

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease (the "First Amendment") is dated as of \_\_\_\_\_ by and between LAKE EXPRESS, LLC, a Wisconsin limited liability company ("Tenant") and the CITY OF MILWAUKEE, a Wisconsin municipal corporation, acting by and through its Board of Harbor Commissioners ("City").

### RECITALS

A. City and Tenant entered into a Lease Agreement dated as of April 28, 2003 (the "Lease") pursuant to which City leased to Tenant certain land described therein (the "Property") and further agreed to construct on such land certain improvements to be mutually agreed upon by City and Tenant (the "Improvements").

B. City has completed construction of the Improvements and Tenant has commenced occupancy of same. City and Tenant desire to enter into this First Amendment for the purpose of: (i) confirming the commencement and termination dates of the Lease; (ii) conforming the description of the Property and the Improvements in the Lease to the final site plan and as-built construction drawings for the Property and the Improvements; and (iii) confirming the rent to be charged for the Premises.

### IMPROVEMENTS

In consideration of the RECITALS and the terms and conditions set forth herein, City and Tenant agree as follows:

1. The Commencement Date of the Lease is July 1, 2004 and the Initial Term of the Lease shall expire on December 31, 2014. The first Lease Year under the Lease shall commence January 1, 2005 and expire on December 31, 2005, and each succeeding Lease Year shall be the January 1 through December 31 calendar year following immediately after the termination of the preceding Lease Year.

2. The Lease contemplated that a separate Maintenance Building would be constructed as part of the Improvements. By mutual consent, the Maintenance Building was not constructed but a maintenance garage area was constructed as part of the Terminal Building. Accordingly, all references in the Lease to the Maintenance Building and to the Maintenance Building Rental are hereby deleted.

3. City and Tenant stipulate that the enclosed usable square footage of the Terminal Building (net of columns and other obstructed areas and intrusions), as verified by City's architect, is 6,823 square feet. The maintenance garage

located within the Terminal Building is 680 square feet. Accordingly, the annual Terminal Building Rental payable by Tenant under the Lease is as follows:

<u>Time Period</u>	<u>Annual Terminal Building Rental</u>	<u>Quarterly Terminal Building Rental</u>
7/1/04-12/31/14	\$63,470	\$15,867.50 *
1/1/15-12/31/19	\$76,164	\$19,041.00 **
1/1/20-12/31/24	\$83,780	\$20,945.00 **
1/1/25-12/31/29	\$92,158	\$23,039.50 **

\* calculated by applying a rental rate of \$3/square foot for the maintenance garage area and \$10/square foot for the balance of the Terminal Building.

\*\* calculated by increasing the per square foot rents for the maintenance garage area and the balance of the Terminal Building in accordance with the specified increases set forth in paragraph 2(F) of the Lease.

4. The final site plan for the Premises and the legal description of the Premises are set forth in Exhibit A, attached hereto. The site plan delineates the boundaries of the Premises and further designates three areas within the Premises: (i) the Exclusive Use Area; (ii) the Shared Use Area; and (iii) the Public Access Area. The Exclusive Use Area is reserved for the exclusive use of Tenant and Tenant's customers, invitees, contractors, vendors and agents in connection with the conduct of Tenant's business at the Premises ("Tenant's Use"), provided, however, that consistent with the conditions imposed under the Tenant's U.S. Coast Guard approved security plan (as may be amended from time to time) and the orderly and efficient conduct by Tenant of its business, the general public shall have access to the public spaces of the Terminal Building to utilize the services provided therein by the Tenant during the hours that the Terminal Building are open to handle passengers; provided further that, notwithstanding the above, Tenant may exclude or require the exclusion from the Exclusive Use Area of persons engaging in or preparing to engage in demonstrations or disorderly or disruptive behavior. The term "public spaces" shall include the restrooms, food kiosk service area and waiting area (except when the waiting area is used for the staging of ticketed passengers). The Shared Use Area is reserved for Tenant's Use and for use by the City, the Port Authority of the City and the City's Board of Harbor Commissioners for the purpose of obtaining access to and from property located adjacent to the Premises. The Public Access Area is reserved for Tenant's Use and for use by the general public for the purpose of obtaining access to the shore of Lake Michigan and other public property located adjacent to the Premises. The Landlord reserves the right from time to time to restrict public access to the Terminal Building and the Public Access Area for reasons of safety and security; provided that Landlord shall not have the right to restrict access of

Tenant or Tenant's customers, invitees, contractors, vendors and agents in connection with the conduct of Tenant's business at the Premises.

5. For the six-month period from July 1, 2004 through December 31, 2004 (the "Initial Six Months"), Tenant shall pay Terminal Building Rental in the amount of \$31,735 in two installments of \$15,867.50 each, with the first installment due on October 1, 2004 and the second installment due on January 1, 2005.

Tenant shall also pay a Wharfage Fee for the Initial Six Months equal to \$.50 (fifty U.S. Cents) per passenger embarked or disembarked at the Premises during the Initial Six Months. The Wharfage Fee payable hereunder shall be paid in arrears on or before October 15, 2004 and on or before January 15, 2005 based upon the passenger count for the three-month time periods of July 1, 2004 through September 30, 2004 and October 1, 2004 through December 31, 2004, respectively.

6. The parties agree to discuss and negotiate in good faith to arrive at a mutually agreeable amendment to this Lease if and at such time as either party proposes an expansion to the Terminal Building.

7. All capitalized and other terms herein, if not otherwise defined, shall have the meaning ascribed to them in the Lease. All terms and conditions of the Lease not inconsistent with the terms and conditions of this First Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized officers executed this First Amendment under seal as of the day and year first above written.

In the Presence of:

CITY OF MILWAUKEE

\_\_\_\_\_

\_\_\_\_\_

Thomas M. Barrett, Mayor

\_\_\_\_\_

\_\_\_\_\_, City Clerk

In the Presence of:

COUNTERSIGNED:

\_\_\_\_\_

\_\_\_\_\_

W. Martin Morics, City Comptroller

In the Presence of:

BOARD OF HARBOR COMMISSIONERS

\_\_\_\_\_

\_\_\_\_\_

Daniel J. Steininger, President

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Donna Luty, Secretary

In the Presence of:

LAKE EXPRESS, LLC

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David J. Lubar, Managing Member

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