

COPY

**LEASE OF PROPERTY AT WEST FERRY BY THE TOWN OF JAMESTOWN TO DUTCH HARBOR BOAT YARD, LLC.**

The Town of Jamestown ("Lessor") agrees to lease approximately 18,000 sq. ft. of real property at the westerly end of Narragansett Avenue in Jamestown, RI to Dutch Harbor, LLC ("Lessee") for boat storage and waterfront uses set forth herein and according to following terms and conditions.

**TERM OF LEASE**

The term of the Lease shall be a seven-year period beginning September 1, 2008 through December 31, 2015. The lessee may exercise an option term for an additional five years according to terms and rent schedule mutually agreeable to both parties.

**RENT**

The Lessee covenants and agrees to pay rent as follows:

Base rent: The initial annual rent shall be thirteen thousand dollars (\$13,000.00) payable on February 15<sup>th</sup>. The rent shall be payable at the office of the Lessor or at such other place as the Lessor may designate in writing. In each successive year, the annual rent payment shall increase by an additional \$500.00. Payment for the final year of the lease shall be prorated at .875 of the total amount due to reflect ten and one-half months of use (February 15<sup>th</sup> to December 31<sup>st</sup>).

Other fees: Lessee shall pay to Lessor one half (1/2) of the fees collected from the operation of the West Ferry Outhauls on the Lessor's property and shall be payable on September 15<sup>th</sup>.

**USE OF DEMISED PREMISES**

Lessee uses the demised premises for boat storage. Lessor agrees not to reduce the area available for boat storage as the same is described in "Exhibit A" during the term of this lease.

Lessee uses demised premises for boat storage following Labor Day of each year. However, no more than 50% of the leased premises may be occupied with prior to September 22<sup>nd</sup>. Lessee shall remove all stored boats from the demised property by June 14<sup>th</sup>.

## **CARE AND MAINTENANCE OF PREMISES**

### **Lessee's Responsibilities**

- 1) Lessee shall commission the existing Town of Jamestown docks and gangways in no later than May 15<sup>th</sup> and decommission the existing Town of Jamestown docks and gangways no later than November 15<sup>th</sup>. Any additional commissioning or decommissioning other than as stated above shall be done by Lessee and Lessee shall invoice Lessor for the same.
- 2) If a storm is imminent, Lessee shall decommission the pumpout station and touch & go docks upon notice from the Town Administrator, the Jamestown Harbor Management Commission Chairman, or the Town Council President of the Town of Jamestown.
- 3) Lessee shall be responsible for one half (1/2) of the cost of the trash removal for the months of May, June, July, August, and September.
- 4) Lessee shall be responsible for the entire cost of the trash removal for the months of October, November, December, January, February, March, and April.
- 5) Lessee shall supervise and manage the pumpout facility when a boater requires assistance.
- 6) Lessee shall be responsible for the care and maintenance of the West Ferry Wharf surface including demised premises "Exhibit A".

### **Lessor's Responsibilities**

- 1) Lessor shall be responsible for repairs and maintenance to the Town of Jamestown docks, gangways, outhauls, and pump out facility.
- 2) Lessor shall be responsible for one half (1/2) the cost of the trash removal for the months of May, June, July, August, and September.
- 3) Lessor shall be responsible for the provision of pay phone service.
- 4) Lessor shall be responsible for all maintenance, repairs, and replacement of pilings, revetments, and bulkheads.
- 5) Lessor shall be responsible for all major capital improvements as the same may be recommended by the Jamestown Harbor Management Commission and approved by the Jamestown Town Council.

### **FEES**

- 1) West Ferry dinghy rental space fees shall be established by the Jamestown Harbor Management Commission by February 15<sup>th</sup>. The fees collected by the Lessee from the dinghy rental space shall be retained by Lessee.
- 2) West Ferry Outhaul fees shall be established by the Jamestown Harbor Management Commission by February 15<sup>th</sup>. The fees for said outhauls shall be collected by Lessee. Lessee shall retain fifty percent (50%) for managing said outhauls and costs incurred by Lessee to commission and decommission the town docks and gangways. Lessee shall pay

- Lessor the other fifty percent (50%) of the outhaul fees collected on Lessor's property by September 15th.
- 3) Lessee shall be responsible for administering the West Ferry Outhaul rentals on Lessor's property and administering an outhaul list on a first come/first serve basis for Jamestown residents, and if exhausted, an outhaul wait list on a first come/first serve basis for non-residents of Jamestown.

### **PUMP OUT STATION**

Lessee shall supervise and manage the pump out facility when a boater requires explanation. Lessee shall only be allowed to tie in to the existing sewage line upon the granting of the appropriate approvals and permits and the payment of all applicable fees.

### **ALTERATIONS**

Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, in, to, or on demised premises.

### **ORDINANCES AND STATUTES**

Lessee shall comply with all statutes, ordinances, and requirements of all municipal, state, and federal authorities now in force, or which may hereafter be in force, pertaining to the demised premises, occasioned by or affecting the use thereof by Lessee.

### **ASSIGNMENT AND SUBLETTING**

Lessee shall not assign this lease or sublet any portion of the demised premises without the prior written consent of the Lessor. Any such assignment or subletting without consent shall be void and, at the option of the Lessor, may terminate this Lease.

### **ENTRY AND INSPECTION**

Lessee shall permit Lessor or Lessor's agents to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this lease, if not renewed, to place upon the premises any usual "For Lease" signs, and permit persons desiring to lease the same to inspect the premises thereafter.

## **INDEMNIFICATION OF LESSOR**

Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property occurring on the demised premises or any part thereof, unless any damage or injury occurs as a direct result of an act or omission of Lessor. Lessee agrees to hold Lessor harmless from any claim for damages.

## **PUBLIC LIABILITY INSURANCE**

Lessee shall, at its own expense, obtain and maintain in continuous effect during the term of this lease, a policy or policies of insurance with such company or companies satisfactory to Lessor, insuring against public liability on the demised premises, in amounts not less than one million (\$1,000,000.00) dollars per person, and two million (\$2,000,000.00) dollars per accident, and against property damage in an amount of not less than one hundred thousand (\$100,000.00) dollars. The Lessor shall be named as an insured in such insurance. Said insurance shall not be cancelable, except upon thirty (30) days' written notice to the Lessor.

## **DESTRUCTION OF PREMISES**

In the event of partial destruction of the demised premises, during the term hereof, from any cause, Lessor may elect to repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the premises. In the event that repairs cannot be made within sixty (60) days, Lessor, may, at its option, either make the repairs within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, or terminate the Lease.

## **LESSOR'S REMEDIES ON DEFAULT**

If Lessee defaults in the payment of rent, or any additional fees, or defaults in the performance of any of the other covenants or conditions hereof, Lessor shall give Lessee notice of such default and, if Lessee does not cure any such default within thirty (30) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within that period, if Lessee does not commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this lease. On the date specified in such notice the term of this Lease shall be terminated and Lessee shall then quit and surrender the demised premises to Lessor. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the demised premises by any lawful means and remove Lessee or other occupants and their effects. If the

Lessee shall be declared insolvent according to law, or if a receiver or other similar officer shall be appointed to take charge of the Lessee's property, or a substantial part thereof, then, and in each of the said cases, the Lessor lawfully may (notwithstanding any license of any former breach of covenant or waiver of the benefit hereof or consent in a former instance) immediately or at any time thereafter while such default or other situation as aforesaid continues, and without further demand or notice, enter into and upon the demised premises or any part thereof in the name of the whole and repossess the same and expel the Lessee and those claiming through or under the Lessee and remove its effects, at Lessee's expense, without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant; and upon entry as aforesaid, this Lease shall terminate, and the Lessee shall remain obligated for all rental monies due for the remainder of the term. No failure to enforce any term of this Lease shall be deemed a waiver.

### **LESSEE'S REMEDIES ON DEFAULT**

If Lessor defaults in the performance of any of the covenants or conditions hereof, Lessee shall give Lessor notice of such default and, if Lessor does not cure any such default within thirty (30) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within that period, if Lessor does not commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessee may withhold rent payments and apply the same to the same for repairs and maintenance to the pilings, revetments, and bulkheads that are the responsibility of Lessor hereunder.

### **ATTORNEY'S FEES**

In case suit should be brought for the recovery of the demised premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the demised premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.

**ENTIRE AGREEMENT**

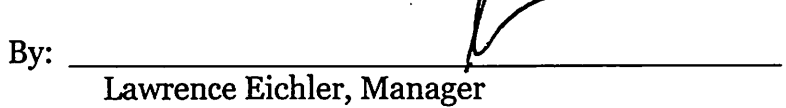
The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

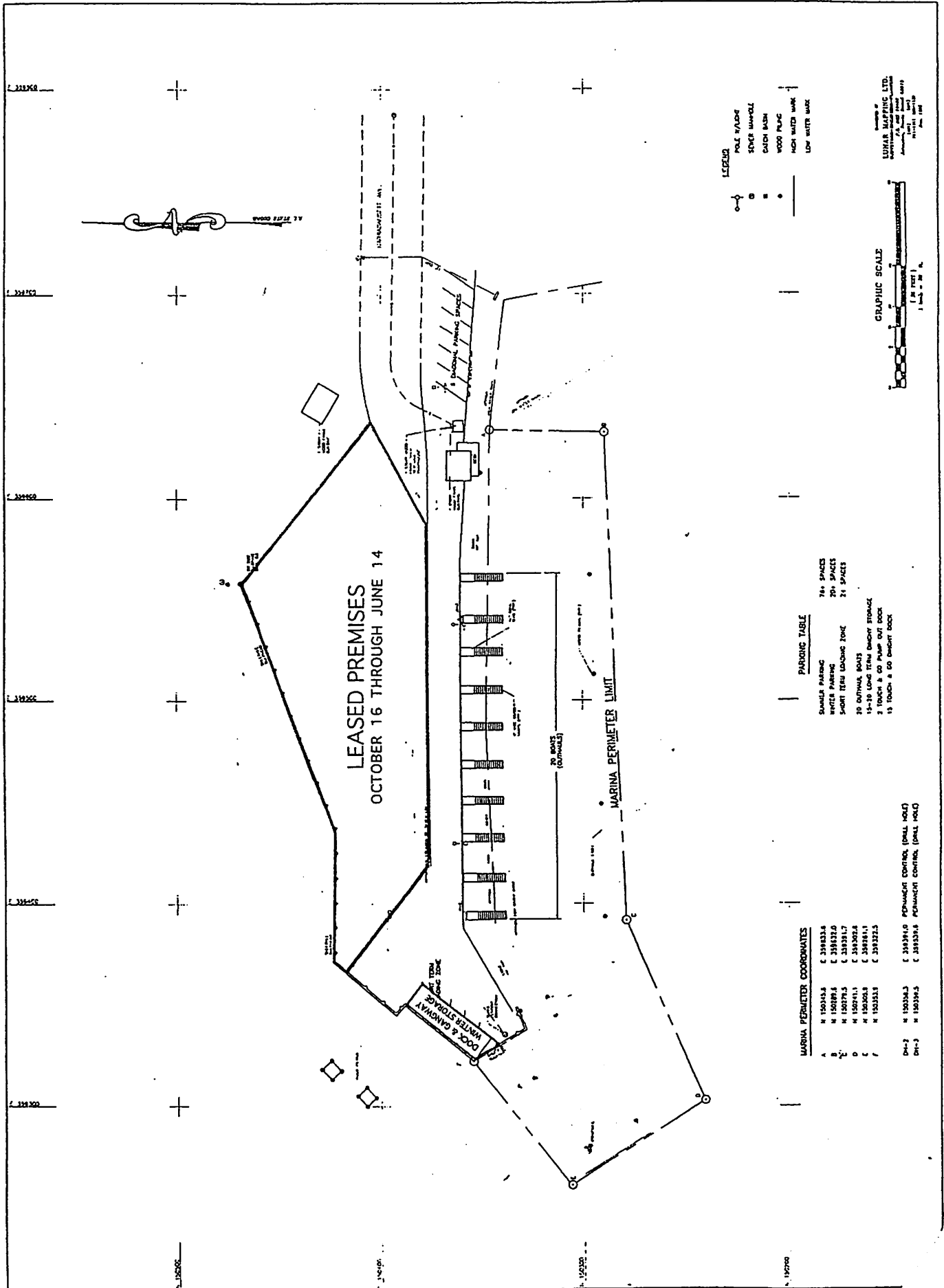
IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS LEASE IN TRIPLICATE ON THE DATE FIRST ABOVE WRITTEN.

Town of Jamestown

By:  \_\_\_\_\_  
Town Administrator

Dutch Harbor, LLC

By:  \_\_\_\_\_  
Lawrence Eichler, Manager



LEASED PREMISES  
OCTOBER 16 THROUGH JUNE 14

MARINA PERIMETER LIMIT

- LEGEND
- POLE SIGN
  - SHORT TERM SIGNAGE
  - WOOD SIGN
  - WOOD SIGN
  - HIGH WATER MARK
  - LOW WATER MARK

GRAPHIC SCALE  
1" = 20'

PARKING TABLE

SMALLER PARKING	76 SPACES
WHEEL PARKING	201 SPACES
SHORT TERM SIGNAGE ZONE	21 SPACES
30 OUTRIGER BOATS	
15-20 LOAD TRAILER BATTERY STORAGE	
2 TOUCH & GO PUMP OUT DOCK	
15 TOUCH & GO BERTH DOCK	

MARINA PERIMETER COORDINATES

A	N 150315.8	E 318323.4
B	N 150287.6	E 318322.0
C	N 150274.5	E 318317.7
D	N 150241.1	E 318302.4
E	N 150202.8	E 318281.1
F	N 150152.1	E 318252.5

D-12 N 150324.3 E 318321.0 PUMP/OUT CONTROL (DECK HOLD)  
D-13 N 150324.5 E 318321.6 PUMP/OUT CONTROL (DECK HOLD)

10/20/09