

**ORIGINAL**

OPERATING AGREEMENT  
FRONTIER INDUSTRIES, INC./PORT OF ANACORTES

This Operating Agreement, made as of August 21, 1986, by and between the PORT OF ANACORTES, a Washington municipal corporation, hereinafter referred to as "the Port", FRONTIER INDUSTRIES, INC. a Washington corporation hereinafter referred to as "F.I."

WHEREAS, the Port desires to contract with F.I. to perform certain work pursuant to the terms and conditions of this Operating Agreement. In consideration of the mutual promises and conditions herein, the parties agree as follows:

1. Duties and Services

F.I. shall process all logs delivered to the Port's sorting yard and will perform the unloading, tagging, marking, tallying, sorting and cold decking of logs into piles. The processing described above shall be termed the "basic operation". It is recognized by the parties that additional operations may also be required. These include but are not limited to dumping logs to water, rafting, banding, removing rafts from water to skids, loading logs to trucks and moving logs between piles. Performance of duties and services by F.I. shall be under the direct supervision of Mike Johnson.

2. Term

The term of this Agreement shall be from August 21, 1986, through June 30, 1987. Either party shall have the right to terminate this Agreement during the term hereof on one hundred twenty (120) days written notice to the other party or upon any breach of the provisions hereof.

3. Independent Contractor

Each party is performing the services and duties required hereunder as an independent contractor and not as an employee, agent, partner or joint venturer with the other party. F.I. acknowledges that it shall employ and supervise all persons necessary to perform the work required and shall designate and arrange the hours of work and shall superintend the employees and assistants to do the work. F.I. also acknowledges it shall supply all tools and supplies necessary to perform its operations in a prompt and workmanlike manner.

4. Contractor's Responsibility

F.I. shall be responsible for paying all of its employees' wages, including withholding and other payroll taxes, industrial insurance, and any fringe benefits which may be required by law, by employment contract or by any liens or encumbrances to be filed as a result of failing to pay wages or any other obligations.

5. Compensation

Port shall pay F.I. the rate of eight (8) dollars per 1000 board feet for the basic operation referred to in Paragraph 1 above. Gross scale will apply and log volume processed shall be determined by scaling bureau summary sheets. This rate shall apply to export and domestic logs with loads, or bundles having nine (9) sorts or less. Rates compensating F.I. for services other than the basic operation shall be subject to negotiation however, the same shall be competitive with rates and charges for similar services in comparable log trading markets.

6. Equipment and Maintenance of Equipment

F.I. shall operate equipment owned and provided by the Port in a responsible manner in performance of its work. All equipment supplied by Port to F.I. must be properly used by F.I. and not subjected to abuse or more than normal wear and tear. If any such abuse results F.I. shall pay for repairs to or replacement of equipment. PORT shall be responsible for maintenance of said equipment insofar as normal wear and tear and daily operations require and for costs of all labor and parts subject to the terms and conditions of the Maintenance Agreement Between Port of Anacortes and Frontier Industries dated the first day of November 1985 and First Amendment to said Agreement dated August 21, 1986. F.I. shall cooperate with Port to maintain records of all parts taken from or replaced to inventory that are already in ownership of the Port or purchased by the Port and/or F.I. at the time such parts are needed. PORT shall be responsible for costs of fuel used in Port owned equipment.

7. Productivity and Utilization

F.I. shall cooperate with Port in efforts to improve terminal productivity and utilization including developing and implementing programs to improve operating efficiency and terminal productivity and utilization.

8. Hold Harmless

For and in consideration of the privilege of conducting commercial operations on or about Port property, F.I. hereby covenants and agrees:

To protect, indemnify, defend and to 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, and 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 F. I. 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 F. I. to perform or comply with any rule, ordinance, or law to be kept and performed.
- F. I. HEREBY WAIVES (GIVES UP) ITS IMMUNITY UNDER THE INDUSTRIAL INSURANCE ACT RCW TITLE 51 AND/OR THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT.
- F.I. HEREBY AGREES TO INDEMNIFY THE PORT FOR THE CONCURRENT NEGLIGENCE OF THE PORT AND F. I.

This indemnify 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.

9. Insurance

F. I. shall procure and maintain, at its own cost and 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 actions for injury and/or death of any person or persons and/or for damage to property and/or cargo, regardless of how such injury or damage be caused, sustained or alleged to have been sustained by F.I. or by others as a result of any condition or occurrence whatsoever related in any way to F.I.'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(s) 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 F.I. so that the risks of liability created by F.I. are covered. The Port shall be named as an additional insured by endorsement to the policy or policies. F.I. 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 thirty (30) days prior to the date of such cancellation or material change. The insurance requirement under this section shall, amongst other things, provide coverage for the indemnitor undertakings in the preceding section entitled "HOLD HARMLESS".

10. Assignment

F.I.'s rights and obligations under this Agreement are nonassignable.

11. Volume

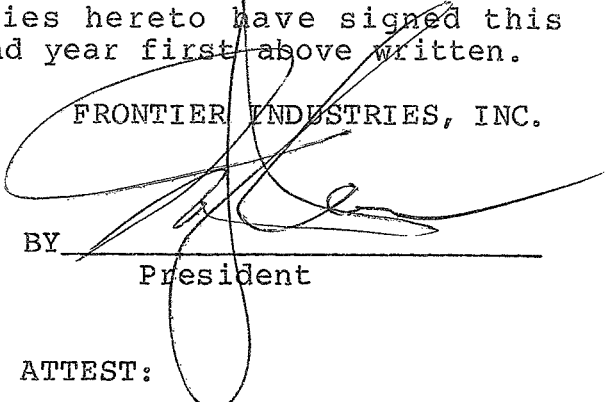
It is expressly agreed and recognized by F.I. and PORT that a minimum hourly quantity of work shall be provided when services are required. This quantity shall be determined by negotiation between the parties.

**IN WITNESS WHEREOF** the parties hereto have signed this Operating Agreement as of the day and year first above written.

PORT OF ANACORTES

FRONTIER INDUSTRIES, INC.

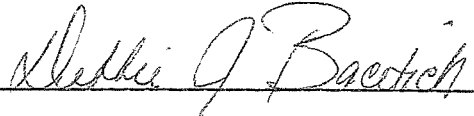
BY   
Executive Director

BY   
President

ATTEST:

ATTEST:

BY   
Port Auditor

BY   
\_\_\_\_\_

Owners/Officers are signing individually and as officers of the Lessee Corporation as to responsibilities and obligations of performance herein recited.

ACKNOWLEDGEMENT FOR MUNICIPAL CORPORATION

STATE OF WASHINGTON )  
  :SS  
COUNTY OF SKAGIT     )

On this 21 day of August, 1986, personally appeared JOSEPH E. BAIER, to me known to be the Executive Director 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 he was duly authorized to execute the same, 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.

( S E A L )

Kaaren L. Woodring  
NOTARY PUBLIC in and for the State of  
Washington, residing at Anacortes

My appointment expires: 4/1/87

ACKNOWLEDGEMENT FOR CORPORATE AGREEMENT

STATE OF WASHINGTON )  
                              ) :SS  
COUNTY OF SKAGIT     )

On this 21 day of August 19 86 personally appeared before me MIKE JOHNSON and DEBBIE BACETICH to me known to be the President and \_\_\_\_\_ respectively, of Frontier Industries Inc. 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.

(S E A L)

Karen L. Woodley  
Notary Public in and for the State  
of Washington, residing at Anacortes.

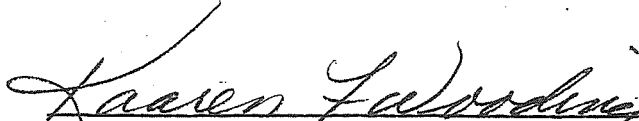
My Appointment expires: 4/1/87

**ACKNOWLEDGEMENT FOR INDIVIDUAL AGREEMENT**

STATE OF WASHINGTON     )  
  :SS  
COUNTY OF SKAGIT       )

On this 21 day of August, 1986, before me personally appeared MIKE JOHNSON and ~~DEBBIE BAKER~~ to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

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

  
\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at Anacortes

My appointment expires: 4/1/89