2 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr.	

In addition, this vessel may carry 202 passengers, 1 other persons in crew, 0 persons in addition to crew, and no others.  
Total persons allowed: 207

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

LAKE MICHIGAN UNDER THE FOLLOWING CONDITIONS:

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER NOT MORE THAN TWENTY (20) NAUTICAL MILES FROM A HARBOR OF SAFE REFUGE.

DURING COLD WATER MONTHS OF 01 OCTOBER TO 14 JUNE NOT MORE THAN THREE (3) NAUTICAL MILES FROM SHORE.

VESSEL'S RAILING DODGER MUST REMAIN IN PLACE WHILE PASSENGERS ARE ON BOARD.

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at Chicago, IL, the Officer in Charge, Marine Inspection, Marine Safety Unit Chicago certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This Amended certificate issued by:  JASON D. NEUBAUER, CDR, USCG, BY DIRECTION Officer in Charge, Marine Inspection Marine Safety Unit Chicago Inspection Zone
Date	Zone	A/P/Q	Signature	
30 Apr 2012	MSU Chicago	A	Hambidge, Jack	
-	-	-	-	
-	-	-	-	



Department of Homeland Security  
United States Coast Guard

# Certificate of Inspection

Certification Date:  
20Apr2011

OUILMETTE

## ---Fire Fighting Equipment---

Number of Fireman Outfits/ 0

Number of Fire Pumps/ 2

### \*Hose information\*

Qty	Diameter	Length
1	1.5	50
1	1.5	50

### \*Fixed Extinguishing Systems\*

Capacity	Agent	Space Protected
98	Halocarbon (Formerly: FM 200, FE241)	ENGINE ROOM

### \*Fire Extinguishers - Hand portable and semi-portable\*

Qty	Class Type
2	A-II
1	B-I
2	B-II

## ---Certificate Amendments---

### \*Current Amendment\*

Port Amending/ Marine Safety Unit Chicago

Date Amended/ 26Sep2012

### -Remarks-

Amended COI to reflect new credit dry dock and internal structural exam dates.

1. Port Amending/ MSU Chicago

Date Amended/ 29Feb2012

### -Remarks-

Amended COI to Reflect new Assumed Average Weight Per Person (AAWPP).

\*\*\*END\*\*\*



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 10 May 2010  
Expiration Date: 10 May 2015  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Vessel Name <b>SUNLINER</b>	Official Number <b>285077</b>	Call Sign <b>WT9055</b>	Service <b>Passenger (Inspected)</b>			
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>Steel</b>	Horsepower <b>400</b>	Propulsion <b>Diesel Reduction</b>			
Place Built <b>DUBUQUE, IA UNITED STATES</b>	Delivery Date <b>15Dec1961</b>	Date Keel Laid	Gross Tons <b>R-35 1-</b>	Net Tons <b>R-23 1-</b>	DWT	Length <b>R-62 1-</b>
Owner <b>WENDELLA SIGHTSEEING COMPANY 400 N MICHIGAN AVENUE CHICAGO, IL 60611 UNITED STATES</b>	Operator <b>WENDELLA SIGHTSEEING CO 400 N. MICHIGAN AVE CHICAGO, IL 60611</b>					

**This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.**

1 Master	0 Master & 1st Class Pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seamen/ROANW	0 1st Asst. Engr/2nd Engr.	0 Oilers
0 2nd Mate/OICNW	0 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	1 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr.	

In addition, this vessel may carry 97 passengers, 4 other persons in crew, 0 persons in addition to crew, and no others. Total persons allowed: 103

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

LAKE MICHIGAN UNDER THE FOLLOWING CONDITIONS:

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER WITHIN ONE (1) NAUTICAL MILE FROM SHORE.

DURING COLD WATER PERIOD OF 01 OCTOBER TO 14 JUNE, WITHIN ONE (1) NAUTICAL MILE FROM SHORE, NOT TO EXTEND NORTH BEYOND THE NORTH AVENUE BETTY LIGHT (41-55 N, 087-36 W) OR SOUTH BEYOND THE ADLER PLANETARIUM DOME (41-52 N, 087-35 W).

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at Chicago, IL, the Officer in Charge, Marine Inspection, Marine Safety Unit Chicago certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This Amended certificate issued by:  <b>ROBERT E. BAILEY, CAPT, USCG, BY DIRECTION</b> Officer in Charge, Marine Inspection  <b>Marine Safety Unit Chicago</b> Inspection Zone
Date	Zone	A/P/Q	Signature	
13Jun2011	MSU Chicago	A	Carie, Jeffrey	
01Jun2012	MSU Chicago	A	Lovelace, Glen.	
-	-	-	-	





United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 14 Mar 2012  
Expiration Date: 14 Mar 2017  
IMO Number:

# Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Vessel Name <b>WENDELLA</b>	Official Number <b>1194977</b>	Call Sign <b>WDD5702</b>	Service <b>Passenger (Inspected)</b>		
Hailing Port <b>CHICAGO IL</b>	Hull Material <b>Steel</b>	Horsepower <b>680</b>	Propulsion <b>Diesel Reduction</b>		
Place Built <b>WARREN, RI UNITED STATES</b>	Delivery Date <b>01Mar2006</b>	Gross Tons <b>R-77 I-143</b>	Net Tons <b>R-52 I-76</b>	DWT <b>R-85.5 I-85.5</b>	Length <b>R-85.5 I-85.5</b>
Owner <b>WENDELLA SIGHTSEEING COMPANY INC 405 N WABASH AVE SUITE P2E CHICAGO IL 60611 UNITED STATES</b>	Operator <b>WENDELLA SIGHTSEEING CO 400 N. MICHIGAN AVE CHICAGO IL 60611</b>				

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be  
**0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.**

1 Master	0 Master & 1st Class pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seamen/ROANW	0 1st Asst. Engr/2nd Engr.	0 Oilers
0 2nd Mate/OICNW	1 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	0 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr.	

In addition, this vessel may carry 340 passengers, 0 other persons in crew, 0 persons in addition to crew, and no others.  
Total persons allowed: 344

Route Permitted and Conditions of Operation:

---Rivers plus Limited Great Lakes---

DURING WARM WATER PERIOD OF 15 JUNE TO 30 SEPTEMBER WITHIN ONE (1) NAUTICAL MILE FROM SHORE.

DURING COLD WATER PERIOD OF 01 OCTOBER TO 14 JUNE, WITHIN ONE (1) NAUTICAL MILE FROM SHORE, NOT TO EXTEND NORTH BEYOND THE NORTH AVENUE JETTY LIGHT (41-55 N, 087-36 W) OR SOUTH BEYOND THE ADLER PLANETARIUM DOME (41-52 N, 087-35 W).

IF THE VESSEL IS AWAY FROM THE DOCK, OR PASSENGERS ARE ONBOARD OR HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING TWELVE (12) HOURS IN A TWENTY-FOUR (24) HOUR PERIOD, AN ALTERNATE CREW SHALL BE PROVIDED.

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this inspection for Certification having been completed at Chicago, IL, the Officer in Charge, Marine Inspection, Marine Safety Unit Chicago certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections			
Date	Zone	A/P/Q	Signature
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

This certificate issued by:

**ROBERT E. BAILEY, CDR, USCG, BY DIRECTION**

Officer in Charge, Marine Inspection

**Marine Safety Unit Chicago**

Inspection Zone



Department of Homeland Security  
United States Coast Guard

# *Certificate of Inspection*

Certification Date:  
14Mar2012

WENDELLA

\*Fire Extinguishers - Hand portable and semi-portable\*

Qty	Class Type
3	A-II
1	B-II

\*\*\*END\*\*\*





Department of Homeland Security  
United States Coast Guard

*copy*

## *Certificate of Inspection*

Certification Date:  
09 May 2012

WENDELLA LTD.

\*Current Amendment\*

Port Authority Marine Safety Unit Chicago

Date Amended: 01 Aug 2011

-Remarks-

Extended route from 1 mile to 3 miles from shore for warm water period.

\*\*\*END\*\*\*