

AMENDMENT TO LEASE

THIS AGREEMENT made in duplicate the ^{3rd} ~~26~~ day of ^{August} ~~July~~, 2018. 1312

BETWEEN:

HER MAJESTY THE QUEEN, in right of the Province of Nova Scotia, as represented by the Administrator, Nova Scotia Department of Fisheries and Aquaculture,

hereinafter referred to as "**THE ADMINISTRATOR**"

OF THE ONE PART

- and -

TINA DAUPHINEE carrying on business under the name of
"K&H Capital"
Whynachts Point Road
Tantallon, NS B3Z 2K9

hereinafter referred to as "**THE LESSEE**"

OF THE OTHER PART

WHEREAS Wayne Turple was issued Aquaculture Lease No. 0055 on April 11, 2017 for a term of twenty years from August 2, 2017 to August 2, 2037, authorizing the suspended cultivation of Blue mussel (*Mytilus edulis*), American oysters (*Crassostrea virginica*), Giant sea scallop (*Placopecten magellanicus*), Bay scallop (*Argopecten irradians*) and European oyster (*Ostrea edulis*);

AND WHEREAS Lease was assigned on February 16, 2018 from Wayne Turple to Tina Dauphinee carrying on business under the name of "K&H Capital";

AND WHEREAS by condition of Lease No. 0055, the Lessee agrees to comply with any permits, protocols, approvals, licenses or permissions (the "leasing requirements") which may be required under the laws of the relevant municipality, the Province or Canada.

AND WHEREAS the Government of Canada, by authority of the *Management of Contaminated Fisheries Regulations* made pursuant to the *Fisheries Act*, may prohibit the harvest of any fish species, either from the commercial fishery or from aquaculture sites, from time to time for the purpose of protecting public health;

AND WHEREAS the Government of Canada, by condition of commercial fishing licenses issued under the provisions of the *Fisheries Act* and associated regulations, permits only the landing of the abductor muscle of *Giant sea scallops*, for the purpose of protecting public health;

AND WHEREAS the Government of Canada has indicated its willingness to continue to permit the harvesting of *Giant Sea Scallops* from licensed aquaculture sites located within waters otherwise subject to a fish-harvesting prohibition order, so long as aquaculture licence holders comply with requirements, equivalent to those which apply under commercial fishing licences, that are meant to protect public health;

AND WHEREAS the Lessee wishes to amend Lease No. 0055 in order to comply with Government of Canada requirements with respect to the harvesting of *Giant Sea Scallops* from licensed aquaculture sites;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein and the sum of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

1. Lease No. 0055 is hereby amended by deleting its Schedule "B" and substituting the attached Schedule "B".
2. Lease No. 0055 shall in all other respects remain the same and continue to be in full force and effect.

IN WITNESS WHEREOF the Parties have caused this Agreement to be duly executed.

SIGNED, SEALED AND DELIVERED
in the presence of

[Redacted Signature]

Witness

[Redacted Signature]

Witness

) **HER MAJESTY THE QUEEN**
) in right of the Province of Nova Scotia, as
) represented by the Administrator, Nova Scotia
) Department of Fisheries and Aquaculture
)
)
)

) [Redacted Signature]

) Administrator, Nova Scotia Department
) of Fisheries and Aquaculture
)

) "K&H Capital"
) per:
)

) [Redacted Signature]

) Tina Dauphinee

Schedule "B"

This Schedule sets out any undertakings required of the Lessee:

The Lessee undertakes the following:

Where Fisheries and Oceans Canada, pursuant to the *Management of Contaminated Fisheries Regulations*, issues an order which prohibits fishing in an area (the "closed area"), and does not list Giant Sea scallops on the prohibition order, and the site falls within the closed area, the Lessee shall not harvest or retain Giant Sea scallops from the site unless all of the following conditions are met:

- (a) all Giant sea scallops harvested and retained shall be shucked prior to being taken from the site;
- (b) only the adductor muscle (meat), free of all roe and viscera, from the Giant sea scallops shall be retained; and
- (c) no intermingling of Giant sea scallop meat retained from the site shall occur, prior to processing, with Giant sea scallop meat retained from any other location

This lease made in duplicate this 11th day of April, 2017.

BETWEEN:

HER MAJESTY THE QUEEN, in right of the Province of Nova Scotia, as represented by the Administrator, Nova Scotia Department of Fisheries and Aquaculture, as appointed under section 54A of the Fisheries and Coastal Resources Act, SNS 1996, c. 25,

hereinafter referred to as "**THE ADMINISTRATOR**"

OF THE ONE PART

- and -

WAYNE TURPLE
RR#2
MAHONE BAY, NS B0J 2E0

hereinafter referred to as "**THE LESSEE**"

OF THE OTHER PART

WHEREAS the Administrator, under the provisions of the Fisheries and Coastal Resources Act, S.N.S. 1996, Chapter 25 (the "Act") and the Aquaculture Licence and Lease Regulations (the "Regulations"), is authorized to renew aquaculture licences and aquaculture leases;

AND WHEREAS pursuant to the Act the Lessee was issued Aquaculture Lease No. 0055 on April 9, 2015 for a term of three years from August 2, 2014 to August 2, 2017 and Amended on October 21, 2015 to add Giant sea scallop (*Placopecten magellanicus*);

AND WHEREAS the Lessee wishes to renew aquaculture Lease No. 0055;

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

1. The Administrator hereby grants to the Lessee a lease to use a 5.40 hectare area located in the body of waters known as Mahone Bay, more particularly described in Schedule "A" attached to and forming part of this Agreement (the "site") for the suspended cultivation of Blue mussel (*Mytilus edulis*), European oysters (*Ostrea edulis*), Giant sea scallop (*Placopecten magellanicus*), and Bay scallop (*Argopecten irradians*).
2. The term of this lease shall be for twenty years commencing on the August 2, 2017 to August 2, 2037 with the right of renewal, in accordance with the terms of the Act and the Regulations.
3. The Lessee shall pay to the Minister of Finance and Treasury Board an annual fee as set out in the Regulations. The annual payment must be received by the anniversary date of the lease. Late payments are subject to a fee as set out in the Regulations.
4. The undertakings set out in Schedule "B" to this lease (the "undertakings"), form part of this Agreement, and the Lessee hereby agrees to comply with any conditions or limitations contained in the undertakings unless compliance for leasing purposes is expressly waived by the Administrator. The Lessee is responsible for confirming any undertakings and ensuring compliance with them.
5. Except to the extent restricted by an enactment or this lease, the Lessee has, for aquacultural purposes, the exclusive right to use the leased sub-aquatic lands and water column.

6. The Lessee agrees to comply with any permits, protocols, approvals, licenses or permissions (the "licensing requirements") which may be required under the laws of the relevant municipality, the Province or Canada. The Lessee is responsible for confirming any licensing requirements and ensuring compliance with them.
7. This lease must not be assigned without the written approval of the Administrator. If the Lessee is a corporation, any change in the right to control the corporation shall be deemed to be an assignment.
8. In the event that the Lessee shall cease conducting an aquaculture business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver of its business assets, or avail itself of any proceeding in bankruptcy under any statute relating to insolvency or the protection of rights of creditors, the Administrator may revoke this lease and this Agreement shall be of no further force and effect subject only to the right of Her Majesty the Queen in right of the Province of Nova Scotia ("Her Majesty") to claim for damages.
9. The Lessee must adhere to the Farm Management Plan, as it is in effect for this lease from time to time, and any failure to adhere to the Farm Management Plan is a breach of this lease.
10. This lease does not include any rights as to minerals in or on the site.
11. The Lessee shall submit to the Minister of the Nova Scotia Department of Fisheries and Aquaculture (the "Minister") an annual report stating such information as the Minister requires concerning the Lessee's use and the productivity of the site.
12. Following the completion of a performance review, in accordance with the Regulations, of the aquaculture operation subject to this lease, the Administrator may vary any terms or conditions of this lease in order to address any concerns raised in the performance review.
13. The Lessee is hereby prohibited from using the site in any way that would interfere with other leased aquaculture operations.
14. If the Administrator, in his or her sole discretion, is of the opinion that the aquaculture activities authorized by this lease are detrimental to or interfere with other leased facilities, the Administrator may revoke this lease without compensation.
15. The Administrator may revoke this lease without advance notice or compensation if the Lessee is found by a court of competent jurisdiction to be in violation of any law of the Province or Canada relating to fishery activities.
16. If the Lessee fails to perform any of its obligations under this lease, the Minister may have the obligations performed, with the amount of any costs incurred to be a debt due to Her Majesty, for which Her Majesty shall have a first priority charge on the aquacultural produce within the site.
17. If the Lessee is in breach of any term of this lease and such breach is not corrected within the time period set out in the notice from the Administrator, the Administrator may revoke this lease without further notice or compensation.
18. Should it become necessary for Her Majesty to expropriate the Lessee's rights under this lease, it is hereby agreed that the value of the lease for purposes of expropriation compensation shall not exceed the depreciated value of improvements made by the Lessee that cannot be removed from the site. No compensation may be claimed for the cancellation of this lease where compensation is paid or payable in relation to the expropriation of a lease for the same site.
19. Any notices required to be given under this lease may be sent by regular mail to the parties at their addresses set out in the heading of this Agreement, and notice will be deemed to have been received by the intended recipient thereof five business days from

the date on which the notice is post-marked. The parties, by agreement, may effect notice by any other means. The Lessee must notify the Administrator of any change of address within thirty (30) days.



- 20. Nothing in this Agreement shall be taken as a warranty by the Administrator that the site may be used now or in the future by the Lessee for aquaculture purposes. The Minister assumes no responsibility whatsoever for any private property rights or for the actions of other levels of government which may interfere with the use of the site for aquaculture purposes.
- 21. This lease shall be subject to the laws of the Province of Nova Scotia and the parties hereby agree to attorn to its courts.
- 22. This lease shall be subject to any changes made from time to time in the Act, the Regulations or any other relevant legislation.

IN WITNESS WHEREOF the Parties have caused this Agreement to be duly executed.

SIGNED, SEALED AND DELIVERED
in the presence of

HER MAJESTY THE QUEEN
in right of the Province of Nova Scotia, as
represented by the Administrator, Nova Scotia
Department of Fisheries and Aquaculture


Witness

 
Administrator, Nova Scotia Department
of Fisheries and Aquaculture


Witness

 
WAYNE TURPLE

Schedule A
GPS COORDINATE INFORMATION SHEET

Application #: 0055
Applicant: Wayne Turple
Location: Mahone Bay County: Lunenburg
Hydrographic Chart: 4381 Orthophoto #:
Dimensions of site: Approx. 303m x 296m x 325m x 324m Size: Approx. 5.40 ha.

Approximate Coordinates of Application:

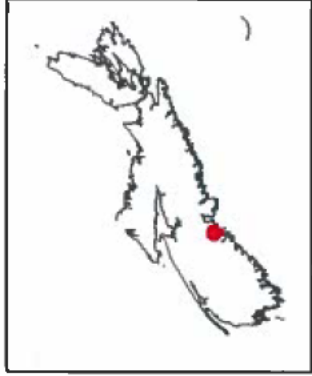
Datum used: NAD 83

Centre coordinates (approx.) Lat 44° 29' 44.52"
Long -64° 18' 01.68"

Corner #1	Lat 44° 29' 47.40" Long -64° 18' 02.82"	Corner #2	Lat 44° 29' 47.40" Long -64° 17' 49.08"
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Corner #3	Lat 44° 29' 41.88" Long -64° 18' 00.06"	Corner #4	Lat 44° 29' 41.28" Long -64° 18' 14.76"
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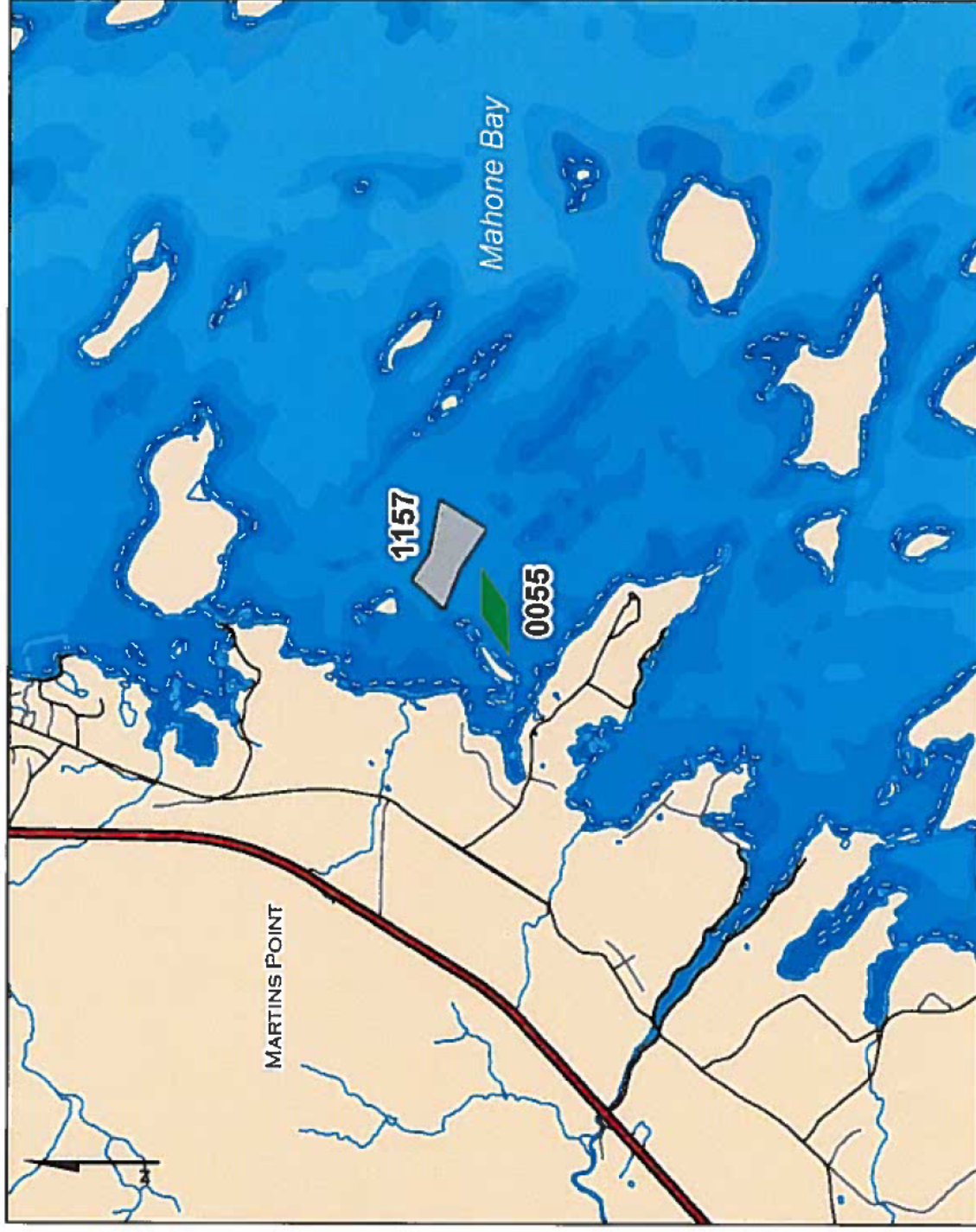
NOTE: THESE COORDINATES ARE NOT FROM A LEGAL SURVEY



Aquaculture Site
0055

Center
 Lat 44° 29' 44.62" Long -64° 18' 01.68"
 Corner 1
 Lat 44° 29' 47.40" Long -64° 18' 02.82"
 Corner 2
 Lat 44° 29' 47.40" Long -64° 17' 49.08"
 Corner 3
 Lat 44° 29' 41.88" Long -64° 18' 00.06"
 Corner 4
 Lat 44° 29' 41.28" Long -64° 18' 14.76"

DATUM NAD 83
 The above coordinates
 are not from a legal survey



Application Information

Proponent : Wayne Turple
 Site Location : Mahone Bay
 Dimensions : Approx. 303m x 296m x 325m x 324m
 Area : Approx. 5.40 ha

Renewal Application
 Low Water Mark
 Other Issued Leases
 OMHW Mark

Chart No.
4381



Disclaimer

This map should not be used for navigation or legal purposes. It is intended for general reference use only.

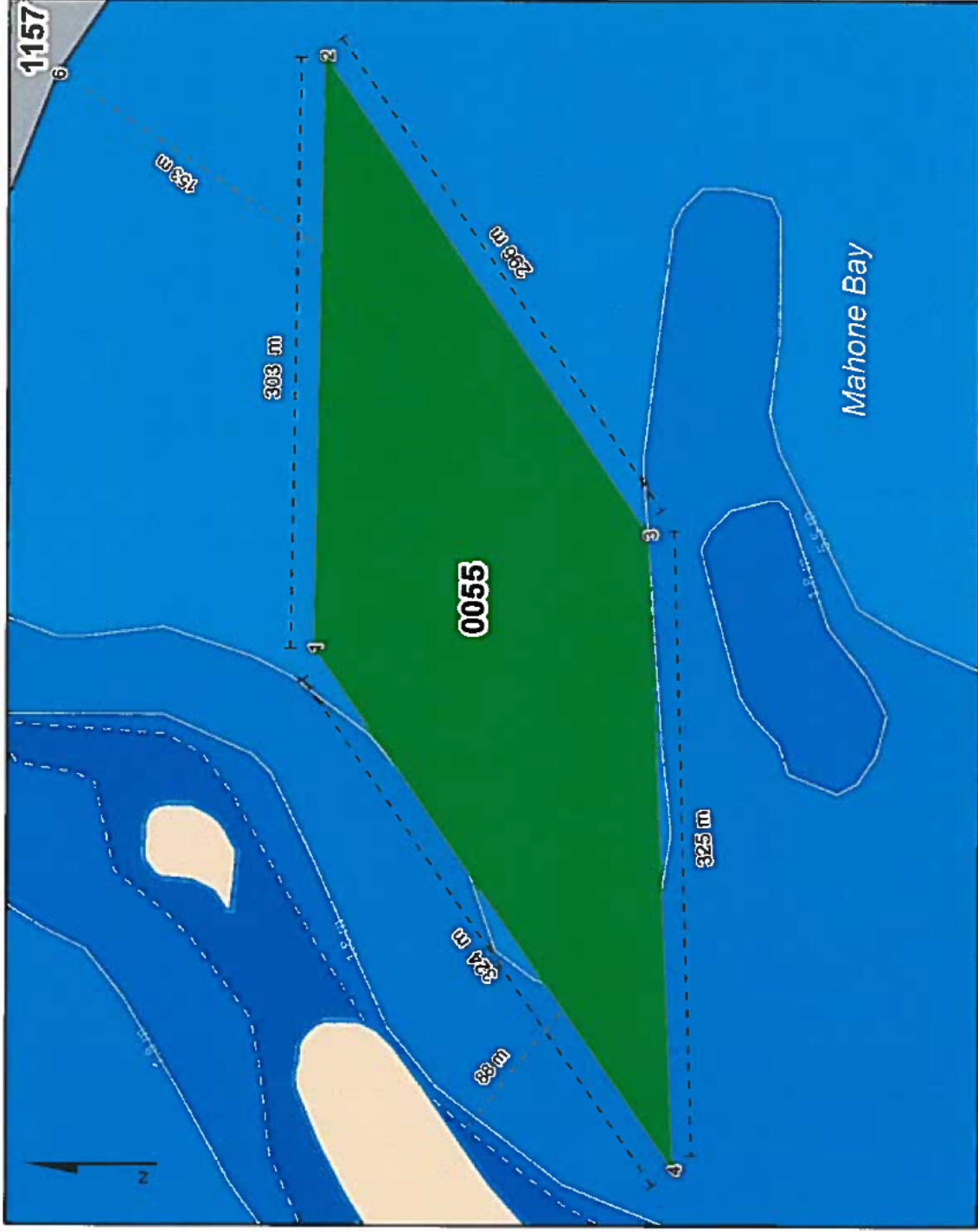
MK-0055-FEB-2017



**Aquaculture Site
0055**

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 Corner 1
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Renewal Application Low Water Mark
 Other Issued Leases OMHW Mark
 NS Bathymetry

Chart No.
4381



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MK-0055-FEB-2017

Schedule "B"

This Schedule sets out any undertakings required of the Lessee.

There are no undertakings required of the Lessee.