

PORT OF ANACORTES

LEASE

THIS LEASE made as of JULY 14, 1983, by and between the PORT OF ANACORTES, a Washington municipal corporation as Lessor, hereinafter referred to as "the Port", and

FRONTIER INDUSTRIES, INC.  
hereinafter referred to as "lessee",

WITNESSETH:

In consideration of their mutual promises the parties hereto do hereby mutually agree as follows:

1. LEASED PREMISES: The Port hereby leases to Lessee, and Lessee hereby hires and leases from the Port, the premises described as lying in a portion of Block 295 and the vacated Third Street adjacent, all within the original plat of Anacortes, Section 18, Township 35 North, Range 2 East, W.M., as referenced in Exhibit "A" attached hereto.

2. TERM: The term of this lease shall be for a period of one (1) year, commencing on April 1, 1983, and terminating on March 31, 1984, unless sooner terminated as hereinafter provided.

3. RENT: Lessee agrees to pay as rent for the premises the sum of FIVE HUNDRED DOLLARS (\$500.00) per month for the term of this lease. The rent for each month shall be paid to the Port in advance on or before the first day of each and every month of the lease term, and shall be payable at such place as the Port may hereinafter designate. Except to the extent, if any, expressly provided below, payment of rent shall not relieve Lessee and/or cargo from their respective obligation to pay all applicable Port tariff charges.

4. USE OF PREMISES: Lessee shall use the premises for the repair and storage of vehicles, equipment and machinery and for no other purpose without the expressed approval of the Port.

5. UTILITIES: Lessee shall be liable for, and shall pay throughout the term of this lease, all charges for all utility services furnished to the premises, including, but not limited to light, heat, electricity, gas, water, sewerage, garbage disposal and janitorial services. In the event that the premises are part of any larger premises to which any utility services are furnished on a consolidated or joint basis, Lessee agrees to pay to the Port Lessee's pro rata share of the cost of any such utility services. Lessee's pro rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

6. ACCEPTANCE OF PREMISES: Lessee has examined the premises, accepts them in their present condition, and agrees to make any changes in the premises necessary to conform to federal, state and local law applicable to Lessee's use of the premises.

7. MAINTENANCE AND REPAIR: Lessee accepts the premises in their present condition, and the Port makes no warranty as to the present condition of said premises. Lessee shall keep and maintain the entire exterior and interior of the Leased Premises including, but not limited to, the heating equipment, all electrical wiring and fixtures, all plumbing and sewage facilities, all windows and doors, the roof, walls, foundation, and structural members, in good condition and repair, and in full compliance with all health and police regulations in force. Lessee shall further keep and maintain the improvements at any time situated upon the Leased Premises and all sidewalks and areas adjacent thereto, safe, secure and clean, specifically including but not by limitation, snow and ice clearance.

8. ALTERATIONS AND IMPROVEMENTS: Lessee shall make no alterations or improvements to or upon the premises or install any fixtures (other than trade fixtures which can be removed without injury to the premises) without first obtaining written approval from the Executive Director of the Port and subject to any and all conditions in such approval. In the event any alterations or improvements shall be made or fixtures (other than trade fixtures which can be removed without injury to the premises) installed by Lessee, they shall at once become a part of the realty and become the property of the Port. Movable furniture and trade fixtures which are removable without injury to the premises shall be and remain the property of Lessee.

9. INSPECTION "FOR RENT" SIGNS: The Port reserves the right to inspect the premises at any and all reasonable times throughout the term of this lease: Provided, that the Port shall not interfere unduly with Lessee's operations. The right of inspection reserved to the Port hereunder shall impose no obligation on the Port to make inspections to ascertain the condition of the premises, and shall impose no liability upon the Port for failure to make such inspections. The Port shall have the right to place and maintain "For Rent" signs in conspicuous places on the premises for thirty (30) days prior to the expiration or sooner termination of this Lease.

10. OUTSIDE AREAS AND ROOF: The use of the outside area of the walls (other than the front of the premises) and the roof of the building in which the premises are located is reserved to the Port, which shall have the right to utilize the same for any purpose, including the maintenance of signs.

11. DAMAGE OR DESTRUCTION:

(a) Should the premises or the buildings or structures of which the premises are a part be damaged by fire or other casualty, and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefor to be done during regular working hours on regular work days), the premises shall be repaired with due diligence by the Port, and in the meantime the monthly minimum rent shall be abated in the same proportion that the untenable portion of the premises bears to the whole thereof, for the period from the occurrence of the damages to the completion of the repairs.

(b) Should the premises or any buildings or structures of which the premises are a part be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this lease on thirty (30) days' notice, effective as of any date not more than sixty (60) days after the occurrence. In the event that this paragraph shall become applicable, the Port shall advise Lessee within thirty (30) days after the happening of any such damage whether the Port has elected to continue the lease in effect or to terminate it. If the Port shall elect to continue this lease in effect it shall commence and prosecute with due diligence any work necessary to restore or repair the premises. If the Port shall fail to notify Lessee of its election within said (30) day period, the Port shall be deemed to have elected to terminate this lease, and the lease shall automatically terminate sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the premises to the date of completion of the repairs to the premises (or to the date of termination of the lease if the Port shall elect not to restore the premises), the monthly minimum rent shall be abated in the same proportion as the untenable portion of the premises bears to the whole thereof.

12. HOLD HARMLESS: Lessee shall protect, indemnify, defend and hold and save harmless the Port, its elected officials, agents and employees, their successors and assigns, heirs, executors, and administrators from and against all liabilities, obligations, fines, claims, claims for mechanics liens, damages, penalties, causes of action, costs and expenses (including without limitation attorney's fees and expenses), and any and all claims by or on behalf of any person or persons, firm or corporation, in connection with any such items of actual or alleged injury or damage,

- arising out of acts or omissions of the Lessee, its servants, agents, invitees, guests and employees on or about Port property, or
- arising out of the use of Port property or any part thereof, including but not limited to, floats, docks or piers, ramps and approaches, buildings, sidewalks, curbs, parking lots, streets or ways, or
- due to or arising out of any failure on the part of the Lessee to perform or comply with any rule, ordinance, or law to be kept and performed
- THE LESSEE HEREBY WAIVES (GIVES UP) ITS IMMUNITY UNDER THE INDUSTRIAL INSURANCE ACT RCW TITLE 51 AND/OR THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT.
- THE LESSEE HEREBY AGREES TO INDEMNIFY THE PORT FOR THE CONCURRENT NEGLIGENCE OF THE PORT AND LESSEE.

This indemnity agreement does not apply when such damage or injury be caused solely by negligent or intentional acts of the Port, its elected officials, agents and/or employees.

13. INSURANCE: Lessee shall procure and maintain, at its own expense, comprehensive liability insurance in full force and effect at all times while operating on or about Port property, insuring the Port from all claims, demands and/or for damage to property and/or cargo, regardless of how such injury or damage to property and/or cargo be caused, sustained or alleged to have been sustained by said Lessee or by others as a result of any condition or occurrence whatsoever related in any way to said Lessee's operation on or about Port property, in such amounts as to meet the minimum liability coverage specified below. Such insurance shall be placed with a reputable insurance company(ies) or underwriter(s) satisfactory to the Port. The insurance policy or policies shall be for standard comprehensive general liability (with the watercraft exclusion deleted), including contractual liability coverage, or protection and indemnity coverage under marine insurance, or both, as solely determined by the Port, covering all operations of the Lessee so that the risks of liability created by the Lessee are covered. The Port shall be named as an additional insured by endorsement to the policy or policies. Lessee shall furnish the Port with appropriate documentation in form and content satisfactory to the Port evidencing the coverage required to be kept is in full force and effect. The coverage shall not be less than \$500,000.00 combined single limit for property damage, bodily injury or death. The insurance policy or policies shall not be subject to cancellation except after written notice to the Port at least ten (10) days prior to the date of such cancellation or material change.

14. WAIVER OF SUBROGATION: The Port and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under the respective fire insurance contracts, including any extended coverage endorsements thereto: Provided, that this paragraph 14 shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Port or Lessee.

15. INCREASE IN COST OF INSURANCE: Lessee shall not use the premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the premises are a part, and to the extent allocable to the term of this lease, may be added to the amount of rent hereinabove specified and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.

16. TAXES: Lessee shall be liable for, and shall pay throughout the term of this lease, all license fees and all excise taxes payable for, or on account of, the activities conducted on the premises and all taxes on the property of Lessee on the premises and any taxes on the premises and/or on the leasehold interest created by this lease and/or any taxes levied in lieu of a tax on said leasehold interest and/or any taxes levied on, or measured by, the rentals payable hereunder, whether imposed on Lessee or on the Port. Lessee shall reimburse the Port for all such taxes paid or payable by the Port. With respect to any such taxes payable by the Port which are on or measured by the rent payments hereunder, Lessee shall pay to the Port with each rent payment an amount equal to the tax on, or measured by, that particular payment. All other tax amounts for which the Port is or will be entitled to reimbursement from Lessee shall be payable by Lessee to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; Provided, that Lessee shall be entitled to a minimum of ten (10) days' written notice of the amounts payable by it.

17. COMPLIANCE WITH PORT REGULATIONS AND WITH ALL LAWS: Lessee agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee further agrees to comply with all applicable federal, state and municipal laws, ordinances, and regulations, including without limitation those relating to environmental matters. Any fees for any inspection of the premises during or for the lease term by any federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.

18. ASSIGNMENT OR SUBLEASE: Lessee shall not assign or transfer this lease or any interest therein nor sublet the whole or any part of the premises, nor shall this lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise, without the written consent of the Port first had and obtained. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this lease more than one-half ( $\frac{1}{2}$ ) of the outstanding shares of any class of stock of Lessee's corporation shall belong to any stockholders other than those who own more than one-half ( $\frac{1}{2}$ ) of the outstanding shares of that class of stock at the time of the execution of this lease or to members of their immediate families, such change in the ownership of the stock of Lessee shall be deemed an assignment of this lease within the meaning of this paragraph. If the Port shall give its consent to any assignment or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the Port's consent.

19. DEFAULTS: Time is of the essence of this agreement. Lessee shall pay interest monthly at the annual rate of twelve percent (12%), or the maximum rate permitted from time to time by applicable law, whichever is less, on all sums owing to the Port under this lease, commencing thirty (30) days after the date each sum is due and payable. In the event of the failure of Lessee to pay the rents, interest, and any and all other charges provided for in this lease at the time and in the manner herein specified, or to keep any of the covenants or agreements herein set forth to be kept and performed,

the Port may elect to terminate this lease and reenter and take possession of the premises with or without process of law; Provided, however, that Lessee shall be given fifteen (15) days' notice in writing stating the nature of the default in order to permit such default to be remedied by Lessee within said fifteen (15) day period. Payment by Lessee to the Port of interest on rents and/or on any other charges due and owing under this lease shall not cure or excuse Lessee's default in connection with such rents and/or other charges. Interest, default and all other remedies of the Port hereunder are cumulative and not alternative. If upon such reentry there remains any personal property of Lessee or of any other person upon the premises, the Port may, but without the obligation so to do, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Lessee shall reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or

more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Lessee to the Port, and the balance, if any, shall be paid to Lessee. Notwithstanding any such reentry, the liability of Lessee for the full rents and interest provided for herein shall not be extinguished for the balance of the term of this lease, and Lessee shall make good to the Port any deficiency arising from a reletting of the premises at a lesser rental than that hereinbefore agreed upon. Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Port.

20. TERMINATION: In the event that the Port, at its sole discretion, shall require the use of the premises for a major capital improvement for public or private use in connection with the operation of the business of the Port, then this lease may be terminated by the Port by written notice delivered or mailed by the Port to Lessee not less than One Hundred Twenty (120) days before the termination date specified in the notice.

21. TERMINATION FOR GOVERNMENT USE: In the event that any federal, state or local government or agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the premises or any part thereof, the Port may, at its option, terminate this lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this lease on said date, any rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

22. TERMINATION BECAUSE OF COURT DECREE: In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this lease, then either party hereto may terminate this lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this lease on the effective date of such termination, any rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded by Lessee.

23. SIGNS: No signs or other advertising matter, symbols, canopies, or awnings shall be attached to or painted on or within the premises, including the windows and doors thereof, without the approval of the General Manager of the Port first had and obtained. At the termination or sooner expiration of this lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Lessee shall be removed by Lessee at its own expense, and Lessee shall repair any damage or injury to the premises and correct any unsightly condition caused by the maintenance and removal of said signs, etc.

24. INSOLVENCY: If Lessee shall file a petition in bankruptcy, or if Lessee shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of Lessee shall be appointed in any proceeding brought by or against Lessee, or if Lessee shall make an assignment for the benefit of creditors, or if any proceedings shall be commenced to foreclose any mortgage or any other lien on Lessee's interest in the premises or on any personal property kept or maintained on the premises by Lessee, the Port may, at its option, terminate this lease.

25. NONWAIVER: The acceptance of rent by the Port for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Lessee in writing. No waiver by the Port of any default hereunder shall be construed to be or act as a waiver of any subsequent default by Lessee. After any default shall have been timely cured by Lessee, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of paragraph 20 hereof.

26. PROMOTION OF PORT COMMERCE: Lessee agrees that throughout the term of this lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.

27. SURRENDER OF PREMISES - ATTORNEYS' FEES: At the expiration or sooner termination of this lease, Lessee shall promptly surrender possession of the premises to the Port, and shall delivery to the Port all keys that it may have to any and all parts of the premises. In the event that either party shall be required to bring any action to enforce any of the provisions of this lease, or shall be required to defend any action brought by the other party with respect to this lease, and in the further event that one party shall entirely prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorneys' fees in the trial court and in any appellate court.

28. HOLDING OVER: If Lessee shall, with the consent of the Port, hold over after the expiration or sooner termination of the term of this lease, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay to the Port the same rate of rent as set forth herein, unless a different rate shall be agreed upon, and shall be bound by all of the additional provisions of this lease insofar as they may be pertinent.

29. ADVANCES BY PORT FOR LESSEE: If Lessee shall fail to do anything required to be done by it under the terms of this lease, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Port, Lessee shall promptly pay the Port the amount of that cost.

30. LIENS AND ENCUMBRANCES: Lessee shall keep the premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the said premises by Lessee. At the Port's request, Lessee shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the premises if not paid.

31. NOTICES: All notices and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

To Lessor:

The Port of Anacortes  
P. O. Box 297  
Anacortes, WA 98221

To Lessee:

Frontier Industries, Inc.  
~~901~~ 3rd Street 800 4<sup>th</sup> St  
Anacortes, WA 98221

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices and payments sent by certified or registered mail and subsequently received by the Port shall be deemed to have been given when and if properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

32. JOINT AND SEVERAL LIABILITY: Each and every party who signs this lease, other than in a representative capacity, as lessee, shall be jointly and severally liable hereunder.

33. "LESSEE" INCLUDES LESSEES, ETC: It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual lessee or lessees under this agreement.

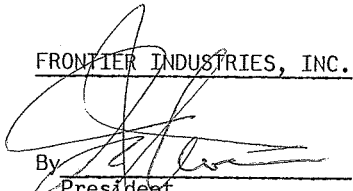
34. CAPTIONS: The captions in this lease are for convenience only and do not in any way limit or amplify the provisions of this lease.

40. This lease cancels and supercedes that lease made by the parties on April 1, 1978, for the premises set forth herein.

IN WITNESS WHEREOF the parties hereto have signed this lease as of the day and year first above writte.

SIGNATURE OF LESSEE  
IF INCORPORATED:

FRONTIER INDUSTRIES, INC.

By   
President

Lessee

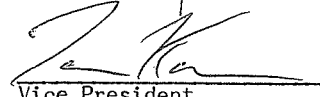
ATTEST:

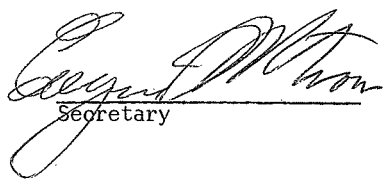
By   
Secretary

(Corporate Seal)

PORT OF ANACORTES

By   
President

  
Vice President

  
Secretary

ATTEST:

By   
Secretary

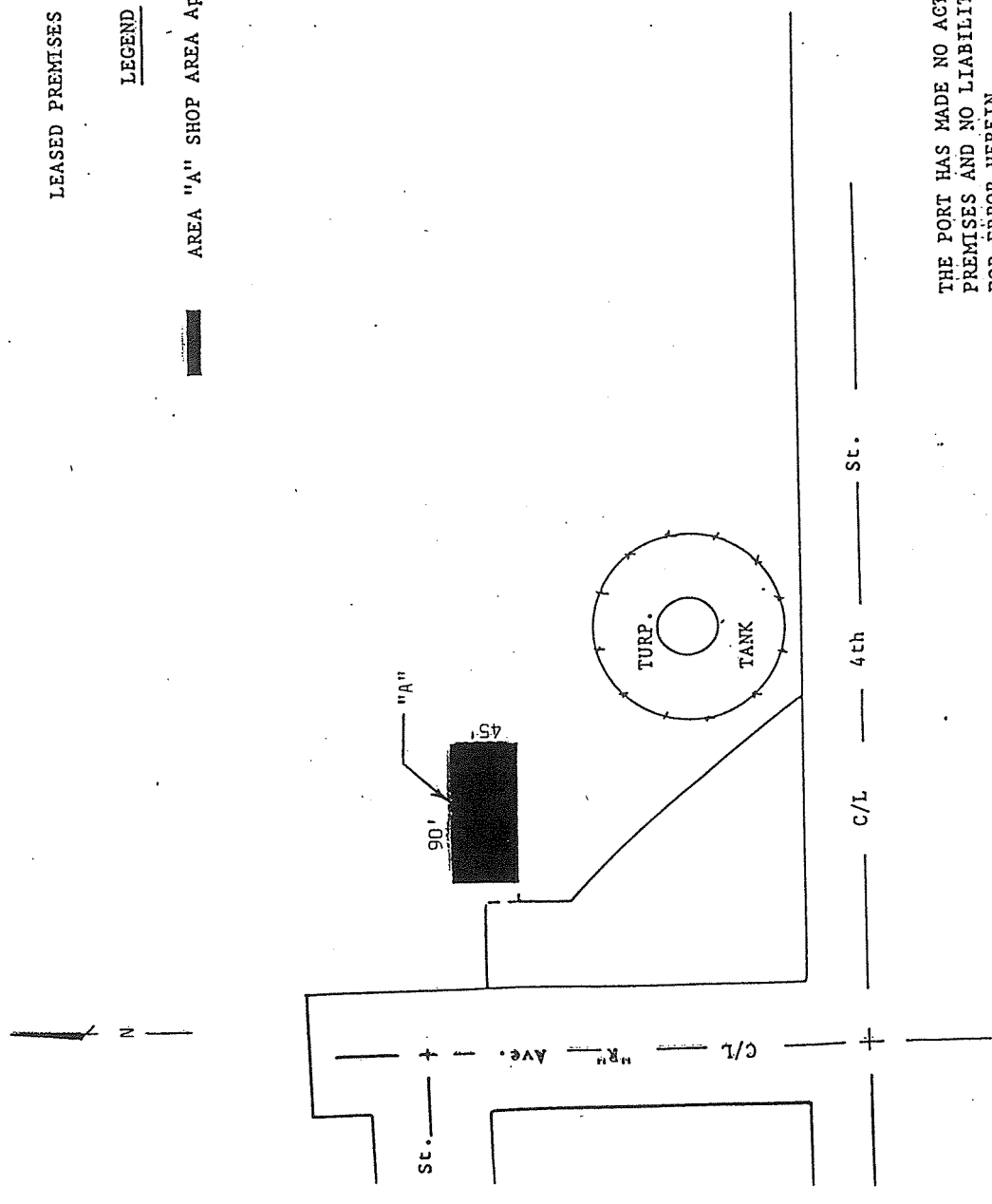
(Corporate Seal)

EXHIBIT "A"

LEASED PREMISES IN ANACORTES, WASHINGTON

LEGEND

■ AREA "A" SHOP AREA Approx. 4,050 sq.ft.



THE PORT HAS MADE NO ACTUAL SURVEY OF THE PREMISES AND NO LIABILITY CAN BE ASSUMED FOR ERROR HEREIN.

FRONTIER INDUSTRIES  
LEASE



STATE OF WASHINGTON )  
:SS  
COUNTY OF SKAGIT )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned notary public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me known to be the President and Secretary, respectively, of the Port Commission of the PORT OF ANACORTES, a municipal corporation, the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute the same and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at \_\_\_\_\_

(ACKNOWLEDGMENT FOR CORPORATE LESSEE)

STATE OF )  
COUNTY OF )

On this 14 day of July, 1983, before me personally appeared Mike Johnson and Gary Baker to me known to be the

President and the \_\_\_\_\_ Secretary, respectively, of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Bonnie Ellison  
Notary Public in and for the State of  
Washington, residing at Anacortes