

78STATE OF MAINE
AQUACULTURE LEASE

Lease SHE LE2x

This is a lease conveying certain limited rights in the submerged lands and waters of the State of Maine. Please read the lease carefully and abide by its terms.

THIS LEASE is entered into by:

The Department of Marine Resources, an agency of the State of Maine, by its Commissioner acting pursuant to the provisions of 12 M.R.S. § 6072 and § 6072-A, hereinafter the "Lessor", and

Maine Oyster, Inc., a corporation organized pursuant to the laws of the State of Maine hereinafter referred to, individually and collectively as the "Lessee".

LESSOR HEREBY LEASES TO LESSEE on the terms and conditions hereinafter set forth, the following described submerged land situated in the town of **Newcastle, Lincoln County, Maine**, to wit: **two tracts, containing a total of 1.55 acres**, more or less, of coastal waters and public land **located in the Upper Sheepscot River, near Lehman Island** and described more particularly as follows:

Tract 1: 0.48 Acres

BEGINNING at the "A" corner, which is a point with the coordinates 44° 01' 27.96" N, 69° 36' 54.96" W (all datum is NAD83/WGS84), and following the courses and distances to corners B, C, and D:

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
A	44° 01' 27.96" N	69° 36' 54.96" W then 59.8 feet at 107° True to
B	44° 01' 27.78" N	69° 36' 54.18" W then 340.6 feet at 201.9° True to
C	44° 01' 24.66" N	69° 36' 55.92" W then 64.0 feet at 286.5° True to
D	44° 01' 24.84" N	69° 36' 56.76" W then 342.2 feet at 22.6° True to A.

AND

Tract 2: 1.07 Acres

BEGINNING at the "E" corner, which is a point with the coordinates 44° 01' 29.70" N, 69° 36' 52.08" W (all datum is NAD83/WGS84), and following the courses and distances to corners F, G and H:

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
E	44° 01' 29.70" N	69° 36' 52.08" W then 65.8 feet at 90.0° True to
F	44° 01' 29.70" N	69° 36' 51.18" W then 686.6 feet at 179.6° True to
G	44° 01' 22.92" N	69° 36' 51.12" W then 70.1 feet at 270° True to
H	44° 01' 22.92" N	69° 36' 52.08" W then 686.6 feet at 0° True to "E"

hereinafter collectively referred to as "the leased premises".

1. **TERM.** The term of this lease is for **three years, beginning on the 23rd day of April 2018, and continuing to the 22nd day of April 2021.** Within one year of the granting of this lease to Lessee, the Commissioner of Marine Resources shall review the lease to determine whether revocation pursuant to the standards of 12 M.R.S. § 6072(11) or § 6072-A (22) is warranted.
2. **USE OF LEASE.** Lessee, and Lessee's agents, contractors, employees and invitees are hereby authorized to use the leased premises to cultivate **American/Eastern oysters (Crassostrea virginica) using bottom culture techniques.** An experimental lease issued under 12 MRS §6072-A for scientific research or commercial aquaculture research and development conveys only those rights specified in the lease.
3. **OTHER USES.** Lessor reserves the right to make the greatest multiple, compatible uses of the leased area, but shall preserve the rights of Lessee to the extent necessary to carry out the lease purpose.
4. **ASSIGNMENT.** The rights leased herein by Lessor may not be assigned or sublet by Lessee.
5. **RENT.** Rent shall be payable at the rate of One Hundred dollars (\$100.00) per acre per year payable on or before each October 1st throughout the term hereof; rent for the first year (or any fraction of the current year) being due and payable upon execution of this lease. Lessor reserves the right to increase the rental fee pursuant to 12 M.R.S. §6072 (9) and § 6072-A (14).
6. **INDEMNITY.** Lessee agrees to defend or cause to be defended and to indemnify and hold the Lessor harmless from and against any and all manner of claims, suits, expenses, damages or causes of action for damages arising out of, or allegedly arising out of, in whole or in part, the use or occupancy of the premises by Lessee and Lessee's agents, contractors, employees and invitees.
7. **MAINTENANCE.**
 - a. Lessee shall mark the lease tracts by means of buoys or by other devices in the manner described in Chapter 2.80 of the Department's Regulations and maintain the markings when the area is not covered with ice.
 - b. Lessee shall maintain the lease area in good order, as required by Department Regulations, Chapter 2.75.
8. **DEFAULT.** The following events shall be deemed to be events of default hereunder:
 - a. If Lessee fails to pay when due any rent payable hereunder;
 - b. If Lessee does not comply with any other provision of this Lease and does not cure such noncompliance within 30 days after notice thereof to Lessee, or where such noncompliance cannot be cured within 30 days, if Lessee fails to promptly and diligently undertake to cure such noncompliance and cause the same to be cured as soon as reasonably possible;
 - c. If Lessee shall make a transfer in fraud of creditors or be adjudged bankrupt or insolvent in any proceedings;
 - d. If a receiver or trustee shall be appointed for all or substantially all assets of Lessee;
 - e. If Lessee shall abandon any substantial portion of the leased premises;
 - f. If substantially no aquaculture has been conducted on the leased premises within the preceding year, or if Lessee has conducted aquaculture activities in a manner substantially injurious to marine organisms; or

- g. If Lessee fails to comply with all applicable Department of Marine Resources statutes, rules and regulations.
 - h. Upon the occurrence of any such event of default, Lessor may, in addition to (and not instead of) any other remedies available at law or equity, revoke this lease. A lease revocation shall be an adjudicatory proceeding under the Maine Administrative Procedure Act, Title 5, Chapter 375, subchapter IV. A hearing with public notice shall be held prior to revoking any lease.
9. **ENTRY.** The Lessor, its agents and representatives shall have access to the premises at all reasonable times for the purpose of inspecting the same and securing compliance with the terms and conditions of this Lease.
10. **NOTICE.** Notice required to be given to Lessor or Lessee under this lease shall be deemed to have been given when actually delivered or when deposited in the U.S. mail, first class, postage prepaid, addressed as follows:
- i. **TO THE LESSOR:** Department of Marine Resources
Attention: Aquaculture Leasing Program
21 State House Station
Augusta, Maine 04333
 - ii. **TO THE LESSEE:** at the address given below or at such other address as Lessee may have theretofore specified by written notice actually received and placed on record with Lessor.
11. **ALTERATION.** Lessee may make no alteration to the premises without Lessor's prior written consent except that specifically authorized by the regulatory permits in effect on the date of the signing of this document and any permits issued after the signing of this document, which form a part of this Lease.
12. **CONDITIONS.** The following conditions are imposed on this lease by the decision dated April 23, 2018, DMR Docket # 2017-18-E:
- a. The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources Regulations Chapter 2.80.
 - b. Dragging, shellfish harvesting, and disturbance of the bottom are prohibited on the lease site except by authorization of the leaseholder.
 - c. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.
13. **VARIANCE.**
- a. The lease shall be operated in a manner consistent with the specifications contained in the original application for this lease site, as modified by the Commissioner's decision on that application and by all other applications and decisions of any kind relating to this lease site.
 - b. The lessee may, with the written approval of the Department, vary from these specifications and conditions provided the Department determines that such operation pursuant to the variance would continue to satisfy all lease decision criteria. The Department's decision whether to approve a variance request is discretionary.

14. **MISCELLANEOUS.** This lease shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective legal representatives. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease, shall be deemed a waiver of or a consent to any subsequent breach of the same or any other provision. Lessee shall comply with all applicable laws, regulations and ordinances of governmental entities that have jurisdiction over the leased premises. This lease contains the entire agreement of the parties and may not be modified except by a writing subscribed by both parties.

15. The Lessee expressly agrees to all terms and conditions herein.

Executed this 20th day of September, 2018.

Lessee: Maine Oyster, Inc.

Lessor: State of Maine
Department of Marine Resources

By: 
Eric L. Horne, Lessee

By: 
Amanda Ellis
Aquaculture Hearing Officer

Lessee's Address:

62 Pine Street
Freeport, ME 04032

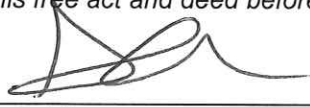
Lessor's Address:

Department of Marine Resources
Attention: Aquaculture Administrator
21 State House Station
Augusta, ME 04333

Notary Attestation:

State of Maine
County of Cumberland
Date: 9/10/18

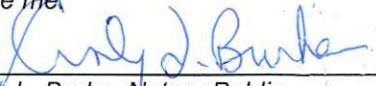
*Then personally appeared Eric L. Horne for
Maine Oyster, Inc. and acknowledged this
to be his free act and deed before me.*


Notary Public
My Commission Expires: 5/8/2025

Notary Attestation:

State of Maine
County of Kennebec
Date: 9-20-18

*Then personally appeared Amanda Ellis for the
Department of Marine Resources and
acknowledged this to be her free act and deed
before me.*


Cindy L. Burke, Notary Public
My Commission Expires: August 1, 2020

SASHA AVILA
NOTARY PUBLIC, STATE OF MAINE
MY COMMISSION EXPIRES MAY 8, 2025