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DATED: 17<sup>th</sup> DAY of NOVEMBER 2014

(1) THE MINISTRY OF TRANSPORT AND AVIATION

and

(2) WESTMINSTER FACILITIES MANAGEMENT LIMITED

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CONCESSION AND LEASE AGREEMENT

For Terminals and Ferry Services between Lungi and Freetown

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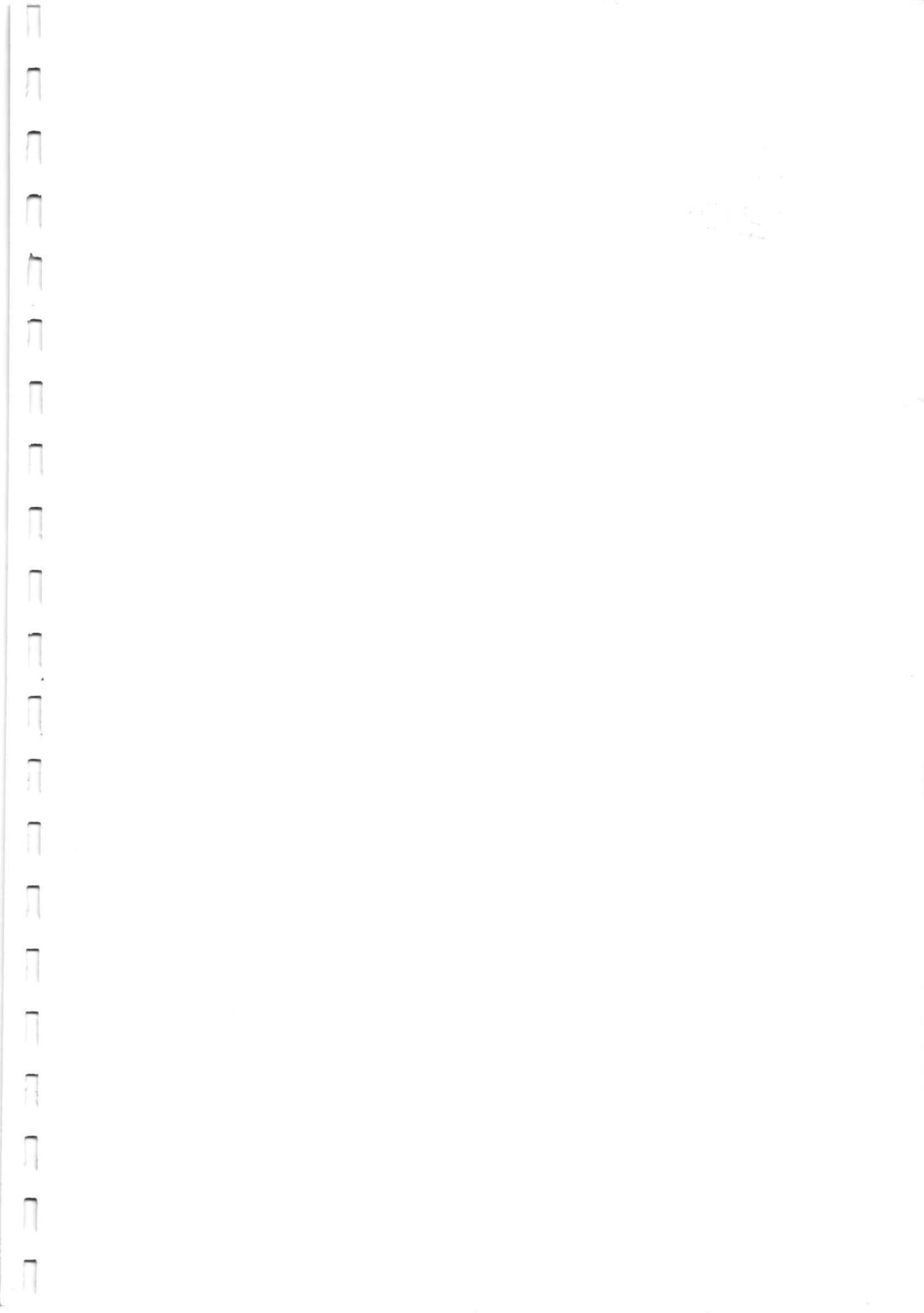


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THIS AGREEMENT is made the seventeenth day of November 2014

**BETWEEN:**

- (1) **THE MINISTRY OF TRANSPORT AND AVIATION**, whose office is at 7<sup>th</sup> Floor, Youyi Building, Brookfields, Freetown, Republic of Sierra Leone (hereinafter referred to as "MTA"); AND
- (2) **WESTMINSTER FACILITIES MANAGEMENT LIMITED** a company registered in England whose registered number is 05135771 and whose registered office is at Westminster House, Blacklocks Hill, Banbury, Oxfordshire, OX17 2BS and its subsidiary companies (hereinafter referred to as "WFM");

**WHEREAS:**

- (A) It is the policy of the MTA of the Republic of Sierra Leone to optimise the use of the Terminals and to procure Ferry Services are performed, for the more convenient use of the Freetown International Airport currently situate at Lungi for the benefit of the people of the Republic of Sierra Leone and their visitors.
- (B) The Airport Transfer Unit (hereinafter referred to as "ATU") is the unit within the MTA responsible for the Terminals and in this Agreement the ATU acts for the MTA.
- (C) WFM has agreed with ATU to take responsibility for the operation of the Terminals and ATU has agreed with WFM to grant the Terminals Concession to WFM on the terms set out in this Agreement.
- (D) ATU has agreed with WFM to grant a lease of the Terminals to WFM for the purpose of this Agreement.
- (E) WFM has agreed to facilitate the Ferry Services on the terms set out in this Agreement.

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

**1 DEFINITIONS**

In this Agreement the following words and expressions shall have the following meanings:

"Ferry Services" means the ferry services to be performed as described in Schedule 4.

"Concession Fees" means the fees payable by WFM to ATU described in Schedule 5.

"Terminals" means the light craft ferry terminal buildings and jetties described in Schedule 2.

"Terminals Lease" means the lease of the Terminals hereby granted by ATU to WFM in the terms set out in Schedule 1.

"Terminal Services" means the services to be performed by WFM at the Terminals set out in Schedule 3.

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1 THE TERMINALS CONCESSION

- 2.1 ATU hereby grants the Lease of the Terminals to WFM on the terms set out in Schedule 1.
- 2.2 ATU hereby grants to WFM the rights and concession to use the Terminals on the terms and conditions set out in this Agreement.
- 2.3 WFM agrees to provide the Terminal Services.
- 2.4 WFM will pay to ATU the Concession Fees.
- 2.5 WFM shall maintain insurance against all usual commercial risks in respect of the Terminals and its operation of the Terminals in the following sums:
- 2.5.1 Public Liability: US\$10,000,000
- 2.5.2 Product Liability: US\$10,000,000
- 2.5.3 Employers' Liability: US\$10,000,000

WFM shall provide copies of such insurance to the ATU within thirty (30) days of a written request from the ATU.

- 2.6 WFM shall be entitled to sub-contract any aspect of the operation of the Terminals, but shall retain direct responsibility to ATU in respect of the acts or omissions of any sub-contractor.
- 2.7 WFM shall be entitled to set the charges and conditions of use to any person, company or body who may wish use the Terminals for any purpose by sole agreement with WFM.
- 2.8 WFM shall be entitled, at its discretion and cost, to develop and expand the Terminals in order to expand and improve the operations
- 2.9 Either party may terminate this Agreement by giving written notice to the other party if any of the following events occurs:
- 2.9.1 the other party commits a material breach of this Agreement which has not been remedied within ninety (90) days of the receipt by the other of a written notice specifying the breach and requiring its remedy; or
- 2.9.2 the other party goes into insolvent liquidation.

3 ATU'S OBLIGATIONS:

- 3.1 ATU will provide WFM with unhindered access to the Terminals at all times.
- 3.2 ATU will ensure all electricity, water and other utility services connected to the Terminals remain operational at all times.
- 3.3 ATU will procure that the waterway between the Terminal jetties remains accessible for commercial craft at all times.



- 4 ATU will procure that the access roads to the Terminals remain open and accessible at all times.
- 5 ATU will not provide any service which competes or may compete with the Terminals or develop new ferry terminals without consultation with WFM and offering WFM the first right to use, manage and operate them on the same or similar terms as the terms contained in this Agreement.
- 6 ATU will not, for a period of ten (10) years from the date of this Agreement, provide any further licences or concessions that compete with the services to be provided under this Agreement in consideration of the investment to be made by WFM.
- 7 ATU will assist WFM with all required licencing, certification and governmental procedures or requirements within Sierra Leone for the duration of the agreement.
- 8 ATU will provide WFM with details of all persons, companies or bodies who have or are using the Terminals including any agreements that may be in force together with fees being charged.

9 ATU will use its best endeavours to procure that:

- 3.9.1 WFM shall be entitled to use the waterways between Lungi and Freetown and use, berth and operate from the Terminals;
- 3.9.2 WFM shall be entitled to freely operate passenger services and ticket sales within the airport terminals and the ferry terminals;
- 3.9.3 WFM shall be entitled to operate and charge market rate for any services provided without interference from the ATU or any Government Minister or official;
- 3.9.4 WFM are exempt from import, corporation and other such taxes for the first five (5) years commencing from the date of this Agreement and for avoidance of doubt it is agreed that ferry craft brought into Sierra Leone under this Agreement shall be exempt from import duty or taxes.

#### 4 THE FERRY SERVICES:

- 4.1 WFM will facilitate the Ferry Services.
- 4.2 WFM will set the fees and receive all funds from ferry operators in accordance with this Agreement.
- 4.3 WFM may terminate the Ferry Services by notice in writing to ATU in the event that the Terminals Lease or this Agreement for WFM to operate the Terminals is terminated for any reason.

#### 5 TERM:

- 5.1 This Agreement shall take effect on the date hereof and subject always to determination as herein provided shall continue in force for a period of twenty-one (21) years ("Initial Period"). At the end of the Initial Period the Agreement may be renewed by agreement of the parties.



6 **CONFIDENTIALITY:**

The parties hereto shall at all times during the continuance of this Agreement keep its contents confidential except as necessary in the performance of their obligations hereunder.

7 **DISPUTE RESOLUTION:**

7.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in this Agreement, the parties shall follow the procedure set out in this clause:

7.1.1 any party shall give to the other parties written notice of the Dispute (hereinafter referred to as **Dispute Notice**), setting out its nature and full particulars, together with relevant supporting documents. On service of the Dispute Notice, the senior manager of **WFM** and the Head of **ATU** shall attempt in good faith to resolve the Dispute;

7.1.2 if the senior manager of **WFM** and the Head of **ATU** are for any reason unable to resolve the Dispute within thirty (30) days of the service of the Dispute Notice, the Dispute shall be referred to the Managing Director of **WFM** and the Minister of Transport and Aviation of the Republic of Sierra Leone who shall attempt in good faith to resolve it.

7.2 No party may commence any arbitration proceedings under clause 9.5.2 in relation to the whole or part of the Dispute unless the terms of clause 7.1 have been implemented in good faith, provided always that the right to issue proceedings is not prejudiced by any delay thereunder.

7.3 The total liability of **WFM** arising under or in connection with this Agreement whether arising in contract, tort (including negligence) or restitution or for breach of statutory duty or misrepresentation or otherwise shall be limited to One Hundred Thousand United States dollars (US\$100,000).

8 **INDEMNITY:**

In the event of the termination of the whole or any part of this Agreement otherwise than as a result of the insolvency or default of **WFM**, **ATU** shall indemnify **WFM** against any loss including loss of profits, damage expense or claim incurred as a result of such termination.

**GENERAL:**

9.1 Notices -

9.1.1 Any notice to be served on any party by any other party shall be sent by pre-paid recorded delivery post, pre-paid airmail with proof of delivery or by fax, and shall be deemed to have been received by the addressee within seventy-two (72) hours (in the case of pre-paid recorded delivery post) or seven (7) days of posting (in the case of pre-paid airmail) or twenty-four (24) hours if sent by fax to the correct fax number of the addressee.

9.1.2 Each of the parties shall notify the other of any change of address or number within forty-eight (48) hours of such change.

9.2 No Partnership or Agency

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This Agreement shall not operate to constitute any party hereto as the partner or agent of any other party.

9.3 *Force Majeure*

In the event of a national emergency, war, prohibitive governmental regulations or any other cause beyond the control of the parties which shall prevent hinder or delay any party's performance of this Agreement, the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

9.4 Entire Agreement

Save as hereinafter provided this Agreement is the entire agreement between the parties hereto and the parties acknowledge that they have not relied upon any oral or written representations made by either of the other parties or their employees or agents and have made their own independent investigation into all matters relevant to the Agreement and no amendments or waiver or any term shall be effective unless it is in writing and signed by or on behalf of each of the parties herein.

9.5 Governing Law and Jurisdiction

9.5.1 The governing law of this Agreement shall be the substantive law of the Republic of Sierra Leone.

9.5.2 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred, in the first instance, to arbitration under the London Court of International Arbitration (LCIA) Rules, which Rules are deemed to be incorporated by reference into this clause.

The number of arbitrators shall be one (1).

The seat, or legal place, of arbitration shall be London, England.

The language to be used in the arbitral proceedings shall be English

9.6 Severance

Should any clause of this Agreement be rendered invalid, the provisions of the remainder of this Agreement shall not be affected. In such case the parties hereto shall co-operate to agree replacement terms which are legally valid in order to achieve as nearly as possible the original intentions of the parties particularly regarding the economic effect of such clause.

9.7 Counterparts

9.7.1 This agreement may be executed in any number of counterparts and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.

9.7.2 Each counterpart, when executed, shall be an original, but all counterparts shall together constitute one and the same instrument.

9.8 Amendment



No variation of this Agreement shall be effective unless it is made in writing, refers specifically to this Agreement and is signed by all parties.

9.9 Third Party Rights

No person who is not party to this Agreement shall have any right to enforce any term of this Agreement.

9.10 Costs

Each party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and implementation of this Agreement.

9.11 Anti-Bribery and Anti-Corruption

Each party will comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the (English) Bribery Act 2010 and the Sierra Leone Anti Corruption Act 2008.

SIGNED by  
a director for and on behalf of  
the within-named MTA

)  
)  
)  
)

In the presence of:

FATIUMA KABIA  
FKABIA

(full name)  
(address)  
(occupation)  
(signature)

SIGNED by  
a director for and on behalf of  
the within-named WFM

)  
)  
)  
)

In the presence of:

Nabil Abou-Haman

(full name)  
(address)  
(occupation)  
(signature)





## SCHEDULE 1 – LEASE OF TERMINALS

### AGREED TERMS

#### 1. INTERPRETATION

Words and expression used in this Lease have the meaning given to them in the Agreement and as follows:

##### 1.1 Definitions:

**Term** means a term of years beginning on, and including the date of the Agreement and ending on, and including twenty-one (21) years.

**Insured Risks** means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, escape of water or oil, damage to underground water, oil or gas pipes or electricity wires or cables, subsidence, ground slip, heave, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion, malicious damage and any other risks which the Tenant reasonably decides to insure against from time to time.

**Landlord** means ATU.

**Permitted Use** means as a ferry terminal with associated offices, shops and other ancillary uses.

**Property** means:

- a) the Terminals and associated jetties;
- b) all Service Media within and exclusively serving the Terminals.
- c) all Landlord's fixtures and fittings in the Terminals (if any).
- d) any additional areas surrounding the buildings that are reasonably required for expansion; and
- e) all additions and improvements to any of the above whenever made.

**Rent** means the Concession Fees.

**Reservations** means all of the rights excepted, reserved and granted to the Landlord by this lease.

**Rights** means the rights granted by the Landlord to the Tenant in clause 3.

**Service Media** means all media for the supply or removal of heat, smoke, electricity, gas, water, sewage, air-conditioning, energy, telecommunications, television, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

**Tenant** means WFM.



1.2 A reference to this **Lease**, except a reference to the date of this Lease or to the grant of this Lease, is a reference to this deed and any deed, licence, consent, or other instrument supplemental to it.

1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this Lease. A reference to the **Tenant** includes a reference to the Tenant's management, successors in title and assigns.

1.4 Unless the context otherwise requires, references to the **Property** are to the whole and any part of it.

1.5 A reference to **writing** or **written** excludes e-mail.

## 2. GRANT

2.1 The Landlord lets the Property with full title guarantee to the Tenant for the Permitted Use for the Term.

2.2 The grant is made together with the Rights set out in clause 3.

2.3 The grant is made in consideration of the Tenant paying to the Landlord the sums referred to in this Agreement.

2.4 The Tenant shall be entitled to terminate this Lease without liability by written notice to the Landlord in the event that the Agreement is terminated for any reason.

## 3. THE RIGHTS

3.1 The right to use or the Landlord will procure the right to use all roadways, access ways or other relevant areas with or without vehicles for itself, its patrons and invitees for the Permitted Use of the Property.

3.2 The right to use all waterways connecting the Property to the waterway.

3.3 The right to use all services to the Property and if necessary make new connections or bring in new service supplies to connect into the Property.

## 4. TENANT COVENANTS

The Tenant covenants with the Landlord to observe and perform the covenants as follows:

### 4.1 Rent

To pay the Rent to the Landlord in accordance with Schedule 5 of the Agreement.

### 4.2 Insurance

To effect and maintain insurance of the Property (with reputable insurers) at its own cost. Such insurance shall be against loss or damage caused by any of the Insured Risks for the full Reinstatement Cost subject to:

4.2.1 any reasonable exclusions, limitations, conditions or excesses that may be imposed by the insurer; and

4.2.2 insurance being available on reasonable terms.



4.3 Utilities

To pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property.

4.4 Alterations

The Tenant is permitted to make any reasonable alterations to the Property.

4.5 Repair and Decoration

To keep the Property in good repair and condition throughout the term.

4.6 Returning the Property to the Landlord

At the end of the term to return the Property to the Landlord in good repair, condition and decoration and in accordance with the Tenant covenants of this Lease and for the avoidance of doubt will not be required to remove any alterations.

5. LANDLORD COVENANTS

The Landlord covenants with the Tenant to observe and perform the covenants as follows:

5.1 Quiet Enjoyment

The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this Lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this Lease.

5.2 Services

The Landlord covenants with the Tenant to provide all reasonable services and utilities to the Property including electricity, water, services that can be used for its Permitted Use.

5.3 Access

If not already available the Landlord covenants to procure all reasonable access to the Property for the Tenant, its customers and invitees.

5.4 Non-competition

The Landlord covenants not to compete with the Tenant's Permitted Use of the Property or allow any third party to compete.

6. GENERAL

Clauses 6, 7, 8 and 9 of the Agreement shall apply to this Lease.



## SCHEDULE 2 – TERMINALS

Angi, Targrin Terminal (Airport Side of estuary)

Government Wharf Terminal & Kissy Terminal (Both Freetown side of estuary)

### *Government Wharf Terminal – Two storey Building & Jetty*

- Ground Floor
  - Ticketing and Information Hall
  - Two (2) Offices for Operators
  - Four (4) storage holding areas for luggage
  - Lounge/Waiting area
  - One (1) Technical room
  - Three (3) sets of rest rooms (One (1) for the disabled)
  - Car Parking lot
- First Floor
  - Four (4) offices for Operators
  - VIP Lounge with en-suite rest room
  - Lounge/Waiting Area
  - Café/Snacks Restaurant
  - Two (2) sets of rest rooms
  - Outside balcony area
- Jetty
  - Roofed walk-way over the jetty
  - Pontoons for two (2) boat landings at a time

### *Kissy Terminal – Terminal Building & Jetty*

- Ground Floor
  - Ticketing and Information Hall
  - Four (4) Offices for Operators
  - Staff rest area
  - Five (5) rest rooms
  - VIP Lounge
  - Outdoor grassed area for Café/Snacks Restaurant
- Jetty
  - Roofed walk-way over the jetty
  - Pontoon for two (2) boat landings at a time

### *Angi Targrin Terminal – Terminal Building & Jetty*

- Ground Floor
  - Ticketing and Information Hall
  - Four (4) Offices for Operators
  - Four (4) storage bays
  - Staff rest area
  - Rest room
  - One (1) mini shop
  - VIP Lounge with en-suite toilet
  - Outdoor grassed area for Café/Snacks Restaurant
  - Car Parking lot
- Jetty
  - Roofed walk-way over the jetty
  - Two (2) Pontoon for four boats landings at a time



### SCHEDULE 3 – TERMINAL SERVICES

WFM will maintain the Terminals and associated jetties in good working order

WFM will provide the investment and expertise to expand and enhance the Terminals and associated jetties as required in order to develop the services and cater for expanding passenger numbers

WFM will be responsible payment of utility services (electricity, water etc.)

WFM will be responsible for promoting and marketing the Terminals to raise awareness and encourage use and growth of the facilities by local and international visitors.

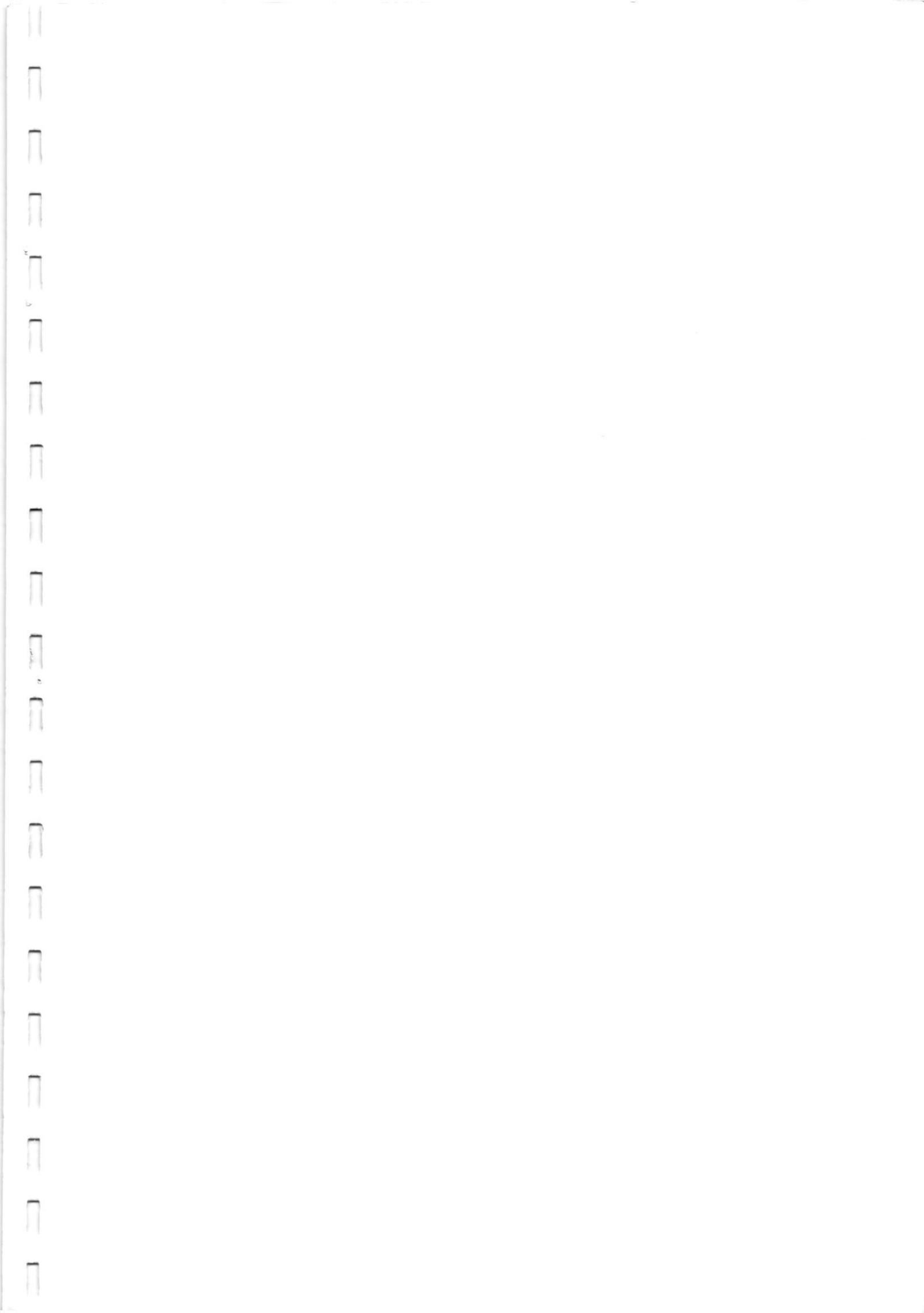
WFM will operate and manage the Terminals in a professional and efficient manner and remain open during all ferry services times.

WFM will operate an efficient timetable to ensure ferries using the facility can be accommodated and passengers embarked and disembarked quickly and efficiently.

WFM will operate the service so as to enhance the passenger experience of visitors travelling to and from Sierra Leone via the airport.

WFM will provide ancillary customer services (refreshments etc.) as deemed appropriate.

The parties will work together to endeavour to establish an additional terminal at a location nearer to the hotels as well as any other location that the parties consider would be beneficial and commercially viable.



## SCHEDULE 4 – FERRY SERVICES

WFM endeavour to ensure ferry operators provide a range of high quality ferry craft to transport passengers professionally and efficiently between the Terminals in order to create a co-ordinated and integrated transport system and to enable safe and efficient transfer of passengers to and from the airport to the mainland

WFM will endeavour to procure that the first craft for operations are deployed as soon as it is able to do so following signing of this Agreement and will look to expand operations with various size craft, subject to demand, to include VIP vessels for Presidential and VIP use

WFM will endeavour to co-ordinate the ferry services with airline schedules

WFM will endeavour to ensure ferry companies only use experienced captains and maintenance staff to ensure a professional and reliable service

WFM will be responsible for collecting all agreed fees for Ferry Services

WFM will be responsible for promotion and marketing of the ferry service both within Sierra Leone and internationally in order to maximise operations.

WFM will liaise with airlines and hotels to provide an integrated travel arrangement and ease of booking.

WFM may expand its activities to include creating a water taxi service around Freetown and to provide passenger services to other locations within Sierra Leone and to neighbouring countries.



## SCHEDULE 5 – THE CONCESSION FEES

WFM will pay a monthly concession fee of five per cent (5%) of the net ticket price excluding taxes for each passenger using the Ferry Service via the Terminals for ferry crossings.

For example:

50,000 passengers per annum at \$40 per passenger = concession fee of \$100,000 per annum.

250,000 passengers per annum at \$40 per passenger = concession fee of \$500,000 per annum

Within fifteen (15) days from the end of each month WFM will provide ATU with a report on the number of passengers who have used ferries between the Terminals during the month and ATU may, at their discretion, ask for further details and inspect the records to verify the passenger numbers. WFM will pay the Concession Fee to the ATU within thirty (30) days of agreement of passenger numbers for each month

In consideration of the investment and development to be made by WFM payment of the Concession Fee will commence six (6) months after signing this Agreement however should major airlines not have reintroduced normal flight services and schedules and/or Sierra Leone is still affected by the Ebola crisis then this period will be extended by another six (6) months.

A review of Concession Fee charges will be undertaken every five (5) years and to be agreed between the parties. If the parties fail to agree a new Concession Fee then the previous charge will remain in force.

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