

## **AGREEMENT FOR WINTER FERRY SERVICE**

AGREEMENT made this 26th day of September, 2018, by and between the City of Mackinac Island, hereafter CMI, and Star Line Mackinac Island Ferry, hereafter Star Line.

WHEREAS, CMI has issued two identical non-exclusive franchises to operate public ferry boat services to and from the City of Mackinac Island, the two franchisees being Shepler's Mackinac Island Ferry and Star Line Mackinac Island Ferry, and

WHEREAS, the franchises granted provide, at Section 5, that every five years CMI would seek proposals from all franchisees for providing winter ferry service for a five (5) year time period, being between November 1<sup>st</sup>, 2013 and April 20<sup>th</sup>, 2018; November 1<sup>st</sup>, 2018 and April 20<sup>th</sup>, 2023; and November 1<sup>st</sup>, 2023 and April 20<sup>th</sup>, 2028, respectively.

WHEREAS, CMI requested proposals for winter service from both franchisees, and received such proposals from Shepler's Mackinac Island Ferry and from Star Line, and

WHEREAS, the Mackinac Island City Council approved the proposal for winter service submitted by Star Line, a copy of which is attached hereto as Exhibit A, conditional upon the execution of a mutual agreed contract between CMI and Star Line, incorporating the terms and conditions contained in Exhibit A and any other matters deemed relevant by either party, and

WHEREAS, the parties intend that this agreement memorialize their respective understanding and agreement relating to winter ferry service to and from Mackinac Island for the time period between November 1<sup>st</sup>, 2018 and April 20<sup>th</sup>, 2023.

WITNESSETH, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which is acknowledged by both parties;

IT IS AGREED as follows:

1. Grant of Franchise for Winter Service. CMI hereby accepts Star Line's proposal, attached as Exhibit A hereto, and grants to Star Line the exclusive right and exclusive contract to operate and provide winter service to and from Mackinac Island during the five year time period between November 1<sup>st</sup>, 2018 and April 20<sup>th</sup>, 2023, and Star Line hereby accepts the same, subject to the terms and conditions of this agreement.

2. Standards of Performance.

A. Vessels and Equipment. Star Line hereby agrees to provide and maintain substantially all of the steel-hulled vessels, docks, parking and other facilities referenced in Exhibit A during the term of this agreement. Any material change that would substantially reduce or eliminate the steel-hulled vessels, docks, parking and other facilities identified in Exhibit A must be approved by CMI, said approval to not be unreasonably withheld.

B. Schedule. The winter service schedule of trips provided on Exhibit A shall be maintained by Star Line during the term of this agreement. It is understood that the schedule is dependent on weather and ice conditions and that the schedule does not need to be met when such conditions prevent safe travel operations or undue damage to vessels. Star Line is not obligated to provide service on any day of the winter service schedule when, in the sole judgment of Star Line, acting in good faith, it would be unsafe to provide service because of the weather.

C. Rates. The following schedule of rates shall be maintained during the term of this contract subject only to changes representing cost increases incurred by Star Line that exceed the parties reasonable expectation and result from conditions beyond Star Line's control. No such increases shall be put in effect without the

approval of CMI, said approval not being withheld unreasonably. The parties agree to assume the duty to deal fairly and in good faith on issues involving future rate increases.

Boat Line ▼	Pass/Ticket Type ▼	Price ▼	Need a Ticket? ▼	Pay Surcharge? ▼
<b>Star Line</b>				
	Adult Island Resident Pass	\$ 245.00	No	No
	Child Island Resident Pass	\$ 150.00	No	No
	Adult Seasonal Commuter Pass	\$ 655.00	No	Yes
	Winter Commuter Book - 40 One ways	\$ 410.00	No	No
	Winter Commuter Book - 20 One ways	\$ 235.00	No	No
	Summer Commuter Book - 40 One ways	Same as previous summer season	No	Yes
	Summer Commuter Book - 20 One ways	Same as previous summer season	No	Yes
	Adult - Round trip ticket	Same as previous summer season	Yes	Yes
	Child - Round trip ticket	Same as previous summer season	Yes	Yes
<b>Sheplers</b>				
	Adult Island Resident Pass	NA	Yes	NA
	Child Island Resident Pass	NA	Yes	NA
	Adult Seasonal Commuter Pass	NA	Yes	NA
	Winter Commuter Book - 40 One ways	NA	Yes	NA
	Winter Commuter Book - 20 One ways	NA	Yes	NA
	Summer Commuter Book - 40 One ways	NA	Yes	NA
	Summer Commuter Book - 20 One ways	NA	Yes	NA
	Adult - Round trip ticket	NA	Yes	NA
	Child - Round trip ticket	NA	Yes	NA

D. Island Residents. The term "Island Resident" as used in this Agreement means only those individuals that are residents of the City of Mackinac Island and who produce satisfactory documentary evidence of such residence by way of a driver's license, voter identification card, utility bill or similar evidence. Alternatively, proof of residence can be established by production of documentary evidence verifying that the individual physically resides on Mackinac Island. The City agrees to support compliance with the "Island Residency" requirement and the rates applicable to Island Residents and allow Star Line reasonable discretion in its enforcement.

3. Credit. In consideration of providing winter service, Star Line will receive an annual credit of \$100,000.00 toward the annual franchise fees otherwise owed by Star Line to CMI pursuant to its franchise during the non-winter service period. The credit shall be applied during summer season following each winter season during which Star Line provides services pursuant to this contract. For each year of this contract, including year 1, the annual credit shall be adjusted each year by an increase equal to any percentage increase in the cost of living for the preceding one year period as reflected in the consumer price index. All Urban Consumers (CPI — U) U.S. City Average published by the Bureau of Labor Statistics of the U.S. Department of Labor. If that consumer price index is subsequently discontinued, the city council may select comparable statistics on the cost of living as they are computed and published by the Federal Government. Due to CPI — U increases for the previous five (5) years, the credit for the 2017-2018 winter season was \$106,763; therefore, the adjustments for the terms of this contract shall increase from that amount.

4. Default. In the event either party defaults in any of the provisions of this agreement, the other party shall provide written notice to the other party identifying the nature of the default and a time period of not more than three (3) days in which to cure said default. Provided, however, if the default by Star Line involves a failure to provide or maintain the schedule of services set forth in Exhibit A, the time period to cure said default shall be not more than two (2) days. If the default is not cured within the stated time period, either party may terminate this Agreement.

Notwithstanding any other provision in this paragraph, CMI may terminate this agreement if there are three or more incidents of material default, that occur during a single winter season, that are subsequently cured by Star Line after receiving written notice of default. Further, CMI may also terminate this agreement if Star Line becomes the subject of a bankruptcy or receivership proceeding.

Star Line may terminate this agreement if CMA (a) grants any other contract for winter services, directly or indirectly, and whether through a transportation authority or otherwise or (b) ceases to retain jurisdiction over the ferry boat services. In addition, Star Line may seek to specifically enforce the terms of this Agreement or elect to seek a claim for damages, or both. The remedies of Star Line shall be deemed to be cumulative.

Upon termination of this agreement, Star Line's annual credit against its franchise fee will be pro-rated over the term of the annual service period (165 days) with said credit being limited to the number of days between November 1<sup>st</sup> of a winter service season and the date of default.

5. Insurance. Star Line shall maintain liability insurance at all times during the period in which winter service is provided with policy limits of \$1,000,000.00, and shall provide CMI with proof thereof.

6. Amendment. Any amendment to this agreement must be in writing executed by both parties.

7. Severability. If any term or provision of this agreement, which is not in itself material to the transactions contemplated hereby, or the application of any such term or provision to any circumstances shall, to the extent be in valid or unenforceable, the remainder of the agreement shall not be affected thereby and each term and provision hereof shall be enforced to the fullest extent permitted by law.

8. Binding Effect. This agreement shall bind the parties, their heirs, executors, personal representatives and assigns.

**CITY OF MACKINAC ISLAND, By:**

\_\_\_\_\_  
MARGARET DOUD, its Mayor

**STAR LINE MACKINAC ISLAND FERRY, By:**

\_\_\_\_\_  
JERRY FETTY, its CEO

# WINTER SCHEDULE NOV.1 2018 THRU APRIL 20 2023

## NOV.1 THRU DAY BEFORE THANKSGIVING

depart mainland	depart island
*7:30am *mon. thru sat. only	*8:30am
11:30am	12:30am
2:00pm	3:00pm
4:00pm	5:00pm

## THANKSGIVING DAY

8:30am	9:30am
11:30am	1:00pm

## DAY AFTER THANKSGIVING 'TIL DAY BEFORE BAZAAR

*7:30am *mon. thru sat. only	*8:30am
11:30am	12:30pm
4:00pm	5:00pm

## CHRISTMAS BAZAAR DAY

7:30am	8:30am
10:00am	11:00am
1:00pm	2:00pm
3:30pm	4:30pm
6:00pm	6:45pm

## DAY AFTER CHRISTMAS BAZAAR DAY THRU JAN.2

*8:00am *mon. thru sat. only	*9:00am
11:30am	12:30pm
3:30pm	4:30pm

NO CHRISTMAS DAY SERVICE

## JAN.3 THRU MARCH 31

8:00am CLOSED SUNDAYS	9:00am
11:30am	1:00pm
3:00pm	4:00pm

## APR. 1 THRU APR.9

*7:30am *mon. thru sat. only	*8:30am
11:30am	12:30pm
4:00pm	5:00pm

## APR.10 THRU APR.20

*7:30am *mon. thru sat. only	*8:30am
11:30am	12:30pm
2:00pm	3:00pm
4:00pm	5:00pm