

DOCKING LICENSE AGREEMENT

This DOCKING LICENSE AGREEMENT (“License”) is made and entered into as of the 9 day of March 2021, by and between the CITY OF SAINT PAUL, MINNESOTA, a Minnesota municipal corporation (“City”) and VIKING MISSISSIPPI LLC, (“Viking”);

Recitals

WHEREAS, the City owns one or more tracts of property abutting the Mississippi River (individually and collectively, the “Land”), sometimes referred to as Lambert’s Landing, that contain docking facilities that enable cruise vessels to dock and disembark passengers from river cruise vessels onto the land, (the “Docking Facilities”); and

WHEREAS, Viking has requested that the City provide exclusive use of the Docking Facilities for its vessels at certain dates during its cruises for the extent of the Term outlined below; and

WHEREAS, the City is willing to agree to exclusive use of the Docking Facilities on the dates listed during the period of this License in exchange for a License Fee and an Investment into the City; and

Now therefore, the City and Viking agree as follows:

1. Grant of License. The City will allow Viking to use the Docking Facilities for select dates in 2024 through 2026, which will be agreed to by the City and Viking at least 12 months in advance; listed in a docking schedule to be attached hereto as Exhibit A. Exhibit A shall be updated on an annual basis at least twelve months prior to the commencement of each year of the Term. Viking may amend Exhibit A from time to time with the consent of the City, and the City shall not unreasonably withhold consent to the amendments if there are no non-Viking vessels then scheduled to occupy the Docking Facilities on the requested amended dates. Viking shall be responsible for paying to the City those expenses identified in Section 4, below, that the City has incurred as a result of reliance on the initially agreed upon dates prior to the amendment and that the City has made reasonable efforts to, and been unable to, mitigate. On the chosen dates Viking will have exclusive access to the Docking Facilities for ingress and egress of passengers from its vessel onto the Land, without such passengers having to cross another vessel. Viking shall not be required to allow any other vessel’s passengers entrance onto Viking’s vessels. The City and Viking agree that this License is exclusive only as to the dates indicated in Exhibit A, and that at all other times City intends to allow other cruise operators to use the Docking Facilities.
2. Term.
 - a. This License will become effective on the first of the month subsequent City Council approval, and the License term shall commence January 1, 2024 and

continue for a period of three (3) years (as may be extended per the following subparagraphs, the “**Term**”).

- b. This License may be renewed for one additional 3 year term (the “**Renewal Term**”) upon written notice from Viking to City at least 18 months’ prior to expiration of the initial Term upon the following conditions:

- 1. A determination by the City in the form of a council resolution that (i) the City desires to renew the License; (ii) that the required investment by Viking has been made during the Term; and (iii) Viking is not in breach of the terms of this License, which determination shall be made within three months of the date of City’s receipt of Viking’s notice of renewal.

- 3. License Fees. In consideration for the License granted in paragraph 1 above Viking shall pay the City One and 00/100 Dollars (\$1.00) per passenger on board each Viking vessel that docks at the Docking Facilities with a minimum dollar amount being \$5,000 for the first year with a 10% increase using Year 1 as the base fee per year.

Year 1- \$5,000

Year 2- \$5,500

Year 3- \$6,000

After renewal:

Year 4- \$6,500

Year 5- \$7,000

Year 6- \$7,500

Viking shall make payment to the City within 30 days after receiving an invoice.

Viking shall make one \$50,000 investment into the Docking Facilities during the 3 year term of the License.

- 4. Docking Responsibilities. Viking is responsible for: (1) removing any litter or garbage left at the docking facilities by Viking passengers; and (2) repairing or reimbursing the City for any damages to the docking facility caused by Viking or its passengers. Viking will be billed for the below-described costs that are the result of Viking docking at Lambert’s Landing and all others billed to Viking by the City. Viking shall make payment to the City within 30 days after receiving an invoice. Eligible costs to be reimbursed to the City and the CURRENT rates:

Cleaning and site prep pre and post docking: \$125.86 per hour.

Traffic Control:off duty officer and car \$110 per hour

Warning Lites Signs: \$170 delivery/pick-up and approximately \$50 rental

Lane Closure Public Works: 6am-6pm- \$107. 6pm-6am-\$64.46 -Flat Fee

RATES SUBJECT TO CHANGE ANNUALLY

5. Improvements. Viking shall not make any alterations to the Docking Facilities without the written consent of the City, which will not be unreasonably withheld. To make any such alterations, Viking must first submit to City for approval an accurate description of the proposed alterations including any information the City may need to determine whether to grant permission. Any work done under this paragraph will be done at Viking's sole cost and responsibility. All such work must be performed in a workmanlike manner and in conformance with all applicable laws, rules, and regulations, so that any related structural integrity or building systems will not be impaired, and that no liens will attach to the premises by reason thereof. All alterations made by Viking to the Docking Facilities will become the property of City upon termination or expiration of the Term.). Viking will employ licensed and bonded contractors to perform all work, must obtain all required permits and must post payment and performance bonds to ensure that no liens are placed on the property.
6. Repairs and Maintenance. The City shall, during the term of this Agreement and at its expense, make or cause to be made all repairs to or replacements of all parking areas, sidewalks, curbs, lawns and landscaping at the Docking Facilities, and cause the Docking Facilities to be maintained in good, sanitary and neat order, condition, and repair; except that, if the need for such repair or replacement arises from the negligence or willful misconduct of Viking, its agents, or employees, then Viking shall be responsible for such repair or replacement and shall ensure such repair or replacement is performed promptly. Viking shall, at its expense, make or cause to be made all repairs to or replacements of any improvements made by Viking under Section 5, above; except that, if the need for such repair or replacement arises from the negligence or willful misconduct of the City, its agents, or employees, then the City shall be responsible for such repair or replacement and shall ensure such repair or replacement is performed promptly.
7. Annual Operations Review Both parties will convene annually for an annual operations review. Topics of discussion will include but not be limited to performance as it pertains to this License.
8. Indemnification. Viking shall defend and indemnify, the City, and its officers and employees, from all suits, actions or claims of any character because of injuries or damages received or sustained by any person or property resulting from Viking or its

agents' use of the Docking Facilities permitted under this Agreement unless caused by the negligent or intentional acts or omissions of the City, its agents, or employees.

9. Insurance. Viking shall carry the following insurance coverage:
 - a. **Commercial General Liability Coverage** including blanket commercial liability coverage, personal injury liability coverage and broad form property damage liability endorsement with a combined single limit of not less than \$1,500,000 per occurrence and \$2,000,000 aggregate shall be purchased by Viking. Such insurance shall (i) name the City of Saint Paul as additional insured; (ii) be primary with respect to Contractor's insurance or self-insurance; (iii) not exclude explosion, collapse and underground property damage; (iv) be written on an "Occurrence Form" policy basis;
 - b. **Worker's Compensation Insurance** with not less than statutory minimum limits; and Employer's Liability Insurance with minimum limits of at least \$100,000 per accident and with an all states endorsement.
 - c. Viking must provide a current certificate of insurance for all policies prior to using the Docking Facilities as permitted under this License.

10. Compliance with Laws. Viking is responsible for complying with all applicable laws, rules and regulations related to its operation under this License and must obtain and keep in effect any permits or licenses required.

11. Amendments. No amendments to this License shall be effective without being reduced to writing and executed and agreed to by both parties.

12. Assignment or Sublicense. Viking shall not assign or sublicense this License without written permission from City. Permission will not be unreasonably withheld for any assignment to an entity owned or controlled by (a) Viking's parent company, or (b) to any entity that controls, is controlled by or is under common control with Viking.

13. Payments in Case of Default. Viking shall pay the City all costs and expenses, including reasonable attorney's fees in any action brought by the City to recover any License fee due and unpaid hereunder, or for the breach or default of any of the covenants or agreements contained in this License, or to recover possession of said property, whether such action progresses to judgement or not.

14. Material Breaches.
 - a. The occurrence of any of the following events during the term of this License shall constitute a Material Breach by Viking:

1. The filing of a petition to have Viking adjudicated bankrupt or a petition for reorganization or arrangement under any laws of the United States relating to bankruptcy filed by Viking.
2. Failure by Viking to maintain proper insurance as required by the License.
3. Viking makes any assignment or sublicense of the Docking Facilities in violation of this Agreement.
4. Breach of any obligation under this License and such breach continues for a period of 60 days or more after receipt of written notice of such breach, or if the cure requires longer than 60 days, failure to notify the City of the need for additional time, set a schedule agreeable to the City, and begin and pursue the cure in a timely manner.

b. The occurrence of a material breach of its obligations hereunder by the City shall constitute a Material Breach by the City:

15. Termination. This License may be terminated for cause 60 days after a written notice of a Material Breach of the terms of the License to the party alleged to have breached, if said party does not cure its breach of the License within those 60 days.

16. Notices. Any notice to be given pursuant to this License must be delivered postage pre-paid (a) via certified mail, return receipt requested, (b) via overnight courier, (c) via in-person delivery, or (d) sent by electronic delivery (e-mail) provided that confirmation of such is received or can be documented to the following addresses or to such other subsequent address as the respective parties shall designate in writing. The time of giving such notice or communication shall be deemed to be the time when the same is actually delivered to the other party.

If to City:

City of St. Paul

ATTN:

Email:

If to Viking:

Viking MISSISSIPPI LLC

ATTN: Leah Talactac

5700 Canoga Ave

Woodland Hills, CA 91367

Email: Leah.Talactac@viking.com

17. Jurisdiction and Venue. This License will be construed under the laws of the State of Minnesota and any dispute regarding the interpretation or enforcement will be venued in the courts in Ramsey County Minnesota.
18. Counterparts. The parties may sign this License in counterparts, each of which constitutes an original, but all of which together constitute one instrument.
19. Electronic Signatures. The parties agree that the electronic signature of a party to this License shall be valid as an original signature of such party and shall be effective to bind such party to this License. The parties further agree that any document (including this License and any attachments or exhibits to this License) containing or to which there is affixed, an electronic signature shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” also means a manually signed original signature that is then transmitted by an electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g. via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this License.

The above terms and conditions are hereby agreed to

VIKING MISSISSIPPI LLC.

By: _____

Name: Milton Hugh

Its: President

CITY OF SAINT PAUL, MINNESOTA

By: _____

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