

ADDENDUM NO. 1

TO THE

REQUEST FOR PROPOSALS

TO PROVIDE A

FREIGHT TRANSPORTATION SERVICE

TO THE ISLAND OF MARTHA'S VINEYARD

As a result of questions raised by prospective proponents at and before the pre-submission information meeting that was held on Monday, December 6, 1999, the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (the "Authority") hereby issues this Addendum No. 1 to its Request for Proposals to Provide a Freight Transportation Service to the Island of Martha's Vineyard, dated November 18, 1999.

REVISIONS TO THE RFP DOCUMENTS

In the Authority's opinion, only one question has raised an issue that requires a revision to the RFP Documents, namely, whether the Operator that is using the Authority's terminal facilities on Martha's Vineyard will be required to pay the Authority any sum of money under the Agreement if it misses one or more trips due to the unavailability of those terminal facilities for reasons beyond the Operator's control. The answer is no and, accordingly, Section A of Article 18 of the Agreement Form, which is attached as Exhibit D to the RFP, is revised to add the following sentence to the end of that section:

"Similarly, in the event the Authority and the Operator have entered into a separate Dockage Facilities Agreement, in the form attached hereto as Exhibit C, in no event shall the unavailability of the Authority's dockage facilities on Martha's Vineyard as provided for in that Dockage Facilities Agreement, for reasons beyond the Operator's control, constitute a 'Force Majeure Event' that requires the Operator to pay the Authority any sum of money under this Agreement. The Operator shall not be liable in damages or otherwise responsible to the Authority pursuant to Article 17, nor shall the Agreement or the license issued hereunder be terminated by the Authority pursuant to Article 12, due to the

Operator's failure to operate one or more trips due to unavailability of the Authority's dockage facilities as provided for in that Dockage Facilities Agreement for reasons beyond the Operator's control."

ISSUES NOT REQUIRING REVISIONS TO THE RFP DOCUMENTS

1. A question was raised regarding the bill that was passed by the Massachusetts House of Representatives last month requiring year-round freight service for two years between New Bedford and Martha's Vineyard commencing May 1, 2000. In the event the bill is similarly passed by the Massachusetts Senate and enacted into law, it appears that the Authority would then have several options on how to provide that expanded service. Assuming that the Authority may already have entered into an Agreement with a private operator pursuant to the provisions of this RFP at the time the law is enacted, the Authority would then have several alternative courses of action to comply with that law, including but not limited to issuing a new request for proposals from private operators to provide the service between New Bedford and Martha's Vineyard from November 1, 2000 through April 30, 2002.
2. A question was raised regarding whether the City of New Bedford is willing to allow a private operator to use the State Pier in New Bedford in order to provide the service. In response, attached to this Addendum No. 1 is a letter dated December 6, 1999 from New Bedford City Solicitor George J. Leontire to Authority General Manager Armand L. Tiberio, and another letter dated December 8, 1999 from Mr. Tiberio to Mr. Leontire. In sum, it appears that the City of New Bedford is not interested at this time in allowing the operational use and vessel-tie up at the State Pier for the proposed six-month seasonal service as specified in the RFP.
3. Although no final decisions have been made, the Authority expects to actively promote the proposed freight service between New Bedford and Martha's Vineyard. It also should be noted that, in accordance with the provisions of the Agreement Form attached to the RFP as Exhibit D, the Operator shall receive the same Total Compensation regardless of the number of trucks that are carried on the Vessel during the Term of the Agreement.
4. In the event the Authority and the Operator enter into a separate Dockage Facilities Agreement, in the form attached as Exhibit C to the Agreement Form, which is attached as Exhibit D to the RFP, the Operator shall not be required to have any personnel assigned to the Authority's terminal facilities on Martha's Vineyard. However, the Operator shall still be responsible for whatever personnel need to be assigned to its off-Cape terminal facilities on the mainland, although the Operator will not need any personnel to sell reservations or tickets to, or collect cash from, customers. The Operator's obligations in this regard are described in Article 8 of the Agreement Form.

5. In accordance with Article 5 of the Agreement Form, the Operator will not be permitted to carry any automobiles on the Vessel.
6. Attached to this Addendum No. 1 is a copy of the Authority's current Operating Schedules that have been approved by the Authority's governing Members for the island of Martha's Vineyard encompassing the period from January 4, 2000 through January 3, 2001. Those schedules are, however, subject to change, although no changes are contemplated at this time.
7. There is no truth to the rumor that the Authority is engaged in negotiations at this time to purchase, lease, charter or otherwise acquire a new vessel. The Authority already has contracted with a private firm to construct a high-speed passenger-only catamaran that is scheduled to go into service in May 2000 between Hyannis and Nantucket.
8. The RFP requires the Operator's Vessel to be able to transport on a daily basis nine (9) trucks each way between its proposed terminal facilities on the mainland and Martha's Vineyard. The Vessel itself does not have to have the capacity to carry all nine trucks on one trip. The Vessel can transport fewer than nine trucks per trip if the Operator schedules the Vessel to operate more than one trip per day. In this regard, the Authority considers a "truck" to have a maximum height of 16 feet, a maximum width of 9.5 feet and, when loaded, a maximum weight of 86,000 pounds. The Authority also considers four of the nine trucks that must be carried each way daily to have a maximum length of 70 feet and the remaining five trucks to have a maximum length of 55 feet.

End of Addendum No. 1

Dated: December 8, 1999



City of New Bedford
Law Department

GEORGE J. LEONTIRE
City Solicitor

BERNARDO J. CABRAL
PETER J. THOMAS
PATRICK T. WALSH
Assistant City Solicitors

ARTHUR J. CARON, JR.
Corporation Counsel

JANE MEDEIROS FRIEDMAN
Associate Solicitor

December 6, 1999

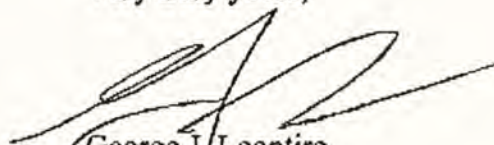
Armand L. Tiberio, General Manager
Woods Hole, Martha's Vineyard
and Nantucket Steamship Authority
P.O. Box 284
Woods Hole, MA 02543

Dear Mr. Tiberio:

I am responding to your request regarding the costs the City will charge for operational use and vessel tie-up at the State Pier. Although the question is difficult to answer without an agreement and understanding as to the scope and nature of the service, I would like to provide the following guidelines. As you are aware, we are not interested in the proposed six month seasonal service. Aside from the issue of the scope and nature of the service, as a general principle the Harbor Development Commission would be looking to recoup any actual costs associated with the service. For example, any electrical, water and necessary manpower will be passed through to the Authority. It is certainly not the City's intention to charge any fees which are not related to the direct charges incurred by the usage of the City terminal.

Once there is an agreed upon level of service we would look forward to sitting down and working out the specific cost issues based on your needs.

Very truly yours,



George J. Leontire
City Solicitor

GJL/lp



Woods Hole, Martha's Vineyard and Nantucket Steamship Authority

AUTHORITY MEMBERS

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Falmouth Member, Chairman
GRACE S. GROSSMAN
Nantucket Member, Vice Chairman
RONALD H. RAPPAPORT
Martha's Vineyard Member, Secretary
ROBERT L. O'BRIEN
Barnstable Member, Associate Secretary

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Falmouth
STEVEN A. TORNOVISH
Nantucket

GENERAL MANAGER
ARMAND L. TIBERIO

TREASURER/COMPTROLLER
WAYNE C. LAMSON

GENERAL COUNSEL
STEVEN M. SAYERS

December 8, 1999

George J. Leontire, City Solicitor
City of New Bedford
133 William Street, Room 208
New Bedford, Massachusetts 02740-6163

Dear Mr. Leontire:

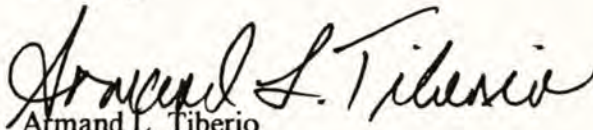
I appreciate the promptness of your response to my inquiry regarding the costs the City of New Bedford will charge for operational use and vessel tie-up at the State Pier. However, I was disappointed to read the statement in your December 6, 1999 letter to me that the City was "not interested" in allowing the operational use and vessel-tie up at the State Pier for "the proposed six month seasonal service."

As you know, the Authority has proposed a six-month pilot project for freight service from New Bedford by a private operator beginning May 1, 2000 through October 31, 2000 (with the possibility of having that service provided again from May 1, 2001 through October 31, 2001) as a prudent effort to determine the economic viability and desirability of the service. The initial limitation of the service to six months is intended to increase the prospects of the pilot project's success, in that it will be operating principally during the late Spring and Summer seasons when the island's freight demand is at its highest. The service also will hopefully reduce congestion in Falmouth during that time when traffic is at its worst.

Beginning the service as a year-round proposition would only serve to unnecessarily jeopardize the experiment. The Authority operates at a substantial loss the other six months of the year, and its vessels already have more than sufficient capacity during the winter to handle all freight traffic to Martha's Vineyard. Similarly, traffic in Falmouth is not as congested during the off-season. It thus would appear to be to everyone's benefit to initiate the service for the summer season when it will be utilized to the greatest extent possible, with a view towards expanding it in the future if it proves warranted.

The Authority's RFP requires private operators to submit their proposals by 2:00 p.m. on Friday, December 17, 1999. Accordingly, I respectfully ask that you reconsider your position and state your willingness to negotiate an agreement with the Authority that will allow a private operator to use the State Pier for the proposed service along the guidelines described in your December 6, 1999 letter. In our opinion, this not only would increase the number of private operators who would be able to submit a proposal to the RFP, but also would increase the probability of the pilot project's entire success and, as a result, would be the best method of ensuring a mutually beneficial long-term relationship among the Steamship Authority, the City of New Bedford, the island of Martha's Vineyard, and the Town of Falmouth.

Sincerely,


Armand L. Tiberio
General Manager

Operating Schedule 2000 Martha's Vineyard

Effective 1/4 - 3/21

To the Islands

| | LV WH | DUE VH | DUE OB | TRIP | LV VH | LV OB |
|-------|---------------------|--------|--------|------|---------------------|-------|
| Daily | | | | | 600am | |
| Daily | | | | | 700am | |
| M-F | 615am ¹ | 700am | | 161 | 715am | |
| Daily | 715am | 800am | | 7 | 830am | |
| Daily | 815am | 900am | | 9 | 930am | |
| M-F | 830am ¹ | 915am | | 165 | 945am ¹ | |
| Daily | 945am | 1030am | | 11 | 1100am | |
| Daily | 1045am | 1130am | | 13 | 1200n | |
| M-F | 1100am | 1145am | | 169 | 1215pm ¹ | |
| Daily | 1215pm | 100pm | | 15 | 130pm | |
| Daily | 115pm | 200pm | | 17 | 230pm | |
| M-F | 130pm | 215pm | | 173 | 245pm | |
| Daily | 245pm | 330pm | | 19 | 400pm | |
| Daily | 345pm | 430pm | | 21 | 500pm | |
| Daily | 515pm | 600pm | | 23 | 615pm | |
| Daily | 615pm | 700pm | | 25 | 730pm | |
| Daily | 745pm | 830pm | | 27 | 845pm ² | |
| Daily | 845pm | 930pm | | 29 | | |
| | 1000pm ² | 1045pm | | 31 | | |

From the Islands

| DUE WH | TRIP | VESSEL |
|--------|------|---------|
| 645am | 6 | Mar |
| 745am | 8 | Isl/Nan |
| 800am | 160 | Kat |
| 915am | 10 | Mar |
| 1015am | 12 | Isl/Nan |
| 1030am | 164 | Kat |
| 1145am | 14 | Mar |
| 1245pm | 16 | Isl/Nan |
| 100pm | 168 | Kat |
| 215pm | 18 | Mar |
| 315pm | 20 | Isl/Nan |
| 330pm | 172 | Kat |
| 445pm | 22 | Mar |
| 545pm | 24 | Isl/Nan |
| 700pm | 26 | Mar |
| 815pm | 28 | Isl/Nan |
| 930pm | 30 | Mar |
| | | Isl/Nan |
| | | Mar |

1/4 - 1/18/00 = M/V Islander

1/19 - 3/21/00 = M/V Nantucket

⁽¹⁾ Monday - Friday = Hazardous Trips

⁽²⁾ Will operate Fridays, Sundays, and Holidays: (1/17 & 2/21)

Operating Schedule 2000 Martha's Vineyard

Effective 3/22 - 5/17

| To the Islands | | | | | From the Islands | | | | |
|----------------|---------------------|--------|--------|------|---------------------|-------|--------|------|--------|
| | LV WH | DUE VH | DUE OB | TRIP | LV VH | LV OB | DUE WH | TRIP | VESSEL |
| Daily | | | | | 600am | | 645am | 6 | Mar |
| Daily | | | | | 700am | | 745am | 8 | Isl |
| M-F | 600am ¹ | 645am | | 161 | 715am | | 800am | 160 | Gov |
| Daily | 715am | 800am | | 7 | 830am | | 915am | 10 | Mar |
| Daily | 815am | 900am | | 9 | 930am | | 1015am | 12 | Isl |
| Daily | 830am ¹ | 915am | | 165 | 945am ¹ | | 1030am | 164 | Gov |
| Daily | 945am | 1030am | | 11 | 1100am | | 1145am | 14 | Mar |
| Daily | 1045am | 1130am | | 13 | 1200n | | 1245pm | 16 | Isl |
| Daily | 1100am | 1145am | | 169 | 1215pm ¹ | | 100pm | 168 | Gov |
| Daily | 1215pm | 100pm | | 15 | 130pm | | 215pm | 18 | Mar |
| Daily | 115pm | 200pm | | 17 | 230pm | | 315pm | 20 | Isl |
| Daily | 130pm | 215pm | | 173 | 245pm | | 330pm | 172 | Gov |
| Daily | 245pm | 330pm | | 19 | 400pm | | 445pm | 22 | Mar |
| Daily | 345pm | 430pm | | 21 | 500pm | | 545pm | 24 | Isl |
| Daily | 400pm | 445pm | | 177 | 515pm | | 600pm | 176 | Gov |
| Daily | 515pm | 600pm | | 23 | 615pm | | 700pm | 26 | Mar |
| Daily | 615pm | 700pm | | 25 | 730pm | | 815pm | 28 | Isl |
| Daily | 630pm | 715pm | | 181 | 745pm | | 830pm | 180 | Gov |
| Daily | 745pm | 830pm | | 27 | 900pm ² | | 945pm | 30 | Mar |
| Daily | 845pm | 930pm | | 29 | | | | | Isl |
| Daily | 1000pm ² | 1045pm | | 31 | | | | | Mar |

⁽¹⁾ Monday - Friday = Hazardous Trips

⁽²⁾ Will operate Fridays, Sundays, and Holidays: (4/17)

Operating Schedule 2000 Martha's Vineyard

Effective 5/18 - 10/26/00

* Stand-by service available Tuesdays, Wednesdays, & Thursdays, 6/20 - 9/14/00

| <i>To the Islands</i> | | | | | <i>From the Islands</i> | | | | |
|-----------------------|---------------------|--------|--------|------|-------------------------|--------|--------|------|---------|
| | LV WH | DUE VH | DUE OB | TRIP | LV VH | LV OB | DUE WH | TRIP | VESSEL |
| Daily | | | | | 600am | | 645am | 6 | Mar |
| Daily | | | | | 700am | | 745am | 8 | Isl |
| M-F | 600am ¹ | 645am | | 161 | 715am | | 800am | 160 | San/Kat |
| Daily | 715am | 800am | | 7 | 820am | | 905am | 10 | Mar |
| Daily | 730am ¹ | 815am | | 163 | 830am | | 915am | 162 | Gov |
| Daily | 815am | 900am | | 9 | 930am | | 1015am | 12 | Isl |
| Daily | 830am | 915am | | 165 | 945am ¹ | | 1030am | 164 | San/Kat |
| Daily | 930am | | 1015am | 11 | | 1045am | 1130am | 14 | Mar |
| Daily | 945am | 1030am | | 167 | 1100am ¹ | | 1145am | 166 | Gov |
| Daily | 1045am | 1130am | | 13 | 1200n | | 1245am | 16 | Isl |
| Daily | 1100am | | 1145am | 169 | | 1215pm | 100pm | 168 | San/Kat |
| Daily | 1200pm | | 1245pm | 15 | | 115pm | 200pm | 18 | Mar |
| Daily | 1215pm | 100pm | | 171 | 130pm | | 215pm | 170 | Gov |
| Daily | 115pm | 200pm | | 17 | 230pm | | 315pm | 20 | Isl |
| Daily | 130pm | | 215pm | 173 | | 245pm | 330pm | 172 | San/Kat |
| Daily | 230pm | | 315pm | 19 | | 345pm | 430pm | 22 | Mar |
| Daily | 245pm | 330pm | | 175 | 400pm | | 445pm | 174 | Gov |
| Daily | 345pm | 430pm | | 21 | 500pm | | 545pm | 24 | Isl |
| Daily | 400pm | | 445pm | 177 | | 515pm | 600pm | 176 | San/Kat |
| Daily | 500pm | | 545pm | 23 | | 615pm | 700pm | 26 | Mar |
| Daily | 515pm | 600pm | | 179 | 630pm | | 715pm | 178 | Gov |
| Daily | 615pm | 700pm | | 25 | 715pm | | 800pm | 28 | Isl |
| Daily | 630pm | 715pm | | 181 | 730pm | | 815pm | 180 | San/Kat |
| Daily | 730pm | 815pm | | 27 | 845pm | | 930pm | 30 | Mar |
| Daily | 745pm | 830pm | | 183 | 900pm | | 945pm | 182 | Gov |
| Daily | 830pm | 915pm | | 29 | 930pm ² | | 1015pm | 32 | Isl |
| Daily | 845pm | 930pm | | 185 | 945pm ³ | | 1030pm | 184 | San/Kat |
| Daily | 950pm | 1035pm | | 31 | | | | | Mar |
| | 1030pm ² | 1115pm | | 33 | | | | | Isl |

5/18 - 6/13 = M/V Sankaty

6/14 - 10/26 = M/V Katama

⁽¹⁾ Monday - Friday = Hazardous Trips.

⁽²⁾ Will operate Fridays, Saturdays, Sundays, & Holidays (5/29, 7/4, 9/4, & 10/9).

⁽³⁾ Limited passenger capacity.

^(*) Reservations only 5/26 - 5/29 & 6/29 - 7/10/00.

Effective 10/12 all scheduled trips will arrive and depart via Vineyard Haven Terminal.

Operating Schedule 2000 Martha's Vineyard

Effective 10/27 - 1/3/2001

| <i>To the Islands</i> | | | | | <i>From the Islands</i> | | | | |
|-----------------------|---------------------|--------|----|-------------|-------------------------|---------------------|-------|--------|----------------|
| LV | WH | DUE | VH | DUE OB TRIP | LV | VH | LV OB | DUE | WH TRIP VESSEL |
| Daily | | | | | | 600am | | 645am | 6 Mar/Nan |
| Daily | | | | | | 700am | | 745am | 8 Isl |
| M-F | 600am ¹ | 645am | | 161 | | 715am | | 800am | 160 Kat/San |
| Daily | 715am | 800am | | 7 | | 830am | | 915am | 10 Mar/Nan |
| Daily | 815am | 900am | | 9 | | 930am | | 1015am | 12 Isl |
| Daily | 830am ¹ | 915am | | 165 | | 945am ¹ | | 1030am | 164 Kat/San |
| Daily | 945am | 1030am | | 11 | | 1100am | | 1145am | 14 Mar/Nan |
| Daily | 1045am | 1130am | | 13 | | 1200n | | 1245pm | 16 Isl |
| Daily | 1100am | 1145am | | 169 | | 1215pm ¹ | | 130pm | 168 Kat/San |
| Daily | 1215pm | 100pm | | 15 | | 130pm | | 215pm | 18 Mar/Nan |
| Daily | 115pm | 200pm | | 17 | | 230pm | | 315pm | 20 Isl |
| Daily | 200pm | 245pm | | 173 | | 315pm | | 400pm | 172 Kat/San |
| Daily | 245pm | 330pm | | 19 | | 400pm | | 445pm | 22 Mar/Nan |
| Daily | 345pm | 430pm | | 21 | | 500pm | | 545pm | 24 Isl |
| Daily | 430pm | 515pm | | 177 | | 545pm | | 630pm | 176 Kat/San |
| Daily | 515pm | 600pm | | 23 | | 615pm | | 700pm | 26 Mar/Nan |
| Daily | 615pm | 700pm | | 25 | | 730pm | | 815pm | 28 Isl |
| Daily | 645pm | 730pm | | 181 | | 800pm | | 845pm | 180 Kat/San |
| Daily | 745pm | 830pm | | 27 | | 900pm ² | | 945pm | 30 Mar/Nan |
| Daily | 845pm | 930pm | | 29 | | | | | Isl |
| Daily | 1000pm ² | 1045pm | | 31 | | | | | Mar/Nan |

10/27 - 12/10/00 = M/V Nantucket

10/27 - 12/10/00 = M/V Katama

12/11 - 1/3/01 = M/V Martha's Vineyard

12/11 - 1/3/01 = M/V Sankaty

⁽¹⁾ Monday - Friday = Hazardous Trips

⁽²⁾ Will operate Fridays, Sundays, and Holidays (11/23, 11/24, 12/25/00 & 1/1/01)

REQUEST FOR PROPOSALS

TO PROVIDE A

FREIGHT TRANSPORTATION SERVICE

TO THE ISLAND OF MARTHA'S VINEYARD

The Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (the "Authority") hereby requests proposals from responsible and eligible proponents who wish to be considered for an agreement to provide a freight transportation service to the island of Martha's Vineyard, in accordance with this Request for Proposals ("RFP"), as described herein. Proposals will be accepted until **2:00 p.m. Eastern Standard Time on Friday, December 17, 1999**, at the Authority's Procurement Office, which is located in the Authority's General Offices on the second floor of the Woods Hole Terminal, P.O. Box 284, Foot of Railroad Avenue, Woods Hole, Massachusetts 02543.

I. INTRODUCTION

A. Background, Scope and Objective.

On November 5, 1999, the Authority's governing Members voted to issue a request for proposals to provide a freight transportation service to the island of Martha's Vineyard only, with a proposed timeline that will allow the Members to award an agreement for service by their December 1999 meeting. This request for proposals is issued pursuant to that vote, and contains the following requirements and guidelines:

- (a) requiring the service to be for freight only and to be in operation Mondays through Fridays commencing May 1 and ending on October 31 each year;
- (b) requiring the freight service to have the minimum daily capacity to carry nine (9) trucks each way between the off-Cape mainland port and Martha's Vineyard each day the service is in operation;
- (c) providing for the availability of the Authority's terminal facilities on Martha's Vineyard for use by the private operator to dock, unload and load one vessel twice

a day for each weekday from May 1 through October 31 that the service is in operation, but recognizing that the Authority would prefer to enter into an agreement that does not require any use of the Authority's terminal facilities by a private operator;

- (d) requiring the private operator to make its own arrangements to acquire, develop and/or use terminal facilities at its proposed off-Cape mainland port that are necessary to provide the service;
- (e) establishing the term of the service to be for one season, commencing May 1, 2000 and ending October 31, 2000, with the right, to be exercised by the Authority at the Authority's sole option, to extend the service for one additional season; and
- (f) not requiring any class or category of freight or freight shipper to utilize the service from an off-Cape port.

In issuing this Request for Proposals ("RFP"), the Authority is looking for the most advantageous arrangement with a qualified freight operator that has minimal economic impact on island residents, while serving the needs of the freight shippers. The proposed freight operator must be able to work in harmony with Steamship Authority employees who are represented by nine collective bargaining units. The Authority expects to negotiate and enter into an Agreement (hereinafter the "Agreement") with the eligible and responsible proponent who submits the most advantageous proposal to the Authority and the public for the provision of a freight transportation service from a location on the mainland off of Cape Cod to the island of Martha's Vineyard.

B. Request for Proposals Process.

The Authority is utilizing an RFP procurement process for this Agreement. Under such a process, the selection of the most advantageous proposal will be based upon proposed compensation and other evaluation factors specified in this RFP. An anticipated schedule of the RFP process is provided on page 15 herein, although it should be noted that the RFP schedule is subject to change during the RFP process. A listing of the criteria on which the proposals will be evaluated is provided on pages 16 – 20 herein.

This RFP fully details the procurement process and the requirements for proposals. Persons interested in submitting proposals for the Agreement must comply with the provisions hereof. The RFP requires each proponent, in part, to:

1. answer detailed questions in its Service Proposal regarding the freight transportation service being proposed;

2. submit a proposal deposit in the form of cash, certified check, cashier's check or surety bond in an amount of \$25,000.
3. specify the proponent's Financial Proposal; and
4. state its intent, if awarded the Agreement, to sign and be bound by the terms and conditions of the Agreement in substantially the form and format provided by the Authority.

Unless all proposals are rejected, the Authority shall award the Agreement to the eligible and responsible proponent who offers the most advantageous proposal to the Authority, based upon the RFP requirements, the evaluation criteria established in this RFP, and each proponent's proposed Total Compensation for the Services to be provided under the Agreement. In this regard, evaluation of the proponents' Financial Proposals is only part of the evaluation process, as more fully detailed in this RFP.

C. Minimum Requirements of Proposals.

In order for a proponent's proposal to be considered by the Authority, the proponent must meet the following minimum requirements in its proposal:

1. The proposal must demonstrate that the proposal is an established business firm able to secure all required equipment and to engage the services of qualified personnel necessary to perform the work specified in this RFP.
2. The proposal must either (a) demonstrate that the proponent has not been the subject of a petition for bankruptcy, liquidation or reorganization within the last three years; or (b) if the proponent has been the subject of such a petition, contain an offer to provide the Authority with a performance bond in the manner and in the amount specified in Article 23 of the Agreement form, which is attached as Exhibit D to this RFP.
3. The proposal must either (a) state that the proponent will elect to use the Authority's terminal facilities on Martha's Vineyard in order to provide the Services; or (b) if the proponent does not so elect to use the Authority's terminal facilities on Martha's Vineyard, demonstrate that the proponent will be able to use other terminal facilities on Martha's Vineyard sufficient to provide the Services, which facilities must have telephone and fax communication capabilities.
4. The proposal must demonstrate that the proponent will be able to use terminal facilities located on the mainland west of the Cape Cod Canal sufficient to provide the Services, which facilities must have telephone and fax communication capabilities.

5. The proposal must demonstrate that the proponent's proposed vessel is not longer than two hundred (200) feet, is not inherently unseaworthy, is suitable for the intended route and, if the proponent proposes to use the Authority's terminal facilities on Martha's Vineyard, is compatible with those facilities. The proposal must also demonstrate that the proponent can transport not only the requisite number of trucks, but also their drivers and passengers, either on its proposed vessel or by making other suitable arrangements when requested to do so.
6. The proposal must demonstrate that the proponent's proposed vessel (whether it be a supply-boat type vessel or a tug-and-barge combination) can transport on a daily basis nine (9) trucks each way between its proposed terminal facilities on the mainland and Martha's Vineyard. (The vessel itself does not have to have the capacity to carry all nine trucks on one trip. A vessel can transport fewer than nine trucks per trip if the proponent schedules the vessel to operate more than one trip per day.) In this regard, the Authority considers a "truck" to have a maximum height of 16 feet, a maximum width of 9.5 feet and, when loaded, a maximum weight of 86,000 pounds. The Authority also considers four of the nine trucks that must be carried each way daily to have a maximum length of 70 feet and the remaining five trucks to have a maximum length of 55 feet. No proposed vessel may be more than two hundred (200) feet long.
7. The proposal must demonstrate that the proponent's schedule of trips will enable it to carry at least nine (9) trucks each way between the mainland and Martha's Vineyard every weekday (Mondays through Fridays) commencing May 1, 2000 through October 31, 2000 and will not require any arrivals at, or departures from, Martha's Vineyard between the hours of 11:00 p.m. and 6:00 a.m.
8. The proposal must be accompanied by the appropriate proposal deposit in the amount of \$25,000 (see Part II (C) of this RFP).

D. Preparation Costs.

The Authority shall not be liable to any proponent for its proposal preparation costs or any other direct or indirect costs arising from the preparation of a response to this RFP.

E. Pre-RFP Representations.

All project information previously provided by the Authority to interested parties, whether verbal or in writing, is superseded by the contents of this RFP and any Addenda hereto. The Authority shall not be liable to any person for any prior representation made by Authority personnel or the contents of any preliminary documents issued prior to this RFP.

F. Addenda to this RFP.

The Authority will furnish, in the form of Addenda to this RFP, copies of any changes or additions to this RFP and any documents referred to herein or attached hereto that are made by the Authority subsequent to the date of this RFP to each person who receives a copy of this RFP. Proposals shall be submitted and evaluated in accordance with this RFP, as so added to and/or changed by the Addenda hereto. All such changes and additions shall be deemed to be incorporated in this RFP and any documents referred to herein or attached hereto.

G. Reservation of Rights by the Authority.

The Authority is soliciting competitive proposals pursuant to a determination that such a process best serves the interest of the Authority and the general public, and not because of any legal requirement to do so. The Authority reserves the right to accept or to reject any and all proposals, to modify or amend with the consent of the proponent any proposal prior to acceptance, and to waive any informality, all as the Authority in its sole judgment and discretion may deem to be in its best interest.

II. SUBMISSION OF PROPOSALS

A. Pre-Submission Informational Meeting and RFP Interpretation.

An informational meeting for prospective proponents will be held at **10:00 a.m. Eastern Standard Time on Monday, December 6, 1999**, in the second floor conference room of the Authority's Woods Hole Terminal, Foot of Railroad Avenue, Woods Hole, Massachusetts, or at such other time and/or location as may be determined by the Authority and so stated in an Addendum to this RFP. Questions submitted in writing by prospective proponents prior to or at the meeting will be answered at that time or as promptly as possible thereafter.

Attendance at the pre-submission informational meeting is optional. In addition, instead of attending in person, prospective proponents may participate in the meeting by telephone. Any person desiring to participate in the meeting in this manner should contact Maxine Horn, Executive Secretary to the Authority's General Manager, whose telephone number is (508) 548-5011, ext. 202, by no later than 3:00 p.m. on Friday, December 3, 1999, so that the necessary arrangements may be made. The Authority will not grant any contractual relief due to a proponent's failure to attend the meeting.

If a prospective proponent desires an explanation, clarification or interpretation of any part of this RFP or the proposed Agreement, it may submit to the Authority's General Manager, Armand L. Tiberio, a written request for an interpretation thereof. To facilitate timely responses, the Authority will accept only written or faxed questions during the RFP process. Questions

received less than four (4) calendar days prior to the Proposal Due Date may or may not be considered, in the Authority's sole discretion.

Any interpretation of this RFP or the proposed Agreement will be made solely at the Authority's option, as an Addendum to this RFP. The Authority will not be responsible for any other explanations or interpretations of this RFP or the proposed Agreement. Oral explanations, interpretations or instructions given by anyone (including Mr. Tiberio) before the award of the Agreement will not be binding on the Authority.

Proponents are advised to rely only upon the matters contained in this RFP and any Addenda to the RFP subsequently issued by the Authority. While a pre-submission informational meeting will be held and questions answered by the Authority's representatives (to the extent appropriate and possible) at the meeting, all issues raised which, in the opinion of the Authority, materially affect the competitive proposal process will be clarified in writing by the Authority in the form of Addenda to this RFP, with copies sent to all persons who have requested and received a copy of the RFP.

B. Proposal Forms.

Each proponent shall submit a separate Service Proposal and Financial Proposal in the manner described in this RFP. In order to be deemed responsive, proposals must be made on copies of the Service Proposal and Financial Proposal forms furnished by the Authority, with such attachments as are necessary to provide all of the information sought in those forms. Proponents may make their proposals in a manner other than on copies of the Authority's Service Proposal and Financial Proposal forms only if they clearly provide all of the information sought in those forms.

The Authority prefers that proposals be presented in loose-leaf, three-ring binders, with foldouts not exceeding 11" x 17". If drawings exceeding 11" x 17" are included in a proposal, the Authority asks that the proponent also provide reproducible copies thereof. Elaborate brochures or other presentations beyond that sufficient to present a complete and effective proposal are not desired. Elaborate artwork, expensive paper and bindings, and expensive visual or other presentation aids are not necessary either.

Each proposal shall be signed by the proponent. If a proposal is submitted by a corporation, it shall be signed in the name of the corporation, followed by identification of the position the signer holds in the corporation. If a proposal is submitted by a partnership, it shall be so stated and the proposal shall contain the names of each partner and shall be signed in the firm name, followed by the signatures of the partners. If a proposal is submitted by a joint venture, it shall be accompanied by a certified copy of the joint venture agreement, documents evidencing the authority of all parties to the joint venture to submit the proposal, and a financial statement for the joint venture describing in detail the individual contributions of all parties to the joint venture.

All information, prices, acknowledgments and signatures shall be legibly entered in the spaces provided on the Service Proposal and Financial Proposal forms (or on the proponent's attachments thereto), typed or in ink, and without alteration.

Except as otherwise provided herein, proposals, which are incomplete or contain alterations may be rejected as non-responsive. Misrepresentations in a proposal may be cause for rejection of a proposal, cancellation of any award of an Agreement to the proponent or termination of the Agreement for cause.

C. Proposal Deposit.

Every proposal submitted for the Agreement must be accompanied by a proposal deposit in the amount of \$25,000 in the form of a proposal bond, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the "Woods Hole, Martha's Vineyard and Nantucket Steamship Authority" in the name of which the Agreement is to be executed; provided, however, that a proponent needs to provide only one proposal deposit in the amount of \$25,000 no matter how many alternative proposals it submits for consideration by the Authority. In the event a proponent submits more than one alternative proposal, the Authority will deem the proposal deposit to have been provided with respect to each of the alternative proposals submitted by the proponent.

In the event the proposal deposit of a proponent is in the form of a proposal bond, the proposal bond must be:

1. in a form satisfactory to the Authority;
2. with a surety company qualified to do business in The Commonwealth of Massachusetts and satisfactory to the Authority; and
3. conditioned upon the faithful performance by the principal of the agreements contained in the proposal.

All proposal deposits of proponents, except those of the three proponents offering the three most advantageous proposals, shall be returned within five days (Saturdays, Sundays and legal holidays excluded) after the date of Agreement award. The proposal deposits of the three proponents offering the three most advantageous proposals shall be returned upon the execution and delivery of the Agreement or, if no award is made, upon the expiration of the time prescribed by this RFP for making an award; except that, if any proponent who fails to perform its obligation to execute a Agreement and, if offered by the proponent in its proposal, to furnish the appropriate performance bond in accordance with this RFP, its proposal deposit shall become and be the property of the Authority, as liquidated damages; provided that the amount of the proposal deposit which becomes the property of the Authority shall not, in any event, exceed the difference between its proposed Total Compensation and the proposed Total Compensation of

the proponent offering the next most advantageous proposal; and provided further that, in case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other similar unforeseen circumstances affecting the proponent, its deposit shall be returned to it.

In the event a proponent submits a proposal deposit in the form of a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company in accordance with the provisions set forth in this paragraph, any time after opening of the Service Proposals the Authority shall return its proposal deposit forthwith upon receipt of a proposal bond in an amount and in the form provided in this section.

D. Acknowledgments.

Each proponent must carefully examine this RFP, including all of its exhibits (which consist of, among other things, the proposal forms, and the proposed Agreement itself). The submission of a proposal shall be conclusive evidence that the proponent has made its examinations and understands all requirements for the performance of the Agreement. By submitting a proposal, each proponent further warrants, agrees and acknowledges that it:

- (1) has taken steps reasonably necessary to ascertain the nature and scope of the Agreement, and understands that failure to do so will not be justification for a change order, protest or claim against the Authority;
- (2) has investigated and satisfied itself as to the general and local conditions which can affect the performance of its obligations under the Agreement or its cost;
- (3) has satisfied itself as to the adequacy of time allowed for the commencement of the Service;
- (4) has not discovered any patent ambiguities, other than those previously identified in writing to the Authority, that would be discovered by a prudent freight vessel/barge operator in preparing its proposal;
- (5) is familiar and will comply with all Federal, State and local laws, ordinances and regulations which might affect those engaged in the Service; and
- (6) has read, fully understands and intends to sign the proposed Agreement, in substantially the form and format provided by the Authority.

Each proponent agrees that the Authority shall not be liable to it on any claim for additional payment or additional time or any claim whatsoever if the claim directly or indirectly results from the proponent's failure to investigate and familiarize itself sufficiently with the conditions under which the Agreement is to be performed.

No claim shall be allowed because of any ambiguity in the Agreement if: (i) the proponent discovers an ambiguity, but fails to notify the Authority; or (ii) the proponent failed to discover a patent ambiguity that would have been discovered by a reasonably prudent freight vessel/barge operator in preparing its proposal.

Any failure of a proponent to take the actions acknowledged above shall not relieve the proponent from responsibility of estimating properly the difficulty and cost of successfully performing its obligations under the Agreement, or from proceeding to successfully perform its obligations under the Agreement without additional expense to the Authority.

E. Proposed Total Compensation.

The proponent's proposed Total Compensation for the Services covered under the Agreement (commencing May 1, 2000 through October 31, 2000) and subject to the terms and conditions set forth therein is to be set forth in its Financial Proposal. There will be no other charges or service fees applicable to the Authority in connection with the Agreement, except as explicitly provided therein. If there is a discrepancy between the written words and the numbers setting forth the amount of a proponent's proposed Total Compensation, the written words will govern.

F. Submission of Proposals and Due Date.

Proposals for the Agreement will be accepted until **2:00 p.m. Eastern Standard Time on Friday, December 17, 1999**, at the Authority's Procurement Office, which is located in the Authority's General Offices on the second floor of the Woods Hole Terminal, P.O. Box 284, Foot of Railroad Avenue, Woods Hole, Massachusetts 02543.

In order for a proponent's proposal to be deemed responsive to this RFP:

1. The proponent must place one original and three (3) copies of its Service Proposal (appropriately executed and providing all of the information requested therein), together with its proposal deposit in the form a proposal bond, certified or bank treasurer's check in the amount of \$25,000 made payable to the "Woods Hole, Martha's Vineyard and Nantucket Steamship Authority" in a sealed envelope or other sealed container duly marked so as to identify the documents as a Service Proposal to Provide a Freight Transportation Service.
2. That sealed envelope or container also must be accompanied by a separately sealed envelope containing one original and three (3) copies of the proponent's Financial Proposal (appropriately executed and providing all of the information requested therein), which similarly must be duly marked so as to identify it as the proponent's Financial Proposal submitted in connection with its proposed freight transportation service, so as to avoid the disclosure of the Financial Proposal until after the

Authority evaluates all Service Proposals submitted on the basis of criteria other than the proponents' proposed Total Compensation.

3. Both the sealed envelope (or other sealed container) containing the documents constituting the proponent's Service Proposal and the sealed envelope containing the proponent's Financial Proposal must then be placed together into another sealed envelope or other sealed container for submission to the Authority as a "Proposal Package."

Proposal Packages may be hand delivered to the Authority during regular business hours at the Authority's Procurement Office prior to 2:00 p.m. Eastern Standard Time on Friday, December 17, 1999. Such Proposal Packages may also be mailed sufficiently in advance of December 17, 1999 to ensure that they are received by the Authority before 2:00 p.m. on that date, addressed as follows:

"Woods Hole, Martha's Vineyard and
Nantucket Steamship Authority
Procurement Office
P.O. Box 284
Foot of Railroad Avenue
Woods Hole, Massachusetts 02543"

NOTE: Proposals or any parts thereof received in the Procurement Office after the time and date stated above will be rejected as non-responsive to this Request. Delivery of any proposals to any office, function or location other than the Procurement Office will **NOT** constitute receipt by the Authority. It is the sole responsibility of proponents to ensure that proposals are received at the proper location prior to the stated deadline. Proponents should plan accordingly for timely delivery. Proponents also should be aware that proposals delivered by United Parcel Service are ordinarily delivered to the Authority's warehouse at an off-site location, not the Procurement Office, and such delivery will **NOT** constitute receipt by the Authority unless and until the proposal is in turn delivered from the warehouse to the Procurement Office prior the time and date stated above. Again, the Authority assumes no responsibility to ensure that proposals received at the warehouse are in turn timely delivered to the Procurement Office.

Information submitted separately will not be considered by the Authority in evaluating the proposals, except as provided for in this RFP. Faxed proposals will not be accepted.

Proponents are advised that the Authority is a public entity and that all proposals submitted in response to this Request will become public records, unless specifically exempted under Mass. G.L. c. 4, sec. 7, clause twenty-sixth.

G. Corrections, Modifications and Withdrawal of Proposals.

A proponent may correct, modify or withdraw a proposal by written notice received in the Procurement Office of the Authority prior to 2:00 p.m. Eastern Standard Time on Friday, December 17, 1999. After the proposals are opened, however, no proposal will be allowed to be withdrawn for any reason whatsoever between the time for the final submission of proposals and January 15, 2000. Nor will a proponent be allowed to change its proposed Total Compensation or any other provision of a proposal in a manner prejudicial to the interest of the Authority or fair competition.

The Authority may, but is not required to, waive minor informalities in a proposal or allow the proponent to correct them. If a mistake and the intended proposal are clearly evident on the face of the proposal documents the Authority may correct the mistake to reflect the intended correct proposal and so notify the proponent in writing, and the proponent may not withdraw the proposal. A proponent may withdraw a proposal if a mistake is clearly evident on the face of the proposal documents but the intended correct proposal is not similarly evident.

III. EVALUATION OF PROPOSALS AND AGREEMENT AWARD

Because the Authority has determined that the selection of the most advantageous proposal for the Agreement requires comparative judgments of factors in addition to Total Compensation, all factors will be carefully considered by the Authority in evaluating proposals received and in awarding any Agreement, and the award of the Agreement will not be made solely on the basis of Total Compensation alone.

A. Proposal Opening and Evaluation Procedure.

At 2:00 p.m. Eastern Standard Time on Friday, December 17, 1999, the proposals will not be opened publicly, but in the presence of one or more witnesses. After the opening of the Proposal Packages, the General Manager shall prepare a register of proposals which shall include the name of each proponent and the number of modifications, if any, received prior to the opening of the proposals. The register of proposals shall be open for public inspection. In addition, at that time, each proponent's Service Proposal shall be opened, but not the sealed envelopes containing the copies of the proponents' Financial Proposals; instead, the Financial Proposals shall remain sealed in a secured place until after the proponents' Service Proposals are evaluated on the basis of criteria other than compensation.

The General Manager shall designate one or more individuals to be responsible for the evaluation of the Service Proposals on the basis of criteria other than Total Compensation. (As previously stated, the proponents' Financial Proposals shall remain sealed while the designated individuals evaluate the Service Proposals on the basis of criteria other than Total Compensation,

and the contents of such Financial Proposals otherwise may not be disclosed by the proponents to those individuals or any other Member, employee or agent of the Authority, either directly or indirectly, before the preparation of the aforesaid evaluations.) In the course of evaluating the Service Proposals, the General Manager and designated individuals may, but are not required to, request any proponent or proponents to make presentations by telephone explaining their Service Proposals, the contents of which will be considered in the evaluation process. However, the presentations may not change or add to the provisions of such proposals or otherwise affect such proposals in a manner prejudicial to fair competition.

Proponents are advised that they should be available by telephone during the day on Tuesday, December 21, 1999, to make such presentations and answer such questions about their proposals that may be posed by the General Manager and/or the individuals designated to evaluate the Service Proposals. Proponents will be notified by 2:00 p.m. on Monday, December 20, 1999, as to whether any such telephone presentations will be requested and, if so, when those presentations will take place on Tuesday, December 21, 1999.

The designated individuals shall prepare their evaluations based solely on the non-compensation criteria set forth in this RFP. The evaluations shall specify in writing:

1. for each evaluation criterion, a rating of each Service Proposal as highly advantageous, advantageous, not advantageous or unacceptable, and the reasons for the rating;
2. a composite rating for each Service Proposal, and the reasons for the rating; and
3. revisions, if any, to any provision of each Service Proposal which should be obtained by negotiation prior to awarding an Agreement to the proponent of the proposal.

After the preparation of the aforesaid evaluations, the General Manager shall not open the Financial Proposals publicly, but shall open the Financial Proposals in the presence of one or more witnesses, who may be the aforesaid designated individuals. At the opening of the Financial Proposals, the General Manager shall prepare a register of such Financial Proposals which shall include the name of each proponent and the number of modifications, if any, received prior to the opening of the proposals. The register of Financial Proposals shall be open for public inspection.

After the opening of the Financial Proposals, the General Manager and designated individuals may, but are not required to, request any proponent or proponents to make presentations by telephone explaining their Financial Proposals, the contents of which will be considered in the evaluation process. However, the presentations may not change or add to the provisions of such proposals or otherwise affect such proposals in a manner prejudicial to fair competition. The General Manager shall then, with the advice and assistance of those aforesaid individuals, select up to three finalists from among the responsible and eligible proponents for the Agreement taking into consideration each proponent's proposed Total Compensation and the evaluations of the Service Proposals specified in writing by the individuals, and specifying the revisions, if any,

to each Financial Proposal which should be obtained by negotiation prior to awarding an Agreement to the proponent of the proposal. The General Manager also shall rank the finalists in his recommended order of qualification and prepare a written statement explaining the reasons for his choice and ranking of the finalists.

The General Manager shall then transmit a list of the chosen finalists to the Authority's governing Members, together with his ranking of the finalists in the recommended order of qualification and his written statement explaining the reasons for the choice of such finalists and their ranking. The General Manager shall also make available to the Members all materials made or received relating to his recommendations. The aforesaid list, materials and the proposals themselves shall be open for public inspection during regular office hours no later than one (1) business day after the General Manager transmits the list to the Members.

B. Confirmation of Responsible and Eligible Proponents.

In determining who is a responsible and eligible proponent, the Authority may conduct such investigation (including but not limited to examining the financial statements, credit ratings, references and records of past performance of any proponent and conducting site visits of the proponent's facilities) as the Authority deems necessary and appropriate to verify the information submitted and ultimately confirm whether a proponent is in fact responsible and eligible to be awarded the Agreement. The Authority also may conduct such investigation at any time prior to the execution of the Agreement, and a proponent's failure to respond to requests for information in connection with any such investigation will be sufficient reason to consider the proponent's proposal non-responsive.

The Authority may refuse to award the Agreement to a proponent determined to have an unsatisfactory record of performance and/or integrity in the procurement or performance phase of any previous Agreement. In addition, by submitting a proposal hereunder, the proponent authorizes the Authority to obtain any information pertinent to such proposal, including but not limited to:

1. information relating to the proponent's net worth, assets and liabilities, from banks or other financial institutions, surety companies and material and equipment suppliers; and
2. information from any current or past customer of the proponent.

Prior to evaluation, the Authority will notify the proponent of any such information so obtained. Such information will be afforded evaluation consideration to the same extent as comparable information provided in a proposal, consistent with the evaluation criteria set forth in this RFP.

C. Award of Agreement.

The Authority's governing Members shall be responsible for awarding the Agreement and, in this regard, shall not be bound by any recommendations or evaluations of either the General Manager or any of the aforesaid designated individuals. The Members may, but are not required to, request any proponent or proponents to make presentations explaining their proposals, the contents of which may be considered by the Members, provided that such presentations do not change or add to the provisions of such proposals or otherwise affect such proposals in a manner prejudicial to fair competition.

The Members shall award the Agreement by a majority vote at a duly constituted public meeting, and may condition an award on successful negotiation of any revisions recommended by the General Manager or in any the evaluations of the designated individuals, or suggested by the Members themselves. If a selected proponent declines to enter into an Agreement with the Authority, the Members may then award the Agreement to another proponent, similarly subject to the successful negotiation of any recommended or suggested revisions. The General Manager shall deliver written notice of the award to the selected proponent by December 31, 1999. The parties may extend the time for acceptance by mutual agreement.

D. Execution of Agreement.

Within ten (10) calendar days after the date of Agreement award, the successful proponent shall execute and return the Agreement to the Authority and, if offered by the proponent in its Service Proposal, the appropriate performance bond executed by both the proponent and the qualified surety(ies) .

No proposal shall bind the Authority until it signs the Agreement, notwithstanding a notice of selection and/or Agreement award. The proponent shall bear all risks for any actions taken in anticipation of being awarded the Agreement before the Authority signs the Agreement.

E. Failure to Execute Agreement.

Failure by the successful proponent to return the signed Agreement and/or any performance bond as required herein shall result in forfeiture of the proponent's proposal security. If this should occur, the Authority may then award the Agreement to a responsible and eligible proponent who offers the Authority the second most advantageous proposal. If such second proponent similarly fails to return the signed Agreement and/or any performance bond as stated above within the time provided after the date of Agreement award, the Agreement may then be awarded successively in like manner to the remaining next most advantageous proponents until the above requirements are met or the remaining proposals are rejected.

F. Reservation of Rights by the Authority.

The Authority is soliciting competitive proposals pursuant to a determination that such a process best serves the interest of the Authority and the general public, and not because of any legal requirement to do so. The Authority reserves the right to accept or to reject any and all proposals, to modify or amend with the consent of the proponent any proposal prior to acceptance, and to waive any informality, all as the Authority in its sole judgment and discretion may deem to be in its best interest.

IV. ANTICIPATED RFP SCHEDULE

The anticipated schedule of the RFP process is set forth below:

| | |
|----------|---|
| 11/18/99 | Advertising of Request for Proposals |
| 11/18/99 | Issuance of Request for Proposals |
| 12/06/99 | Pre-submission Informational Meeting (prospective proponents may participate by telephone) |
| 12/17/99 | Deadline for Submission of Proposals |
| 12/21/99 | Telephone Presentations by Proponents (if required by the Authority) |
| 12/23/99 | Completion of Evaluations and Award Recommendation |
| 12/29/99 | Award of Agreement |
| 01/10/00 | Deadline for Return to the Authority of Executed Agreement and any Required Performance Bond |
| 05/01/00 | Commencement of Services covered by the Agreement |

NOTE: The above RFP Schedule is subject to change during the RFP process.

V. EVALUATION CRITERIA OTHER THAN PROPOSED COMPENSATION

All of the evaluation criteria, other than proposed Total Compensation, which will be utilized in evaluating the proposals of proponents who meet the minimum qualifications are set forth below. For the purpose of evaluating the proposals, the Authority has categorized these criteria as follows:

A. Proponent Qualifications.

The Authority will evaluate each proponent's background, equipment, facilities, financial condition, history of performance, reliability and safety on similar freight transportation services to determine whether that proponent is qualified to provide the Services contemplated under the Agreement. (See Parts I (C) and III (B) of this RFP.)

NOT ADVANTAGEOUS A proposal will be considered "**not advantageous**" in this category, even if the proponent is qualified to provide the service contemplated under the Agreement, if the proponent or any of its partners, officers or directors or stockholders (who own more than five percent of the corporation's outstanding shares of stock) have been convicted of a felony or other serious criminal offense identified in the Service Proposal form, or if the proponent receives negative bank, operating or supplier references, or if it has less than ten years experience in marine freight transportation operations, or if it has an unfavorable safety record, or if it has defaulted at any time within the past five years on any agreement to provide any marine transportation service for any other person or entity.

ADVANTAGEOUS A proposal from a qualified proponent will be considered "**advantageous**" in this category if the proponent has substantial experience (a minimum of ten years) in marine freight transportation operations with a favorable safety record and without having defaulted on any agreement to provide any marine transportation service for any other person or entity within the past five years.

HIGHLY ADVANTAGEOUS A proposal from a qualified proponent will be considered "**highly advantageous**" in this category if the proponent, in addition to possessing all of the characteristics needed to receive an "advantageous" rating, agrees to provide the Authority with a performance bond in the manner and in the amount specified in the Service Proposal form and Agreement form.

B. Terminal Facilities to be Used by the Operator on Martha's Vineyard.

The Authority is willing to allow the successful proponent to use the Authority's terminal facilities that are located on the island of Martha's Vineyard at no charge. However, if a proponent proposes to use the Authority's facilities, the Authority must take into consideration the impact that such additional use of its facilities will have on its own operations, and will need to have more control over the timing and frequency of trips made by the proponent so that they are not incompatible with the Authority's own schedules. If a proponent proposes to use another shore facility on the island, the Authority must take into consideration not only whether the location is readily accessible by public ways, but also whether the facility is located in a commercial or residential area and whether traffic in the area is already congested.

NOT

ADVANTAGEOUS A proposal will be considered "**not advantageous**" in this category, even if the proposed facilities are adequate to provide the service contemplated under the Agreement, if the proponent proposes to use the Authority's terminal facilities on Martha's Vineyard or, if the proponent does not propose to use the Authority terminal facilities, the location of the proposed facilities is not readily accessible by public ways or is in a residential area.

ADVANTAGEOUS A proposal will be considered "**advantageous**" in this category if the proponent proposes to use facilities on Martha's Vineyard other than the Authority's terminal facilities, the proposed facilities are both adequate to provide the service contemplated under the Agreement, are not in a residential area, and are in a location that is readily accessible by public ways.

HIGHLY

ADVANTAGEOUS A proposal will be considered "**highly advantageous**" in this category if the proponent proposes to use facilities on Martha's Vineyard other than the Authority's terminal facilities, the proposed facilities are both adequate to provide the service contemplated under the Agreement and are in a location that is readily accessible by public ways and not in a congested or residential area.

C. Mainland Terminal Facilities to be Used by the Operator.

The successful proponent will be responsible for making its own arrangements to acquire, develop and/or use terminal facilities at its proposed off-Cape mainland port that are necessary to provide the Services contemplated under the Agreement. In this regard, the Authority anticipates that many proponents will propose using the State Pier Freight Ferry Terminal in the City of New Bedford as their mainland terminal facility, which is anticipated to open by May 1, 2000. If the successful proponent does propose to use that facility, it will be responsible for negotiating directly with the City of New Bedford for such use. In addition, regardless of the facility proposed, the successful proponent will be responsible for all costs associated with the use of its mainland terminal facility. If a proponent proposes to use another shore facility on the mainland, that facility must be located off Cape Cod. Further, the Authority must take into consideration not only whether the location is readily accessible by public ways, but also whether the facility is located in a commercial or residential area and whether traffic in the area is already congested.

NOT

ADVANTAGEOUS A proposal will be considered “**not advantageous**” in this category if the proposed facilities, even if adequate to provide the service contemplated under the Agreement, are in a residential area or in a location that is not readily accessible by public ways.

ADVANTAGEOUS A proposal will be considered “**advantageous**” in this category if the proposed facilities are adequate to provide the service contemplated under the Agreement, are not in a residential area, and are in a location that is readily accessible by public ways.

HIGHLY

ADVANTAGEOUS A proposal will be considered “**highly advantageous**” in this category if the proposed facilities are adequate to provide the service contemplated under the Agreement and are in a location that is readily accessible by public ways and not in a congested or residential area.

D. Vessel(s) to be Used by the Operator.

In order to meet the Authority’s minimum requirements, the vessel(s) used by the successful proponent must be able to transport daily nine (9) trucks each way between its proposed terminal facilities on the mainland and Martha’s Vineyard. Proponents can satisfy these requirements by using a vessel that has a capacity to carry at least nine (9) trucks on one trip or by using a vessel that has a capacity of fewer than nine (9) trucks but is capable of making two or more round trips each day to transport a total of nine (9) trucks each way. For the purpose of meeting these minimum requirements, the Authority considers a “truck” to have a maximum height of 16 feet, a maximum width of 9.5 feet and, when loaded, a maximum weight of 86,000 pounds. The

Authority also considers four of the nine trucks that must be carried each way daily to have a maximum length of 70 feet and the remaining five trucks to have a maximum length of 55 feet. Depending upon the configuration of the vessel's freight deck, more than nine trucks might be carried on a particular day in the event a sufficient number of the trucks carried that day are shorter than the maximum lengths specified herein. No proposed vessel may be more than two hundred (200) feet long.

The Authority anticipates that proponents will propose to use either supply-boat type vessels or tug-and-barge combinations. Both are generally acceptable, although the Authority would consider it more advantageous for a proponent to use a supply-boat type of vessel instead of a tug-and-barge combination because of increased service reliability, maneuverability and convenience. Regardless of what type of vessel is used, the successful proponent will be responsible for carrying with the trucks their drivers and other persons accompanying them or for making other suitable arrangements for the transportation of those persons when requested to do so. Finally, proponents are reminded that, in the event they propose to use the Authority's terminal facilities on Martha's Vineyard, the proposed vessels also must be compatible with those facilities. (See Part II (D) of this RFP.)

NOT

ADVANTAGEOUS A proposal will be considered "**not advantageous**" in this category if the proposed vessel, even if adequate to provide the service contemplated under the Agreement, is a tug-and-barge combination.

ADVANTAGEOUS A proposal will be considered "**advantageous**" in this category if the proposed vessel is adequate to provide the service contemplated under the Agreement and is a supply-boat type vessel.

HIGHLY

ADVANTAGEOUS A proposal will be considered "**highly advantageous**" in this category if the proposed vessel is a supply-boat type and, in addition, is not only adequate to provide the service contemplated under the Agreement but, based upon the daily schedule of trips proposed by the proponent, is able to transport at least twelve trucks (six 70-foot and six 55-foot trucks) each way between the proponent's proposed terminal facilities on the mainland and Martha's Vineyard

E. Frequency and Timing of Trips.

In order to meet the Authority's minimum requirements, each proponent must propose to operate at least one trip each way on every weekday (Mondays through Fridays) commencing May 1, 2000 through October 31, 2000. However, the Authority would prefer the successful proponent to operate two trips a day on a schedule that will allow the truck drivers, after their arrival at the

port on Martha's Vineyard, sufficient time to travel to their destinations and return to that port (a minimum of two hours) to be carried back to the mainland within a twelve-hour day. In no event may a proponent's schedule of trips propose any arrivals at, or departures from, Martha's Vineyard between the hours of 11:00 p.m. and 6:00 a.m.

NOT

ADVANTAGEOUS A proposal will be considered "**not advantageous**" in this category if the proposed schedule of trips, even if adequate to provide the service contemplated under the Agreement, provides only one daily trip each way between the mainland and Martha's Vineyard.

ADVANTAGEOUS A proposal will be considered "**advantageous**" in this category if the proposed schedule of trips provides the service contemplated under the Agreement and offers two trips a day on a schedule that will allow the truck drivers, after their arrival at the port on Martha's Vineyard, sufficient time to travel to their destinations and return to that port to be carried back to the mainland within a twelve-hour day.

HIGHLY

ADVANTAGEOUS A proposal will be considered "**highly advantageous**" in this category if the proposed schedule of trips provides the service contemplated under the Agreement and offers two or more trips a day on a schedule that will allow the truck drivers traveling to Martha's Vineyard as well as the truck drivers traveling to the mainland, after their arrival at their respective destination ports, sufficient time to travel to their ultimate destinations and return to those ports to be carried back to their respective ports of origination within a twelve-hour day.

VI. EXHIBITS TO THE REQUEST FOR PROPOSALS

- A. Service Proposal Form.
- B. Proposal Bond Form.
- C. Financial Proposal Form.
- D. Agreement Form.

Dated: November 18, 1999

EXHIBIT A

SERVICE PROPOSAL
TO PROVIDE A
FREIGHT TRANSPORTATION SERVICE
TO THE ISLAND OF MARTHA'S VINEYARD

[All items must be completed using this form. Additional sheets referenced by item number in the order in which they appear on this form should be used when more space is necessary for a full answer. Charts, diagrams and exhibits may be utilized if desired. A Proponent may make its Service Proposal in a manner other than on a copy of this form only if the Proponent clearly provides all of the information sought in this form.]

Woods Hole, Martha's Vineyard and
Nantucket Steamship Authority
P.O. Box 284
Foot of Railroad Avenue
Woods Hole, Massachusetts 02543

Dear Authority Members:

We hereby submit the following Service Proposal to provide a freight transportation service to the island of Martha's Vineyard in strict compliance with the Request for Proposals therefor, including all Addenda thereto, which are all made a part of this proposal by reference thereto, as stated below:

A. BACKGROUND INFORMATION.

1. Name of Proponent: _____
being a: _____
(corporation, partnership, individual or other)

2. If the Proponent is a corporation, the State under whose laws the Proponent was organized and is existing is: _____

If the Proponent is a partnership, attach a copy of the Proponent's Partnership Agreement, if any, together with any amendments thereto. If no written Partnership Agreement exists, describe the material terms of the partnership, including the date that the partnership was formed.

3. Address of
Principal Office: _____

Official Representative: _____

Telephone Number: _____

Fax Number: _____

4. Provide the names and addresses of all persons interested in this proposal. (Note: Provide the first and last names in full. If the Proponent is a corporation, provide the names of the corporation's officers and directors, as well as stockholders who own more than 5% of the corporation's outstanding shares of stock; if the Proponent is a partnership, provide the names of all partners.)

5. Has the Proponent or any person identified in your answer to Question No. 4 been convicted of any felony?

Yes or No: _____
(If Yes, Explain)

6. Is the Proponent or any person identified in your answer to Question No. 4 a Member, officer, employee or agent of the Authority?

Yes or No: _____
(If Yes, Explain)

7. During the past three years, has the Proponent or any person identified in your answer to Question No. 4 been the subject of a petition for bankruptcy, liquidation or reorganization?

Yes or No: _____
(If Yes, Explain)

8. Has the Proponent or any person identified in your answer to Question No. 4 been convicted or finally adjudicated of any of the following:

- (a) a criminal offense incident to obtaining or attempting to obtain a public or private contract (including but not limited to illegal restraint of trade or collusive bidding), or in the performance of such contract (including but not limited to falsification of information or submission of deceptive or fraudulent statements in connection with the prequalification, bidding or performance phase of a contract);
- (b) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the Proponent's or the person's responsibility as a public contractor;
- (c) a violation of state or federal laws regulating campaign contributions;
- (d) a violation of state or federal law regulating hours of labor, prevailing wages, minimum wages, overtime pay, equal pay, child labor or workers' compensation;
- (e) repeated or aggravated violation of any state or federal law regulating labor relations or occupational health or safety;
- (f) repeated or aggravated violation of any state or federal law prohibiting discrimination in employment; or
- (g) repeated or aggravated violation of any state or federal environmental law?

Yes or No: _____
(If Yes, Explain)

B. FINANCIAL INFORMATION.

List the full name, address, contact person and telephone number of (and, if applicable the Proponent's account number with) each of the following:

1. The bank or other financial institution principally relied upon by the Proponent for credit, financing and/or other financial services:

Name: _____

Address: _____

Contact: _____ Tel. No.: _____

2. Two general operating references for whom the Proponent has provided services (preferably marine transportation services):

A. Name: _____

Address: _____

Contact: _____ Tel. No.: _____

B. Name: _____

Address: _____

Contact: _____ Tel. No.: _____

3. Two regular suppliers of the Proponent (indicate goods and/or services supplied and length of relationship):

A. Name: _____

Address: _____

Contact: _____ Tel. No.: _____

B. Name: _____

Address: _____

Contact: _____ Tel. No.: _____

C. FREIGHT TRANSPORTATION SERVICE EXPERIENCE.

1. Provide a narrative description of the Proponent's history of experience in providing freight transportation services. The description shall include the following information:
 - (a) The date that the Proponent's experience began, and whether such experience has been continuous, intermittent or seasonal;
 - (b) The characteristics of the vessels and/or tugs and barges used;
 - (c) The Proponent's safety record, including a description of all marine casualties the Proponent has been required to report to the United States Coast Guard within the last five years in connection with its freight transportation operations.
 - (d) A narrative detailing how the Proponent's experience is indicative of its capability to provide the freight transportation service being proposed by the Proponent.
2. State whether the Proponent, within the last five years, has defaulted (or has been held to have defaulted) on any previous agreement or other commitment to provide any marine transportation service for any person or entity. If so, describe fully and in detail the circumstances surrounding the default, identifying the entity(ies) involved as well as the person representing each such entity the Authority may contact to discuss such circumstances (together with the person's telephone number).
3. State whether the Proponent, if awarded the Agreement, will provide the Authority with a performance bond in the manner and in the amount specified in Article 23 of the Agreement form, which is attached as Exhibit D to the Request for Proposals.

D. FREIGHT TRANSPORTATION SERVICE PROPOSAL.

Provide sufficiently detailed and complete information to allow the Authority to evaluate fully the Proponent's proposed freight vessel/barge transportation service. Include with such information the following:

1. Identification of the mainland port to be served by the Proponent, including a description of the shoreside facilities to be used by the Proponent on the mainland and evidence demonstrating that the Proponent will be able to use such shoreside facilities to provide the Services.

2. Identification of the port on Martha's Vineyard to be served by the Proponent, including a description of the shoreside facilities to be used by the Proponent on the island and, if the Proponent will not need to use any of the Authority's facilities on Martha's Vineyard, evidence demonstrating that the Proponent will be able to use such shoreside facilities to provide the Services.
3. Identification of the vessels and/or tugs and barges which will be used by the Proponent to provide the service (which cannot be longer than two hundred (200) feet), including a description of the capacity of each vessel and barge with respect to sizes and numbers of trucks that can be carried thereon, a drawing of the freight deck of each vessel and barge showing the dimensions thereof, and copies of the United States Coast Guard and/or American Bureau of Shipping certificates of such vessels, tugs and barges.
4. A statement as to whether the drivers and other persons accompanying the trucks will be able to be transported on the vessels and, if not, what other arrangements will be made by the Proponent for their transportation.
5. A description of the Proponent's proposed schedule of vessel and/or barge daily arrivals and departures.

E. CERTIFICATIONS AND ACKNOWLEDGMENTS.

The undersigned hereby acknowledges and certifies under the penalties of perjury, to the best of his or her knowledge, information and belief, that:

1. By submission of its proposal in response to the Request for Proposals, the Proponent authorizes the Authority to contact any and all parties who may have knowledge or information concerning the Proponent's operations, experience and background and, further, hereby authorizes all such parties to communicate such knowledge and information to the Authority.
2. Attached to this proposal is a deposit in the form of a proposal bond, certified or bank treasurer's check in the amount of \$25,000 made payable to the "Woods Hole, Martha's Vineyard and Nantucket Steamship Authority." The Proponent agrees that, in the event it is notified that it has been awarded the Agreement in accordance with the provisions of the Request for Proposals, but fails to execute the same, the deposit may be retained by the Authority as liquidated damages.
3. In making this proposal, the Proponent has relied only upon the matters contained in the Request for Proposals and addenda thereto which have been issued by the Authority and disseminated to all potential proponents. The Proponent has not relied upon any other representations, either written or oral, made by the Authority and/or its Members, officers, employees or agents.

4. The Authority is soliciting competitive proposals pursuant to a determination that such a process best serves the interest of the Authority and the general public, and not because of any legal requirement to do so. The Proponent acknowledges the Authority's right to accept or to reject any and all proposals prior to acceptance, and to waive any informality, all as the Authority in its sole judgment and discretion may deem to be in its best interest.
5. The Proponent named herein is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in connection with the Agreement;
6. All of the information contained in this proposal, including all of the attachments hereto, is true and correct.
7. This proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

(Name of Person Signing Proposal)

(Title of Person Signing Proposal)

(Name of Proponent)

(Federal ID or Soc. Sec. No.)

(Street Address)

(Telephone Number)

(Town/City, State, Zip Code)

(Fax Number)

(Date)

(Signature)

EXHIBIT B

PROPOSAL BOND

KNOW ALL PERSONS BY THESE PRESENTS,

That we, _____,
(Name of Proponent)

organized under the laws of the State of _____

and having a usual place of business at _____

as principal, and _____,
(Name of Surety)

organized under the laws of the State of _____

and having a usual place of business at _____

as surety, are holden and stand firmly bound and obligated unto the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, as obligee, in the sum of

Twenty-Five Thousand and NO/100 Dollars (\$25,000.00), lawful money of the United States of America, to and for the true payment whereof, we hereby bind ourselves and each of us, our heirs, executors, administrators, successors and assigns jointly severally and firmly by these presents.

WHEREAS, the said principal has submitted the accompanying Service Proposal and Financial Proposal for the proposed Agreement to provide a freight transportation service to the island of Martha's Vineyard (the "Contract") for the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (together hereinafter referred to as the "Proposal") in accordance with, and subject to the terms of the "Request for Proposals to Provide a Freight Transportation Service to the Island of Martha's Vineyard, issued November 18, 1999 and the addenda thereto (hereinafter referred to as the "Request for Proposals").

NOW, THE CONDITION OF THIS OBLIGATION IS SUCH

That, if the principal shall not withdraw its Proposal, except in the manner and within the time limits provided for in the Request for Proposals; and

If, having not so withdrawn its Proposal, the principal faithfully performs all of the undertakings, covenants, terms, conditions and agreements contained in the Proposal or, in the event of failure to perform any of said undertakings, covenants, terms, conditions or agreements, pays to the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority the sum of Twenty-Five Thousand and NO/100 Dollars (\$25,000.00), in lawful money of the United States of America;

Then this obligation shall be void; otherwise it shall remain in full force, virtue and effect.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of _____ in the year One Thousand Nine Hundred Ninety-Nine, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by their undersigned respective representatives, pursuant to authority of their respective governing bodies.

[Appropriate Signatures, Seals,
Certificates and Affidavits of
Authorization]

EXHIBIT C

FINANCIAL PROPOSAL
TO PROVIDE A
FREIGHT TRANSPORTATION SERVICE
TO THE ISLAND OF MARTHA'S VINEYARD

[All items must be completed using this form. Additional sheets referenced by item number in the order in which they appear on this form should be used when more space is necessary for a full answer. Charts, diagrams and exhibits may be utilized if desired. A Proponent may make its Financial Proposal in a manner other than on a copy of this form only if the Proponent clearly provides all of the information sought in this form.]

Woods Hole, Martha's Vineyard and
Nantucket Steamship Authority
P.O. Box 284
Foot of Railroad Avenue
Woods Hole, Massachusetts 02543

Gentlemen and Ladies:

We hereby submit the following Financial Proposal to provide a freight transportation service to the island of Martha's Vineyard in strict compliance with the Request for Proposals therefor, including all Addenda thereto, which are all made a part of this proposal by reference thereto, as stated below:

(Name of Proponent)

hereby proposes to furnish all labor, services and materials and perform all work required to provide a freight transportation service to the island of Martha's Vineyard (the "Service") commencing May 1, 2000 through October 31, 2000 in strict accordance with and subject to the terms and conditions of the above-referenced Request for Proposals (including all Addenda thereto) and the Proponent's Service Proposal submitted in response thereto, for the following Total Compensation, as that term is used in Article 6 of the Agreement attached as Exhibit D to

the Request for Proposals, which Total Compensation shall be without adjustment for changes in labor, material or tax cost, except as specified in the aforesaid Agreement:

(Amount in Words)

(\$ _____).

(Amount in Numbers)

The undersigned accepts and agrees to all the terms and conditions of the Request for Proposals as fully as if they were separately repeated and agreed to in this Financial Proposal.

The undersigned acknowledges that it has received and read the proposed Agreement (the "Agreement") attached to the Request for Proposals as Exhibit D. The undersigned agrees that if its proposal is accepted by the Authority, it will enter into an Agreement with the Authority in substantially the form of that attached Agreement within ten (10) calendar days after notice of acceptance of its proposal.

The undersigned further agrees: (a) that it will not withdraw the foregoing Financial Proposal or its Service Proposal prior to January 15, 2000; and (b) that in the event January 15, 2000 passes without an award of the Agreement having been made by the Authority, the foregoing Financial Proposal and Service Proposal shall remain in full force and effect for another thirty (30) day period unless and until the Authority receives written notice of the withdrawal of the foregoing Financial Proposal and Service Proposal by the undersigned.

CERTIFICATIONS AND ACKNOWLEDGMENTS.

The undersigned hereby acknowledges and certifies under the penalties of perjury, to the best of his or her knowledge, information and belief, that:

1. This proposal constitutes a firm offer. The undersigned acknowledges that attached to its Service Proposal was a deposit in the form of a proposal bond, certified or bank treasurer's check in the amount of \$25,000 made payable to the "Woods Hole, Martha's Vineyard and Nantucket Steamship Authority." The Proponent agrees that, in the event it is notified that it has been awarded the Agreement in accordance with the provisions of the Request for Proposals, but fails to execute the same, the deposit may be retained by the Authority as liquidated damages.
2. In making this proposal, the Proponent has relied only upon the matters contained in the Request for Proposals and addenda thereto which have been issued by the Authority and disseminated to all potential proponents. The Proponent has not relied upon any other representations, either written or oral, made by the Authority and/or its Members, officers, employees or agents.

3. The Authority is soliciting competitive proposals pursuant to a determination that such a process best serves the interest of the Authority and the general public, and not because of any legal requirement to do so. The Proponent acknowledges the Authority's right to accept or to reject any and all proposals prior to acceptance, and to waive any informality, all as the Authority in its sole judgment and discretion may deem to be in its best interest.
4. Pursuant to Mass. G.L. c. 62C, sec. 49A, the Proponent named herein has complied with all laws of The Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support;
5. If the Proponent named herein is a corporation not incorporated under the laws of The Commonwealth of Massachusetts, the corporation is in compliance with the applicable provisions of Mass. G.L. c. 181;
6. The Proponent named herein has not, directly or indirectly, given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the Agreement;
7. No Member, employee or agent of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority shall be in the employ of, or be in any way, directly or indirectly, financially interested in any partnership, corporation or association having any financial transactions connected with the Agreement; and
8. This proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

(Name of Person Signing Proposal)

(Title of Person Signing Proposal)

(Name of Proponent)

(Federal ID or Soc. Sec. No.)

(Street Address)

(Telephone Number)

(Town/City, State, Zip Code)

(Fax Number)

(Date)

(Signature)

EXHIBIT D

AGREEMENT

This Agreement (hereinafter referred to as the "Agreement") is entered into as of this _____ day of _____, 1999, by and between the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (hereinafter referred to as the "Authority") and _____ (hereinafter referred to as the "Operator").

WHEREAS, both the Authority and the Operator desire to have the Operator provide a freight transportation service with the Motor Vessel(s)/Barge(s) _____, (hereinafter referred to as the "Vessel"), directly between _____ and the island of Martha's Vineyard on Mondays through Fridays commencing May 1, 2000 through October 31, 2000 (hereinafter referred to as the "Services");

NOW, THEREFORE, in consideration of the provisions hereof and the mutual promises contained herein, the parties agree as follows:

1. License Provided to the Operator by the Authority.

In the exercise of its discretion, as necessary or desirable to serve the purposes of chapter 701 of the Acts of 1960, as amended, the Authority hereby licenses the Operator to provide the Services, subject to the terms and provisions of this Agreement. This license is granted only to the Operator for such Services provided by the Vessel herein specified and, except as provided in Article 14, is not transferable or assignable to any other person, entity or vessel without the express written approval of the Authority. During the term of this Agreement, the Operator agrees that neither the Vessel nor any other vessel owned or operated by the Operator will be operated for hire between the mainland of The Commonwealth of Massachusetts and the island of Nantucket, or between the mainland of The Commonwealth of Massachusetts and the island of Martha's Vineyard, or between said islands, except in strict accordance with the terms and provisions hereof or the terms of another agreement entered into between the Authority and the Operator or as the continuance of existing services by vessels or replacements of similar capacity thereof already being provided by the Operator.

2. Agreement to Provide the Services.

The Operator hereby agrees to furnish all labor, services and materials and to perform all work required to provide the Services at the Operator's own risk and expense (except as otherwise provided in this Agreement) in strict accordance with and subject to the terms and conditions of this Agreement, the Authority's Request for Proposals for a Freight Transportation Service to Martha's Vineyard, dated November 18, 1999 (including all Addenda thereto) and the Operator's proposal submitted in response thereto, as such proposal has been revised through negotiations between the Authority and the Operator and set forth in Exhibit A attached hereto.

3. Operating Schedule.

Safe operating conditions permitting, the Operator shall provide the Services in accordance with the schedule of trips set forth in Exhibit B attached hereto. Any and all changes to the Operator's schedule of trips (other than minor delays related to operating conditions for individual trips and schedule changes related to Force Majeure Events) shall be subject to the approval of the Authority.

4. Limitation of the Services to Freight.

The Services provided by the Operator shall not include the carriage of automobiles or passengers (except the drivers and passengers of trucks carried by the Operator on the Vessel, whom the Operator shall also be able to transport either on the Vessel or by other means satisfactory to the Authority).

5. Restrictions on the Use of the Authority's Facilities.

The Operator agrees that it is not authorized to use the Authority's dockage facilities, wharves, piers, or any other property, either real or personal, in any way, except as may be otherwise provided for in a separate Dockage Facilities Agreement entered into between the parties. In the event the parties do enter into a separate Dockage Facilities Agreement, it shall be attached hereto as Exhibit C.

6. Payment by the Authority for the Services.

A. The Authority shall pay to the Operator the Total Compensation of _____ Dollars (\$ _____) for the Operator to provide the Services in accordance with the terms and conditions of this Agreement. The Authority will make no adjustment in the Total Compensation due to inflation occurring during the performance of this Agreement, nor will the Authority make any adjustment in the Total Compensation because of any change in laws, ordinances or regulations which are imposed by the Federal or Massachusetts government. The Total Compensation shall be payable by the Authority to the Operator in Interim Installment Payments as follows:

- (1) \$ _____ or 5% of the Total Compensation within thirty (30) days after the execution of this Agreement by both parties.
- (2) \$ _____ or 15% of the Total Compensation upon the commencement of the Services by the Operator.
- (3) \$ _____ or 15% of the Total Compensation on June 1, 2000.

- (4) \$ _____ or 15% of the Total Compensation on July 1, 2000.
- (5) \$ _____ or 15% of the Total Compensation on August 1, 2000.
- (6) \$ _____ or 15% of the Total Compensation on September 1, 2000.
- (7) \$ _____ or 15% of the Total Compensation on October 1, 2000
- (8) \$ _____ or 5% of the Total Compensation on November 1, 2000.

B. In addition, in the event there is an increase in the low price per gallon of Reseller Tank Car Prices of High Sulfur Diesel fuel for the Providence terminal point, as published in the *Journal of Commerce*, from the price of such fuel as of December 1, 1999, the Operator shall notify the Authority of the number of gallons of fuel purchased for the Vessel to use in connection with providing the Services each day the Vessel is in operation, and the Authority shall pay to the Operator a sum equal to the number of gallons of fuel so reported by the Operator (to a maximum of 800 gallons of fuel for each day the Vessel is in operation) multiplied by the aforesaid published increase in the low price per gallon of Reseller Tank Car Prices of High Sulfur Diesel fuel for the Providence terminal point (in dollars and cents, and not as a percentage) for that particular day from the published price of such fuel as of December 1, 1999. Such payments will be due from the Authority on a monthly basis, payable on the fifteenth (15th) day of the following month.

7. Term of the Agreement.

A. The Operator shall provide the Services in accordance with the schedule set forth in Exhibit B attached hereto commencing May 1, 2000 through October 31, 2000, which time period shall be considered to be the Term of this Agreement. The Operator expressly agrees that nothing in this Agreement, whether standing alone or in combination with other events, agreements, instruments, documents or understandings, entitles the Operator to any extension of the Services beyond October 31, 2000, and that the Authority shall in no way be obligated to license Operator to operate any transportation service after October 31, 2000. Any license for services subsequent to October 31, 2000 may be granted only by an instrument of equal formality signed by the duly authorized representatives of the respective parties.

B. At the Authority's option, the Operator shall enter into and execute a new Agreement with the Authority, and the terms and conditions of the new Agreement shall be identical to the terms and conditions of this Agreement, except that:

- (1) All references to the year "2000" in this Agreement and all Exhibits attached hereto shall be changed to the year "2001";

- (2) The amounts of all payments required under Section A of Article 6 of this Agreement (as well as the potential deductions from those payment as provided for in Article 18 of this Agreement) shall be increased by five percent (5%); and
- (3) This Section B of Article 7 shall be deleted from the new Agreement.

The Authority shall retain sole discretion in deciding whether or not to exercise this option, and no exercise of the option shall be subject to agreement or acceptance by the Operator; provided, however, that the option granted to the Authority under this Section will expire and be of no force or effect unless the Authority notifies the Operator on or before November 30, 2000 of the Authority's decision to exercise it.

8. Provisions Governing Certain Aspects of the Operation.

A. The Operator represents and warrants that the Vessel can transport various mixes of freight trucks on its cargo deck areas, examples of which are described in Exhibit D attached hereto.

B. The Authority shall be responsible for the making of all reservations, the sale of all tickets for passage aboard the Vessel, and the collection of all ticket proceeds.

C. The Authority shall provide the Operator (by fax or by another manner mutually agreeable between the parties), at least two hours before each scheduled trip, a "manifest" describing each freight truck that the Operator will be obligated to transport on that particular trip consistent with Exhibit D attached hereto. The "manifest" shall provide the following information as to each such freight truck: truck company name; truck size (length); whether or not the commodity carried is considered "dangerous" under United States Coast Guard regulations; the number of persons (including the truck driver) accompanying the truck; and whether the Operator is required to collect any tickets or other documents from the truck operator to verify that the truck or any person accompanying the truck is entitled to be transported on that particular trip. In the event the Operator believes that the information contained in the "manifest" is not consistent with Exhibit D attached hereto or is otherwise unacceptable, the Operator shall so notify the Authority so that possible changes may be implemented prior to the trip's scheduled time of departure.

D. The Operator shall transport on the Vessel those trucks and persons that are identified in the Authority's "manifest" for each trip (provided, however, that if the Operator cannot transport the persons on the Vessel, it may transport them by other means satisfactory to the Authority) and, further, the Operator shall not transport on the Vessel any automobiles, trucks or persons that are not so identified by the Authority. In addition, the Operator shall have the right to refuse transportation to any truck if the information on the Authority's "manifest" regarding such truck is materially incorrect. The Operator also shall be responsible for providing sufficient space at its terminal facilities for staging the trucks that are to be carried on each trip, ensuring that the trucks and persons transported on each trip are those identified on the Authority's "manifest," collecting such tickets and other documents from the truck operators as

may be required by the Authority to verify that they are entitled to be transported on that trip (and forwarding to the Authority those tickets and documents that are collected on a weekly basis), loading and unloading the Vessel, and reporting to the Authority within two hours after the completion of each trip (by fax or by another manner mutually agreeable between the parties) which trucks and persons on the "manifest" were transported and which were not.

E. The Operator agrees to permit the Authority, through its General Manager or any other persons designated by the General Manager, upon reasonable notice to the Operator unless an emergency makes such notice impractical, to enter onto the Vessel, as well as the Operator's other property and facilities, and to review the Operator's records and operations to determine the accuracy of the aforesaid reports and/or to verify the Operator's compliance with its obligations under this Agreement.

9. No Requirement to Hire Authority Employees.

The Operator shall not be required to hire, nor shall the Authority be required to provide, any employee of the Authority for the provision of the Services hereunder, except as may be otherwise provided for in a separate Dockage Facilities Agreement entered into between the parties and attached hereto as Exhibit C.

10. Possible Changes to the Operator's Schedule.

It is acknowledged by the Operator that it is the statutory responsibility of the Authority to provide adequate transportation of persons and necessities of life for the islands of Nantucket and Martha's Vineyard. It is also acknowledged by the Operator that the Authority from time to time may change, in its sole discretion, its schedules of operations and, as a consequence, may require the Operator to change its schedule of trips so that they neither conflict with those of the Authority nor cause undue congestion in any harbors, bays or waters traveled by the Authority's vessels. In this regard, Operator acknowledges that the Authority generally reviews and revises its seasonal schedules on an annual basis. In the event the Operator is precluded from performing its planned service as a result of a schedule change initiated by the Authority, and the Operator's expenses are increased as a result, the parties will negotiate an additional amount to be paid by the Authority to the Operator in order to reimburse the Operator for the reasonable net additional expenses incurred.

11. Compliance with All Applicable Laws and Regulations.

The Operator warrants that the Vessel shall be operated with all necessary permits, licenses and approvals of federal, state and local authorities necessary for the operation of the Vessel and the provision of the Services, and that the Vessel shall be operated in compliance with all applicable laws and regulations, including but in no way limited to all laws and regulations pertaining to the carrying of an appropriate amount of lifesaving and firefighting equipment on the Vessel. The Operator also warrants that it shall conform to such instructions

given by the harbor master of each port served by the Vessel with respect to the Vessel's speed and operation, having due regard for the safety of the public and the use of the water by others.

12. Termination of the Agreement for Cause.

This Agreement and the license issued hereunder may be terminated by the Authority at any time for cause. Cause shall include the following:

- A. Any material breach by the Operator of any of its promises, representations, warranties or obligations under this Agreement that is not cured within a reasonable period of time specified by the Authority in its notice of such breach to the Operator;
- B. A general assignment by the Operator for the benefit of creditors;
- C. A filing by the Operator of any petition for composition of indebtedness, bankruptcy or reorganization;
- D. A filing of any petition against the Operator for its adjudication as bankrupt, if such petition is not dismissed within thirty (30) days after its filing;
- E. A declaration that the Operator is insolvent according to law;
- F. An appointment of a receiver or similar officer to take care of any of the Operator's property used in connection with the Services;
- G. The taking of any property used by the Operator in connection with the Services on execution or by other process of law;
- H. An interruption of the Services for any reason other than a Force Majeure Event for a period of ten (10) consecutive days; and/or
- I. A determination by a court of competent jurisdiction or an appropriate regulatory governmental agency that the Services are in any way unauthorized by, or in violation of, any provision of law or any regulation promulgated thereunder; provided, however, that such a determination shall not be cause to terminate this Agreement if the determination is not final and unappealable, the Operator's appeal of such determination is pending and, during the pendency of such appeal, the Operator is not restrained or otherwise prevented from providing the Services.

The waiver of, or failure to exercise, the rights so to terminate this Agreement in the event of any event or events constituting cause for termination shall not impair or prejudice, or be, or be construed as, a waiver of the right so to terminate this Agreement in the event of any subsequent event or events constituting cause for termination.

13. Cessation of the Services Upon the Agreement's Termination.

Immediately upon the service of written notice by the Authority of the termination of this Agreement and the license issued hereunder for cause pursuant to the provisions of Article 12, the Operator shall cease providing the Services and also shall cease all other actions licensed and permitted by this Agreement. In the event of any such termination of this Agreement, the Operator agrees that:

- A. It shall have no remedy at law or in equity against the Authority or its Members for specific performance of this Agreement or the license issued hereunder;
- B. The Authority will be irreparably harmed by any continuation of the Services by the Operator and/or the continuation by the Operator of any other actions licensed or permitted by this Agreement;
- C. The Authority will be entitled to equitable and injunctive relief restraining and prohibiting any continuation of the Services by the Operator and/or the continuation by the Operator of any other actions licensed or permitted under this Agreement and/or any operation of the Vessel between the mainland of The Commonwealth and the island of Nantucket, or between the mainland of The Commonwealth and the island of Martha's Vineyard, or between said islands, except as otherwise permitted under Section 5 of the Authority's enabling act, chapter 701 of the Acts of 1960, as amended, or another Agreement entered into between the Authority and the Operator, or as the continuance of existing services by vessels or replacements of similar capacity thereof already being provided by the Operator.

14. Assignments.

Neither this Agreement, nor the license issued hereunder, nor any rights created thereby, may be assigned by either party without the consent of the other, and no assignment by operation of law shall be effective without such consent, except that the Authority consents to an assignment of a security interest in this Agreement and the license granted hereby to the Operator to any party providing financing to the Operator.

15. Notices and Communications.

Any and all notices and communications required by or in any way connected with or related to this Agreement shall be in writing and shall be deemed to have been duly served when hand delivered or, if mailed by certified or registered mail, two business days after being so mailed, as the case may be, addressed as follows:

If to the Authority, to

Armand L. Tiberio, General Manager
Woods Hole, Martha's Vineyard and Nantucket Steamship Authority
P.O. Box 284
Foot of Railroad Avenue
Woods Hole, Massachusetts 02543

If to the Operator, to

Either party may, by notice to the other given as herein required, designate a different and one additional address for the purpose of said notices and communications.

16. No Responsibility of the Authority to Perform the Services.

The Authority shall have no responsibility to perform any services in connection with the operation of the Vessel. Nothing in this Agreement shall in any way impose upon the Authority any obligations or liability for the debts, conduct or obligations of the Operator. All persons employed by the Operator in the performance of the Services shall be employees of the Operator, and not of the Authority, and they shall be subject to the exclusive control and direction of the Operator. The Operator shall not contract in the name of the Authority in any way.

17. Indemnification Provisions.

The Operator expressly agrees to indemnify, hold harmless, reimburse and defend the Authority at all times against any claims, costs, expenses, liabilities, obligations, losses and/or damages (including, but not limited to, reasonable legal fees incurred in connection therewith) of any nature, incurred by or imposed upon the Authority (but excluding exemplary, punitive and indirect damages customarily excluded in similar situations) which results, arises out of or is based upon:

- A. any material misrepresentation made by the Operator in this Agreement or in any document submitted by the Operator to the Authority in connection herewith; and/or
- B. any material breach by the Operator of any of its promises, representations, warranties or obligations under this Agreement

18. Force Majeure Events.

A. Except as provided in this Article, the Operator shall not be liable in damages or otherwise responsible to the Authority pursuant to Article 17, nor shall this Agreement or the license issued hereunder be terminated by the Authority pursuant to Article 12, due to the Operator's failure to perform any of its obligations under this Agreement if and to the extent it is unable so to perform or is prevented from performing by a Force Majeure Event. The term "Force Majeure Event" as used in this Agreement means those causes beyond the reasonable control of the Operator, which by the exercise of due diligence the Operator is unable to prevent, avoid, mitigate or overcome, including the following: Government priorities or intervention by or delays caused by civil, naval or military authorities, Acts of God (including unusually severe or prolonged adverse weather conditions that preclude the provision of the Services, but not ordinary storms or inclement weather conditions), earthquakes, explosions, lightning, flood, fire, riots, insurrections, war, sabotage, vandalism, blockades, embargoes, or delays of subcontractors due to such enumerated causes. In no event shall equipment failure of the Vessel constitute a "Force Majeure Event."

B. Upon the occurrence of a Force Majeure Event, the Operator shall (i) provide prompt written notice of such Force Majeure Event to the Authority, including an estimation of its expected duration and the probable impact on the performance of its obligations under this Agreement, (ii) exercise all reasonable efforts to continue to perform its obligations under this Agreement, (iii) expeditiously take action to correct or cure the event or condition excusing performing, (iv) exercise all reasonable efforts to mitigate or limit damages to the Authority, and (v) provide prompt notice to the Authority of the cessation of the event or condition giving rise to its excuse from performance. Any obligation under this Agreement shall be suspended only to the extent caused by such Force Majeure Event and only during the continuance of any inability of performance caused by such Force Majeure Event but for no longer period.

C. In the event the Operator does not operate one or more trips due to a Force Majeure Event(s), it shall pay the Authority the sum of \$_____ (which sum is equal to twenty-five percent of the Total Compensation divided by the number of scheduled trips to be provided by the Operator under this Agreement) for each of the first _____ trips missed by the Operator (the equivalent of five days of scheduled trips) during the Term of this Agreement due to any Force Majeure Event(s), and then the sum of \$_____ (which sum is equal to the Total Compensation divided by the number of scheduled trips to be provided by the Operator under this Agreement) for each subsequent trip so missed by the Operator during the Term of this Agreement. Instead of accepting any of the aforesaid sums for one or more missed trips, the Authority may require the Operator promptly to make up the trip(s) at the earliest feasible time, provided the Authority pays the Operator the additional sum of \$_____ (which sum is equal to fifty percent of the Total Compensation divided by the number of scheduled trips to be provided by the Operator under this Agreement).

D. In the event the Operator does not operate a trip for a reason other than a Force Majeure Event, it shall pay the Authority the sum of \$_____ (which sum is equal to seventy-five percent of the Total Compensation divided by the number of scheduled trips to be provided by the Operator under this Agreement) for each of the first _____ trips so missed by the

Operator (the equivalent of two days of scheduled trips) during the Term of this Agreement and then the sum of \$_____ (which sum is equal to one hundred fifty percent (150%) of the Total Compensation divided by the number of scheduled trips to be provided by the Operator under this Agreement) for each subsequent trip so missed by the Operator during the Term of this Agreement. Instead of accepting any of the aforesaid sums for one or more missed trips, the Authority may require the Operator promptly to make up the trip at the earliest feasible time, without any additional payment to the Operator from the Authority. The remedies provided under this Section D shall be in addition to all other remedies available to the Authority under this Agreement for a breach by the Operator of any of its obligations under this Agreement; provided, however, that there shall be no duplication of damages.

E. In the event the Operator fails to pay the Authority any sum due under this Article 18, the Authority shall be entitled, in addition to all other remedies available to the Authority under this Agreement, to offset that sum due the Authority from the amount of any subsequent Interim Installment Payment(s) due the Operator under this Agreement.

19. Insurance Requirements.

The Operator agrees to procure and maintain public liability insurance coverage during the term of this Agreement with a limit of no less than \$5,000,000 per occurrence, combined single limit for bodily injury and property damage. A certified copy of each policy, or a certificate evidencing the existence thereof, shall be delivered to the Authority prior to the commencement of the Services hereunder. The Operator also warrants that it shall report to the Authority in writing all accidents in which it is involved resulting in loss of life or serious personal injury or considerable property damage promptly after their occurrence.

20. The Operator's Compliance with Tax Laws.

The Operator agrees that during the term of this Agreement it shall comply with all laws of The Commonwealth of Massachusetts relating to taxes.

21. Resolution of Disputes.

A. Any and all claims or disputes arising out of or relating to this Agreement or the breach thereof shall be decided, at the sole discretion of the Authority, either by submission to (i) arbitration with the American Arbitration Association in Boston, Massachusetts or such other location agreed to by the Authority; or (ii) judicial decision by the United States District Court for the District of Massachusetts, located in Boston, Massachusetts, or if such United States District Court does not have jurisdiction of the dispute, by the Barnstable Division of the Superior Court Department of the Trial Court of The Commonwealth of Massachusetts. The parties agree to waive their rights to trial by jury in any such proceeding.

B. The parties further agree that, as a condition precedent to the submission of any claim or dispute to arbitration or judicial decision, they shall first participate in non-binding mediation in Boston, Massachusetts or such other location agreed to by the Authority pursuant to the Mediation Rules of the American Arbitration Association. Only in the event that mediation is not successful in resolving the parties' dispute shall the Operator or the Authority be allowed to submit the claim or dispute as specified in the preceding paragraph to arbitration or judicial decision, as determined by the Authority in its sole discretion.

C. The existence of any dispute, controversy or claim between the Operator and the Authority shall not permit or provide any basis to suspend or delay the provision of the Services by the Operator, and the Operator shall continue to provide the Services as required under this Agreement without regard to such dispute, controversy or claim or the pendency of any proceeding with respect to the same. Failure of the Operator to comply with the provisions of this Section shall constitute a material breach of this Agreement and a default of the Operator hereunder.

22. Interpretation.

This Agreement shall be governed by and interpreted under the laws of The Commonwealth of Massachusetts.

[The following Article 23 shall be included in the Agreement only if the Operator offers in its Service Proposal to furnish the Authority with a performance bond as provided for herein.]

23. Performance Bond.

The Operator agrees to purchase, pay premiums on, and furnish to the Authority at the time of the execution of this Agreement, a performance bond in the form attached hereto as Exhibit E and in the amount of \$_____ (which amount shall be equal to twenty-five percent of the Operator's Total Compensation stated in Article 6 of this Agreement), upon which the Operator and the surety or sureties shall be jointly and severally bound to the Authority. The surety or sureties upon such bond shall be satisfactory to the Authority, and the Authority shall be satisfied with any surety or sureties who are qualified to do business within The Commonwealth of Massachusetts and who are also listed in the latest circular of sureties acceptable for construction for the United States Government. If any surety upon any bond furnished in connection with this Agreement becomes unacceptable to the Authority or if any surety fails to furnish information as to its financial condition from time to time, as requested by the Authority, the Operator shall promptly furnish such additional security as may be required by the Authority to protect the interests of the Authority.]

24. Integration Clause.

The making, execution and delivery of this Agreement by the parties have been induced by no statements, representations, warranties, understandings or agreements other than those herein expressed. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This Agreement may be amended or modified only by an instrument of equal formality signed by the duly authorized officer of the respective parties.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date hereinabove set forth.

WOODS HOLE, MARTHA'S VINEYARD AND
NANTUCKET STEAMSHIP AUTHORITY
(the "Authority")

Witness

By: _____
Armand L. Tiberio,
General Manager

[_____]
("Operator")

Witness

By: _____
[_____], Duly Authorized Agent

CERTIFICATION BY OPERATOR

I, _____, of _____, the Operator named herein, hereby certify under the penalties of perjury, to the best of my knowledge, information and belief:

- A. that the Operator has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Agreement;

- B. that no person, corporation or other entity, other than a bona fide full time employee of the Operator, has been retained or hired by the Operator to solicit for or in any way assist the Operator in obtaining the Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the Agreement to the Operator;
- C. that no Member, employee, consultant or agent of the Authority shall be in the employ of, or be in any way, directly or indirectly, financially interested in any partnership, corporation or association having any financial transactions connected with the Agreement;
- D. if the Operator is a corporation not incorporated under the laws of The Commonwealth of Massachusetts, that the corporation is in compliance with the applicable provisions of Mass. G.L. c. 181;
- E. pursuant to Mass. G.L. c. 7, sec. 22C, that the Operator does not employ ten or more employees in an office or other facility located in Northern Ireland or, if it does so employ ten or more employees there, that (a) it does not discriminate in employment, compensation or the terms, conditions and privileges of employment on account of religious or political beliefs; and (b) it promotes religious tolerance within the work place and the eradication of any manifestations of religious and other illegal discrimination.
- F. pursuant to Mass. G.L. c. 23A, sec. 59, relative to any business interest in or involvement with or in the People's Republic of China, that the Operator shall: (a) seek to ensure employment policies that do not entail discrimination based on sex, religion, ethnic or national background, political belief, nonviolent political activity or political party membership; (b) ensure, through consultation with relevant governmental authorities where appropriate, that methods of production used do not pose an unnecessary physical danger to workers, to neighboring populations and property and to the surrounding environment; (c) ensure that no convict or forced labor under penal sanctions is knowingly used; (d) ensure that no goods that are mined, produced or manufactured, in whole or in part, by convict or forced labor under penal sanctions are knowingly used; (e) undertake to encourage freedom of assembly, association and expression, including, without limitations, prevention of the termination of individuals who express political opinions whether or not at the work place; (f) discourage compulsory political indoctrination on the premises of the work place; and (g) when the opportunity arises, attempt to raise with the relevant agencies of the Chinese government those individuals detained, arrested or convicted since June 1989 solely for non-violent expression of their political views or for peaceful religious or labor activity;
- G. pursuant to St. 1990, c. 521, sec. 7, as amended by St. 1991, c. 329, that the Operator does not have fifty or more employees or, if it does employ fifty or more employees, it has established a dependent care assistance program or a cafeteria plan whose benefits include a dependent care assistance program or it offers child care tuition assistance or on-site or near-site subsidized child care placements;

- H. pursuant to G.L. c. 62C, sec. 49A, that the Operator has complied with all laws of The Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support; and
- I. this Agreement has been entered into in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

Witness

[]

EXHIBIT A

AGREED-UPON REVISIONS TO THE OPERATOR'S PROPOSAL

The Authority and the Operator agree to the following revisions of the Operator's proposal that it submitted in response to the Authority's request for proposals to provide a freight transportation service to the island of Martha's Vineyard, dated November 18, 1999 (including all Addenda thereto):

[_____]

EXHIBIT B

SCHEDULE OF TRIPS

Each Weekday (Mondays through Fridays)

Commencing May 1, 2000 through October 31, 2000

Mainland Port: [_____]

Island Port: [_____]

Scheduled Trips to Martha's Vineyard

Depart
Mainland Port

Arrive
Island Port

[_____]

[_____]

[_____]

[_____]

[_____]

[_____]

Scheduled Trips from Martha's Vineyard

Depart
Island Port

Arrive
Mainland Port

[_____]

[_____]

[_____]

[_____]

[_____]

[_____]

EXHIBIT C

DOCKAGE FACILITIES AGREEMENT

AGREEMENT made this _____ day of _____, 1999, by and between the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, a public instrumentality of The Commonwealth of Massachusetts organized and existing pursuant to the Acts of 1960, c. 701, as amended, with offices located at the Foot of Railroad Avenue, Woods Hole, Massachusetts 02543 (hereinafter referred to as the "Authority") and _____, with offices located at _____ (hereinafter referred to as the "User").

WITNESSETH:

WHEREAS, the Authority owns, and User desires use of, the dock and/or wharf facilities described in Appendix A attached hereto and made a part hereof (hereinafter referred to as the "Facilities");

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

FIRST: Subject to the provisions of this Agreement, the Authority agrees to allow the User to make use of the Facilities, and the User may use said Facilities, for the purpose of berthing the vessel(s) described in Appendix B on the date(s) and time(s) and further conditions set forth in Appendix B attached hereto and made a part hereof.

SECOND: The User agrees to pay to the Authority the rates and/or charges for use of the Facilities as set forth in Appendix C attached hereto and made a part hereof.

THIRD: The parties expressly recognize that the Authority does not wish to create a priority right in anyone other than the Authority to use the Facilities or other property owned by the Authority. Accordingly, the Authority, in its sole discretion but taking into account the need to minimize disruption to the User's operations, will determine what berthing position is available for the User at its Facilities, may change the User's berthing position at any time and as many times as the Authority deems necessary or convenient to the Authority's operations, and generally will control all traffic at its Facilities. The Authority also reserves the right to refuse wharfage or dockage services to the User in any circumstances where, in the judgment of the Authority, the vessel(s) may damage the wharf or impede the operation of the terminal or

operations or schedules of the Authority, or if it is carrying cargo which (a) may endanger or damage the Authority's property, employees and/or passengers, or (b) is considered incompatible with the operation of a passenger terminal.

FOURTH: It is understood and agreed that this Agreement may be terminated at the option of the Authority in the event of a material breach of any of the terms of this Agreement and the failure by the User to correct such breach within seventy-two (72) hours from receipt by the User of a written notice from the Authority setting forth the specific violation.

FIFTH: In the event the User is prevented by the Authority from using the Facilities, or in the event the Facilities are destroyed or damaged by fire, hurricane, storm or other forces, or in the event the Facilities are unfit for use or otherwise unavailable due to construction in progress or any other reason, the charges set forth in Appendix C shall be suspended or abated, as the User's sole remedy, in a just proportional part thereof, until the Facilities have been restored to a safe and proper condition and available for use by the User.

SIXTH: The User shall not assign the use of the Facilities to any other party on the dates set forth in Appendix B without the Authority's express written consent.

SEVENTH: The User shall move the vessel(s) at any time upon request of Authority personnel to such place(s) as the Authority reasonably directs at the expense of the User. A vessel when moored at a pier shall have on board at all times sufficient personnel to move such vessel.

EIGHTH: Neither the Authority nor any of its Members, officers, agents or employees shall be responsible for any loss, damage or injury caused to any vessels, passengers or persons, or to any cargo or any other property in or upon a vessel, or moving or being moved over, in, through, or under, or while on or upon, any wharf or other structure or property owned, controlled, or operated by the Authority, resulting from any cause whatsoever, including but not limited to loss, damage or injury which in any manner is caused by or results from the following: theft, pilferage, animals including rats, mice and other rodents, birds, insects including moths and weevil, shrinkage, waste, seepage, leaking containers, heating, evaporation, fire or extinguishment thereof, explosion, leakage, discharge from fire protection systems, dampness, rain, floods, freezing, frost or other actions of the elements or acts of God, collapse of walls, piers or other structures, breakdowns of plant, machinery or equipment, floats, logs or pilings required to breast a vessel away from wharves, sabotage, insurrection, revolution or war, riot or strikes, or any combination of the foregoing.

NINTH: The User agrees to indemnify and save harmless the Authority from and against (a) all losses, claims, demands and suits for damages arising out of the User's operations on the

property of the Authority and the use of the Facilities, including without limiting the generality of the foregoing claims for loss, damage or injury described in Paragraph EIGHTH hereof, claims by the User's employees or by the employees of others providing goods or services in connection therewith for or under contract with the User, or by workers' compensation insurers (sometimes called "third-party actions"), and claims by passengers and claims for damage to property of the Authority or other persons caused by the discharge of oil or other pollutants or hazardous substances, whether accidental or otherwise, and the results of such discharge, such as fire, and (b) all reasonable costs and expenses, including reasonable attorney's fees, incurred in connection therewith, except such as arise solely from the gross negligence or willful and wanton acts of the Authority or its employees and agents.

TENTH: The User agrees to procure and maintain protection and indemnity coverage, with a dockage rider, during the term of this Agreement with a limit of no less than \$5,000,000 per occurrence, combined single limit for bodily injury and property damage. The Authority shall be named as an additional insured. A certified copy of each policy, or a certificate evidencing the existence thereof, shall be delivered to the Authority prior to any use of the Facilities by the User.

ELEVENTH: Rubbish, dunnage, pallets, bands, loading equipment or other materials, machinery, equipment or supplies of any kind caused by or derived from the User's use of the Facilities hereunder must be removed from the piers, wharves and other areas within the confines of the Authority's property by the person or persons placing it there upon request by Authority personnel. Such person or persons shall be responsible for any costs and expenses of removal incurred by the Authority. No rubbish, refuse, oil pollutants or other materials or substances of any kind shall be dumped overboard from any vessel while docked at the Facilities or from the Facilities themselves.

TWELFTH: Without limiting the generality of the foregoing, the User shall be responsible for any violation of law caused by the User or any person providing goods or services to the User, including without limiting the generality of the foregoing stevedores, truckers, charter parties and independent contractors.

THIRTEENTH: It is acknowledged by the User that it is the statutory responsibility of the Authority to provide adequate transportation of persons and necessities of life for the islands of Martha's Vineyard and Nantucket. It is also acknowledged by the User that the Authority from time to time may change, in its sole discretion, its schedule of operations with the consequence that the User will be required to change its schedule so as not to conflict with that of the Authority. It is further acknowledged by the User that the Authority from time to time may have to close certain of the Facilities for purposes of maintenance, repair or other reasons, and that such closing shall not be deemed a breach by the Authority, but shall provide the User, as its sole remedy under this Agreement, the right to terminate this Agreement.

FOURTEENTH: This Agreement contains the full, complete and entire understanding between the parties hereto with respect to the subject matter hereof, and there are no representations, covenants or agreements between the parties hereto which are not contained herein. This Agreement may not be orally amended and any amendment or modification of this Agreement shall be effective only if in writing executed by both of the parties hereto.

FIFTEENTH: This Agreement shall be interpreted in accordance with the laws of The Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year, month and day first above written.

[_____]

WOODS HOLE, MARTHA'S VINEYARD AND
NANTUCKET STEAMSHIP AUTHORITY

By: _____
[_____]
Duly Authorized Agent

By: _____
Armand L. Tiberio
General Manager

CERTIFICATION BY USER

I, _____, _____ of _____, the User named herein, hereby certify under the penalties of perjury, to the best of my knowledge, information and belief, that:

- A. that the User has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Agreement;
- B. that no person, corporation or other entity, other than a bona fide full time employee of the User, has been retained or hired by the User to solicit for or in any way assist the User in obtaining the Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the Agreement to the User;
- C. that no Member, employee, consultant or agent of the Authority shall be in the employ of, or be in any way, directly or indirectly, financially interested in any partnership, corporation or association having any financial transactions connected with the Agreement;

- D. if the User is a corporation not incorporated under the laws of The Commonwealth of Massachusetts, that the corporation is in compliance with the applicable provisions of Mass. G.L. c. 181;
- E. pursuant to Mass. G.L. c. 7, sec. 22C, that the User does not employ ten or more employees in an office or other facility located in Northern Ireland or, if it does so employ ten or more employees there, that (a) it does not discriminate in employment, compensation or the terms, conditions and privileges of employment on account of religious or political beliefs; and (b) it promotes religious tolerance within the work place and the eradication of any manifestations of religious and other illegal discrimination.
- F. pursuant to Mass. G.L. c. 23A, sec. 59, relative to any business interest in or involvement with or in the People's Republic of China, that the User shall: (a) seek to ensure employment policies that do not entail discrimination based on sex, religion, ethnic or national background, political belief, nonviolent political activity or political party membership; (b) ensure, through consultation with relevant governmental authorities where appropriate, that methods of production used do not pose an unnecessary physical danger to workers, to neighboring populations and property and to the surrounding environment; (c) ensure that no convict or forced labor under penal sanctions is knowingly used; (d) ensure that no goods that are mined, produced or manufactured, in whole or in part, by convict or forced labor under penal sanctions are knowingly used; (e) undertake to encourage freedom of assembly, association and expression, including, without limitations, prevention of the termination of individuals who express political opinions whether or not at the work place; (f) discourage compulsory political indoctrination on the premises of the work place; and (g) when the opportunity arises, attempt to raise with the relevant agencies of the Chinese government those individuals detained, arrested or convicted since June 1989 solely for non-violent expression of their political views or for peaceful religious or labor activity;
- G. pursuant to St. 1990, c. 521, sec. 7, as amended by St. 1991, c. 329, that the User does not have fifty or more employees or, if it does employ fifty or more employees, it has established a dependent care assistance program or a cafeteria plan whose benefits include a dependent care assistance program or it offers child care tuition assistance or on-site or near-site subsidized child care placements;
- H. pursuant to G.L. c. 62C, sec. 49A, that the User has complied with all laws of The Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support; and
- I. this Agreement has been entered into in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

Witness

[]

APPENDIX A

It is hereby agreed that the Facilities referred to in this Agreement are the Authority's [Oak Bluffs and/or Vineyard Haven] terminal[s].

APPENDIX B

Vessel: _____
Official Number: _____
Length O.A.: _____

Dockage Dates: Each Weekday (Mondays through Fridays)
Commencing May 1, 2000 through October 31, 2000

Authority Terminal: _____

Dockage Times: Arrives: _____
Departs: _____

Additional times or dates must be approved in writing by the Authority (see Paragraph FOURTEENTH of the Dockage Facilities Agreement). The Authority does not guarantee the availability of said facilities, except as provided herein, without prior written approval.

APPENDIX C

It is hereby agreed by the Authority and the User that there will be no charge for the use by the User of the Facilities referred to in Appendix A during the period set forth in Appendix B.

If additional dates than those provided for in Appendix B are made available to the User in accordance with Paragraph FOURTEENTH of the Agreement, there similarly will be no charge for such additional dates.

Potable water can also be provided at the rate of \$5.00 for each 1,000 gallons, with a minimum charge of \$30.00.

EXHIBIT D

[The provisions of this Exhibit D will be agreed upon between the Authority and the Operator based upon the dimensions and characteristics of the Vessel's freight deck, and taking into account the Operator's proposed schedule of trips.

For example, if the Operator proposes a schedule that will provide only one round trip per day between the mainland and Martha's Vineyard, an example of one truck mix that the Operator will have to agree to is "four trucks with a maximum length of 70 feet and five trucks with a maximum length of 55 feet." A second example of a truck mix that presumably would be agreed to is "five trucks with a maximum length of 55 feet and eight trucks with a maximum length of 35 feet," because it is the equivalent of the first example.

On the other hand, if the Operator proposes a schedule that will provide two round trips per day, an example of one agreed-upon truck mix will presumably be "two trucks with a maximum length of 70 feet and three trucks with a maximum length of 55 feet. A second example of an agreed-upon truck mix presumably would then be "three trucks with a maximum length of 55 feet and four trucks with a maximum length of 35 feet," because it is the equivalent of the first example.]

EXAMPLES OF VARIOUS TRUCK MIXES THAT CAN BE CARRIED ON THE VESSEL

The Operator represents and warrants that the Vessel can transport the following mixes of freight trucks on its cargo deck areas:

| |
|---------|
| [_____] |
| [_____] |
| [_____] |
| [_____] |
| [_____] |
| [_____] |

EXHIBIT E

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS,

That We, _____, organized under
(Name of Operator)

the laws of the State of _____ and having a usual place of business at

as principal, and _____, organized under the
(Name of Surety)

laws of the State of _____ and having a usual place of business at
_____, as surety,

are holden and stand firmly bound and obligated unto the Woods Hole, Martha's Vineyard and
Nantucket Steamship Authority, as obligee, in the sum of _____

_____ Dollars (\$ _____) lawful money of

the United States of America, to and for the true payment whereof, we hereby bind ourselves,
and each of us, our heirs, executors, administrators, successors and assigns, jointly and severally,
firmly by these presents.

WHEREAS, the said principal has, by means of a written agreement to provide a freight
transportation service to the island of Martha's Vineyard for the Woods Hole, Martha's Vineyard
and Nantucket Steamship Authority, dated _____, 1999, which agreement by
reference made a part hereof (hereinafter the "Contract").

NOW, THE CONDITION OF THIS OBLIGATION IS SUCH

That, if the said principal, its administrators, successors or assigns, shall well and truly
keep and perform all the undertakings, covenants, terms, conditions and agreements of said
Contract that are to be kept and performed on the principal's part during its original term and any
extension hereof and during the life of any guarantee required by the Contract; and

If the said principal, its administrators, successors or assigns, shall well and truly keep and perform all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications and amendments of said Contract that are to be kept and performed on the principal's part;

Then this obligation shall be void; otherwise it shall remain in full force and virtue.

And the said surety, for value received, hereby stipulates and agrees that no change in, modification of, or extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder, or to the specifications accompanying the same shall in any affect its obligations on this bond and it does hereby waive notice of any such change in, modification of, and extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of _____ in the year One Thousand Nine Hundred and Ninety-Nine, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by their undersigned respective representatives, pursuant to authority of their respective governing bodies.

[Appropriate Signatures, Seals, Certifications
and Affidavits of Authorization]