

DREDGE LEASE AGREEMENT

This Dredge Lease Agreement ("Agreement") is made this _____ day of _____, 20____ between PORT DISTRICT NO. ONE OF WAHKIAKUM COUNTY, a Washington state municipal corporation, ("Lessor"), and _____, a _____ ("Lessee").

1. Identification of Dredge

Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, that certain 6" suction dredge with spuds, ladder, navigation lights, radio, John Deere 6 cycle 150 hp engine, 6" lightning pump and 1900' of 6" HDPE pipe connected with cam locks, and all appurtenances thereto ("Dredge").

If checked, this lease also includes the following:

_____ 20' Tug with Hull number 336833, diesel engine, trailer and pintle hitch

_____ 16' construction skiff with Hull number SNW00077G417, Honda 40 hp motor and galvanized trailer

2. Lease Payments and Term.

2.1. Lessee shall make lease payments of _____ (\$_____) in monthly installments without deductions on account of any non-working time in the month, setoff or counterclaim. The installment payments shall begin on the ____ day of _____, 20____ and shall continue on the ____ day of each succeeding calendar month for _____ months. The amount of rent payable for any fraction of a month at the beginning or end of the lease term shall be the monthly installment, prorated according to the number of calendar days in such fraction. This lease shall terminate on _____.

2.2. The Lease term shall cover all time consumed in transporting the Dredge, including the date of legal delivery to a public carrier for transit to Lessee and upon return of the Dredge, the date of legal delivery by such carrier to Lessor, or if no public carrier is used, shall include the date upon which transit to Lessee begins and the date upon which transit from Lessee ends at Lessor's unloading point.

3. Security Deposit.

Lessee agrees to deposit with Lessor on the date hereof a security deposit in the amount of \$_____, which sum shall be held by Lessor, without obligation for interest, as security for the performance of Lessee's covenants and obligations under this Lease, it being expressly understood and agreed that such deposit is not an advance rental deposit, not the last month's rent, not a measure of Lessor's damages in the event of Lessee's default. Although the security deposit shall be deemed to be the property of Lessor, within fourteen (14) days after termination of this

Lease, Lessor shall either return any remaining balance of such deposit to Lessee, or provide Lessee with written notice of the basis for retaining any or all of the deposit.

4. Late Payment Charge

If Lessee shall be in arrears in its rental payments hereunder, Lessor may charge, and Lessee hereby agrees to pay, in addition to the rental payments then due, a late payment charge of ten percent (10%) of the rental payment. Said late payment charge is in addition to and not in limitation of any other rights and remedies of Lessor. However, if Lessee shall remain in default for five (5) days after notice of said default, Lessor shall have the option to cancel this agreement and retake said Dredge wherever said Dredge may be found and Lessor shall not be liable to Lessee for any acts or omissions incident to a repossession after a default.

5. Ownership of Dredge

This is an agreement of lease only and may not be construed as a contract for the sale of said Dredge. Lessee acknowledges that Lessor is the owner of the Dredge leased hereunder. Lessee further agrees that it does not acquire any legal or equitable interest in the leased Dredge but shall merely have the possessory right to use and operate the Dredge during the term of this Agreement as hereinafter provided, the terms and conditions of any subrental or subleasing agreement (whether or not authorized by this agreement) to the contrary notwithstanding.

6. Inspection

Lessee shall inspect the Dredge within three (3) business days after receipt thereof. Unless Lessee within said period of time gives written notice to Lessor, specifying any defect in or other proper objection to the Dredge, it shall be conclusively presumed that Lessee has fully inspected and acknowledged that the Dredge is in full compliance with the terms of this lease, in good condition and repair, and that Lessee is satisfied with and has accepted the Dredge in such good condition and repair.

7. Theft or Damage

If the Dredge is stolen or disappears, Lessee shall forthwith notify the appropriate local authorities and Lessor. If the Dredge is stolen or disappears, or is destroyed or so damaged that it cannot economically be placed in good working order, the Lease shall terminate and the resulting expense shall be borne as elsewhere provided in this agreement. Lessor shall have the right to verify such damage at its option.

8. Repair and Maintenance

8.1. Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed upon the Dredge, and shall keep and maintain the Dredge in good operating condition and working order. Lessee shall, at its own expense, make all necessary repairs and replacements required for the proper operation and/or protection of the Dredge. Title to all replacement parts

shall vest in Lessor. Lessee agrees that all necessary repairs and replacements will be performed by persons properly qualified, licensed and insured to do said repairs and replacements.

8.2. Lessee agrees to maintain all oils and lubricants at the proper level. Lessee further agrees to keep the Dredge properly stored when not in use.

8.3. Lessee shall be liable for all violations and any fines imposed by any governmental authority during the lease term. Lessee shall indemnify and hold the Lessor harmless from any and all fines, penalties and forfeitures imposed on account of the operation of the Dredge in violation of any law or ordinance, together with expenses incurred by the Lessor in connection therewith.

9. Fees, Assessments and Taxes

Lessee shall pay all license fees, assessments, and sales, use, excise and any other taxes hereafter imposed and relating to Lessee's use or possession of the Dredge.

10. Operators

Unless otherwise mutually agreed in writing, Lessee shall supply and pay all operators on the Dredge during the lease term. All operators shall be competent and shall be required to operate said Dredge with reasonable care and diligence and to comply with any standard written instructions furnished by Lessor covering the operation and maintenance of the Dredge. Should Lessor furnish any operators or other workers for the Dredge, they shall be employees of Lessee during the lease term, and Lessee shall pay them salary or wages and all other applicable costs. Lessee shall provide and pay for all worker's compensation insurance and pay all payroll taxes required by law and applying to such operators and workers.

11. Insurance

11.1. Lessee shall keep the Dredge insured against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof, and shall carry general liability and property damage insurance covering the Dredge and its operation and handling for the minimum amount of \$1,000,000.00 per occurrence / \$2,000,000.00 aggregate. Policies shall name Lessor as Additional Insured.

11.2. Lessee shall pay any deductible and any amounts not covered by insurance payments.

11.3. Lessee, its employees and agents, shall comply with all terms and conditions of insurance policies. All claims, (including bodily injury, property damage, or vehicle damages) are to be reported immediately to both the Lessor and the insurance company under all applicable provisions of this Agreement.

11.4. Lessee shall provide to Lessor a Certificate of Insurance with a 10 day cancellation notice provision.

12. Return of Leased Dredge

Upon the expiration or termination of the lease, the Dredge shall be returned forthwith and without delay to Lessor at Lessee's expense at a place designated by Lessor. Except as hereinafter specified with regard to the appearance of the Dredge, the Lessee shall return the Dredge in as good condition and order as when received by Lessee, ordinary wear and tear and damage or defects, which are specifically covered by manufacturer's warranty, and natural depreciation, excepted. If upon expiration or termination of this lease for any cause or for any reason, the Dredge is returned in an unsatisfactory condition after inspection by the Lessor, excepting ordinary wear and tear and natural depreciation, the Lessee shall pay as additional rent the Lessor's cost of cleaning, repairing, or replacing any damage to the Dredge occasioned (a) by improper, negligent, abusive or reckless treatment in the care and operation of the Dredge; (b) by marine accidents; or (c) by operation and maintenance without proper oil, water or other necessary lubricants or items. The Dredge shall be in good operating condition and will have all original equipment.

13. Indemnification

Lessee shall defend, indemnify and hold harmless Lessor and its officers, agents and employees, from and against any and all damages, loss, theft, or destruction of the Dredge and against all losses, liabilities, damages, injuries, claims, demands, costs and expenses of every kind and nature, including legal fees and disbursements arising out of and in connection with the use, condition or operation of the Dredge during the lease term, including without limitation, the manufacture, selection, delivery, leasing, renting, control, possession, use, operation, maintenance or return of the Dredge, and disability and/or death of operators and other persons caused by the operation, use, control, handling, or transportation of the Dredge. Lessee agrees to pay any and all costs of repossession together with reasonable attorneys fees and costs which grow out of any suit or suits commenced under this provision.

14. Lessee's Damages

Lessor shall not be responsible to Lessee, or its agents, servants, or employees, for loss of business or other damage caused by any interruption of the service herein to be furnished by Lessor, or by time lost in the repairing of the Dredge, nor for any loss, injury or damage arising out of or relating to Lessor's failure to deliver the Dredge pursuant hereto by reason of strikes or other causes beyond control of Lessor nor for any other losses or damages sustained by Lessee hereunder except as specifically provided in Lessor's undertakings in this agreement. Lessor assumes no liability or responsibility for any acts or omissions of Lessee or of Lessee's agents, servants or employees, or for any property of Lessee, its agents, servants or employees or any other persons, property which is damaged, lost or stolen in or from the Dredge.

15. Operation of Dredge

15.1. Lessee shall not permit the Dredge to be used in violation of any federal, state or municipal statutes, laws, ordinances, rules or regulations, or contrary to the provision of any applicable insurance policy, and Lessee shall indemnify and hold Lessor harmless from any and all fines, forfeitures, damages or penalties resulting from violation of such laws, ordinances, rules,

regulations or any of them. Lessor shall forward to Lessee any notices received by Lessor of fines or other penalties levied in connection with the use of the Dredge, and may pay such fines if Lessee does not do so within 10 days of the date of Lessor's notice and may immediately bill Lessee therefor including an appropriate handling fee or add such amount to the next rental payment or apply to the payment of such fine any money of Lessee which may come into its possession.

15.2. Lessee shall notify Lessor immediately of any and all accidents involving the Dredge. Such notice shall be by telephone and in writing and shall include full details of the accident and the names and addresses of all parties and witnesses. Lessee shall keep Lessor and the insurer fully informed of all claims, suits or proceedings arising out of any accident involving the Dredge. Lessee shall forward to insurer and Lessor a copy of every demand, notice, summons or other process received in connection with any and all claims, suits or other legal proceedings resulting from an accident involving the Dredge.

15.3. Upon notice from the Lessor, the Lessee shall immediately remove, prevent and not allow any operator designated in such notice to operate the Dredge.

15.4. In no event shall the Dredge be operated by any person under the influence of alcohol, cannabinoids or narcotics. The Lessor shall have the right to cancel this agreement if the Dredge is so operated and/or demand that the person so operating the Dredge be forbidden to continue operation.

16. Default and Termination by Lessee

16.1. In the event that the Lessee fails to pay in full on the due date any payment due hereunder, or defaults in the performance of any or the terms, conditions or covenants contained herein or in the event of the Lessee's bankruptcy or insolvency; the Lessor shall have the right to take immediate possession of the Dredge wherever found, with or without process of law, and to terminate this Agreement; and the Lessee expressly authorizes the Lessor and its agents to enter on any premises where the Dredge may be found for the purpose of repossessing the Dredge, and expressly waives any further interest in the Dredge and any right of action arising out of such entry and repossession. The Lessor shall not be liable in damages for any termination pursuant to this paragraph and no termination of this agreement by the Lessor or repossession of the Dredge shall in any way relieve the Lessee of liability for any sum or sums due or to become due the Lessor under this agreement, or for any damages which the Lessor shall have sustained as a result of any default by the Lessee, including but not limited to the cost of repossession. Should suit be instituted by Lessor to enforce any of the terms or provisions of this agreement Lessee agrees to pay Lessor reasonable attorneys' fees incurred in such suit or suits. In the event that Lessee has defaulted and/or breached the terms and/or conditions of this agreement, Lessee shall pay to the Lessor in addition to any accrued unpaid rent, as liquidated damages for breach of this agreement the amount of the rental required to have been paid by the Lessee for the unexpired balance of the term of this agreement. The mention herein of any particular remedy shall not preclude the Lessor from any other remedy at law or equity, nor shall the exercise of one remedy preclude the exercise of another.

16.2. If the Dredge is stolen or disappears, or is so destroyed or so damaged, in the Lessor's judgment, that it cannot be economically placed in good working order, the lease shall terminate. Said termination shall be effective thirty (30) days from the date of notice by Lessee of loss, theft, or damage. If the Dredge is stolen or so damaged or disappears or is destroyed, under this section, the Lessee is not relieved of the obligation to pay under this Agreement and said termination shall be treated as a termination by Lessee.

16.3. Notwithstanding anything to the contrary herein, this Agreement terminates automatically and without notice, on (a) an attempted assignment by Lessee of this Agreement, (b) or an assignment by Lessee for the benefit of creditors.

16.4. In the event of voluntary or involuntary proceedings by Lessee in bankruptcy or under insolvency laws or for the corporate reorganization, arrangement, receivership or dissolution, Lessor shall thereupon be entitled to take immediate possession of the Dredge and may have such further relief to which it is entitled under any of the provisions of this agreement and any and all rights in law or in equity.

16.5. If upon the termination, cancellation or breach of this agreement the Lessee fails or refuses to return the Dredge to the Lessor, upon demand by the Lessor, said failure or refusal to return the Dredge may be considered as a conversion and treated as a theft of the Dredge and the Lessor shall have the right to notify and request the police authorities to recover the same.

17. Early Termination by Lessee

Should Lessee elect to terminate this agreement for any reason, Lessee shall be liable for the following:

1. All rent payments required to have been paid by the Lessee for the unexpired balance of the term of this Agreement.
2. Any and all costs of cleaning, repairing and reconditioning the Dredge.

18. Disclaimer of Warranties

LESSOR, BEING NEITHER THE MANUFACTURER, NOR A SUPPLIER, NOR A DEALER OF THE DREDGE, MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE DREDGE, ITS MERCHANTABILITY, ITS DESIGN, ITS CAPACITY, ITS PERFORMANCE, ITS MATERIAL, ITS WORKMANSHIP, ITS FITNESS FOR ANY PARTICULAR PURPOSE, OR THAT IT WILL MEET THE REQUIREMENTS OF ANY LAWS, RULES, SPECIFICATIONS, OR CONTRACTS WHICH PROVIDE FOR SPECIFIC APPARATUS OR SPECIAL METHODS. LESSOR FURTHER DISCLAIMS ANY LIABILITY WHATSOEVER FOR LOSS, DAMAGE OR INJURY TO LESSEE OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE DREDGE. AS TO LESSOR, LESSEE LEASES THE DREDGE, "AS-IS". LESSOR SHALL NOT BE LIABLE IN ANY EVENT TO LESSEE FOR ANY LOSS, DELAY, OR DAMAGE OF ANY KIND OR

CHARACTER RESULTING FROM DEFECTS IN, OR INEFFICIENCY OF, THE DREDGE OR ACCIDENTAL BREAKAGE THEREOF.

19. General Provisions

19.1. This instrument constitutes the entire agreement between the parties hereto and shall be binding on their heirs, executors, administrators and their legal representatives, successors and assigns. This Agreement shall not be effective until executed by an officer of Lessor and cannot be amended or altered in any manner unless such amendment be signed by an officer of Lessor and by an authorized representative of Lessee. No forbearance to exercise any right or privilege under this Agreement or waiver of any breach of any of its terms shall be construed as a waiver of any such terms, rights or privileges, but the same shall continue and remain in full force and effect the same as if no such forbearance or waiver had occurred.

19.2. Neither this Agreement nor any interest herein may be sublet or assigned by Lessee without the prior consent of Lessor thereto in writing. This lease or its interest or any rent due or to become due may, however, be assigned by Lessor without consent of Lessee, but subject to the rights of Lessee hereunder.

19.3. Any individual executing this Agreement as Lessee in a representative capacity shall be bound personally, jointly and severally, with such fiduciary, corporation or other entity as to all obligations, expressed or implied, arising hereunder.

19.4. Any notice given by one party to the other under this Agreement shall be given in writing at the address of the other party as set out in this Agreement, or at such other address as may have been furnished in writing for such purpose.

19.5. This Agreement shall be interpreted under and governed by the laws of the State of Washington. Venue for any dispute arising hereunder shall be in the Superior Court of Wahkiakum County.

19.6. All remedies of Lessor hereunder are cumulative and may, to the extent permitted by law, be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. No failure on the part of the Lessor to exercise and no delay in exercising, any right or remedy, hereby shall operate as a waiver thereof; nor shall any single or partial exercise by Lessor of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. If any provisions of this Agreement or the application of any provisions to any person or circumstance is held invalid or unenforceable, the remainder hereof and the application of such provisions to other persons or circumstances shall remain valid and enforceable.

In Witness Whereof, the parties hereto have executed this Agreement as of the day and year first above written.

_____, Lessee
By:

Name:
Title:

Name:
Title:

PORT DISTRICT NO. ONE OF
WAHKIAKUM COUNTY, Lessor
By:

Name:
Title: