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ARTICLES OF AGREEMENT

BETWEEN

THOMAS MAXWELL,

AND THE

COMMISSIONERS OF PUBLIC WORKS,

FOR TOWING VESSELS

ON THE

UPPER ST. LAWRENCE.

QUEBEC:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
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THE UNIVERSITY OF CHICAGO

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PHYSICS DEPARTMENT

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AN AGREEMENT

Made the fourth day of April, in the year of Our Lord, one thousand eight hundred and fifty-three, between **THOMAS MAXWELL**, of the City of Kingston, Upper Canada, Mariner, of the first part, and **HER MAJESTY QUEEN VICTORIA**, represented herein by the Honorable **JEAN CHABOT**, Chief Commissioner of Public Works for the Province of Canada, and the Honorable **HAMILTON HARTLEY KILLALY**, Assistant Commissioner of Public Works for the said Province, of the other part.

WHEREAS the said Commissioners (acting for and on account of Her Majesty as aforesaid) caused Public Notice to be given that tenders and proposals would be received by them for Tug Boats to be placed on the River St. Lawrence, for the purpose of towing vessels and other craft between Lachine and Kingston on the said River; And whereas the said Thomas Maxwell, tendered for the same, and the said Commissioners have accepted his tender, and resolved to enter into a Contract with him for the supply of such Tug Boats accordingly. Now these presents witness, that the said Thomas Maxwell, in consideration of the Bonus or Sum of Money hereinafter mentioned, and the Covenants and Agreements hereinafter expressed and contained on the part and behalf of the said Commissioners (acting for Her Majesty as aforesaid), doth hereby for himself, his heirs, executors and administrators, covenant and agree with Her Majesty, Her Heirs and Successors in manner following, that is to say:

That he will, during the period of Navigation in each of the years 1853, 1854 and 1855, well and sufficiently tug and tow all vessels and other craft for which such services shall be demanded or required by the owner or owners, Master, Captain, or person in charge thereof, from any Port, or Place to any other Port or Place on the main and usual line of communication between the Ports of Lachine and Kingston, on the said River.

That the said Thomas Maxwell shall and will, during the season of navigation in each of the years aforesaid, well and sufficiently furnish, provide, maintain, repair and keep in repair at least six Steamboats, for the performance of the service of towing aforesaid ; that he will provide and man the said Boats, and each of them, with sufficient crews and experienced and skilful engineers for working and managing the same, and shall and will furnish and equip the said Boats with all manner of supplies and materials, which may be necessary for promptly towing all such vessels and other craft for which such services may be required as aforesaid, between the said Ports of Lachine and Kingston, or for any part of the distance between the said Ports on the main and usual line of communication, at any time during the period aforesaid ; and also, that he will procure and keep ready for use, such extra supplies and materials as may be necessary to prevent delay or inconvenience in case of accident.

That he shall not, nor will he at any time during the period aforesaid, carry or permit any of the said Steamboats to take on board, or carry freight of any kind, or take rafts in tow, or perform or permit the said Boats to perform any other service than that of towing vessels and craft engaged in Trade.

That he shall and will, upon the opening of navigation in the present year 1853, place and continue the following Steamboats (to be used for the purpose of towing as aforesaid) on the following routes respectively, viz :

The " New Canada " between Lachine and Beauharnois Canal ;

The " Mazzeppa " between the Beauharnois Canal and Cornwall ;

The " Traveller " and " Old Canada," between Dickinson's Landing and Prescott ;

The " Gildersleeve " and " Charlevoix," between Prescott and Kingston.

That if any or either of the said Boats, or any Boat or Boats which may at any time be substituted for them, or either of them, shall at any time be found incapable of fully and efficiently performing the business of towing on the route on which the same is placed, he, the said Thomas

Maxwell, shall and will immediately replace such Boat by another and more suitable Boat capable of performing such duty efficiently.

That he shall not nor will permit the said Boats or either of them to be taken through the Canals while engaged in towing as aforesaid, but shall and will keep and continue them on the routes to which they are respectively assigned.

That he shall and will, during the continuance of this Agreement, cause the said Boats to make and run the following trips respectively, to wit :

The Boat placed on the route between Lachine and the Beauharnois Canal, shall make two trips daily, that is to say, two trips from Lachine to Beauharnois Canal, and back to Lachine ;

The Boat placed on the route between the Beauharnois Canal and Cornwall, shall make one trip daily, that is to say, one trip daily from the head of the Beauharnois Canal to the lower end of the Cornwall Canal, and back to the Beauharnois Canal ;

The two Boats placed on the route between Dickinson's Landing and Prescott, shall each make a daily trip over the route starting from opposite ends of the said route ;

The two Boats placed on the route between Prescott and Kingston, shall also make a daily trip each over the route in opposite directions.

That he shall and will from time to time, and at all times during the continuance of this Agreement, remove the said Boats, or any or either of them from the route on which the same may be placed to any other route which the said Commissioners or their Successors shall designate.

That he shall and will, during the continuance of this Agreement, so manage and conduct the said Boats that Vessels shall be towed from Lachine to Kingston within four days, and from Kingston to Lachine within three days, unless such Vessels or Vessel shall be detained for an unusual or unreasonable time in passing through the Canals, or some or one of them.

That he shall and will, in the event of any accident or damage happening to the said Boats, or either of them, by which the towing of Vessels may be interrupted or delayed, procure another or others with all possible dispatch to supply the place of the Boat or Boats so damaged.

That he shall and will, during the continuance of this Agreement, furnish and provide good and sufficient tow lines for the purpose of towing Vessels.

That he will and shall at all times take in tow Vessels and Craft, for which such service may be required, and shall continue to tow every such Vessel or other Craft to its destination, without partiality or favour of any kind, and shall not nor will cast off any Vessel in order to take in tow some other Vessel, without the consent of the person in charge of the Vessel so cast off, and shall and will, in case of any dispute between the Captain, Master, or person in charge of any Vessel or Craft and the said Thomas Maxwell, his Servants or Agents, as to the time when, or order in which such Vessels or Craft shall be taken in tow, refer the said dispute to such officer as may be appointed by the said Commissioners to hear and determine disputes at the Port or Place where the same shall happen, and shall and will abide by his decision.

That he shall and will, at all times during the continuance of this Agreement, make or cause to be made all such entries, certificates and memoranda, and give or cause to be given all such information, and do and perform or cause to be done and performed all such acts, matters and things as may from time to time be required or directed by the said Commissioners and their successors, (if notice shall be given to the said Thomas Maxwell, his Servants or Agents,) for the purpose of keeping a record of the name of every such Vessel or other Craft taken in tow as aforesaid, the name of the owner or Master thereof, the breadth of beam and draught of water thereof, the amount of towage payable in respect thereof, the name of the Port or Place where the same was, or is, taken in tow, and of the Port or Place to which she is bound, the hour of departure from Port, and arrival thereat, and generally shall and will do and perform all such acts and things as may be required or directed by the said Commissioners for the purpose of obtaining and keeping record of any facts or statistics arising out of or connected with the execution of this Agreement or any part thereof.

And it is hereby agreed by and between the said parties, that for every hour which any vessel may be detained beyond the time hereinbefore limited for the downward and upward trips respectively through the act or default of the said party of the first part, his servants

or agents, the following sums shall and may be deducted by the said Commissioners or their successors from the money payable to him as hereinafter mentioned, viz :

For a vessel of twenty-five tons and under, five shillings per hour ;

For a vessel over seventy-five tons and under ninety tons, six shillings and three pence, per hour ;

For a vessel over ninety tons and under one hundred and ten tons, seven shillings and six pence, per hour ;

For a vessel over one hundred and ten tons, and under one hundred and twenty-five tons, eight shillings and nine pence, per hour ;

For a vessel of one hundred and twenty-five tons and under one hundred and fifty tons, ten shillings per hour ;

For a vessel of over one hundred and fifty tons, eleven shillings and three pence, per hour.

And it is hereby agreed, that the said Commissioners and their successors shall and may decide in all cases whether such detention was caused by the act or default of the said party of the first part, his servants or agents, but the deduction of any sum as aforesaid shall not discharge the said party of the first part from any claim by other parties for damages, for, or on account of such detention, but all persons injured by such detention shall be entitled to recover in any action as if such deduction by the Commissioners as aforesaid had not been or could not be made.

And it is further agreed by and between the said parties, that the rates per mile which may be charged for the towage of all such vessels as pass through the Canals, or either of them, shall not exceed the sum specified in the Schedule hereunto annexed and signed by the parties to these presents, for towage upwards, and shall not exceed one third of such rates for towage downward, and the following shall be deemed and taken to be the number of miles respectively for which such rates may be charged on the following routes respectively :

From Lachine to the lower entrance of the Beauharnois Canal, Nineteen Miles ;

From the upper entrance of Beauharnois Canal to Cornwall, Forty Miles ;

From Dickinson's Landing to Prescott, Forty-one Miles ;

From Prescott to Kingston, Sixty-one Miles.

And when any Vessel shall be taken in tow at any other Port or Place than those above mentioned, it shall be lawful to charge for the whole distance between the Port or Place to which such Vessel is towed and the Port or Place from which the Steam or Tug Boat started at the commencement of the trip.

And it is further agreed by and between the said parties, that it shall be lawful for the said Commissioners or their successors, at any time during the continuance of this Agreement, to change, modify or alter the rates of towage mentioned in the Schedule hereto annexed, and to adopt some other mode of ascertaining and levying the same: Provided always, that in making such change or alteration the said Commissioners shall endeavour to adjust the same so that the amount of towage which the said Thomas Maxwell may charge upon a given number or fleet of Vessels, including those of the largest and smallest tonnage, shall be as nearly as possible equal to the amounts which he would be entitled to charge upon the same number of Vessels under the Schedule hereto annexed.

And it is further agreed by and between the said parties, that it shall be lawful for the said Commissioners or their successors to extend this Agreement to the term of seven years from the date hereof, upon giving notice in writing of their intention so to do, to the said Thomas Maxwell, at any time before the expiration of two years and nine months from the date hereof, and all the covenants and clauses, stipulations and agreements herein contained shall (except as hereinafter mentioned) remain and continue in full force and effect, after the giving of such notice, as fully and effectually to all intents and purposes as if this Agreement had been made and entered into for the term of seven years in the first instance.

And it is further agreed by and between the said parties, that it shall be lawful for the said Commissioners or their successors acting for Her Majesty as aforesaid, at any time during the continuance of this Agreement, to cancel and put an end to the same if they shall see good cause for so doing; and in such case, the said Thomas Maxwell, his heirs, executors and administrators shall be entitled to receive compensation for such losses as he may sustain for, or in respect of charters and materials on hand, and other losses which he may, actually and *bona fide* sustain, by reason of such cancelling and putting an end to this

Agreement ; but no loss of profits, or prospective advantages of any kind, shall be deemed a loss for which compensation can be claimed in the event of this Agreement being so cancelled and put an end to as aforesaid ; Provided always, that in case of dispute or disagreement between the said Commissioners and the said Thomas Maxwell, his heirs, executors or administrators, as to the amount of such compensation, the question in dispute shall be referred to and be discussed and determined by two indifferent persons, one to be nominated by the said Commissioners, or their successors, and one by the said Thomas Maxwell, his executors or administrators, by writing under their respective hands, and every award or determination to be from time to time made by such Arbitrators shall be binding and conclusive as to the matters so to be submitted to them respectively, provided every such award be made in writing and ready to be delivered to the said Commissioners or their successors, and to the said Thomas Maxwell, and his executors or administrators, within the space of thirty days from the date of such reference as aforesaid ; but in case such Arbitrators so to be from time to time nominated as aforesaid, shall not make their respective awards within the space of thirty days next after such respective references to them as aforesaid, then, every such dispute shall be referred and be discussed and determined by such one indifferent person as such first named Arbitrators shall from time to time by any writing or writings under their respective hands nominate or choose as an umpire in the matter so referred to them respectively as aforesaid, and whatever end or determination the said Umpire shall from time to time make of or concerning the matters to him respectively referred, the same shall be binding and conclusive between the parties hereto, provided such umpirages or awards shall be respectively made in writing and ready to be delivered to the said Commissioners and the said Thomas Maxwell, his executors or administrators, within the space of thirty days next after the nomination or appointment of such Umpire.

And it is further agreed by and between the said parties, that it shall be lawful for the said Commissioners or their successors, at any time during the continuance of this Agreement, to prescribe for the towage of Vessels not destined for Canadian Ports other and different rates of towage than those specified in the Schedule hereto

annexed, which rates so prescribed as aforesaid shall thereafter be charged and collected from all such Vessels not destined for Canadian Ports, as aforesaid.

And it is further agreed by and between the said parties, that it shall and may be lawful for the said Thomas Maxwell, at all times during the continuance of this Agreement, to carry, convey, or cause or procure the carriage and conveyance through the Canadian Canals, of such fuel as he may require for the use of the said Tug Boats without payment of Canal dues or tolls in respect thereof.

And it is further agreed by and between the said parties, that it shall at all times be lawful for the said Commissioners to cause the said Boats or any or either of them, and the Engines, Boilers and Machinery thereof, to be inspected by a competent Engineer or Engineers, and if such Engineer or Engineers shall report the same to be dangerous or unsafe in any respect, the said Boat or Boats shall be immediately removed or repaired and made safe as the said Commissioners shall direct.

And it is hereby further agreed by and between the said parties, that it shall not be obligatory to start from either of the Ports of Lachine or Kingston, on the Sabbath day to make an upward or downward trip, but if the said Boats, or either of them, shall be at any intermediate Port or Place on such day, it shall be lawful for the said Boats or Boat to continue and finish the trip so in course of being run.

And it is also agreed by and between the said parties, that printed copies of the Schedule hereto annexed, and of each and every Schedule of towage rates which may from time to time be prescribed by the said Commissioners or their successors, pursuant to this Agreement, shall be put and placed by the said Thomas Maxwell in each of the said Boats in the most conspicuous part thereof, so that all persons desirous of seeing and inspecting the same may have the opportunity without inconvenience or trouble.

And it is further agreed as aforesaid, that in any question or dispute arising upon any covenant, stipulation or agreement herein contained, no reference shall be had or made to the original tender of the said Thomas Maxwell, but the same and every other tender, advertisement, proposal and notice to or from any person or in

any manner relating to the subject matter of this contract made or published before the date hereof, shall be deemed and taken to be wholly superseded by these presents.

And Her Majesty (represented herein by the said Commissioners) for Herself, Her Heirs and Successors, doth promise and agree to and with the said Thomas Maxwell, his heirs, executors and administrators, in manner following, that is to say :

That upon the due and faithful performance of all and singular the covenants, stipulations and agreements herein contained, and on the part of the said Thomas Maxwell, to be kept and performed, the said Commissioners and their successors (acting as aforesaid) shall and will pay or cause to be paid to the said Thomas Maxwell, his heirs, executors or administrators, the bonus or sum of four thousand six hundred and fifty pounds for each and every of the said three years (if this Agreement shall remain in force); the said yearly bonus or sum to be paid in three equal instalments of one thousand five hundred and fifty pounds on the first day of August, on the first day of October, and on the first day of December, in each year.

That if the said Commissioners or their successors shall give notice as aforesaid of their intention to extend the term of this Agreement to seven years as hereinbefore mentioned, the said Commissioners and their successors shall pay or cause to be paid to the said Thomas Maxwell, his heirs, executors and administrators for the first year after the expiration of the first three years of this Agreement, the bonus or sum of Four Thousand One Hundred and Eighty-five Pounds, to be paid in three equal instalments, on the days and times above mentioned, and for every succeeding year of the said term, a bonus or sum which shall be less by ten per cent than the bonus or sum of the next preceding year, and payable by instalments as aforesaid.

And it is further stipulated and covenanted between the aforesaid parties, that the said Thomas Maxwell of the first part, shall provide and furnish the several Tug Boats with suitable and sufficient Tow-Ropes by which the Vessels shall be towed, and for the use and wear and tear of which Tow-Ropes, he, the said Thomas Maxwell, shall be entitled to charge at the rate of three pence per mile, which charge is to be paid by the respective Masters or owners of Vessels together with the charge for Towage.

IN WITNESS whereof the said Commissioners acting for and in the name of Her Majesty, have to these presents signed their names and set their Seal at Quebec, in the Province of Canada, the Fourth day of April, in the year of Our Lord, one thousand eight hundred and fifty-three, and the said Thomas Maxwell, has to these presents signed his name and set his Seal at Quebec, in the Province of Canada aforesaid, this Fourth day of April, in the year of Our Lord, one thousand eight hundred and fifty-three.

(Signed,) THOMAS MAXWELL, [L. S.]

Signed and Sealed by the said THOMAS MAXWELL,
in the presence of

(Signed,) JAS. W. HARPER,
" J. GUY.

(Signed,) J. CHABOT,
" *Chief Com. P. W.*
" HAMILTON H. KILLALY,
" *Assist. Com. P. W.*
" THOMAS A. BEGLY,
" *Secretary P. W.*

Seal of Office.

Signed and Sealed by the said Commissioners
of Public Works, and countersigned by the
Secretary in the presence of

(Signed,) JAS. W. HARPER,
" J. GUY.

SCHEDULE OF RATES

For Towage, per mile, for each Vessel upwards, referred to in the accompanying Agreement.

Draught of water.	BREADTH OF BEAM.														
	Feet 12	Feet 13	Feet 14	Feet 15	Feet 16	Feet 17	Feet 18	Feet 19	Feet 20	Feet 21	Feet 22	Feet 23	Feet 24	Feet 25	Feet 26
2	s. D. 0 10	s. D. 0 11	s. D. 1 0	s. D. 1 1	s. D. 1 2	s. D. 1 3	s. D. 1 4	s. D. 1 5	s. D. 1 6	s. D. 1 7	s. D. 1 8	s. D. 1 9	s. D. 1 10	s. D. 1 11	s. D. 2 0
2½	1 0	1 1	1 2	1 3	1 4	1 5	1 6	1 7	1 9	1 10	1 11	2 0	2 1	2 2	2 3
3	1 2	1 3	1 4	1 5	1 6	1 7	1 8	1 10	2 0	2 1	2 2	2 3	2 4	2 5	2 6
3½	1 4	1 5	1 6	1 7	1 8	1 9	1 10	2 0	2 1	2 2	2 3	2 4	2 6	2 7	2 9
4	1 6	1 7	1 8	1 9	1 10	1 11	2 0	2 2	2 3	2 4	2 5	2 6	2 8	2 10	3 0
4½	1 8	1 9	1 10	1 11	2 0	2 1	2 2	2 3	2 4	2 5	2 6	2 8	2 10	3 0	3 3
5	1 10	1 11	2 0	2 1	2 2	2 3	2 4	2 6	2 8	2 9	2 11	3 1	3 2	3 4	3 6
5½	2 0	2 1	2 2	2 3	2 4	2 5	2 6	2 8	2 9	2 10	3 0	3 3	3 4	3 6	3 8
6	2 2	2 3	2 4	2 5	2 6	2 7	2 8	2 10	2 11	3 0	3 2	3 4	3 6	3 8	3 10
6½	2 4	2 5	2 6	2 7	2 8	2 9	2 10	3 0	3 1	3 2	3 4	3 6	3 8	3 10	4 0
7	2 6	2 7	2 8	2 9	2 10	2 11	3 0	3 1	3 2	3 4	3 6	3 8	3 10	4 0	4 2
7½	2 8	2 9	2 10	2 11	3 0	3 1	3 2	3 3	3 4	3 6	3 8	3 10	4 0	4 2	4 4
8	2 10	2 11	3 0	3 1	3 2	3 3	3 4	3 5	3 6	3 8	3 10	4 0	4 2	4 4	4 6
8½	3 0	3 1	3 2	3 3	3 4	3 5	3 6	3 7	3 8	3 11	4 0	4 1	4 3	4 5	4 7
9	3 2	3 3	3 4	3 5	3 6	3 7	3 8	3 9	3 10	4 0	4 1	4 2	4 4	4 6	4 8

Note.—The Contractor for towing is bound to provide and furnish Tow Ropes, for the use and wear and tear of which he is entitled to charge at the rate of three pence per mile.

Witnesses—to the Signatures of all
the parties—

(Signed,) JAS. W. HARPER,
" J. GUY.

(Signed,)

" THOMAS MAXWELL,
" J. CHABOT, *Chief Comr. P. W.*
" HAMILTON H. KILLALY, *Assist. Comr. P. W.*
" THOMAS A. BEGLY, *Secy. P. W.*

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