COR/2016/01139

April 11, 2016

RE: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File: TW/019/2016)

On March 11, 2016, the Department of Transportation and Works received your request for access to the following records/information:

   Any requests for proposals or tenders issued for ferry contracts that expire Mar 31 2016

Please note as we discussed on March 17, 2016, the above access to information request was narrowed to information regarding the Rencontre East Route.

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Transportation and Works to provide access to some of the requested information. In particular, access is granted to the following records:

1. Extension letter for M.V. Northern Seal (Rencontre East/Pool’s Cove).
2. CPI increase letter for Rencontre East Ferry Service.
4. Addendum No. 1 and Addendum No. 2 for Rencontre East – Bay L’Argent – Pool’s Cove Ferry Service.

Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

40. (1) – The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

P.O. Box 8700, St. John’s, NL, Canada, A1B 4J6
As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL A1B 3V8  
Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact the undersigned by telephone at (709) 729-5351 or by e-mail at FrankWalsh@gov.nl.ca.

Sincerely,

Frank Walsh  
ATIPP Coordinator  
Department of Transportation and Works  
Enclosures
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person's health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit, or
(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.
(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.
Access or correction complaint

42.(1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.
Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).
TW/019/2016

Rencontre East Ferry Service

Table of Contents:

1. Responsive Document – Extension Letter for M.V. Northern Seal
2. Responsive Document – CPI Increase for Rencontre East Ferry Service
4. Responsive Document – Addendum No. 1 and Addendum No. 2
COR/2016/00024

Norcon Marine Services Ltd
3 Wharf Road
Clarenville, NL
A5A 2B2

Dear [Name],

Re: Extension of Contract for M.V. Northern Seal (Rencontre East/Pools Cove)

This letter is official notification that the Department of Transportation and Works will be exercising its option for Renewal, per article 2b of the contract, to renew this agreement to March 31, 2017.

The daily rate for the extension will be in accordance with Section B of the tender form. All other terms and conditions remain the same.

I would like to thank you for the service to date and I look forward to a continuation of the same for the remainder of the contract. Please feel free to contact me on any aspect of the contract's extension.

Sincerely,

MAXWELL HARVEY
Assistant Deputy Minister (Marine)

cc: Shawn Marshall Director of Operations
    Robyn Bursey, Manager of Corporate Service
August 6, 2015

Norcon Marine Services Ltd.
3 Wharf Road
Clarenville, NL
A5A 2B2

Subject: Bay L'Argent – Rencontre East – Pool's Cove

Please be advised that the CPI increase for the ferry service for Bay L'Argent – Rencontre East Pool's Cove is 0.8%.

"During the term of the contract, the Vessel Daily Rate will be increased by the average CPI (St. John's) or 3%, whichever is the lesser, annually on the anniversary date of commencement."

The existing rate is $5,487.00. Effective June 15, 2015 this rate will be increased by 0.8% ($44.58) and will be $5,531.58. This rate will be remain in effect from June 15, 2015 to March 31, 2016.

Please feel free to contact me on any aspect of this CPI increase.

Robyn Bursey
Corporate Services Manager

Shawn Marshall, Director of Operations
Harold Tobin, Manager of Contract Services
Maxwell Harvey, Assistant Deputy Minister
Stephen Moss, Contract Compliance Officer
TRANSPORTATION AND WORKS

TENDER BOOK

TENDER NO. 12-14 POF

Closing Noon: April 30, 2014

RENCOUNTER EAST – BAY L’ARGENT – POOL’S COVE FERRY SERVICE

GOVERNMENT OF NEWFOUNDLAND AND LABRADOR
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7. FERRY SCHEDULE
8. GENERAL CONDITIONS
9. DEFINITIONS
10. FORM OF AGREEMENT
NOTICE TO TENDERERS

1. THE CLOSING TIME AND DATE OF THIS TENDER IS AS INDICATED ON THE COVER OF THIS DOCUMENT OR AS AMENDED BY THE DEPARTMENT. THE TENDER OPENING WILL TAKE PLACE IMMEDIATELY AFTER AT TENDERING & CONTRACTS.

2. Tenderers are advised the FAX NUMBER at Tendering and Contracts is 709-729-6729.

3. Tenderers must legibly complete the Tender Form of the Tender Document in its entirety before submitting their tender.

4. Schedule of Minimum Wage Rates applying to this Contract shall be the latest version approved by the Government of Newfoundland and Labrador.

5. Tenderers must include with each tender the required Tender Security as indicated in the Tender Documents.

6. Tenderers must identify the vessel being tendered with each tender, including details of the Vessel’s specifications.

7. Any inquiries regarding this Tender Document shall be directed to:

Mr. Shawn Marshall, Director of Operations (A)
Department of Transportation and Works
P.O. Box 97, Lewisporte, NL A0G 3A0
(709) 535-6224  (709) 535-6245

8. Tenderers are advised when making each tender the COMPLETE TENDER FORM for the Service being tendered MUST BE RETURNED. An altered Tender Form originally issued for another tender will not be accepted as a tender.

9. Your tender submission must also include all other requirements as identified in this Tender Document.

10. It is the responsibility of tenderers to ensure that they have received all relevant information and addenda. The Department shall not be responsible for tenderers who fail to inform themselves regarding the scope and nature of the Work.
INSTRUCTIONS TO TENDERERS
INSTRUCTIONS TO TENDERERS

1. TENDER SUBMISSION

Tender responses are to be submitted in a sealed package clearly identifying the Tender Number and the Tender Name as shown on the Tender Form. The name and address of the Tenderer and the closing time and date must be shown on the envelope.

Tenders shall be addressed and delivered as follows by the Tenderer (hand, mail, or courier) and received no later than the exact closing time.

Deputy Minister
c/o Tendering and Contracts
Department of Transportation and Works
Ground Floor, West Wing Confederation Bldg., East Block
P.O. Box 8700, St. John’s, NL A1B 4J6

Tenders submitted via facsimile transmission are not acceptable and shall not be considered. Tenderers must provide the original tender security as specified; a faxed copy of the tender security is not acceptable.

Tenders received after the tender closing time shall not be considered.

The Form of Agreement is included in the Contract Documents at the time of tendering for the purpose of information to Tenderers and shall not be completed at the Time of Tendering. Before submitting a Tender, tenderers shall carefully examine the Contract Documents and the proposed Service and fully inform themselves of the existing conditions and limitations. No subsequent allowance under the Contract Documents will be considered for any Tenderer who had failed to become familiar with all aspects of the Work. The Owner will not defray any expenses incurred by the tenderers in the preparation and submission of their tenders.

2. TENDER CLOSING

The tender closing time is as per the time and date on the cover of this document or as amended by the Department. Tenders will be publicly opened at the Department Board Room immediately after the tender closing time.
3. **TENDER FORM**

   a) Tenders shall be submitted on the Tender Form included herewith.

   b) The Tender Form must be completed in its entirety and must be legible.

4. **TENDER SECURITY**

   a) A Tender Security in the amount of $20,000.00 (Canadian Funds) shall accompany each tender. This security shall be in the form of either:

      i) A bid bond (original only) in proper form and issued by a Surety Company licensed to do business in the Province of Newfoundland and Labrador; or

      ii) A certified cheque, money order, bank draft or irrevocable letter of credit from a recognized financial institution registered to do business in the Province of Newfoundland and Labrador, made in favour of, or made payable to, the Newfoundland and Labrador Exchequer.

Cash shall not be accepted as a form of tender security.

b) The Tender Security shall be forfeited to and become the property of the Department at its discretion if the potential successful tenderer, determined in accordance with the Public Tender Act and the terms of this Tender Document, fails to execute the Form of Agreement within the 14 days after having been issued a Letter of Acceptance or fails to provide the required Commencement and Performance Securities within the period specified.

c) The Department’s rights respecting the tender security shall be in addition to, and not in substitution for or limitation of, any other rights it may have as a result of the default of a tenderer.

d) Tender Securities of unsuccessful tenderers shall be returned upon expiration of the Tender Validity Period as defined under this Tender Document. The Tender Security shall be returned to the successful tenderer following receipt by the Department of the Commencement and Performance Securities and other requisite documentation and after the execution of the Form of Agreement.
5. **TENDER DOCUMENTS**

a) The Tender Documents consist of the Tender Title Page, Table of Contents, Notice to Tenderers, Instructions to Tenderers, Tender Form, Supplementary General Conditions, Ferry Schedule, General Conditions, Definitions, Form of Agreement and any Amendments to the Contract Documents issued during the tender period.

b) Every interpretation of or addition to the Contract Documents to be considered a valid part of the Contract Documents will be issued in the form of a written addendum.

c) No addendums will be issued less than five (5) days prior to the closing date of the Tender.

6. **UNACCEPTABLE TENDERS**

The following shall be considered as unacceptable and shall not be considered:

i) Tenders received after the tender closing time;

ii) Electronically submitted or e-mailed tenders;

iii) Facsimile tenders subject to the provisions and exceptions of Clause 8;

iv) Tenders not accompanied by the required tender security;

v) Tenders containing qualifications, conditions or clauses additional to the Tender Form; or

vi) Tenders not submitted on the Tender Form provided.

7. **DEFECTIVE TENDERS**

Incomplete tenders may be rejected if, in the opinion of the Department, the defect is material. Tenderers hereby acknowledge and agree, by submitting a tender, that the Department's determination of whether a defect is material is final, with respect to either its tender or the tender of any other tenderer, and shall not be made the subject of judicial review.
8. AMENDMENT TO/WITHDRAWAL OF TENDERS

Amendments to a Tender will be permitted up to the Tender Closing Time. Amendments documented by facsimile shall be acceptable. Amendments shall be signed by a signing officer who signed the Tender Form or an authorized company representative. Facsimile amendments shall be made to fax #: (709) 729-6729 Tendering and Contracts. No amendments to the Tender submission shall be permitted subsequent to Tender Closing.

Tenders may be withdrawn without penalty by written request, signed by a company representative or by the Tenderer indicated on the Tender Form, if received prior to the Tender Closing.

9. ADDITIONS, DELETIONS AND ADDENDA

a) Any changes to this Tender Document shall be issued to all those whose names and addresses are registered as recipients of this Tender Document.

b) During the tendering period, any required additions or amendments to, deletions from, or alterations to this Tender Document shall be issued in the form of an addendum. All such addenda shall become a part of this Tender Document.

c) The onus is on the Tenderer to ensure that all addenda issued during the Tendering period, including addenda bound into this Tender Document, have been received by contacting Tendering and Contracts prior to tender submission. The Department of Transportation and Works shall not be responsible to verify that Tenderers have received all addenda. Tenderers who fail to inform themselves of the full requirements and scope of this Tender Document do so entirely at their own risk.

10. ACCEPTANCE OF TENDERS

a) The Department may reject any and all tenders and the lowest or any tender shall not necessarily be accepted. The Department reserves the right to not proceed further following the release of the Tender Document or to cancel the tender process at any time thereafter. The Department shall not be bound to consider, process, or accept any submission or tender whatsoever and notwithstanding the evaluation criteria provided herein, may choose to reject any or all submissions or tenders which it receives in response to this Tender Document at its sole, unfettered and absolute discretion. The Department shall not be liable to defray the costs of any tenderer as a result of its exercise of its rights under this section.
Instructions to Tenderers:

Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

b) Tenders shall be irrevocable and remain in effect for a period of sixty (60) days (the "Tender Validity Period") from the Tender closing date and time regardless of whether or not another tender is accepted in the meantime.

c) The Department shall notify the potential successful tenderer of the intent to enter into a Contract through issuance of a Letter of Acceptance within the tender validity period. The Department reserves the right to set such conditions precedent as it deems necessary in any Letter of Acceptance, which the Contractor shall be required to comply with prior to any Contract coming into effect.

d) Within fourteen (14) days of the award of the Contract by Letter of Acceptance the successful tenderer shall execute the Form of Agreement.

11. HST EXEMPTION

Tenderers are advised that Government is not exempt from the Harmonized Sales Tax (HST). The price quoted by a tenderer on the Tender Form shall not include the HST. HST will be added at the invoicing stage.

12. IDENTIFICATION OF VESSEL TO BE PROVIDED

Each Tender Form must specify the Vessel to be provided and the successful tenderer must provide that specified Vessel. A tenderer wishing to offer more than one vessel shall submit a separate tender together with the requisite securities and documentation for each such vessel. Tenderers shall provide all relevant vessel data including General Arrangement Drawings and a Transport Canada Survey printout if issued. Tenderers must provide verification of main propulsion fuel consumption (litres per hour) rates.

13. COMPLIANCE WITH TENDER REQUIREMENTS

Before accepting any tender or entering into an Agreement, the Department will inspect the Vessel and will require verification, to the satisfaction of the Department that the Vessel conforms, or by the scheduled commencement date will conform, to the requirements specified in this Tender Document.

14. TENDER EVALUATION

Tenders will be evaluated using the Total Combined Daily Rate on the Tender Form, in addition to the ability of the Vessel tendered to meet the specifications set forth in this Tender Document.
15. INQUIRIES DURING TENDERING

Requests for further clarification of this Tender Document shall be made in writing to the contact person as identified in Notice to Tenderers.

Inquiries regarding this Tender Document shall be received not less than ten (10) days prior to the tender closing date to allow sufficient time to provide a response. Inquiries received after this date will not be addressed.

To ensure consistency and quality in the information provided to tenderers, Tendering and Contracts will provide, by way of amendment to this Tender Document in the form of an addendum to all Tenderers who are registered as recipients of the Tender Documents, any relevant information with respect to tender inquiries received in writing without revealing the source of those inquiries. No interpretations or explanations shall be considered part of this Tender Document or shall be binding on the Department unless issued as addenda in writing. It is the responsibility of Tenderers to ensure they receive all addenda relative to this Tender Document. The Department shall not be responsible for or liable to Tenderers who fail to inform themselves regarding the scope and nature of the Work.

Proprietary information identified as such by the Tenderer shall be reasonably protected from release; however, the Department accepts no liability for exposure or release of proprietary information. Tenderers are cautioned and reminded that the Department is subject to the terms and conditions of the Access to Information and Protection of Privacy Act and any successor legislation.

Verbal responses to any inquiry are not binding on either party.

16. ATLANTIC PROCUREMENT AGREEMENT

Acquisitions within the defined thresholds will be subject to the terms and conditions of the Memorandum of Agreement, Reduction of Interprovincial Trade Barriers, Government Purchasing (“The Atlantic Procurement Agreement”).
TENDER FORM
TENDER FORM

TENDER # 12-04 POF

TENDER FOR: Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

TENDER FROM: Norcon Marine Services Ltd

To: Deputy Minister
c/o Tendering and Contracts
Department of Transportation and Works
Ground Floor, West Wing Confederation Bldg., East Block
P.O. Box 8700, St. John’s, NL A1B 4J6

THE UNDERSIGNED

A) Offers to supply and operate the Vessel M.V. Northern Seal (insert name of specified Vessel) for the Service described in this Tender Document.

B) Vessel Daily Rate

Tenders the following Vessel Daily Rate for provision of the Passenger/Freight Service (exclusive of fuel which will be paid by the Department and HST) described in this Tender Document for the period June 15th, 2014 to March 31, 2016, inclusive.

\[
\text{YEAR 1: VESSEL DAILY RATE } \frac{\$487.00}{\text{(Daily Rate)}} \times 365 \text{ DAYS} = \frac{\$2,002,755.00}{\text{(Forward to Part "D")}}
\]

(DURING THE TERM OF THE CONTRACT, THE VESSEL DAILY RATE WILL BE INCREASED BY THE CHANGE IN AVERAGE CPI (ST. JOHN’S) OR 3%, WHICHEVER IS THE LESSER, ANNUALLY ON THE ANNIVERSARY DATE OF COMMENCEMENT.)

This rate is exclusive of fuel costs for main propulsion and HST.

HST shall be added at the invoicing stage.
C) Calculation of Daily Fuel Costs (for evaluation purposes only)

<table>
<thead>
<tr>
<th>(A) Main Propulsion Fuel Consumption (litres/hour)</th>
<th>(B) Average Operating Hours per Day (hours)</th>
<th>(C) Cost of Fuel per Litre Allowance for Vessel Main Propulsion ($/litre)</th>
<th>(D) Average Daily Cost of Fuel for Main Propulsion ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>200 L/hr</td>
<td>X 7.2 hrs</td>
<td>X $1.40/L</td>
<td>= $2,016.60 (Forward to Part D)</td>
</tr>
</tbody>
</table>

The information provided in this table forms a part of the basis for the evaluation and award of this tender.

**Main Propulsion Fuel Consumption (litres/hour)** is the average hourly fuel consumption, steaming under power from dock to dock, of the vessel’s main propulsion engines operating in accordance to the weekly service schedule over the yearly operating season. Fuel costs for generators, etc. not required for main propulsion shall be included in the Vessel Daily Rate in Part B of the Tender Form. In addition to the consumption rate in (A), bidders are to indicated how the rate is to be calculated, eg. Speed, RPM, HP.

**Average Operating Hours per Day (hours)** is the average hours per day the Vessel is steaming under power from dock to dock, to operate in accordance to the weekly service schedule over a yearly operating season.

Contractors are advised, in assessing the tender of any tenderer, the Department may but shall not be obligated to, verify by means of an independent Naval Architect acting reasonably, that the rate provided in the tender for the Main Propulsion Fuel Consumption (litres/hour)- (A) applied together with the Average Operating Hours per Day (hours)- (B) for the Vessel, is fair and reasonable. The Contractor must satisfy the Department that the submitted information for the Vessel operating in accordance to the service schedule of this Tender Document is fair and reasonable.

Actual sea trial testing and evaluation may be requested of the Contractor to verify the submitted information. If the information submitted in the Tender Form is not considered fair and reasonable, then the Tender Submission shall be rendered as non-compliant and disqualify the tender submission from further consideration. The Department's determination of whether this defect is material is final and shall not be made the subject of judicial review.
D) Cost of Yearly Operating Season

Daily Rate $\frac{5161}{100} \times 365$ Days = $2027.5$ Per Yearly Operating Season

This rate is exclusive of HST. HST shall be added at the invoicing stage.

The number of operating days in the operating season is assumed for the purpose of this calculation to be 365 days; the actual length of the operating season may prove to be lesser.

E) Cost of Fuel per Round Trip

$1200$

F) Volume of Fuel per Round Trip

$800$ litres

G) Total Cost per Round Trip outside Normal Operating Hours, including direct incremental labour cost.

$2500$

H) Acknowledges receipt of the following addenda:

None or,

# 1, dated $24, 2014$

# 2, dated $25, 2014$

# ______, dated.
Tender Form:
Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

EXECUTION BY THE TENDERER

Norcon Marine Services Ltd

Name of Tenderer (Person or Firm)

3 Wharf Rd

Address

Clarenville, NL

Postal Code

W5A 2B2

Fax Number

s. 40(1)

E-mail

g-the burry group.com

s. 40(1)

Witness

s. 40(1)

Signature

s. 40(1)

Name & Title (Print)

s. 40(1)

Signature

Name & Title (Print)

s. 40(1)

Corporate Seal
SUPPLEMENTARY GENERAL CONDITIONS
SUPPLEMENTARY GENERAL CONDITIONS

1. GENERAL

In Fortune Bay there is a requirement to service the community of Rencontre East with a passenger/freight Vessel from the communities of Bay L’Argent and Pool’s Cove. Further details of the Service will be provided as described in the Contract Document.

The Contractor is required to ensure that its Vessel can safely dock at each of the required ports and is also responsible for the loading and off-loading of freight at each of the ports.

2. THE TERM/RENEWAL

a) The Contract will provide for the supply and operation of a passenger/freight Vessel (the "Vessel") for the period of commencement on June 15th, 2014 to March 31, 2016, inclusive.

b) Upon the giving of a 60 day written notice to the Contractor, prior to the expiry of the present Agreement, the Department, at the Department’s sole discretion, has the option to renew this Agreement for up to a further one (1) year period on an annual basis or any part thereof. The renewal is on the same terms and conditions as apply to this Agreement, except as to the renewal option. The Department may exercise such unused renewal period as may remain of the one (1) year renewal period even though it has exercised renewal rights in the first instance for a lesser period, upon the giving of a further 60 day written notice to the Contractor.

3. THE SERVICE

a) The Operator is responsible for the delivery of the ferry service on the assigned runs. This includes meeting schedule service as well as liaising with ferry user groups and other stakeholders to ensure the safe, reliable and sustainable delivery of the marine transportation on the run, with a courteous, client-focused approach to the travelling public.

Contractors are to take the lead in communication with the public regarding service issues, and, in cooperation with the Department, be responsible for the public communication and outreach concerning service delays and schedule changes.

The Vessel shall operate in accordance with the Schedule within the Tender Documents. The Ferry Service shall provide for the expeditious transportation of passengers and freight to the maximum certified capacity of the Vessel. Subject to
the statutory requirements for a passenger carrying Vessel, all traffic offered is to be accepted within the limitations of the Vessel and at the discretion of the Master.

b) Payment shall be made at the Vessel Daily Rate provided in the Tender Form. The tender amount shall include, but is not limited to, all applicable taxes, royalties, custom duties, foreign exchanges, transportation, travelling costs, all overhead and profits, fringe benefits, all coordination fees, insurance premiums and all other relevant charges to the Tenderer. Harmonized Sales Tax (HST) payable by the Department shall not be included in the submitted price. HST shall be applied at the invoicing stage.

c) If the Vessel is ready and available to complete a scheduled trip but is prevented from doing so by weather conditions, then the Contractor shall be credited with having made that trip and payment made accordingly. If the scheduled service is missed due to weather, the Department reserves the right to provide additional service if necessary to clear any backlogs at no additional cost. When additional trips are made, outside of the normal operating hours for that day, the Contractor will be compensated for the Total Cost per Round Trip outside Normal Operating Hours.

d) The Vessel is to be positioned at Rencontre East, outside of scheduled operating times, in a state of readiness to provide ‘emergency’ and/or ‘special’ trips.

e) The Vessel Daily Rate will be applied to all scheduled operating days. The schedule includes a ‘lay day’ for which the Vessel Daily Rate will apply. The Contractor must have the Vessel available to operate on the lay day if the Department so requests. If the Contractor operates, on a lay day, outside of the previous days schedule the Contractor will be compensated for the Total Cost per Round Trip outside Normal Operating Hours.

f) In the event of dispute between the parties to this Agreement as to their rights and obligations thereunder, the Contractor shall carry out the Ferry Service in accordance with the direction and decision of the Department until such dispute shall have been resolved.

g) In accordance with Transport Canada requirements, the Contractor shall ensure that an accurate passenger count is taken before each departure and that this information is either communicated to a designated person ashore or otherwise deposited in a box located on the wharf that would be accessible in case the information is needed for emergency purposes. It is the Contractor’s responsibility to ensure compliance with this Transport Canada requirement.
4. **CHANGES TO THE SCHEDULE**

The Department may make changes to the Schedule within the Tender Documents, including ports of call. If a schedule change does not cause the Vessel to operate outside of the working hours of the original schedule, there will be no change in the Vessel Daily Rate but otherwise the Contractor will be compensated any direct incremental costs for any resulting increase in expense that is accepted by the Department. The Department reserves the right to request verification of any such increase and the Contractor shall be bound to provide proof thereof.

5. **THE VESSEL**

The Vessel shall meet the following requirements:

a) Full certification of Transport Canada is required for operation of the Service.

The Vessel must be certified for Near Coastal II voyages as a passenger Vessel for the Service noted.

The Vessel must comply with all Transport Canada Marine Safety Directorate requirements. Such compliance must be in effect, or the Department must be satisfied that it will be in effect prior to the commencement date for the Service.

The Contractor must supply a current copy of the passenger vessel certificates and all associated S17 lists to the Department prior to entering into and throughout the Agreement.

The Vessel must be fully certified to transport a minimum of 30 passengers.

The Vessel shall be fitted with well maintained, clean and comfortable passenger areas, both inside and outside, free of excess vessel’s noise, smell, and emissions.
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The inside passenger area shall have a minimum of 30 seats. The seating arrangement must provide for adequate passenger comfort. The lounge area shall be well ventilated and include port lights/windows, have at least two exits with a quick and safe route to the survival crafts, and a dry, secure area for passenger carry-on luggage and mail storage separate from the passenger seating area.

The outside passenger area shall have a minimum of 15 seating places.

b) The Vessel shall have separate male and female washrooms which are separate from the crew washrooms. The washrooms shall be well ventilated and adequately serviced and cleaned before each trip.

c) The Vessel shall not have carpeted flooring.

d) The Vessel shall be equipped with a PA system that can be heard both inside and outside the Vessel for passenger schedule updates and safety announcements.

e) The Vessel must be a minimum of 28 metres in overall length.

f) The Vessel must be of steel construction.

g) The Vessel must be painted in accordance with a Department approved colour scheme and it must have the Government Brand placed on the outside of the Vessel in an area approved by the Department.

h) The Vessel must be capable of maintaining the scheduled departure and arrival times.

i) The Vessel propulsion system must be twin engine.
j) The Vessel must be capable of safely and adequately carrying general cargo above and below deck (or location protected and secured from the elements).

i) The above deck cargo space shall be a minimum of 60 square metres designed for a minimum of 1.0 tonne per square metre capable of carrying a vehicle (up to 20 feet) and fitted with lashing points to secure cargo. The vehicle must be able to be loaded efficiently by a means deemed acceptable by the Department. The above deck cargo space must be separate from outside passenger area as well as from a route for passengers to access/egress Vessels inside and outside area. All loose freight to be protected from the elements and positioned to permit the safe movement of passengers to/from the passenger areas and secured from shifting while Vessel is under way.

ii) The below deck (or location protected and secured from the elements) cargo hold size must be 50 cubic metres, capable of carrying 25 tonnes of freight and have an opening of sufficient size to efficiently load/off load palletized freight. Pre-packaged freight must be loaded and off loaded without any disassembly of the pallet.

iii) There must also be freezer space with a minimum capacity of 1.5 cubic metres capable of maintaining -5 degrees Celsius and cold stores space with a minimum capacity of 1.0 cubic metre capable of maintaining 5 degrees Celsius. These spaces are not for crew usage.

k) The Vessel shall have its own certified cargo handling equipment, including a crane equipped with a crane scale, hooks, ramps and adequate lashings. The crane shall be certified with minimum SWL markings to lift 1.5 tonnes at 6 metres from the vessel’s loading/off loading side and have access to above and below deck cargo space. The crane must have sufficient reach to load/off load a 1.5 tonne pallet of freight from or onto the wharf at each port of call. The Contractor must provide a suitable frame for lifting snowmobiles, motorcycles, ATVs and vehicles up to 6 metres in length.

l) The Vessel shall have a designated medi-vac room. The room shall be readily accessible by a stretcher or wheelchair and have enough space to comfortably accommodate a stretcher. The medi-vac room shall be situated such that persons can be transported on and off the Vessel quickly, efficiently and safely. This area shall not be utilized for crews’ quarters.
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m) The Vessel shall have a designated kennelled area for the safe carriage of pets separated from the passenger area. The area shall be protected from the elements and must be heated and lighted. The kennels and kennel area shall be cleaned after each use by Contractor personnel. Animals larger than a large sized dog (120 lbs./54.5 kgs.) shall travel in a passenger/owner supplied mobile unit (i.e. a trailer). There shall be at least four (4) separate kennels for pets and each kennel must be able to accommodate a large dog.

n) The Vessel shall have sufficient drainage/scuppers to prevent any excess build up of water on the deck.

o) The Contractor’s Vessel may encounter local ice conditions. The Contractor must be prepared to operate the Vessel should local ice be experienced. The Department shall not be responsible for any damages resulting to the Contractor’s Vessel due to operation in these local ice conditions.

p) Signage shall be positioned at key decision-making points. Signage shall be easily seen by persons in a wheelchair and by persons in the standing position. Signage shall be positioned to avoid shadow areas and glare. If signage is located at a doorway, it shall be on the wall to the right of the door, with its centre at a height of 1500 mm plus or minus 25 mm above the floor.

q) The ferry operator is expected to make announcements to passengers, such as announcements concerning delays, schedule changes, and on-board services, and the operator shall have the means onboard the Vessel of visually and verbally providing these announcements to persons with disabilities.

r) Stairs on a ferry shall have uniformed, closed riser heights and uniform tread depths. Where space permits, detectable, colour contrasting warning surfaces shall be provided at the top of stairs and at landings.

The tread surfaces of the stairs and the landings shall be firm and non-slippery and shall not create glare. The top outer edge of each step shall be marked by a contrasting colour strip that runs the full width of the leading edge of the tread and the vertical face of the nosing.

Stairways shall have handrails on both sides, including at the landings.
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s) Handrails on a ferry shall be sturdy and of a height and length that permit use by all passengers including a person using a wheelchair.

Handrails shall be continuous through the length of stairs, ramps, corridors or passageways, except where interrupted by other paths of travel or doorways.

Handrails shall be rounded and free of any sharp or abrasive element. They shall have an exterior diameter and a clearance from the wall surface to which they are attached that permit easy grasping. They shall not have any obstructions that could break a handhold.

Handrails shall be colour contrasted from their surrounding area or marked with a contrasting colour strip that runs the full length of the handrail.

Handrails shall also return to the wall, floor or post in a smooth curve or have a tactile cue at the end. The method used shall be consistent throughout the Vessel.

t) Floor surfaces on a ferry shall be slip-resistant. Glare from floor surfaces shall be reduced as far as practicable.

u) Doors to washrooms and other enclosed spaces which have no other exit doors shall be equipped with deadbolts or other means of security which can only be manipulated from the inside. As an alternative they are to be equipped with an easily manipulated push-lock door knob that can be released from the outside with a special tool or lock.

If door sills are necessary in passenger areas and on evacuation routes, they shall be bevelled or ramped on a permanent or movable basis and are to be marked with a colour contrasting strip.

Crew members shall be available to assist passengers with the use of watertight doors, and fire rated doors designed to meet Transport Canada standards.

v) The ferry is to be equipped with an alarm system, the system shall be visual and audible and, when activated, display continuously in all public places.

Visual alarms shall be a flashing light that is strategically placed and significantly brighter than the ambient light.
Both the male and the female washrooms must contain one toilet and one sink. This means that these washrooms satisfy the criteria set out below:

i) The washroom shall have its location indicated by directional signage and by a sign positioned perpendicular to the path of travel. It shall also be identified by the international symbol of access in pictograph and tactile form by or on the door.

ii) The washroom shall have a doorway and door that satisfy the criteria set out in the section on doorways and doors.

iii) The washroom shall have a coat hook that has rounded edges.

x) Gangways shall have a hinged drop ramp at each end to provide ease of egress for all passengers.

In assessing the tender of any tenderer, the Department may but shall not be obligated to issue a Letter of Award to a Contractor notwithstanding that the Vessel identified in the Tender does not strictly meet the requirements of this Clause 5 at the date of Tender submission, provided that in the opinion of the Department, modification of the Vessel to satisfy these requirements is possible before the Commencement Date for the Service. The Contractor must satisfy the Department that the Vessel will comply with this Clause 5 prior to the Commencement Date for the Service.
6. PERFORMANCE SECURITY

A Performance Security will be required in the amount of $150,000.00 (Canadian Funds). The Performance Security is to be received within fourteen (14) days after the award of the Contract by the Letter of Acceptance and prior to or at the time of execution of the Form of Agreement. No work shall be undertaken until the Performance Security has been received by the Department.

The Security shall be in the form of either a bond in proper form and issued by a Surety Company licensed to do business in the Province of Newfoundland and Labrador, or a certified cheque, money order or bank draft from a financial institution registered to do business in the Province of Newfoundland and Labrador made in favour of, or made payable to, the Newfoundland and Labrador Exchequer Account. Any certified cheque, money order or bank draft will be retained until satisfactory completion of the Work, after which this amount will be returned to the Contractor together with the accrued interest thereon.

The Performance Security shall be in force and executable from the same date as the execution of the Form of Agreement for the duration of the Contract and any renewals. The term of the Security will coincide with the duration of the Contract unless otherwise provided hereunder. The Department reserves the right to accept a renewable Performance Security for the duration of the Contract subject to such terms and conditions as the Department, in its sole and absolute discretion, may decide.

The Performance Security may be called by the Department to recover any costs resulting from any default of the Contractor, including but not limited to violation of legislation.

The Department's right respecting the Performance Security shall be in addition to, cumulative and not in substitution for or limitation of, any other right the Department may have on account of the default of the Contractor.
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7. LIQUIDATED DAMAGES AND COMMENCEMENT SECURITY

a) While the Vessel does not have to meet all of the Vessel specifications identified in this Tender Document at the date of tender submission, modifications necessary to meet required specifications must be specifically noted and completed by the scheduled commencement date.

b) The Contractor agrees to pay the Department, if the Department so requests, as liquidated damages and not as a penalty but as a fair, reasonable and appropriate estimate of the damages the Department will suffer, the sum of $5,000.00 per day for each day from the commencement date up to, but not including, the date on which the Vessel completes the first trip of the schedule. The Department agrees to limit claims for damages from each delay in commencing the Service to such sum of $5,000.00 per day, subject only to the Department’s right to terminate this Agreement and remedies resulting therefrom. If the Vessel is certified, insured and ready to make a first trip but is prevented from doing so because of weather or ice conditions, it will be credited with having made that trip.

c) To secure payment of liquidated damages for failure to commence the Ferry Service on schedule, the Contractor shall within fourteen (14) days of the award of the Contract by Letter of Acceptance provide to the Department security in the amount of $45,000.00 (Canadian Funds) (the “Commencement Security”). This security shall stand separate from all other forms of security required under this Tender Document.

d) The Commencement Security shall be in the form of either a bond in proper form and issued by a Surety Company licensed to do business in the Province of Newfoundland and Labrador, or a certified cheque, money order, bank draft or irrevocable letter of credit from a financial institution registered to do business in the Province of Newfoundland and Labrador, made in favour of, or made payable to, the Newfoundland Exchequer.

e) Cash shall not be accepted as a form commencement security.
8. OPERATIONAL/MAINTENANCE COSTS PAYABLE BY THE DEPARTMENT

a) The Department shall not be liable for any cost or expense, or incur any obligation, arising from, or connected with, the operation and maintenance of the Vessel or the Ferry Service except as expressly provided in this Clause.

b) Any wharfage and/or berthage fees incurred for provision of the Ferry Service shall be paid by the Department as part of maintaining the normal schedule.

c) The Department reserves the right to request clarification of and question invoices presented in furtherance of this section.

9. CONTRACTOR’S OPERATING/MAINTENANCE COSTS

a) Subject only to SGC.8 above, the Contractor shall be liable for all costs and expenses arising from, or connected with, the operation and maintenance of the Vessel or the Ferry Service including, without restricting the generality hereof, the items following in this Clause.

b) The Contractor shall provide and pay the cost of lines handling including shore based personnel to catch lines and provide the water requirements of the Vessel.

c) The Contractor will be responsible for shore power and all fuel costs associated with fuel consumption outside of the operational schedule, including refits. Shore power is to be used when docked. Fuel delivery slips must be signed by Captain/Mate, as appropriate, and forwarded to Marine Services, Lewisporte. The Department reserves the right to audit fuel costs based on the consumption figures provided in the tender form.

d) The Contractor shall pay the cost of lube oils and miscellaneous supplies and consumables for providing the Ferry Service.

e) The Contractor will be responsible for snow and ice removal on the adjacent wharf area in order to allow the effective, efficient and safe loading and off loading of passengers and freight. Personnel responsible for this shall have training in any and all OHS regulations pertaining to the job requirements.

f) The Contractor must ensure that the Vessel is reachable either electronically or by means of telecommunications 24 hours a day. The Contractor will also be responsible for all costs associated for such systems.

g) The Contractor will be responsible for all the indemnification and insurances required including those required by this Tender Document.

h) The Contractor will supervise, perform and be responsible for the loading, off
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loading, storage and other handling of freight.

i) The Contractor will compile and provide to the Department operational/statistical data as required by the Department.

j) The Contractor will be responsible for the full cost of crew changes.

k) The Contractor will be responsible for pilotage and all other costs and expenses incidental to the use and operation of the Vessel as per the service schedule of this Tender Document.

l) The Contractor shall pay and discharge, when due and payable, all taxes, assessments, charges, fines, duties, levies, and penalties lawfully assessed, levied or charged on it or in respect of the Vessel or arising by reason of the Contractor's use, operation or maintenance thereof.

m) The Contractor shall provide and pay for all labour, materials, equipment, supplies and services necessary for proper execution and completion of the Work.

10. PAYMENT FOR FERRY SERVICE

a) The Department shall pay to the Contractor, for the Ferry Service provided in accordance with this Agreement, the applicable rates (Canadian Funds) set out in the Tender Form attached hereto, subject to such deductions or additions as may be provided for in this Agreement.

b) Payments will be made on a monthly basis after the Ferry Service for the prior month has been performed in accordance with this Agreement to the satisfaction of the Department and the Contractor has submitted, and the Department has approved, the monthly invoice and Monthly Operating Report.

Monthly Operating Reports shall include dates of operation, emergency/special trips made, missed trips made due to weather and/or mechanical problems. The monthly invoice and the Monthly Operating Report are to be submitted to:

Department of Transportation and Works
Attn. Ben Hammett
6th Floor West Block Confederation Building
P.O Box 8700
St. John's, NL A1B 4J6
11. INSURANCE

Proof of insurance eligibility shall be received by the Department within 14 days after the award of the Contract by Letter of Acceptance and prior to or at the time of the execution of the Form of Agreement. No work shall be undertaken until the insurance coverage is verified by an insurance company as in place. The Contractor shall maintain, throughout the life of the Contract all required insurance in accordance with this Tender Document. All insurance policies shall contain an endorsement requiring notification of Her Majesty and the Named Insured, in writing, thirty (30) days prior to cancellation of any policy or material change except in the event of non-payment where policy conditions dealing with termination will apply.

a) Hull and Machinery Insurance

The Contractor shall maintain in effect full coverage Hull and Machinery Insurance. As a prerequisite for commencement of the Ferry Service, acceptable proof of coverage must be forwarded to the Department prior to commencement of the Service.

b) Protection and Indemnity Insurance

The Contractor shall also maintain unlimited Protection and Indemnity Insurance, including 4/4th Collision Liability up to the policy limits, which policy must also include cargo insurance with a maximum deductible of $1,000.00. This insurance shall include as an additional insured Her Majesty the Queen in the Right of Newfoundland and Labrador. As a prerequisite for commencement of the Ferry Service, acceptable proof of coverage must be forwarded to the Department prior to commencement of the Service.
12. **FARE REVENUES**

a) The Contractor shall collect Fare Revenues for the carriage of passengers and freight, including the cutting of bills of lading. The Contractor shall provide and utilize a cash register for collection of fares and recording for audit purposes.

b) Fare Revenues, including fares for transporting freight and/or passengers, will be set by the Department. Reduced rates as established by Head Office of the Department shall apply to commuters, children (5-12), students and senior citizens as defined in this document. Under no circumstances shall reduced fares, without approval from Head Office, be authorized by ferry services personnel.

Commuter: A Worker, Student or Self-Employed person who commutes to work or school, a minimum of six return ferry crossings in a (2) two-week calendar period. Application forms must be filled out and returned to Regional Marine Manager for processing.

Student: An individual who attends an educational facility. Must hold valid identification.

Senior Citizen: An individual who is 60 years of age or older. Must hold valid identification.

c) Fare revenues and revenues from the transporting of freight and passengers will accrue to the Department. The Contractor may be required to transport mail in a secure area at no cost.

d) The Contractor will be responsible for the collection of revenues for passenger and freight, the reconciliation or tickets sold with revenues collected and the securing of revenues in a safe to be provided by the Contractor. Subject to S.G.C 13 following, all revenues of the ferry service accrue to the Department and all revenues with associated bookkeeping and related documentation and records are to be remitted monthly or as determined by the Department.

e) The Contractor shall grant to the Department the right to audit the records of the Contractor in relation to this Contract. The Department shall have the right to examine such records at any time and the Contractor shall, if required by the Department, make available all such books, records and documents as the Department shall deem necessary in order to verify any statement furnished hereof or for any other purpose.
f) Notwithstanding paragraph 12(c) above, the Department reserves the right to exempt passengers from the established tariff.

i) Free transportation is to be provided on emergency trips and for Provincial and Municipal Government passengers travelling on Government Business upon presentation of identification.

ii) Free transportation is to be provided by the Contractor for organized youth group travel, school related outings, school field trips and school sporting events in all cases where the same is authorized by Head Office of the Department. Under no circumstances shall free transportation be authorized by ferry services personnel, without approval from Head Office.

13. CANTEEN SERVICE

Contractor must provide snack foods for purchase. Passengers must also have access to potable “cooler type” bottled water or filtered water at no cost to the passengers. Revenue from the canteen service will accrue to the Contractor. The Department reserves the right to monitor and regulate the pricing of canteen items.

14. SERVICE PERFORMANCE

a) The Vessel shall, at all times while employed on the Ferry Service, be fully seaworthy and well officered, manned, maintained, victualed, equipped, provided and furnished, having regard to the Service to be performed and shall have ample and suitable accommodation for the passengers to be carried over the route specified within the Vessel’s operating limit.

b) The Ferry Service shall be operated efficiently and the Vessel shall be maintained in a high state of cleanliness and repair and manned by competent, courteous, trained and certified staff. Contractor must be considerate of passenger’s allergies when cleaning is to take place as well as the types of cleaners used.

c) The Contractor is responsible for the handling of all freight and non carry on baggage on and off the Vessel. The Contractor shall ensure all such items, carried onboard the Vessel, are adequately secured and protected from the elements.

d) Where written notice has been provided to the Contractor by the Department advising of the existence of conditions not satisfactory to the Department pursuant to this Clause, the Department may postpone payment of all or any part of the payments otherwise due under this Agreement until the unsatisfactory conditions are rectified. No interest or other amount shall accrue to the Contractor on account of such postponement.
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e) The Contractor must take all reasonable steps to accommodate mobility challenged passengers. Gangways, ramps and all other access areas must be wide enough to accommodate the manoeuvring of a wheelchair to the passenger area or stretcher to the medi-vac room. The Contractor's crew must assist passengers with mobility impairments. The Contractor must ensure crew are trained in assisting passengers with disabilities, passengers safety management and evacuation procedures.

f) The Contractor shall provide uniforms for all crew and ensure that the uniforms are worn and always in a neat and presentable manner. Also, all protective gear and clothing, as per OHS Policy, shall be provided to the crew by the Contractor. Name tags shall be worn by each crew member indicating name and position.

g) During the operating period, the Contractor shall employ the masters, officers and crew of the Vessel and the Contractor covenants to pay the masters’, officers’ and crews’ wages when they become due and payable in ordinary course of business. The Contractor shall ensure that the masters, officers and crew of the Vessel possess all qualifications and certifications required by law.

h) During the Contract period, the Contractor, at its own expense, shall at all times maintain and preserve, or cause to be maintained and preserved, the Vessel in good running order and repair so that the Vessel shall be, insofar as due diligence can ensure, tight, staunch, strong and well and sufficiently tackled, apparelled, furnished, equipped and in every respect seaworthy and in good operating condition and will keep or cause to be kept, the Vessel and machinery, boilers, appurtenances and spare parts, in such condition as will maintain the Vessel in compliance with all applicable provisions of the Canada Shipping Act.

i) The Contractor must comply with the following departmental policies:

i) Smoking Policy:
Contractors are required by law to enforce Smoke-Free Environment Act, 2005 with respect to non-smoking onboard the Vessel at any time at any location. This policy applies to both passengers and crew.

ii) Passenger Relations:
The importance of a good relationship between passengers and crew cannot be overstated. Passengers are paying for service. They expect to be and should be dealing with crew who are caring in their attitude and neat in appearance. It is imperative that all crew understand the importance of this policy and carry it out to the fullest.
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When dealing with the public, there are times when the crew must handle unruly and uncooperative passengers. These persons may cause discomfort to other passengers. Crew members must act in a professional manner to discourage inappropriate passenger behaviour.

The Contractor is responsible for crew training in this regard.

iii) Pets:
Pets are not permitted in passenger lounge areas, even if they are kept in kennels. Note: Service animals are exempt from this policy.

iv) Safety Management System:
Contractors are responsible for implementing and maintaining a safety management system that ensures the safety of the travelling public. The safety management system is subject to audit and inspection by the Department at regular intervals.

v) Drug and Alcohol:
The Department of Transportation and Works prohibits the consumption of alcohol and expects its contracted services to also comply with this policy. Crew members are not to consume alcohol, non-prescription drugs or illegal substances which may impair or could reasonably be expected to impair performance and/or judgement for the full duration of the shift. This includes after the sailing schedule has ended for the day and on laydays as crew can be called upon at any time to carry out emergency trips.

vi) Occupational Health and Safety (OHS):
The Contractor must comply with all applicable Provincial OHS regulations.

vii) Communications:
In the event of a breakdown or service interruption it shall be the Contractor's objective to minimize adverse public reaction. Therefore the Contractor shall:
- Take the initial steps to address the reason for the disruption first
- Ensure the Department Representative is informed and aware of the problem
- The Department Representative will issue a media advisory and update terminal tapes and website (as appropriate)
- The Department Representative will contact the ferry committee and/or community leaders affected by the disruption.

The Department reserves the right to add change any policies in this regard as it see fit.
15. SERVICE DISRUPTIONS AND DELAYS

If the Service is disrupted or delayed the decision whether to make up any lost schedule time or to alter the scheduled service is solely at the Department's discretion. All changes to the scheduled service are subject to the Department's approval.

If the Vessel is delayed and the Contractor is directed to get the Vessel back on schedule, then the Contractor shall be credited with having made that trip and payment made accordingly. Once conditions allow, the vessel service must commence immediately and the Contractor must make arrangements to get back on schedule as quickly as possible. This may require, but is not limited to, increasing the vessel's operating speed and/or reducing the vessel's port duration time. Holding the vessel for the next full cycle in the schedule will not be considered acceptable. No additional compensation will be payable by the Department should changes to the service be required in order to get the vessel service back on schedule. The decision whether to make up any lost schedule time or to remove a portion of the weekly scheduled service is solely at the Department's discretion.

When trips are missed or incomplete because of mechanical, weather and sea conditions, the Contractor may be required to provide additional trips at no additional cost to the Department when the Ferry Service resumes, cleaning up any backlog of traffic resulting from the missed or incomplete trips. The Contractor's Total Cost per Round Trip outside Normal Operating Hours will be compensated for trips made beyond the regular schedule hours of operation.

16. EMERGENCY, SPECIAL TRIPS, AND DANGEROUS GOODS RUNS

a) An "Emergency Trip" is a trip made in response to a situation that in the opinion of the Master of the Vessel is an emergency or that the Department designates as an emergency.

b) A "Special Trip" is an unscheduled trip requested, on reasonable notice, by the Department for any reason (for example, but without limiting the generality hereof, for carriage of dangerous goods or for special events).

c) The cost to the Department if an Emergency Trip or a Special Trip occurs within scheduled hours of operation per the service schedule or on the scheduled lay day in accordance with the scheduled hours the day prior to the lay day will be limited to the Cost of Fuel per Round Trip. The Contractor's Total Cost per Round Trip outside Normal Operating Hours will be compensated for trips made beyond the regular scheduled hours of operation.
d) Compensation to the Contractor for the additional fuel consumption resulting from an Emergency Trip or a Special Trip will be in accordance with SGC.4 Changes to the Schedule regarding Main Propulsion Fuel compensation.

e) The Contractor may carry out a Dangerous Goods Trip as per the schedule provided by the Department. The cost to the Department if a Dangerous Goods Trip occurs within scheduled hours of operation per the service schedule or on the scheduled lay day in accordance with the scheduled hours the day prior to the lay day will be limited to the Cost of Fuel per Round Trip.

17. DOWNTIME

Notwithstanding GC.7, GC.8 and GC.37 should it be necessary during the term of this Agreement for the Contractor to replace the Vessel for mechanical or other reasons beyond the Contractor's control which renders the Vessel inoperable or unfit for the Service intended, the Contractor shall, at the Department's sole discretion and at the request of the Department, use their best efforts to place at the Department's disposal, a vessel or vessels suitable to the Department's requirements to operate under all the terms and conditions of this Agreement but at a rate or rates of hire to be agreed upon. The agreed upon rate or rates may be less than, but shall not be greater than the Vessel Daily Rate, Average Daily Cost of Fuel for Main Propulsion (volume per hour), Total Combined Daily Rate, Cost of Fuel per Round Trip or Total Cost per Round Trip outside Normal Operating Hours, until such time as the subject vessel is again in a fully able and efficient state to resume the Service.

If the Department deems it necessary to employ an alternate vessel provided by another Contractor, the Contractor shall be liable for and shall pay all the Department's costs associated with the hire of the alternate vessel.

For each service day missed due to breakdown of the Vessel or the Contractor's failure to provide the Ferry Service, the Department is not liable to make a payment to the Contractor, in respect of that service day or days missed. For partial service days the Contractor will be paid on a pro-rata basis. The Contractor must give the Department sufficient notification of downtime so that the Department will be able to notify the community of the last departure of the ferry from the community.
18. **REFIT**

Starting with the commencement date, the Contractor may remove the Vessel from the ferry service for purposes of refit for a period not to exceed 21 days in each operating year. The Contractor will be paid the Vessel Daily Rate for this period. The Department will provide a relief Vessel for the Service during this 21 day period. For each day beyond the 21 day period that the Contractor does not operate the Service, the Total Combined Daily Rate will not be paid, at the discretion of the Department. The Contractor agrees to pay the Department, if the Department so requests, as liquidated damages and not as a penalty but as a fair, reasonable and appropriate estimate of the damages the Department will suffer, $5,000.00 per day for each day from the 21 days up to, but not including, the date on which the Vessel returns to Service. The Department must be given at least 90 days notice of a scheduled refit. Scheduling of any refit period is to be approved by the Department, notwithstanding regulatory requirements. Fuel for the Vessel while travelling to and from the service area to refit shall be to the account of the Contractor. If the Contractor returns the Vessel to the Ferry Service prior to the 21 day refit period, the Contractor will be paid twice the Vessel Daily Rate as specified in the Tender Form for such unused refit days.

19. **WHARFS AND TERMINALS**

All wharfs and terminal facilities required to perform the required service are owned or leased by the Province. These wharfs may be utilized by the Contractor at no charge. The Department shall arrange and pay for all terminal/wharf work necessitated through normal wear and tear. Damage caused to the wharfs through the negligence of the Contractor shall be rectified by the Contractor at the Contractor's own expense. The Department may demand and the Contractor shall provide, if so demanded, proof of this fact. Shore power shall be arranged and paid for by the Contractor.
FERRY SCHEDULE
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**Rencontre East - Bay L'Argent - Pool's Cove Ferry Schedule**

October 16 - May 14
## Rencontré East - Bay L'Argent - Pool's Cove Ferry Schedule

### May 15 - October 15

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GENERAL CONDITIONS OF FERRY SERVICE CONTRACT
GENERAL CONDITIONS OF FERRY SERVICE CONTRACT

GC.1 DEFINITIONS

See Definitions section within the Tender Document.

GC.2 DOCUMENTS

The Form of Agreement shall be signed in duplicate by the Department and the Contractor.

Words which have well known technical or trade meanings are used in the Contract Documents in accordance with recognized meanings.

In the event of conflicts between Contract Documents the following shall apply:

a) Documents of later date shall govern.

b) The Instructions to Tenderers shall govern over the General Conditions of Contract.

c) Supplementary General Conditions shall govern over the General Conditions of the Contract.

d) The Form of Agreement shall govern over all documents.

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to outline the scope of the Work necessary for the proper execution of the Service.

GC.3 RECORDS TO BE KEPT

a) Timekeeping, payroll functions, and associated records shall be the responsibility of the Contractor.

b) The Contractor shall maintain records and books of account in accordance with generally accepted accounting principles.

c) The Contractor will be responsible to report to the Head Office each morning to advise whether or not the Service is operating on schedule, and whether or not there is a lay-day the next day. This report is to be made to the Head Office not later than 0800 hrs. This report shall be updated if when status changes. Head
Office shall also be kept advised of the expiry date of all certificates for the Vessel.

d) The Contractor will be responsible for recording and faxing in to the following facsimile number (709-535-6245) or such other facsimile number as the Department may subsequently advise, the Daily Marine Traffic Report, containing passenger statistics, at the end of each day. This report shall also contain whether or not there were any passenger or freight issues during the day.

c) The Contractor shall submit a monthly summary of bills of lading and revenue reports.

d) The Contractor shall prepare and maintain a delivery receipt for all goods delivered at the dock to the consignee, agent or subsequent carrier.

g) The Contractor shall keep detailed landing or embarkation records in a form satisfactory to the Department for all goods handled by the Contractor under this Agreement. Goods received by the Contractor under this Agreement shall be deemed to be received damage-free and without shortage except to the extent that damages or shortages have been noted on the shipping documents, landing records or other landing documents. The Contractor will be responsible for any damages to goods or shortages that occurred while the goods concerned were in the possession of the Contractor and or the Contractor’s agents whether on board, being loaded on to, off loaded or off of the Vessel.

h) The Contractor shall grant to the Department the right to audit the records of the Contractor in relation to this Contract. The Department shall have the right to examine such records at any time and the Contractor shall, if required by the Department, make available all such books, records and documents as the Department shall deem necessary in order to verify any statement furnished hereof or for any other purpose.

i) The Contractor shall be responsible for procuring forms necessary for completion of the Service.
General Conditions:

Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

Page 3

GC.4 DEPARTMENT'S REPRESENTATIVE'S DECISION

a) The Department's Representative shall decide on questions or interpretations arising under the Contract Documents. Any questions regarding wording, omission, etc., shall be presented to the Department's Representative in writing for explanation. If this is not done, it shall be assumed that the Contractor thoroughly understands the terms and conditions of the Contract Documents.

b) The Department's Representative shall have the right to decide whether the Service performed by the Contractor is acceptable.

c) The Department's Representative decision on matters arising under the Contract shall be final and the Contractor shall proceed with the Work in accordance therewith but should the Contractor disagree with any such decision the Contractor may notify the Department's Representative in writing in accordance with GC.11.

GC.5 SUPERVISORY RESPONSIBILITY

The Contractor shall identify a competent supervisor(s) for the Service, authorized to receive any order or communication in respect of the Contract. Such supervisor(s) shall be the primary contact with the Department for ongoing operational matters on a daily basis. In addition to the responsibilities as previously described, the Supervisor each and everyday is to provide a Daily Vessel Status Report to the Department. The Daily Vessel Status Report is to include: whether or not the Service is operating on schedule, if not then why not and whether or not there is a lay-day the next day. This report is to be made to the Head Office not later than 0800 hrs and shall be updated if and when status changes occur.

GC.5.1 UNACCEPTABLE PERFORMANCE OF PERSONNEL

The Department's Representative shall advise the Contractor of the unacceptable performance of any personnel. Should the identified performance not improve to the satisfaction of the Department, then the Department's Representative shall have the right to request and the Contractor shall cause that person replaced forthwith.
GC.6 DELAY AND FORFEITURE

a) If it can be clearly shown that the Contractor is delayed in the performance of the Work by any act or fault of the Department, then the Contractor shall be reimbursed to the limit of the applicable rate quoted in the Tender Form, on a pro rata basis.

b) If the Contractor is delayed in the performance of the Service by a Stop Work Order issued by any court or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one employed by the Contractor directly or indirectly, then the Contractor shall be reimbursed to the limit of the applicable rate quoted in the Tender Form, on a pro rata basis.

c) If the Contractor is delayed in the performance of the Service by civil disorders, labour disputes, strikes, lock-outs, fire, unusual delay by common carriers or unavoidable causes then the Department may enact whatever measures are necessary to provide continuous service during the delay, including temporary use of an alternate contractor. If the Contractor is delayed in the performance of the Service by civil disorders or because of unavoidable causes the Contractor will continue to receive the Vessel Daily Rate. If the Contractor is delayed in the performance of the Service by labour disputes, strikes, or lock-outs resulting from the Contractors labour management issues then the Contractor will not receive the Total Combined Daily Rate.

d) No provision shall be made for delay unless written notice of claim is given to the Department’s Representative within two (2) days of the commencement of the delay, providing that in the case of a continuing cause of delay only one notice shall be necessary.

e) The Department shall be entitled to demand substantiation of any delay and the Contractor shall submit such evidentiary documentation as the Department may require in this regard.

GC.7 DEPARTMENT’S RIGHT TO WORK

a) If the Contractor fails to execute the Service properly or fail to perform any provisions of the Contract, the Department may notify the Contractor in writing that the Contractor is in default of his contractual obligations and instruct the Contractor to correct the default within twenty-four (24) hours of receiving the notice or other reasonable time as is permitted at the discretion of the Department.
General Conditions:

Tender for Rencontre East - Bay L’Argent - Pool’s Cove Ferry Service

b) If the correction of the default cannot be completed within the twenty-four (24) hours specified, the Contractor shall be considered to be in compliance with the Department’s instructions if the Contractor:

i) commences the correction of the default within the specified time;

ii) provides the Department with a schedule for such correction that is acceptable to the Department; and

iii) completes the correction in accordance with such schedule.

c) If the Contractor fails to comply with the provisions GC.7.1 and GC.7.2, the Department may, without prejudice to any other right or remedy the Department may have, correct such default and may deduct the cost thereof from the payment then or thereafter due the Contractor.

d) Any second or further occurrence of failure under GC.7.1 requiring the issuance of a second or further written notice shall give the Department the right to terminate the Contract, if the Department so chooses, in accordance with Section GC.8 and the Department shall complete the Service through other means and obtain compensation from the Performance Security.

GC.8 DEPARTMENT’S RIGHT TO TERMINATE CONTRACT

a) If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of the Contractor’s insolvency, the Department may, without prejudice to any other right or remedy the Contractor may have, by giving the Contractor written notice, terminate the Contract.

b) The Department may notify the Contractor in writing that the Contractor is in default of his contractual obligations, if the Contractor

i) fails to proceed regularly and diligently with the Service; or

ii) without reasonable cause wholly suspends the carrying out of the Service before the completion thereof; or

iii) refuses or fails to supply properly skilled personnel, and quality service, materials and equipment for the scheduled performance of the Service within twenty-four (24) hours of receiving written notice from the Department’s Representative, except in those cases provided in GC.6; or
General Conditions:

Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

Page 6

iv) fails to make payments due to the Contractor’s Subcontractors, the Contractor’s suppliers or the Contractor’s workmen; or

v) disregards laws or ordinances, or the Department’s Representative’s instructions; or

vi) otherwise violates the provisions of the Contract to a substantial degree.

Such written notice by the Department shall instruct the Contractor to correct the default within twenty-four (24) hours from the receipt of the written notice.

c) If the correction of the default cannot be completed within the twenty-four (24) hours specified, the Contractor shall be considered to be in compliance with the Department’s instructions if the Contractor:

i) commences the correction of the default within the specified time,

ii) provides the Department with an acceptable schedule for such correction, and

iii) completes the correction in accordance with such schedule.

d) If the Contractor fails to correct the default within the time specified or subsequently agreed upon, the Department may, without prejudice to any other right or remedy the Department may have, stop the Service or terminate the Contract.

e) If the Department terminates the Contract under the conditions set out above, the Department’s Representative is entitled to:

i) take possession of all of the Department’s facilities, equipment, supplies in or upon the Department’s premises and finish the Service by whatever method they may deem expedient but without undue delay or expense; and

ii) withhold any further payments to the Contractor until the Work is finished.

f) If the unpaid balance of the Contract price shall exceed the expense of finishing the Service including the amount of the forfeited Performance Security recovered and less compensation to the Department’s Representative for his or her additional services, such remaining funds shall be paid to the Contractor. If such expenses shall exceed such unpaid balance including the amount of the forfeited Performance Security and less compensation to the Department’s Representative for his additional services, the Department’s remedy shall be limited to the
GC.9 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

a) If the Department should be adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of insolvency, the Contractor may, without prejudice to any other right or remedy the Contractor may have, by giving the Department written notice, terminate the Contract.

b) If the Service is stopped or otherwise delayed for a period of thirty (30) days or more under an order of any court, or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one directly or indirectly employed by the Contractor, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Department twenty one (21) days written notice, terminate the Contract.

c) The Contractor may notify the Department in writing that the Department is in default of its contractual obligations if the Department fails to pay to the Contractor when due any amount certified by the Department’s Representative and verified by the audit of the Department.

Such written notice shall advise the Department that if such default is not corrected within twenty one (21) days from the receipt of the written notice the Contractor may, without prejudice to any other right or remedy the Contractor may have, stop the Service and/or terminate the Contract.

d) If the Contractor terminates the Contract under the conditions set out in this General Condition, the Contractor shall be entitled to be paid for all Work performed to the date of termination.

GC.10 SUBCONTRACTORS

a) The Contractor agrees to preserve and protect the rights of the Department under the Contract with respect to any Work to be performed under subcontract. The Contractor shall:

i) require the Contractor’s Subcontractors to perform their Work in accordance with and subject to the terms and conditions of the Contract Documents; and

ii) be fully responsible to the Department for acts and omissions of the Contractor’s Subcontractors and of persons directly or indirectly employed by them.
General Conditions:

The Contractor therefore agrees that the Contractor shall incorporate all the terms and conditions of the Contract Documents into all Subcontract Agreements the Contractor enters into with the Contractor's Subcontractors.

b) Nothing contained in the Contract Documents shall deem to create or create any contractual relationship between any Subcontractor and the Department.

**GC.11 SETTLEMENT OF DISPUTES AND CLAIMS**

a) In the case of any disputes or claims arising between the Department and the Contractor as to their respective rights and obligations under the Contract, either party hereto may give the other written notification of such a dispute or claim. The notification of dispute or claim shall be made within fourteen (14) days of the dispute or cause of action arising. If the dispute or claim cannot be resolved to the satisfaction of both parties, either party may refer the matter to such judicial tribunal as the circumstances require.

b) Legal proceedings shall not be commenced until after the performance of the disputed Work except:

i) when the dispute concerns a certificate for payment:

ii) where either party can show that the matter in dispute requires immediate consideration while evidence is available: or

iii) in the case of legal proceedings, where the action may be necessitated by reason of delay.

**GC.12 EMERGENCIES**

a) The Department's Representative has authority in any emergency to stop or make changes to the Service whenever in his or her opinion such stoppage or changes may be necessary to ensure the safety of life, facilities, third-party property, health of a person or group of people, or the environment. This includes authority to make changes in the Service, and to order, assess and award the cost of such Service, extra to the Contract or otherwise, as may in his or her opinion be necessary. The Department's Representative shall, within two (2) working days, confirm in writing any such instructions. In such a case if Work has been performed under direct order of the Department's Representative, the Contractor shall keep the Contractor's right to claim the value of such Work.
b) If the Contractor is delayed in the performance of the Service by civil disorders, labour disputes, strikes, lock-outs, fire, unusual delay by common carriers, or unavoidable causes, neither the Department nor the Contractor shall have claim for change in the price of the Contract. If the Contractor is delayed in the performance of the Service by civil disorders, labour disputes, strikes, lock-outs, fire, unusual delay by common carriers, or unavoidable causes then the Department may enact whatever measures are necessary to provide continuous service during the delay, including temporary use of an alternate contractor. If the Contractor is delayed in the performance of the Service by civil disorders or because of unavoidable causes the Contractor will continue to receive the Vessel Daily Rate. If the Contractor is delayed in the performance of the Service by labour disputes, strikes, or lock-outs resulting from the Contractor’s labour management issues then the Contractor will not receive the Total Combined Daily Rate.

**GC.13 MATERIALS, WORKMANSHIP**

a) Unless otherwise stipulated the Contractor shall provide and pay for all materials, labour, tools and equipment necessary for the execution of the Service.

b) The Contractor shall supply all heat, light, power, hot and cold water and such other materials or utilities as may be required to perform the Service. The Contractor shall be responsible for all extensions of the heating, lighting, and water systems that the Contractor may require.

c) Rejected Work: Defective work, whether the result of poor workmanship, use of defective products or damage through carelessness, negligence or other act or omission of the Contractor and whether incorporated into the vessel or not, which has been rejected by the Department as failing to conform to any specification or direction provided or to industry standards shall be removed promptly by the Contractor and placed and/or re-executed promptly in accordance with the direction of the Department at the Contractor’s expense.

d) Other Contractor’s work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor’s expense.

e) If, in the opinion of the Department, it is not expedient to correct the defective work, the Department may deduct from any payments due the Contractor the difference in value between the Work as done and that called for by the Contract, the amount of which shall be determined in the first instance by the Department.
General Conditions:

Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

GC.14 LABOUR

a) The Contractor shall meet the requirements of the labour laws of the Province of Newfoundland and Labrador in carrying out this Service and all other labour laws applicable to the area in which the Service is being preformed.

b) Each person employed on the Service shall be qualified and competent for that specific trade or duty in which he or she is employed.

c) Personnel engaged in the Service shall be capable of functioning effectively and co-operatively with the Department’s staff, occupants, and the public. The Contractor shall provide uniforms for the crew and ensure that the uniforms are worn and always in a neat and presentable manner. Also, all protective gear and clothing, as per OHS Policy, and/or any applicable laws and regulations related to safety shall be provided to the crew by the Contractor.

d) All personnel shall present a clean, neat and orderly appearance at all times and shall conform to all regulations and ensure that high standards of tact, courtesy and discretion are maintained.

e) The Contractor shall supply and require the Contractor’s employees to wear identity badges acceptable to the Department.

f) The Contractor shall maintain and keep available for inspection by the Department’s Representative, a record of the names and addresses of all individuals who shall be performing work for the Service.

g) The Contractor shall inform the Contractor’s employees that a security clearance (Certificate of Conduct) may be required. If requested, the Contractor shall provide to the Department such information. Any employee not receiving a security clearance satisfactory to the Department shall be replaced by the Contractor.

h) Vessel crew shall be certified in First-Aid in accordance with Transport Canada Minimum Safe Manning Regulations.
GC.15 INSPECTION OF THE WORK

a) The Department's Representative shall be permitted to inspect the Contractor's Work at any time.

b) The Contractor shall make all necessary arrangements with any authority having jurisdiction over the Work for the performance of any inspections which may be required and shall notify the Department's Representative at least twenty-four (24) hours in advance of such inspections. The Contractor shall be on the site during all inspections. A copy of all reports and certificates resulting from such inspections shall be provided promptly to the Department's Representative.

GC.16 PROTECTION OF WORK AND PROPERTY

a) The Contractor shall provide and maintain adequate protection as approved by the Department's Representative of the Department's assets and property while performing the Service.

b) The Contractor shall be solely responsible to ensure that the Department's property is not damaged, destroyed or stolen while performing the Service. Any damage or injury to the property of the Department resulting from the actions of the Contractor or the Contractor's employees shall be made good with new materials as required to match existing property in kind, quality, and workmanship at the expense of the Contractor.

c) Before commencing any Work, the Contractor shall assess the effect of the proposed Work on the existing buildings and wharf infrastructure. Any Work which could result in an adverse effect on Department's property and operations shall be brought to the attention of the Department's Representative for approval.

GC.17 SAFETY HAZARDS

a) The Contractor shall be completely responsible for the safety of the Service as it applies to protection of the public and property and the provision of the Service and pollution prevention. The codes that shall be followed and enforced for safety are:

General Conditions:

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ii) Workplace Hazardous Materials Information Systems Regulations (WHMIS) under the Occupational Health and Safety Act. This includes submitting Material Safety Data Sheets (MSDS) to the Department’s Representative and posting same.

iii) Transportation of Dangerous Goods Regulations under the Transportation of Dangerous Goods Act (Canada). This includes any and all training of transport vehicle drivers.

iv) Arctic Oil Pollution Code.

v) Regulations for the Prevention of Pollution from Ships and Dangerous Chemicals.

vi) Any other applicable regulatory code(s).

b) The Contractor shall report immediately to the Department’s Representative any equipment or conditions which could be considered unsafe.

c) No materials/vehicles shall be stored on a vessel or facility site where they might present a hazard to property, personnel or affect the normal operating functions of the vessel or facility.

GC.18 INDEMNIFICATION

a) Except as provided in GC.18.2, the Contractor shall be liable for, and shall indemnify and hold harmless the Department from and against, all claims, demands, losses, costs, damages, actions, suits or proceedings whatsoever, arising under any statute or Common Law:

i) in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the Service;

ii) in respect of any injury or damage whatsoever to any property, real or personal or any chattel real, insofar as such injury or damage arises out of or in the course of or by reason of the carrying out of the Service.

b) The Contractor shall not be liable under Clause GC.18.1 if the injury, death, loss or damage is solely due to any act or negligence of the Department.
General Conditions:

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c) The Contractor shall assume full responsibility and liability for all damage to and loss of cargo from any cause and shall indemnify and/or save harmless the Department from all loss, expense and/or liability howsoever incurred by the Department in any manner directly or indirectly arising out of, or as a result of, or attributable to the premises or the performance of the Service herein contemplated.

d) The Contractor shall protect all cargo in good order to prevent theft, freezing, deterioration and damage and shall provide special handling as required and be responsible for loss or damage to cargo while cargo is under the Contractor’s control. The Contractor shall pay for the actual direct cost of settlement of any cargo claim for which the Contractor is responsible and bear a fair proportion of the cost of claims by Shipper/Consignee for concealed damage. The determination of fair proportion shall be in the sole discretion of the Department's Representative. The Contractor shall notify the Department's Representative of the receipt of any claims for concealed damage from a consignee within thirty (30) days of receipt of the claim from the consignee.

GC.19 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

a) The value of any change shall be determined in one or more of the following methods:

i) by unit prices as provided in Article A-5 of the Agreement;

ii) by unit prices subsequently agreed upon; and/or

iii) by cost and a fixed or percentage fee.

In the case of changes in the Work valued as outlined in 19.1(c), the Contractor shall submit detailed invoices, vouchers and time sheets for all materials and labour to complete the extra work. Clause 19.1(c) shall be calculated upon materials, labour and payroll burden only.

When work is performed by the Contractor's own forces the Contractor’s markup for overhead shall be ten (10) percent and the Contractor’s profit ten (10) percent of the agreed or actual cost of the change. When work is performed by one of the Contractor’s Subcontractors, the Subcontractor’s markup for overhead shall be ten (10) percent of the agreed or actual cost of the change plus five (5) percent for profit. Payroll burden shall be calculated to be thirty five (35) percent of the cost of labour.

The Contractor's markup for overhead and profit shall be ten (10) percent of the Subcontractor's total price.
b) Notwithstanding the provisions of 19.1, in case of changes in the Work:

i) where unit prices are provided in the Contract for work to be done those unit prices shall be used in determining the value of any change, and

ii) the amount charged for equipment rentals shall be that provided in the Contract and no additional amount shall be paid as markup for overhead or profit for the Contractor or Subcontractor.


c) When a change in the Work is proposed or required the Contractor shall present to the Department for approval the Contractor's claim for any change in the Contract Price and/or change in Contract Time. The Department must be satisfied as to the correctness of such claim and if approved shall issue a written order to the Contractor to proceed with the change. The value of work performed in the change shall be included for payment with the regular certificate for payment.

d) In case of changes in the Work to be paid for under methods (b) and (c) of 19.1, the form of presentation of costs and methods of measurement shall be agreed to by the Department and Contractor before proceeding with the change. The Contractor shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the Work, together with vouchers where applicable.

e) If the method of valuation, measurement and the change in Contract Price and/or change in Contract Time cannot be promptly agreed upon, and the change is required to be proceeded with then the Department shall determine the method of valuation, measurement and the change in Contract Price and/or Contract Time subject to final determination in the manner set out in GC11 - Settlement of Disputes and Claims. In this case the Department shall issue a written authorization for the change setting out the method of valuation and if by lump sum the Department's valuation of the change in Contract Price and/or Contract Time.

f) In the case of a dispute in the valuation of a change authorized in the Work pending final determination of such value, the Department shall certify the value of work performed and include the amount with the regular certificates for payment.

g) It is intended in all matters referred to above that both the Department and Contractor shall act promptly.
General Conditions:

Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

GC.20 WORKER’S COMPENSATION

a) The Contractor shall within fourteen (14) days of award of the Contract, through the issuance of a Letter of Acceptance, provide suitable documentation certifying that the Contractor is registered and in good standing with the Workplace Health, Safety and Compensation Commission of the Province(s) of all the Work.

b) At anytime during the term of Contract, when requested by the Department’s Representative, the Contractor shall provide such evidence of compliance by the Contractor and any or all of the Contractor’s Subcontractors.

c) The Contractor shall assume and shall indemnify and save harmless the Department from and against all liability whatsoever in respect of Workers’ Compensation, including assessments therefore, in respect of all persons whomsoever engaged or taking part in any of the work or services to be done or performed by the Contractor or in the operation of any plant, equipment or facility whatsoever used therein or in connection therewith.

d) The Contractor shall in all respects comply with the Workplace Health, Safety and Compensation Act and with all other Acts, Orders, Rules or Regulations of any competent body having jurisdiction and shall, if required by the Department, furnish the Department with satisfactory proof of such compliance.

GC.21 ACCIDENTS AND CLAIMS

a) The Contractor shall promptly report in writing to the Department’s Representative all accidents whatsoever, arising out of or in connection with the performance of the Service, whether on the Vessel or on the water or the land which caused death, personal injury, or property damage.

b) If any claim is made against the Contractor or subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Department’s Representative giving full details of the claim.

c) The Contractor shall provide a First Aid Kit on all ferries to treat minor injuries occurring in connection with the Service.
GC.22 PERMITS, NOTICES AND LAWS

a) The Contractor shall obtain and pay for all necessary permits, certificates, license or other fees required for the execution of the Service. The Contractor shall comply with all laws, ordinances, rules and regulations relating to the Service.

b) The Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations, codes and orders of all authorities having jurisdiction relating to the Service, and to the preservation of the public health and safety, which are or become in force during the performance of the Service.

c) The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Service. If the Contract Documents are at variance therewith, or changes that require modification to the Contract Documents are made to any of the laws, ordinances, rules, regulations and codes by the authorities having jurisdiction subsequent to the date of tender submission, any resulting change in the cost shall constitute a corresponding change in the Contract Price. The Contractor shall notify the Department’s Representative in writing requesting direction immediately whenever such a variance or change is observed by the Contractor.

d) If the Contractor fails to notify the Department’s Representative in writing and obtain the Department’s direction as required in GC.22.3 and performs any work knowing it to be contrary to any laws, ordinances, rules, regulations, codes and orders of any authority having jurisdiction, the Contractor shall be responsible for and shall correct any violations thereof and shall bear all costs, expenses and damages attributable to the Contractor’s failure to comply with the Provisions of such laws, ordinances, rules, regulations, codes and orders.

e) The Contractor shall ensure that each person employed on the Service is trained in the transportation of dangerous goods under the Transportation of Dangerous Goods Regulations (IMDG).

f) Where, during the term of this Contract, changes or additions to classification rules or relevant legislation result in the need of the Contractor to increase his scope of work or increase operating costs, where, as a result there is a need to make changes, modifications or additions to the Vessel, produce new information, plans, booklets or additional surveys, the Department shall pay the Contractor for this additional work or cost increase (resulting from change in rules/legislation mentioned above) on submission to the Department by the Contractor of a cost estimate for the same that is approved by the Department before the work concerned commences.
General Conditions:

Tender for Rencontre East - Bay L’Argent - Pool’s Cove Ferry Service

**GC.23 ASSIGNMENT AND ENUREMENT**

The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or thereunder without the written consent of the Department. The rights and obligations arising under this Agreement shall enure to the benefit of the parties hereto, their heirs, successors and assigns according to law.

**GC.24 PROGRESS OF WORK**

a) Following the issue of the Letter of Acceptance by the Department; subsequent signing of the Form of Agreement; and the provision by the Contractor to the Department of proof satisfactory to the Department of compliance by the Contractor with the terms and conditions of this Tender Document, the Contractor shall begin the Work and shall execute the Work regularly with sufficient force to secure the completion of the Work to the satisfaction of the Department’s Representative.

b) All safety measures presented by the authorities that have jurisdiction respecting fire hazards and personnel shall be observed at all times. Personnel shall become familiar with the use and location of fire fighting equipment.

c) The Contractor shall comply with the Department’s schedule of ports as provided by the Department’s Representative.

The schedule of service to be provided will be in accordance with the printed schedule unless there is a further directive from Head Office to amend the schedule.

In order for the Service to commence on the scheduled time, the crew will be required to be on board in sufficient time to meet the first scheduled departure.

The departure time for all trips will be in accordance with the printed (or amended) schedule and must be strictly adhered to.

d) The Contractor will cooperate and liaise with the vessel service subcontractors and any other vessel service contractors to ensure effective services are provided.
General Conditions:

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GC.25 PAYMENT

a) Payments for the Service shall be made in accordance with the Tender Documents.

b) Payment of the Contract Price shall be made at the rates (unit values) submitted in Tender Form and applied as described in the Tender Documents.

c) The Contractor shall submit a single invoice on a monthly basis for all work completed and itemized as per the breakdown in the Tender Documents.

d) Notwithstanding any other provision of the Contract, the Department may, in the event of a claim by the Department against the Contractor for damages arising out of the performance or non-performance of the Contract, withhold payment of any amount equal to the alleged damages until the liability for damages is established and no amount of interest shall be paid on amounts held under this provision.

e) The Department’s Representative shall, within ten (10) days of receipt of an invoice from the Contractor submitted in accordance with GC.25 - Payment, issue an approval for payment in the amount applied for or such other amount as he or she shall determine to be properly due. If the Department’s Representative amends the invoice, he or she shall promptly notify the Contractor in writing, giving his or her reasons for the amendment.

f) If payment is not made within sixty (60) days of the approval for payment by the Department’s Representative, the Department shall be liable for interest on the amount owing in accordance with and to the extent provided for pursuant to the Financial Administration Act.

GC.26 TAXES AND DUTIES

a) The Contractor shall pay all government sales taxes, customs duties and excise taxes with respect to the Contract, and these shall be included as part of any prices quoted.

b) The Contractor is advised that the Department of Transportation and Works is not exempt from the Harmonized Sales Tax (H.S.T.). The price quoted by the Contractor on the Tender Form, shall NOT include the H.S.T. The Department of Transportation and Works shall pay the H.S.T. to the Contractor with each regular invoice.
General Conditions:

The Department shall be responsible for applicable property and water taxes associated with the Department's property being utilized by the Contractor in performance of the Service.

d) The Contractor shall maintain full records of the Contractor's estimates of and actual cost to the Contractor of the Work together with all proper tender calls, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto, shall make them available to audit and inspection by the Department, the Auditor General for Newfoundland and Labrador or by persons acting on their behalf, shall allow them to make copies thereof and to take extracts therefrom, and shall furnish them with any information which they may require from time to time in connection with such records.

GC.27 OIL POLLUTION

The Contractor, their employees and agents, shall comply with all provisions of the Canada Shipping Act, 2001. In the event the Vessel, the Contractor, the Master and/or any member of the crew is charged for any violation of the said Regulations and/or the Act, the Contractor shall be fully responsible for all fines, penalties and expenses incurred by reason thereof and, in particular, the Contractor shall be responsible for the clean up of any oil pollution contaminants or like substances and all expenses in connection therewith.

In the event of any such charge for violation or arrest or detention of the Vessel in respect of the above, the Contractor shall immediately notify the Department's Representative by facsimile setting forth the nature of such charge, arrest or detention.

The Contractor shall remain liable for any loss occasioned the Department as the result and any such charge, arrest or detention as is further provided for in this Agreement.
General Conditions:

Tender for Rencontre East - Bay L'Argent - Pool's Cove Ferry Service

GC.28 GENERAL TERMS

The carriage of cargo under this Agreement and under all Bills of Lading issued for the cargo shall be subject to the statutory provisions and other terms set forth or specified in subparagraphs (a) and (b) of this Clause and such terms shall be incorporated verbatim and shall be deemed incorporated by reference in any such Bill of Lading. In such subclauses and in any Act referred to therein, the word "carrier" shall include the Contractor.

i) Clause Paramount: The responsibilities, obligations and liabilities of the Contractor in respect of the careful handling, loading, stowing, carrying, keeping, caring for and discharging of cargoes, including deck cargoes, shall be governed by the provisions of the Marine Liability Act of Canada, S.C. 2001, Chapter 6. This Agreement and all Bills of Lading issued for the cargo under same shall have effect subject to the Marine Liability Act of Canada, S.C. 2001, Chapter 6, and said Act shall be deemed to be incorporated herein and nothing herein contained shall be deemed a surrender by the Department or Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under the Act. If any term of this Agreement or any Bill of Lading issued thereunder be repugnant to the Act to any extent, such term shall be void to that extent but no further.

ii) Both to Blame Collision Clause: If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariner, pilot, or the servants of the Carrier in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder shall indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of the cargo and set off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying vessel or Carrier. The foregoing provisions shall also apply where the owners, operators, or those in charge of any vessels or objects other than, or in addition to the colliding vessels or object are at fault in respect of a collision or contact.

iii) No contraband of war shall be shipped, but petroleum and/or its products shall not be deemed contraband of war for the purposes of this Clause. The Vessel shall not, however, be required, without the consent of Department, which shall not be unreasonably withheld, to enter any port or zone which is involved in a state of war, warlike operations, or hostilities, civil strife, insurrection or piracy whether there be a declaration of war or not, where it might reasonably be expected to be subject to capture, seizure or arrest, or to a hostile act by a belligerent power (the term "power" meaning any de jure or de facto authority) or any other purported governmental organization maintaining naval, military, or air forces.
GC.29 CLEANING UP

The Contractor shall at all times keep shore-based facilities' premises free from accumulations of waste material or rubbish. The work area shall be kept in a clean condition, satisfactory to the Department's Representative.

GC.30 ACCESS TO VESSEL AND FACILITIES

The Department shall at all times have full and complete access to all areas of the Vessel.

GC.31 STAFF

The Contractor shall provide the necessary and certified staff to properly operate and maintain the Ferry Service and the number and classification of staff employed will be in accordance with the Canada Shipping Act, 2001 requirements for number of passengers permitted to be carried on the Vessel. The crew will also be uniformed in accordance with Section GC.14.3. Crew will maintain all necessary certification required by Transport Canada to operate the Vessel. Validation of all certificates/certification of crew is the sole responsibility of the Contractor. While under Contract, including lay days, the Vessel shall at all times be fully manned in accordance with the Vessel's issued Minimum Safe Manning Document.

GC.32 NOTICES

Any notice or direction to the Contractor shall be deemed to be sufficiently given if sent by registered letter, postage or charges prepaid as the case may be, addressed to the Contractor at his address as indicated on the Tender Form or at any address in Newfoundland and Labrador advised by the Contractor to the Department in substitution therefore. Any such notice so given shall be deemed to have been received by the Contractor at the time when, in the ordinary course, such letter would have been deemed to have reached its destination.

GC.33 CERTIFICATIONS UNDER CANADA SHIPPING ACT

The Vessel shall, at all times while employed on the Ferry Service, comply with all applicable provisions of the Canada Shipping Act, 2001 and the regulations thereunder, including possession of all valid certificates for a passenger carrying vessel in accordance with the Canada Shipping Act, 2001. Any short termed or conditional operating certificates must be reported immediately to the Department. The Contractor must take prompt action, in the view of the Department, to ensure that any conditions are lifted and promptly advise the Department of the actions taken to do so.
GC.34 INTERFERENCE WITH SERVICE

Unless approved in advance by the Department, no act or thing shall be done or undertaken which might in any way interfere with the regular performance of the Ferry Service, except for the purposes of saving life or assisting vessels in distress.

GC.35 UNSPECIFIED PORTS

The Vessel shall not, on any voyage, call at any port not specified in this Agreement or otherwise approved in advance by the Department, except in cases of emergency or for refit.

GC.36 DANGEROUS GOODS

The Contractor shall not convey or permit to be conveyed in the Vessel freight which, by reason of its nature, quantity or mode of carriage is singularly or collectively liable to endanger the lives of the passengers or the safety of the Vessel, neither shall any goods be carried in contravention of the Regulations Respecting the Carriage of Dangerous Goods in Ships. Dangerous goods will only be carried on designated dangerous good runs determined by the Department.

GC.37 ABANDONMENT OR LOSS OF VESSEL

The Contractor shall not abandon the Vessel except in case of emergency and shall obey all provisions of law and any requirements made by insurance underwriters which govern the operation of the Vessel and shall not carry any cargo which might expose the Vessel to penalty, forfeiture or capture.

The loss, destruction or disablement of the Vessel shall not of itself constitute an excuse for the non-performance by the Contractor of the Ferry Service or any part thereof and in the event of such loss, destruction or disablement, the Contractor shall, as soon as possible thereafter and subject to the prior approval of the Department, replace at the Contractor's own expense the Vessel so lost, destroyed or disabled with another vessel that meets the requirements of this Agreement provided, however, that if it is established to the satisfaction of the Department that the Contractor is unable by reason of such loss, destruction or disablement to carry on the Ferry Service or any part thereof, the Department may, at its discretion, terminate this Agreement in whole or in part upon such terms, if any, as the Department may determine. The Department shall be entitled to withhold payment of such amounts as necessary pending a resolution under this section.
GC.38 EXPEDITIOUS REPAIRS

a) If the Vessel shall be unable to perform the Ferry Service for want of repairs, then such repairs shall be carried out in the most expeditious manner possible, to the satisfaction of the Department. The Contractor shall forthwith advise the Department of a requirement for such repairs and of the Contractor’s proposed means of affecting such repairs.

b) The Contractor may, with the consent of the Department, substitute another suitable vessel for the Vessel during the time in which the Vessel is unable to perform the Ferry Service for want of repairs.

GC.39 INTERPRETATION OR AMENDMENT OF THE AGREEMENT

The Department shall at all times determine whether the terms and conditions of this Agreement have been performed and complied with as to the amount, if any, of compensation payable to the Contractor hereunder and as to the meaning and interpretation of this Agreement and the Department’s decision upon all questions relating thereto shall be final and binding upon the Contractor.

GC.40 FERRY COMMITTEE

Committees of users may be set up whose membership may comprise local, government and business interests to liaise with the Contractor on matters affecting the operation of the Ferry Service. The Contractor may be requested by the Department to provide a representative to attend meetings with the Ferry Committee.

GC.41 NO SMOKING OR ALCOHOL CONSUMPTION

During the operation of the Service no smoking or alcohol consumption shall be permitted on the Vessel. Signage to reflect these restrictions must be appropriately placed throughout the Vessel.

GC.42 INSURANCE

a) The Contractor shall provide and maintain liability insurance with respect to the Vessel, as may be applicable, subject to limits set out in detail within these Tender Documents. Such insurance shall be in the names of the Contractor and Her Majesty in the Right of Newfoundland and Labrador as represented by the Minister of Transportation and Works.

b) The Contractor shall provide the Department, within the time limit specified in
these Tender Documents, with a completed Certificate of Insurance and shall, if requested at any time, provide the Department with a certified true copy of each policy of insurance. No work shall be undertaken until the insurance coverage is verified by an insurance company as in place.

c) All insurance policies shall contain an endorsement requiring notification of Her Majesty in Right of Newfoundland and Labrador and the Named Insured, in writing, thirty (30) days prior to cancellation of any policy or material change.

d) The Contractor shall forward to the Department each year confirmation of continuance of insurance coverage prior to any expiry date of the policy.
DEFINITIONS
DEFINITIONS


2. "Certified" means duly authorized by Transport Canada, Marine Safety.

3. "Contract Documents" shall consist of the Tender Title Page, Table of Contents, Notice to Tenderers, Instructions to Tenderers, the Tender Form, Supplementary General Conditions, Ferry Schedule, General Conditions, Definitions, and the executed Form of Agreement, and include such documents as are listed in the Agreement plus all amendments thereto incorporated before the execution of the same pursuant to the provisions of the Contract or agreed upon by the parties. The Successful Tenderer's Tender, and any addenda to the Invitation to Tender issued to Tenderers up to the Close of Tenders shall also form part of the Contract Documents.

4. "Contractor" is the Successful Tenderer for the Ferry Service Tender.

5. "Department" means the Department of Transportation and Works, its agents, assigns, servants and/or representatives.

6. "Department's Representative" means the duly authorized designate of the Department of Transportation and Works.

7. "Ferry Service" means the work or services performed or required to be performed by the Contractor under this Agreement.

8. "Minister" refers to the Minister of Transportation and Works of the Province of Newfoundland and Labrador and for the purpose of this document includes designated officials of the Department where applicable and reference to the Department in this Tender Document shall, where applicable, be a reference to the Minister.

9. "Subcontractor" means a person, firm or corporation having a direct Contract with the Contractor to perform part or parts of the Work included in the Scope of the Contract.
Definitions:

10. “Tenderer” means a party submitting a tender for the Ferry Service.

11. “Time”
   
   a) The Contract Length is the time stated in Contract Documents.
   b) The term “day”, as used in the Contract Documents, shall mean the calendar day.

12. “Tonne” is one metric tonne or 1,000 kg.

13. “Vessel” means the motorized vessel meeting the requirements as per the Tender Documents.

14. “Work” and/or “Service” includes all labour, materials, and equipment (including marine vessels), as shown or described in the Contract Documents, or any portion thereof. Throughout these Contract Documents both terms are used interchangeably and neither term includes or excludes any items of work and or service not covered by the other.

The singular number, where used herein, shall include the plural and vice versa. The masculine, where used herein, shall include the feminine.
FORM OF AGREEMENT BETWEEN DEPARTMENT AND CONTRACTOR FOR RENCONTRE EAST - BAY L'ARGENT - POOL'S COVE FERRY SERVICE

THE AGREEMENT MADE ON THIS 15TH DAY OF JUNE, 2014 AT ST. JOHN'S IN THE PROVINCE OF NEWFOUNDLAND AND LABRADOR.

BETWEEN:     HER MAJESTY in Right of Newfoundland and Labrador as represented by the Department of Transportation and Works;

(Hereinafter called the "Department");

OF THE ONE PART

AND:     NORCON MARINE SERVICES LTD.

(Hereinafter called the "Contractor");

OF THE OTHER PART

The Department and the Contractor agree as follows:

ARTICLE A-1 THE WORK

The Contractor shall:

1.1 perform the Work required by the Contract Documents for Tender 012-14POF for the provision of the Rencontre East - Bay L'Argent - Pool's Cove Ferry Service which has been signed in duplicate by both parties;

1.2 do and fulfill everything indicated by this Agreement; and

1.3 commence the Work not later than June 15th, 2014.

ARTICLE A-2 THE TERM OF THE CONTRACT
2.1 The term of the Contract shall be 21.5 months commencing not later than June 15th, 2014, with an option to renew for an additional one (1) year period or any part thereof in the manner prescribed in the Contract Documents at the sole discretion of the Department.

2.2 The Contract shall terminate on March 31, 2016, if the option to renew for a one (1) year period of any part thereof is not exercised at least 60 days prior to termination or such lesser notice period as mutually agreed in writing between the Parties.

ARTICLE A-3 AGREEMENTS AND AMENDMENTS

3.1 The Contract supersedes all prior negotiations, representations, or agreements, either written or oral, relating in any manner to the Work that is not expressly listed in Article A-1 of this Agreement.

3.2 The Contract may be amended only as provided in the Contract Documents.

ARTICLE A-4 CONTRACT DOCUMENTS

4.1 The following is the exact list of Contract Documents referred to in Article A-1 of the Agreement:

1. Tender Title Page
2. Table of Contents
3. Notice to Tenderers
4. Instruction to Tenderers
5. Tender Form
6. Supplementary General Conditions
7. Ferry Schedule
8. General Conditions
9. Definitions
10. Form of Agreement
ARTICLE A-5  CONTRACT PRICE

5.1 The Contract Price is comprised of the rates submitted by the Contractor as stated in the Tender Form, which forms part of the Contract Documents;

5.2 All amounts are payable in Canadian Funds; and

5.3 These amounts shall be subject to such adjustments as are provided in the Contract Documents.

ARTICLE A-6  PAYMENT

6.1 Subject to the provisions of the Contract Documents, the Department shall pay to the Contractor in Canadian funds the amounts provided for in General Condition 25 of the Contract Documents.

6.2 Interest, where and to the extent that it becomes owing under this Agreement, shall be paid by the Department as provided for pursuant to and in accordance with the Financial Administration Act.

ARTICLE A-7  NOTICES

7.1 Notices in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended by hand or by registered post; or if sent by regular post, to have been delivered within five (5) working days of the date of mailing when addressed as follows:

To the Department at: Director of Operations
                   Department of Transportation and Works
                   Marine Services
                   P.O. Box 97, Lewisporte, NL A0G 3A0

Or such other address as the Department may advise the Contractor in writing.

To the Contractor at:

Or such other address as the Contractor may advise the Department in writing.
ARTICLE A-8 LANGUAGE OF THE CONTRACT

8.1 When the Contract Documents are prepared in both the English and French languages, it is agreed that, in the event of any apparent discrepancy between the English and French version, the English language shall prevail; and

8.2 This Agreement is drawn in English at the request of the parties hereto. La presente convention est redigee en anglais a la demande des parties.

ARTICLE A-9 SUCESSION

9.1 The Contract Documents are to be read into and form part of this Agreement and the whole shall constitute the Contract between the parties and, subject to the law and the provisions of the Contract Documents, shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

ARTICLE A-10 ARBITRATION

10.1 Any disputes arising under this Agreement, if not settled amicably, shall be referred to arbitration under the provisions of the Arbitration Act of the Province of Newfoundland and Labrador which shall be applicable to and govern such arbitration.
IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written by the hands of their duly authorized representatives.

SIGNED AND THE SEAL OF THE DEPARTMENT OF TRANSPORTATION AND WORKS AFFIXED IN THE PRESENCE OF:

[Signature]
(Witness Signature)

DEPARTMENT OF TRANSPORTATION AND WORKS PER:

[Signature]
(Deputy Minister)

SIGNED AND THE SEAL OF THE CONTRACTOR AFFIXED IN THE PRESENCE OF:

[Signature]
(Witness Signature)

CONTRACTOR

[Signature]
(Signature for Contractor)

[Name and Title of Person Signing]

s. 40(1)
PRECEDECE

This Addendum shall form an integral part of the specification to be read in conjunction therewith. This Addendum shall take precedence over all forms of the aforementioned specification with which it may prove to be at variance or may otherwise be qualified in writing by authorized personnel.

GENERAL

The General Conditions and all documents issued with this specification shall apply to govern all phases of the work covered by this Addendum.

PURPOSE

The purpose of this Addendum is to inform bidders of changes and additions to the contract documents:

- **Clause 18. Refit:**

  Starting with the commencement date, the Contractor may remove the Vessel from the ferry service for purposes of refit for a period not to exceed 21 days in each operating year. The Contractor will be paid the Vessel Daily Rate for this period. The Department will provide a relief Vessel for the Service during this 21 day period. For each day beyond the 21 day period that the Contractor does not operate the Service, the Total Combined Daily Rate will not be paid, at the discretion of the Department. The Contractor agrees to pay the Department, if the Department so requests, as liquidated damages and not as a penalty but as a fair, reasonable and appropriate estimate of the damages the Department will suffer, an amount equal to the Vessel Daily Rate for each day from the 21 days up to, but not including, the date on which the Vessel returns to Service. If a suitable alternative vessel is provided by the Contractor during this period, liquidated damages will not be imposed. The Department must be given at least 90 days prior written notice of a scheduled refit. Scheduling of any refit period is to be approved by the Department, notwithstanding regulatory requirements. Fuel for the Vessel while travelling to and from the service area to refit shall be to the account of the Contractor. If the Contractor returns the Vessel to the Ferry Service prior to the 21 day refit period, the Contractor will be paid twice the Vessel Daily Rate as specified in the Tender Form for such unused refit days.

- **SGC 5. Vessel: S(c) relating to carpet:** Preferably non-carpeted but carpets will be accepted if in excellent and clean condition, and maintained as such for the duration of the contract. Carpeted area will be subject to inspection and acceptance by the Department.
• SGC 5. Vessel: 5(e) relating to LOA: The vessel must be a minimum of 28 meters (excluding appendages/extended ramps) in overall length.

• SGC 5. Vessel: 5(j) (i): The above deck cargo space shall be a minimum of 35 square meters designed for a minimum carrying capacity of 1.0 tonne per square meter and be capable of carrying a vehicle (up to 20 feet) and fitted with lashing points to secure cargo.

• SGC 5. Vessel: 5(j) (ii): The below deck (or location protected and secured from the elements) cargo size must be a minimum of 20 cubic meters, capable of carrying 5 tonnes of freight and having an opening of sufficient size to efficiently load/off load palletized freight.

• SGC 5. Vessel: 5(j) (iii): There must be a freezer space with a minimum capacity of 1.0 cubic meters capable of maintaining -5 degrees C and cold stores space with a minimum capacity of 1.0 cubic meters capable of maintaining 5 degrees C.

• SGC 5. Vessel: 5(k): The Contractor must provide a suitable frame for lifting snowmobiles, motorcycles, ATVs and vehicles up to 6 meters in length or provide access to a vessel via a roll on/roll off ramp acceptable to the department and suitable to efficiently dock, discharge, and load using existing infrastructures at designated ports.

• SGC 5. Vessel: 5(l): The vessel must have a designated medi-vac area

• SGC 5. Vessel: 5(m): There shall be at least two separate kennels for pets and each kennel must be able to accommodate a large dog.

• SGC 5. Vessel: 5(h): The vessel is expected to have a minimum service speed of 10 knots in calm seas, no wind. The vessel must have sufficient power to operate with a high degree of reliability in the various wind, sea, and ice conditions expected in the south coast service.

• SGC 17. Downtime (2\textsuperscript{nd} paragraph): If the Department deems it necessary to employ an alternate vessel provided by another service provider or the Department, the Contractor shall not be paid the Vessel Daily Rate for that period, and the Contractor shall be liable for and shall pay all the Department’s incremental costs associated with the hire or supply of the alternate vessel that exceed the Vessel Daily Rate.
Contractors are advised to acknowledge receipt of this Addendum on Page 3 Item H of the Tender Form when submitting a bid.

Stephen Slaney
Program Co-ordinator
Tendering & Contracts
Transportation & Works
Ground Floor, East Block, Confederation Bldg.
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709-729-2017
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2014/04/23

END OF ADDENDUM
DEPARTMENT OF TRANSPORTATION AND WORKS

Addendum No. 2

12-14 POF RENCONTRE EAST – BAY L’ARGENT – POOL’S COVE FERRY SERVICE

PRECEDENCE

This Addendum shall form an integral part of the specification to be read in conjunction therewith. This Addendum shall take precedence over all forms of the aforementioned specification with which it may prove to be at variance or may otherwise be qualified in writing by authorized personnel.

GENERAL

The General Conditions and all documents issued with this specification shall apply to govern all phases of the work covered by this Addendum.

PURPOSE

The purpose of this Addendum is to provide answers to the questions below:

1. Please address tender form.
   Tender form is to be used for daily rate only, fuel calculation is only for evaluation purposes. The Department will be paying fuel directly.

2. Average operating hours per days?
   Average operating hours for the Rencontre service is 7.17 hours per day.

3. Cost of yearly operating season – section D on bid form. Should daily rate include fuel calculation or not? Section D refers to combined daily rate.
   Section D should not include the fuel calculation. “Combined” is to be removed from Section D. In addition, “Forward to Part D” should be removed from Table C, part D.

Contractors are advised to acknowledge receipt of this Addendum on Page 3 Item H of the Tender Form when submitting a bid.

Stephen Slaney
Program Co-ordinator
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2014/04/23

END OF ADDENDUM