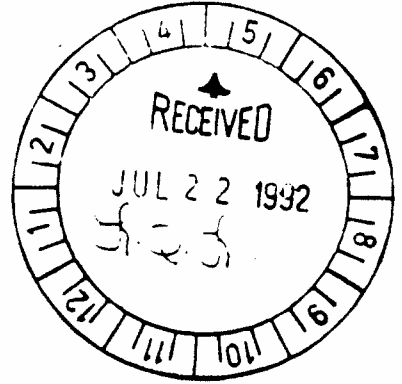




Territory of Guam  
Northern Guam

JUL 20 1992



The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

RECEIVED TO  
LEGISLATIVE COUNCIL

Dear Mr. Speaker:

Transmitted herewith is Bill No. 475 which I have signed into law this date as  
Public Law 21-124.

Sincerely yours,

*Joseph F. Ada*  
JOSEPH F. ADA  
Governor

Attachment

210899

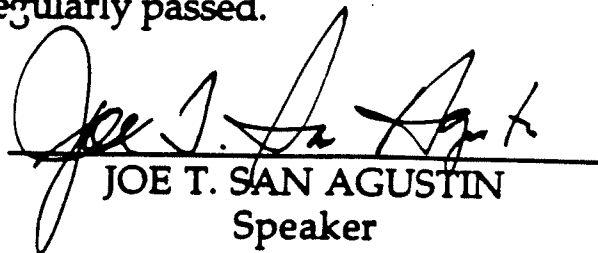


Commonwealth Now!


TWENTY-FIRST GUAM LEGISLATURE  
1992 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 475 (COR), "AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO LEASE TO CABRAS ISLAND DEVELOPERS THE CABRAS INDUSTRIAL PARK," was on the 10th day of July, 1992, duly and regularly passed.

  
JOE T. SAN AGUSTIN  
Speaker

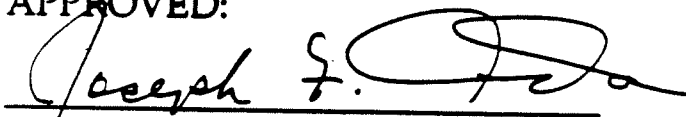
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 10th day of July, 1992,  
at 4:52 o'clock P.M.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: JUL 20 1992

Public Law No. 21-124

**TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session**

**Bill No. 475 (COR)**

**As substituted by the Committee  
on Tourism and Transportation  
and as further substituted by  
the Committee of the Whole**

**Introduced by:**

**J.P. Aguon  
H. D. Dierking  
C. T. C. Gutierrez  
E. P. Arriola  
J. G. Bamba  
A. C. Blaz  
M. Z. Bordallo  
D. F. Brooks  
E. R. Dueñas  
E. M. Espaldon  
P. C. Lujan  
G. Mailloux  
M. D. A. Manibusan  
D. Parkinson  
M. J. Reidy  
M. C. Ruth  
J. T. San Agustin  
F. R. Santos  
D. L. G. Shimizu  
T. V. C. Tanaka  
A. R. Unpingco**

**AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM  
TO LEASE TO CABRAS ISLAND DEVELOPERS THE CABRAS  
INDUSTRIAL PARK.**

**1**

**BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

1           **Section 1. Legislative findings.** The Legislature finds that there is a  
2 need for the development of an industrial park at or near Guam's  
3 Commercial Port facilities. Warehouse space on Guam is in short supply  
4 because of the spectacular and unanticipated growth of Guam's economy,  
5 with the shortage of such space being particularly acute in the Port area,  
6 thereby contributing substantially to the serious cargo-handling problems  
7 that are presently causing constriction in Port activity. The Legislature notes  
8 that the Port Authority of Guam is required by its Master Plan to relocate  
9 approximately 200,000 square feet of existing warehouse space to regain the  
10 use of crucially needed wharf space for container off-loading and handling.  
11 This need is critical since the annual tonnage handled by the Port is expected  
12 to double by the year 2000 to 2,500,000 revenue tons per year. The Legislature  
13 also finds that construction conditions at the proposed site for the planned  
14 industrial park (the "Cabras Industrial Park") are formidable in that the site is  
15 virtually solid rock and all utilities and access must be brought to the site to  
16 make it suitable for industrial park use. The Legislature therefore finds that  
17 in order to finance the construction of this needed infrastructure and of the  
18 needed industrial and warehouse buildings, it will be necessary to lease the  
19 entire area to a private developer for design, construction and management.  
20 Such privatization of the Cabras Industrial Park is a desirable alternative to  
21 the government of Guam assuming the financial burden of completing the  
22 project both because public funds will not be spent on the project and because  
23 substantial taxes will be generated from the developer. A well-designed and  
24 maintained industrial park will be a valuable asset to the people of Guam in  
25 terms of increased employment opportunities, improved cargo handling,

1 reduced contained traffic on major streets, improved appearance of the Port,  
2 and an improved environment for Port-related business activities.  
3 Ownership of the Cabras Industrial Park and all its improvements will pass  
4 to the people of Guam at the end of the lease term. The Legislature therefore  
5 agrees that the site be leased to a private developer and that the developer be  
6 allowed to build and manage the Cabras Industrial Park in such a way as to  
7 reasonably recoup its investment.

8       **Section 2. Legislative intent.** The Legislature intends that the Cabras  
9 Industrial Park be developed for Port-related activities and warehouses only,  
10 and that the land and the facilities of the Cabras Industrial Park will belong  
11 and continue to belong to the people of Guam.

12       **Section 3. Lease of Cabras Industrial Park.** With the written approval  
13 of the Governor, the Port Authority of Guam (the "Authority") shall lease the  
14 Authority's Cabras Industrial Park (the "Park") to Cabras Island Developers,  
15 a Guam limited partnership (the "Lessee"), the legal description of the Park to  
16 be based on a map (the "Map") certified and approved by the Chief of  
17 Cadastre and the Chief of Planning duly recorded at the office of the  
18 Recorder, Department of Land Management.

19       **Section 4. Description of Park.** The Map shall designate as the Park  
20 those two tracts of land designated as Lot No. "1" and Lot No "2", within  
21 Parcel 1 as shown on Land Management Drawing No. E4-82T158, all  
22 situated in Land Square 21, Sections 1 and 2, in the Municipality of Piti,  
23 consisting in total of at least forty-two and two tenths (42.2) developable  
24 acres, as described in the attached Exhibit "A", which is incorporated herein  
25 by this reference, and such other property as may be available for

1 development for industrial park purposes within the boundaries of the  
2 property controlled or administered by the Authority on or adjacent to Cabras  
3 Island. The Park shall consist of no more than forty-two and two tenths (42.2)  
4 developable acres and shall be subject to the Authority's Master Plan.  
5 Anything in the law to the contrary notwithstanding, the Industrial Park Land  
6 described herein is hereby reconfirmed to be zoned "M-1" (light industrial),  
7 with the usage of an industrial park as contemplated herein permitted.

8       **Section 5. Conditions to approval.** Legislative approval of the lease of  
9 the Park as authorized in Section 3 of this Act (the "Lease") is subject to the  
10 following conditions, which conditions shall prevail over any provisions in  
11 the Lease to the contrary:

12       (a) **Subleases.** The Lessee may sublease portions of the Park on an  
13 unrestricted basis so long as all users of the Park confine their activities to  
14 Port-related activities only. Local businesses owned at least fifty-one percent  
15 (51%) by United States citizens or permanent resident aliens shall be given  
16 priority by the Lessee in subleasing to businesses within the Park. The board  
17 of directors of the Authority shall have the right to review the Park's  
18 subleases, uses, tenants and general activities on an annual basis to  
19 determine whether the requirements of this subsection are being complied  
20 with.

21       (b) **Rectitude of Lessee's principals.** No principal of Cabras Island  
22 Developers may remain such principal if convicted of a crime involving moral  
23 turpitude.

24       (c) **Annual certification.** The Governor and the Authority shall  
25 annually certify to the Legislature that the Lease is compliance with all

1 applicable federal and territorial laws, rules and regulations relating to the  
2 use of the Park, any changes to the principals or shareholders of Cabras  
3 Island Developers, and that none of the principals or shareholders of Cabras  
4 Island Developers has been convicted of a crime involving moral turpitude.

5 (d) **Infrastructure.** The Lessee must construct infrastructure at the  
6 Park, subject to the terms of the Lease, including site preparation, filling,  
7 grading, a sewer system, a storm drainage system, a water distribution  
8 system, a power distribution system, roads, curbs and gutters, street lighting,  
9 landscaping and associated facilities. The Lessee shall prepare and submit to  
10 the Authority for its approval a proposed master plan for the development of  
11 the Park, including a construction and development schedule.

12 (e) **Term of Lease.** The term of the Lease or any extension shall be for  
13 no more than a total period of fifty (50) years, as permitted by Public Law No.  
14 15-6.

15 (f) **Phases of project.** In accordance with the master plan of the Park to  
16 be approved by the Authority, the construction of the Park will consist of a  
17 minimum of two (2) phases. The Lessee will commence construction of the  
18 infrastructure within twelve (12) months following completion of quarrying  
19 operations on the site by Hawaiian Rock Products, necessary pipeline  
20 relocation by the Authority, and issuance of all necessary government  
21 approvals. The Lessee shall within twenty-four (24) months after  
22 commencing construction of the infrastructure commence construction of the  
23 first five hundred thousand (500,000) square feet of buildings to accommodate  
24 existing Port requirements. Succeeding phase(s) will be subject to market  
25 demand, to site availability, to the approval process and to the master plan as

1 approved by the Authority, but the entire Park project shall be completed  
2 within ten (10) years from the effective date of the Lease. Failure to complete  
3 the succeeding phase(s) within the ten (10) years shall result in the  
4 termination of the Lease as to the undeveloped parcels, which parcels will  
5 revert to the Authority.

6 (g) **Dedication of public improvements.** Upon completion of the  
7 development and subdivision of said premises as herein provided, the  
8 appropriate government of Guam utility agency, at its sole discretion, may  
9 consent to any requests of the Lessee to dedicate for public use the streets and  
10 improved rights-of-way thereof (except such as are designated as private  
11 ways on the approved plans therefor); provided, however, that before any  
12 dedication is accepted by the appropriate utility agency, said utility agency  
13 shall inspect the improvements and shall require the Lessee to correct any  
14 deficiencies or substandard work or product prior to acceptance of the  
15 dedication, and any other improvements made for public use on or for said  
16 premises and convey to the proper public or private utility companies or  
17 governmental authorities any easements necessary for their respective  
18 services thereof. In the event the appropriate government of Guam utility  
19 agency does not accept the requested dedication, then the Lessee shall be  
20 solely responsible for the continuing upkeep and maintenance of the  
21 particular easement, right-of-way or utility.

22 (h) **Percentage rent.** In addition to the base rent, the Lessee shall pay  
23 the Lessor a rental equal to three and one-half percent (3.5%) of the total  
24 rental revenues received by the Lessee from sublessees. For purposes of  
25 calculating percentage rent, rental revenues shall exclude insurance



1 premiums, common area maintenance fees, gross receipts tax, and real  
2 property taxes, by whomsoever paid; provided, however, that the costs of  
3 any bond premium or other form of security cost provided in the Lease as a  
4 form of security to secure the Lessee's obligations therein, shall not be  
5 excluded or deducted from the total rental revenues in computing the  
6 percentage rent provided herein. Further, if the Lessee hereinafter acquires  
7 for its own use any building or any portion of any building spaces developed  
8 pursuant to this Lease, then a fair and reasonable rental revenue from that  
9 space shall be imputed using current rental rates and terms and for  
10 calculation purposes shall be included as part of the rental received by the  
11 Lessee.

12 (i) **Percentage rent recovery.** The percentage rent credit provided for  
13 in the Lease shall be available to the Lessee only for a period of twelve (12)  
14 years following the end of the first lease year in which the Lessee commences  
15 to pay base rent and/or percentage rent.

16 **Section 6. Form of Lease.** That certain document titled "Cabras Island  
17 Industrial Park Development Agreement and Lease", a copy of which is  
18 attached hereto and marked as Exhibit "B" and incorporated herein by this  
19 reference, incorporates all of the conditions of this Act and is hereby  
20 approved, subject to the following conditions:

21 (a) **Financial review.** The Governor shall retain a financial consultant  
22 as soon as practicable after the effective date of this Act to review the  
23 provisions of the Lease as set out in Exhibit B to ensure that its financial terms  
24 and conditions are fair to the Lessee and the Authority. Within sixty (60) days  
25 after the effective date of this Act, the financial consultant shall advise the

1 Authority whether the Lease is satisfactory in its financial terms and  
2 conditions. If it is not, then such consultant shall submit to the Legislature,  
3 through the Authority, recommended changes to the Lease. The Legislature  
4 may approve, disapprove or further amend any such recommended  
5 amendments within forty-five (45) days from the date of their filing with the  
6 Legislature. If the Legislature fails to take action thereon within such period,  
7 the Lease shall be deemed amended as recommended, and the Lease, as so  
8 amended, shall be deemed in final form, which final form shall be submitted  
9 to the Attorney General.

10 (b) **Attorney General's and Governor's review.** The Attorney General  
11 shall thereafter have thirty (30) days to review the Lease and approve it as to  
12 substance and form, after which the Lease shall be submitted to the  
13 Governor, who shall have thirty (30) days thereafter to execute it.

14 (c) **Lessee's execution.** The Lessee shall have thirty (30) days after the  
15 Governor's execution of the Lease to also execute it. The Lessee's failure to  
16 do so in such period shall make the Lease void and of no further force or  
17 effect.

18 **Section 7. Other parties.** Should the Lessee fail to execute the Lease  
19 within the time required by Section 6 of this Act, the Authority may negotiate  
20 with and enter into a lease with other private developers without the further  
21 consent of the Legislature, anything in the law to the contrary  
22 notwithstanding; provided, however, that (i) the negotiations leading up to,  
23 and the terms and conditions of, such a lease are consistent with government  
24 of Guam procurement procedures, and (ii) such lease is subject to the same  
25 terms and conditions as are provided in this Act.

1           **Section 8. Legislative Approval.** The approval of this Act shall be  
2 deemed in full compliance with 21 GCA §60112 and 21 GCA §60114, anything  
3 in the law to the contrary notwithstanding, and in the event of any conflict in  
4 the law with the provisions of this Act, the terms and conditions of this Act  
5 shall control.

6           **Section 9. Severability.** If any provision of this Act or the application  
7 thereof to any person or circumstance is held invalid, such invalidity shall not  
8 effect the other provisions or application of this Act which can be given effect  
9 without the invalid provision or application and to this end the provisions of  
10 this Act are severable.

**EXHIBIT A**

LEGAL TECHNICAL DESCRIPTION  
FOR  
LOT 1, WITHIN PARCEL 1 (INDUSTRIAL PARK NO. 1)  
(As shown on Land Management Dwg. No. E4-82T158)  
MUNICIPALITY OF PITI

All that tract of land designated as Lot "1", within Parcel 1, as shown on Land Management Drawing No. E4-82T158 attached situated in Land Square 21, Sections 1 and 2, in the Municipality of Piti, more particularly bounded and described as follows:

Beginning at a point, the Point of Beginning, being a point along the northerly edge of Route No. 11 having 1945 plane coordinates of North 49,081.178 meters and East 42,904.277 meters being South 69°20'03" East, 128.236 meters from GGTN "Cabras" 1975, having 1945 plane coordinates of North 49,126.435 meters and East 42,784.292 meters; then,

Along the following 32 traversed courses:

(1) Along a curve along the northern boundary of Route No. 11, said curve being concave to the left and having a central angle of 07°38'55", radius of 137.160 meters, chord bearing of South 63°50'44" West, and a chord distance of 18.296 meters to corner two (2); then,

(2) South 60°01'16" West, 152.218 meters along the northern edge of Route No. 11 to corner three (3); then,

(3) Along a curve, concave to the right, along the northern edge of Route No. 11, and having a central angle of 31°55'20" radius of 355.894 meters, chord bearing of South 75°58'56" West and a chord distance of 195.731 meters to corner four (4); then,

Legal Technical Description  
for Lot 1, within Parcel 1  
(Industrial Park No. 1)

Page 2 of 5

(4) North  $88^{\circ}03'24''$  West, 209.660 meters to corner five (5); then,

(5) Along a curve, concave to the left, along the norther edge of Route No. 11 and having a central angle of  $28^{\circ}30'31''$  radius of 375.173 meters, chord bearing of South  $77^{\circ}41'21''$  West chord distance of 184.755 meters to corner six (6); then,

(6) South  $63^{\circ}26'06''$  West, 211.849 meters to corner seven (7); then,

(7) Along a curve concave to the right along the norther edge of Route 11 and having a central angle of  $26^{\circ}33'54''$ , radius of 372.107 meters, chord bearing of South  $76^{\circ}43'03''$  West, chord distance of 170.985 meters to corner eight (8); then,

(8) Due West, 69.550 meters to corner nine (9); then,

(9) North  $00^{\circ}13'14''$  East, 19.363 meters to corner ten (10); then,

(10) South  $87^{\circ}07'50''$  East, 103.119 meters to corner eleven (11); then,

(11) North  $79^{\circ}41'42''$  East, 33.541 meters to corner twelve (12); then,

(12) North  $74^{\circ}24'26''$  East, 44.643 meters to corner thirteen (13); then,

(13) North  $46^{\circ}42'05''$  East, 35.725 meters to corner fourteen (14); then,

**Legal Technical Description  
for Lot 1, within Parcel 1  
(Industrial Park No. 1)**

Page 3 of 5

(14) North  $82^{\circ}32'22''$  East, 42.359 meters to corner fifteen  
(15); then,

(15) North  $62^{\circ}51'01''$  East, 65.744 meters to corner sixteen  
(16); then,

(16) North  $48^{\circ}21'59''$  East, 54.187 meters to corner seventeen  
(17); then,

(17) North  $63^{\circ}49'29''$  East, 65.742 meters to corner eighteen  
(18); then,

(18) North  $70^{\circ}33'36''$  East, 36.056 meters to corner nineteen  
(19); then,

(19) North  $60^{\circ}13'15''$  East, 103.693 meters to corner twenty  
(20); then,

(20) North  $45^{\circ}36'57''$  East, 65.765 meters to corne  
twenty-one (21); then,

(21) North  $56^{\circ}34'03''$  East, 61.711 meters to corne  
twenty-two (22); then,

(22) North  $59^{\circ}36'24''$  East, 60.285 meters to corne  
twenty-three (23); then,

(23) North  $53^{\circ}34'40''$  East, 64.002 meters to corne  
twenty-four (24); then,

(24) North  $57^{\circ}49'44''$  East, 36.623 meters to corne  
twenty-five (25); then,

**Legal Technical Description  
for Lot 1, within Parcel 1  
(Industrial Park No. 1)**

Page 4 of 5

(25) North  $67^{\circ}11'12''$  East, 68.347 meters to corner  
twenty-six (26); then,

(26) North  $82^{\circ}05'34''$  East, 27.259 meters to corner  
twenty-seven (27); then,

(27) North  $38^{\circ}39'55''$  East, 11.205 meters to corner  
twenty-eight (28); then,

(28) North  $62^{\circ}41'04''$  East, 51.210 meters to corner  
twenty-nine (29); then,

(29) North  $78^{\circ}41'24''$  East, 14.061 meters to corner thirty  
(30); then,

(30) North  $60^{\circ}53'24''$  East, 50.361 meters to corner  
thirty-one (31); then,

(31) North  $48^{\circ}18'07''$  East, 0.682 meters to corner thirty-two  
(32); a point lying on the Western boundary of the Cooling Water  
Channel, then,

(32) South  $46^{\circ}30'00''$  East, 263.044 meters, along the Western  
boundary of the Cooling Water Channel to the Point of Beginning  
containing a traversed area of One Hundred Twenty Four Thousand  
Eight Hundred Sixty-Two plus or minus square meters (124,862±  
sq.m.) and a planimetric area (area between the traversed corners  
and the Mean High Water Mark) of One Thousand Six Hundred  
Sixty-six plus or minus square meters (1,666± square meters),  
or a combined total area of One Hundred Twenty-Six Thousand  
Five Hundred Twenty Eight plus or minus square meters (126,528± s.

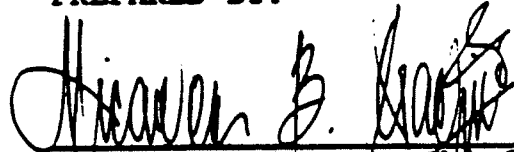


**Legal Technical Description  
for Lot 1, within Parcel 1  
(Industrial Park No. 1)**

Page 5 of 5

Lot "1" within Parcel 1, (Industrial Park No. 1) is bounded on the North by the Philippine Sea, on the East by the Cooling Water Channel, on the South by Route 11 (Portion of Route 11 Realignment and Reconstruction) on the Southwest by a continuation of Portion of Route 11, Realignment and Reconstruction and on the west by Parcel 1 (Rem) of Land Management Drawing No. E4-82T688. (See Exhibit "A").

**PREPARED BY:**



**NICANOR B. CARINO, Chief of Cadastre**

**Date:**

2-11-21

**CONCURRED BY:**



**F. L. G. CASTRO, Director of Land Management**

**Date:**

2-11-21

LEGAL TECHNICAL DESCRIPTION

OF

LOT 2, WITHIN PARCEL 1 (INDUSTRIAL PARK LOT NO. 2)  
MUNICIPALITY OF PITI

All that tract or parcel of land designated as Lot 2, with Parcel 1 (Industrial Park Lot No. 2), having 1945 plane rectangular coordinates of North 48,890.0980 meters and East 42,189.6839 meter and being South  $68^{\circ}19'26''$  West, 639.855 meters from Guam Geodetic Triangulation Net Station "Cabras" 1975, having 1945 plane rectangular coordinates of North 49,126.435 meters and East 42,784.292 meters;

Then along the following thirteen (13) courses:

- (1) Along a curve convex to the North, having a central angle of  $28^{\circ}30'31''$ , a Radius of 344.693 meters, an arc length of 171.508 meters, a chord distance of 169.745 meters and a chord bearing of North  $77^{\circ}41'21''$  East to corner two (2); then,
- (2) South  $88^{\circ}03'24''$  East, 209.660 meters to corner three (3); then,
- (3) Along a curve convex to the south and having a central angle of  $25^{\circ}40'40''$ , a Radius of 386.374 meters, an arc length of 173.158 meters, a chord distance of 171.713 meters and a chord bearing of North  $79^{\circ}06'16''$  East to corner four (4); then,
- (4) South  $29^{\circ}58'44''$  East, 2.287 meters to corner five (5); then,

Legal Technical Description  
of Lot 2, within Parcel 1  
(Industrial Park Lot No. 2)  
Page 2 of 3

(5) Along a curve convex to the South and having a central angle of  $11^{\circ}16'47''$ , a Radius of 472.441 meters, an arc length of 93.009 meters, a chord distance of 92.859 meters and a chord bearing of South  $65^{\circ}39'39.5''$  West to corner six (6); then,

(6) South  $71^{\circ}18'03''$  West, 83.564 meters to corner seven (7); then,

(7) South  $50^{\circ}26'18''$  East, 13.452 meters to corner eight (8); then,

(8) South  $73^{\circ}22'27''$  West, 108.888 meters to corner nine (9); then,

(9) South  $65^{\circ}39'58''$  West, 86.154 meters to corner ten (10); then,

(10) South  $65^{\circ}53'09''$  West, 57.520 meters to corner eleven (11); then,

(11) South  $42^{\circ}11'53''$  West, 24.201 meters to corner twelve (12); then,

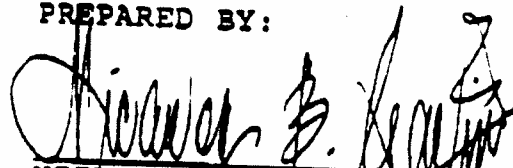
(12) South  $62^{\circ}37'08''$  West, 70.742 meters to corner thirteen (13); then,

Legal Technical Description  
of Lot 2, within Parcel 1  
(Industrial Park Lot No. 2)  
Page 3 of 3

(13) North  $26^{\circ}33'54''$  West, 172.948 meters to the Point Beginning containing a traversed area of FORTY-THREE THOUSAND FIFTY SQUARE METERS PLUS OR MINUS (43,050± s.m.), and a planimet area of ONE THOUSAND FORTY-THREE SQUARE METERS PLUS OR MINUS (1,0 s.m.), or a total area of FORTY-FOUR THOUSAND AND NINETY-THREE SQUARE METERS PLUS OR MINUS (44,093± s.m.) or TEN AND NINETY HUNDRED ACRES (10.90 acres) as shown on an exhibit prepared by the Department of Land Management, Government of Guam in December, 1991.

Industrial Park Lot No. 2 is bounded on the north by Route Number Eleven (Realignment), on the east by the said Route Number Eleven (Realignment), and Lot No. 257 (Cabras Island Power Plant Site), on the south by the Philippine Sea and on the west by Lot 3 (Industrial Park Lot No. 3, within Parcel 1).


PREPARED BY:



NICANOR B. CARINO, Chief of Cadastre  
Department of Land Management

Date: 1-17-92

CONCURRED BY:



D. L.G. CASTRO, Director of Land  
Management

Date: 1/21/92



**EXHIBIT B**

**CABRAS ISLAND INDUSTRIAL PARK  
DEVELOPMENT AGREEMENT AND LEASE**

**July 10, 1992**

TABLE OF CONTENTS

CABRAS ISLAND INDUSTRIAL PARK  
DEVELOPMENT AGREEMENT AND LEASE

A.	<u>Definitions</u> . . . . .	3
B.	<u>Base Rent</u> . . . . .	6
C.	<u>Percentage Rent</u> . . . . .	7
D.	<u>Additional Rent</u> . . . . .	7
E.	<u>Payment of Rent</u> . . . . .	8
F.	<u>Percentage Rent Credit</u> . . . . .	8
G.	<u>Environmental Study</u> . . . . .	9
H.	<u>Right to Substitute Premises</u> . . . . .	9

ARTICLE I

LESSOR'S COVENANTS

		11
1.	<u>Quiet Enjoyment</u> . . . . .	11
2.	<u>Utilities Supplied by Lessor</u> . . . . .	11
3.	<u>Sewer System</u> . . . . .	12
4.	<u>Relocation of Power and Telephone Lines</u> . . . . .	14
5.	<u>Oil Pipe Lines</u> . . . . .	15
6.	<u>Minimum Infrastructure Expenses</u> . . . . .	16
7.	<u>Quarrying Operations</u> . . . . .	17
8.	<u>Green Belts</u> . . . . .	18
9.	<u>Competition with Port</u> . . . . .	19

ARTICLE II

LESSEE'S COVENANTS

		20
1.	<u>Payment of Rent</u> . . . . .	20
2.	<u>Taxes and Assessments</u> . . . . .	20
3.	<u>Rates and other Charges</u> . . . . .	20
4.	<u>Improvements Required By Law.</u> . . . . .	21
5.	<u>Observance of Laws</u> . . . . .	21
6.	<u>Inspection</u> . . . . .	22
7.	<u>Use of Premises</u> . . . . .	22
8.	<u>Prohibition Against Assignment</u> . . . . .	23
9.	<u>Expenses of Labor</u> . . . . .	24
10.	<u>Liability Insurance</u> . . . . .	25
11.	<u>Liens</u> . . . . .	25
12.	<u>Development of Premises</u> . . . . .	26
13.	<u>Bond</u> . . . . .	30
14.	<u>Surrender</u> . . . . .	31
15.	<u>Records and Reports of Operations</u> . . . . .	31
16.	<u>Dealings with Officials of the Government of Guam</u> . . . . .	34
17.	<u>Guaranties of Cabras Island Development Corporation</u> . . . . .	34



**ARTICLE III  
MUTUAL COVENANTS**

1.	<u>Subleases</u>	34
2.	<u>Additional Sublease Provisions</u>	38
3.	<u>Dedication of Public Improvements</u>	39
4.	<u>Condemnation</u>	40
5.	<u>Defeasance</u>	41
6.	<u>Nonwaiver</u>	42
7.	<u>Consent to Mortgage</u>	42
8.	<u>Protection of Mortgagee</u>	43
9.	<u>Estoppel Certificate</u>	48
10.	<u>Indemnity</u>	48
	(a) <u>Indemnity by Lessee</u>	49
	(b) <u>Indemnity by Lessor</u>	49
	(c) <u>No Limitation</u>	50

**ARTICLE IV  
GENERAL PROVISIONS**

1.	<u>Performance by Lessor</u>	50
2.	<u>Performance by Lessee</u>	51
3.	<u>Notices</u>	53
4.	<u>Article and Paragraph Headings</u>	53
5.	<u>Neither Lessor nor Lessee Demand Drafter</u>	53
6.	<u>Successor and Assigns</u>	54
7.	<u>Consent</u>	54
8.	<u>Governing Law</u>	54
9.	<u>Amendment</u>	54
10.	<u>Nonwaiver</u>	55
11.	<u>Certifications Approvals and Signatures</u>	55
12.	<u>Relationship of the Parties</u>	55
13.	<u>Legislative Approval</u>	56
14.	<u>Annual Certification</u>	57
15.	<u>Financial Review</u>	57
16.	<u>Attorney General's and Governor's Review</u>	58
17.	<u>Lessee's Execution</u>	58

CABRAS ISLAND INDUSTRIAL PARK  
DEVELOPMENT AGREEMENT AND LEASE

1           This indenture IS MADE THIS \_\_\_\_\_ day of \_\_\_\_\_, 1992,  
2           by and between the PORT AUTHORITY OF GUAM, whose place of business  
3           and post office address is 1026 Cabras Highway, Suite 201, Piti,  
4           Guam 96925, hereinafter called "Lessor," and CABRAS ISLAND DEVELOP-  
5           ERS, a Guam limited partnership, whose place of business and post  
6           office address is Lot 1, Block 2, Agana, Guam, and P.O. Box BF,  
7           Agana, Guam, hereinafter called "Lessee,"

8           WHEREAS, Lessor has certain undeveloped property within the  
9           area of the Commercial Port and Lessor, in order to increase the  
10          business activity and revenue of the Commercial Port, and in order  
11          to further general business development in Guam, wishes to develop  
12          an industrial and/or business park on this unused area, and

13          WHEREAS, because of the nature and topography of the property  
14          which is available, site preparation and development will be  
15          difficult and expensive, and

16          WHEREAS, Lessor desires to have the responsibilities for site  
17          development and operation assumed by private industry but Lessor  
18          also desires to obtain a fair return on such property and to obtain  
19          a portion of profits from the operation of any such industrial  
20          and/or business park, and,

21          WHEREAS, Lessee represents that it is and shall be adequately  
22          capitalized so as to satisfy the requirements of any commercial  
23          lender who may finance the project or the requirements of any  
24          additional equity investor so as to reasonably guard against the  
25          effects of adverse economic conditions; Now Therefore,

W I T N E S S E T H:

1  
2 In consideration of the respective and mutual covenants of  
3 Lessor and Lessee herein contained and on the part of Lessor and  
4 Lessee to be observed and performed, and the rent set forth in this  
5 Lease, Lessor does hereby demise and lease unto Lessee, and Lessee  
6 does hereby accept and rent from Lessor:

7 Those two tracts of land designated as Lot No. "1" and Lot No.  
8 "2", within Parcel 1 as shown on Land Management Drawing No. E4-  
9 82T158, all situated in Land Square 21, Section 1 and 2, in the  
10 Municipality of Piti, consisting in total of at lease forty-two  
11 point two (42.2) developable acres, as described in figure 1 of  
12 Exhibit "A", the Cabras Island Industrial Park Master Plan attached  
13 hereto, and any such other acreage to be designated by Lessor and  
14 Lessee (the "premises"). If, at any time during the term of this  
15 lease, the number of developable acres is reduced, then Lessor and  
16 Lessee shall have the rights and duties as provided at paragraph H  
17 below.

18 TO HAVE AND TO HOLD the same, together with all improvements,  
19 rights, easements, privileges, and appurtenances thereunto  
20 belonging or appertaining, unto Lessee, for the initial term of  
21 fifty (50) years, commencing from the final execution of the Lease,  
22 which date is \_\_\_\_\_, subject to Lessee's right to  
23 extend the term as set forth in Article IV, Section 12, provided  
24 Lessee YIELDING AND PAYING therefore unto Lessor rent, in  
25 accordance with the terms and conditions of this Lease.

1           A. Definitions. For purposes of this Lease, the following  
2 words, terms, or phrases shall mean:

3           1. "Base Rent" shall mean ten percent (10%) of the fair  
4 market value of the undeveloped raw land component of each building  
5 site within the premises as charged on an annual basis, to be  
6 approved by the General Services Administration of the United  
7 States Government.

8           2. "Building Site" (or site) shall mean the total amount of  
9 square meters encompassed within each site released. (This shall  
10 NOT mean the specific land under a particular building.)

11           3. "Fair market value" shall mean the fair market value as  
12 determined by a certified appraiser selected by Lessor using a land  
13 uses contemplated in the Master Plan, leased fee, residual value  
14 appraisal method.

15           4. "Final execution" shall mean the occurrence of all of the  
16 following events: final legislative approval of this Lease in the  
17 form of a public law, all financial aspects of the Lease being  
18 finally determined by the financial consultant in accordance with  
19 the provisions of the enabling legislation approving this Lease,  
20 approval by the Attorney General of the Territory of Guam, and the  
21 signatures of all parties to the Lease.

22           5. "Hazardous" or "dangerous" or "toxic materials" or  
23 "substances" shall mean any and all radioactive materials, asbes-  
24 tos, organic compounds known as polychlorinated biphenyls, chem-  
25 icals known to cause cancer or reproductive toxicity, pollutants,

1 contaminants, hazardous wastes, toxic substances, and any and all  
2 other substances or materials defined as or included in the  
3 definition of "hazardous substances," "hazardous wastes,"  
4 "hazardous materials," or "toxic substances" under, or for the  
5 purposes of, Hazardous Materials Laws.

6 6. "Hazardous Materials Laws" shall mean all federal,  
7 territorial, or local laws, ordinances, or regulations, now or  
8 hereafter in effect, relating to environmental conditions, in-  
9 dustrial hygiene or Hazardous Materials on, within, under, or about  
10 the Mortgaged Properties, including, without limitation, the  
11 Comprehensive Environmental Response, Compensation and Liability  
12 Act of 1980 (CERCLA), as amended, 42 U.S.C. §§ 9601 et seq., the  
13 Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.,  
14 the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et  
15 seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., The Clean Air  
16 Act, 42 U.S.C. §§ 7401 et seq., the Toxic Substances Control Act,  
17 15 U.S.C. §§ 2601 through 2629, the Safe Drinking Water Act, 42  
18 U.S.C. §§ 300f through 300j, and any similar territorial or local  
19 laws or ordinances and the regulations now or hereafter adopted,  
20 published, and/or promulgated pursuant thereto.

21 7. "Phase I Environmental Study" shall mean a historical and  
22 visual inspection of the premises, a search of all relevant public  
23 records, and soil sampling tests if relevant, for purposes of  
24 detecting the existence of hazardous or dangerous or toxic  
25 materials or substances on the premises.

1           8. "Release Date" shall be established as follows: for  
2 Phase I, within one hundred eighty (180) days of the final execu-  
3 tion, Lessor shall send a letter to the Lessee notifying Lessee of  
4 the release of a site, subject to the approval of the Lessee's  
5 Master Plan, and the date of Lessor's letter shall be the release  
6 date. For all other phases, Lessor shall send a letter to the  
7 Lessee, notifying Lessee a site is available, and subject to  
8 Lessee's Master Plan, and the release date shall be the date of  
9 Lessor's letter.

10           9. "Start Date" shall be determined on a building site by  
11 building site basis and commences for any particular parcel when  
12 one hundred (100%) of the base rent is due and payable.

13           10. The date of "substantial completion" of the improvement  
14 or designated portion thereof is the date certified by the  
15 architect when construction is sufficiently completed so the owner  
16 can occupy or utilize the improvement or designated portion thereof  
17 for the use for which it was intended.

18           11. "Force majeure" shall mean any material occurrence not  
19 occasioned by the conduct or omission of either party to this Lease  
20 which prevents either party to this Lease from fulfilling its  
21 obligations hereunder, whether that occurrence is an act of God or  
22 public enemy, or whether that occurrence is caused by war, riot,  
23 storm, typhoon, earthquake, other natural forces, fire or similar  
24 disaster or by general or industry-wide strike in the territory of  
25 Guam or by the acts or omissions or anyone not party to this Lease.

1           B.   Base Rent.

2           Base rent shall be payable as to each building site which is  
3 released by Lessor on a site by site basis, as follows:

4                   (1) Five percent (5%) of the base rent upon Lessor  
5 releasing a site;

6                   (2) Twenty-five percent (25%) of the base rent on a  
7 particular released site upon the Lessee's obtaining a  
8 building permit for the improvements to that particular  
9 site;

10                   (3) Fifty percent (50%) of the base rent on a par-  
11 ticular released site upon substantial completion of the  
12 improvements to that particular site;

13                   (4) One-hundred percent (100%) of the base rent on  
14 a particular released site upon the Lessee's obtaining an  
15 occupancy permit for the improvements constructed on that  
16 particular site.

17           Base rent shall be increased every ten (10) years  
18 ("anniversary date") according to the increase in the fair market  
19 value of the leased premises, subject to a maximum cap as provided  
20 herein.. The fair market value of the leased premises shall be  
21 determined by an appraisal, and shall be compared to the fair  
22 market value of the premises on the date of this agreement or the  
23 previous anniversary date for adjustments after the first  
24 anniversary date. The base rent shall be increased on each  
25 anniversary date of this lease by a factor equal to the proportion

1 that the fair market value of the leased premises on the  
2 anniversary date bears to the fair market value of the leased  
3 premises on the date of this agreement or the previous anniversary  
4 date for adjustments after the first anniversary date, provided  
5 however, that said increase shall not exceed twenty-five percent  
6 (25%) at any one anniversary adjustment date.

7 C. Percentage Rent. In addition to the foregoing minimum  
8 annual rental, the Lessee shall pay the Lessor a rental equal to  
9 three and one-half percent (3.5%) of the total rental revenues  
10 received by Lessee from sublessees. For purposes of calculating  
11 percentage rent, rental revenues shall exclude insurance premiums,  
12 common area maintenance fees, gross receipts tax, and real property  
13 taxes, by whomsoever paid, provided however, that the costs of any  
14 bond premium or other form of security cost provided in the Lease  
15 as a form of security to secure Lessee's obligations herein, shall  
16 not be excluded or deducted from the total rental revenues in  
17 computing the percentage rent provided herein. Further, if Lessee  
18 hereinafter acquires for its own use any building or any portion of  
19 any building spaces developed pursuant to this Lease, then a fair  
20 and reasonable rental revenue from that space shall be imputed  
21 using current rental rates and terms and for calculation purposes  
22 shall be included as part of the rental received by the Lessee.

23 D. Additional Rent. Except as expressly set forth in  
24 Article I, paragraph 9, herein there shall be no other rent or  
25 other payment due from Lessee to Lessor for the use of the leased



1 premises.

2 E. Payment of Rent. Both base rent and percentage rent  
3 shall be paid (subject to the percentage rent credit provided for  
4 herein and subject to the payment of minimum rent as provided for  
5 herein) on a quarterly basis thirty (30) days following the end of  
6 each quarter of the lease year based on an estimated amount payable  
7 equal to the previous year's payments for the same quarter adjusted  
8 by a factor equal to the rate of inflation for the previous year.  
9 A preliminary payment adjustment for each lease year shall be made  
10 on February 1st of the immediately following calendar year, using  
11 preliminary accounting information with a final accounting and  
12 payment (or adjustment) for the year to follow as provided for in  
13 Section 14(a) of Article II. Unless otherwise agreed by the  
14 parties, a lease year is defined as twelve (12) month period from  
15 October 1st through September 30th.

16 F. Percentage Rent Credit. All costs (to the extent in-  
17 curred by Lessee and not reimbursed by Lessor or by other sources  
18 such as grants) of development of basic infrastructure including  
19 mass grading, dredging, filling, building and utility relocation,  
20 utility construction, and other expenses directly related to the  
21 provision of basic infrastructure, but not including construction  
22 costs directly related to the construction of individual tenant  
23 buildings, shall be accumulated and the total amount of such costs  
24 shall be credited toward the payment of percentage rent as  
25 calculated in Section C herein up to a maximum amount equal to

1 twenty-two percent (22%). The percentage rent credit provided for  
2 herein shall be available only for a period which shall expire  
3 twelve (12) years following the end of the first lease year in  
4 which Lessee commences to pay base rent and/or percentage rent.

5 G. Environmental Study. A Phase I Environmental Study shall  
6 be performed on the entire premises and shall be completed prior  
7 to, and is a condition precedent to, the release of any portion of  
8 the premises. Lessee shall select the company to perform the  
9 study. Cost of the study shall be borne by Lessor and Lessee  
10 equally. The findings of such study shall be in writing and shall  
11 be made available to both parties immediately upon completion of  
12 the study.

13 H. Right to Substitute Premises. Lessor and Lessee have  
14 agreed the leasehold premises shall contain forty- two point two  
15 (42.2) developable acres. It is understood that property initially  
16 identified as part of the premises may be excluded from the prem-  
17 ises for various reasons, including, but not limited to the dis-  
18 covery of hazardous waste on the premises and the discovery of wet  
19 lands on the premises. Lessor therefore reserves the right to  
20 modify the premises by excluding portions of the premises which are  
21 not developable or which become undevelopable and substituting  
22 different property to maintain the premises size of forty-two point  
23 two (42.2) developable acres. This shall be an obligation of  
24 Lessor only if (i) land is available, and (ii) such land use is not  
25 in conflict with the Port Authority's Master Plan dated September,

1 1990, as it may be amended from time to time. The right of Lessor  
2 to exclude such property and substitute new property shall be  
3 subject to the following conditions.

4 (i) Lessor and Lessee shall jointly identify, in writing, the  
5 portion of the premises which is undevelopable and to be excluded  
6 from the premises. Lessee shall submit to Lessor, in writing, an  
7 accounting of actual out of pocket damages it shall incur based  
8 upon such exclusion. Lessee shall use its best efforts to mitigate  
9 any damages. Lessor shall reimburse Lessee for all actual  
10 out-of-pocket damages occasioned by the exclusion of property from  
11 the premises.

12 (ii) Lessor shall, as soon as reasonably possible, submit to  
13 Lessee a description of other property of Lessor available for  
14 leasing. Such property must be suitable for development by Lessee  
15 and must be acceptable to Lessee. Upon Lessee's acceptance of  
16 substituted land, the substituted land will be added to the leased  
17 premises and shall constitute a part of the leased premises for all  
18 purposes under this Lease. Upon Lessee's rejection of substituted  
19 land, Lessor shall have no further obligation to designate or  
20 provide additional land to Lessee to make up the loss of land  
21 determined to be undevelopable and the area of the leased premises  
22 shall be adjusted accordingly.

23 (iii) In the event Lessor excludes a portion of the existing  
24 leased premises, then Lessee shall have no further rights or  
25 obligations concerning the excluded portion of the leased premises.

ARTICLE I

LESSOR'S COVENANTS

Lessor hereby covenants and represents to Lessee as follows:

1. Quiet Enjoyment. Upon payment by Lessee of the rent as aforesaid and upon the observation and performance of the covenants by Lessee hereinafter contained, Lessee shall peaceably hold and enjoy said premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons claiming by, through or under Lessor, except as herein expressly provided.

2. Utilities Supplied by Lessor. Lessor shall provide and maintain as provided in this paragraph the following utilities for Lessee's use on the premises: a paved access road known as Route 11B, water, sewer (subject to availability from the Public Utility Agency of Guam), drainage facilities, telephone lines (subject to availability from Guam Telephone Authority), street lighting, electrical power (subject to availability from the Guam Power Authority) and ancillary facilities to the boundary of the premises, all in size, capacity, and supply adequate for Lessee's proposed development. Route 11B bisects and is contiguous with a portion of the premises. Lessor further agrees that Lessee shall be entitled to access Route 11B at multiple locations designated by Lessee in the master plan as described in Article 2, Section 12 herein. In connection with lessor's obligations, Lessor hereby grants to Lessee for the term of this Lease and any extensions nonexclusive easements for access and utility purposes over,

1 across, under, and through Route 11B and any adjacent lands of  
2 Lessor. Lessor further agrees that Lessee shall be entitled to  
3 have access to such waterways and channels and water areas as may  
4 be adjoined or be contiguous to the premises and Lessor hereby  
5 grants to Lessee nonexclusive easements over, across, and through  
6 such water areas and channels and the right to build piers, bulk-  
7 heads, wharves, docks, and other similar facilities along the  
8 boundary of the premises and contiguous with the channels and water  
9 area so that vessels using such channel area may have access to the  
10 premises at Lessee's expense. The rights granted hereunder shall  
11 include the right to dredge such channels and water area subject to  
12 the approval of the Port Authority of Guam. Lessee shall be  
13 responsible for obtaining permits or approvals for said activities  
14 from the appropriate local and/or federal government entities.

15 3. Sewer System. Lessee shall at its cost construct a pump  
16 station and force main to transmit the sewage effluent from the  
17 premises to the main Government of Guam line along Marine Drive for  
18 transport and treatment at the Government of Guam's sewage  
19 treatment plant facilities. If Lessor desires to share use of the  
20 pump station and force main to be constructed by Lessee, Lessor  
21 shall specify in writing its required capacity, above and beyond  
22 the capacity which Lessee shall require for the premises, within  
23 ninety (90) days after written notice from Lessee. Upon Lessor  
24 specifying such excess capacity as Lessor may desire, Lessee shall  
25 then in the course of its development of the premises, cause to be

1 constructed the pump station and force main with such total  
2 capacity as shall be sufficient for Lessee's use plus the excess  
3 capacity specified by Lessor. Said pump station and related  
4 facilities shall be constructed on or near the boundary of the  
5 premises as the parties may mutually agree, taking into  
6 consideration the recommendation of appropriate engineering studies  
7 as to which site is most feasible for Lessor's and Lessee's mutual  
8 benefit. Lessor and Lessee will work jointly with the Government  
9 of Guam to allow the sewer line on Cabras Island to be connected to  
10 its main line on Marine Drive. Lessor and Lessee shall be  
11 responsible for payment of the total cost (including without  
12 limitation construction costs, architectural, engineering,  
13 development fees, and other similar direct costs) of constructing  
14 the pump station and force main in proportion to the capacity  
15 specified by each at the time of design of the system. Lessor shall  
16 pay its proportionate share of the cost of constructing such  
17 facilities concurrently with Lessee making payment of its share of  
18 such costs, or if Lessee shall at its election directly pay both  
19 parties' share of such costs, then Lessor shall promptly reimburse  
20 Lessee for Lessor's portion of such costs. If Lessor is to share  
21 in the cost of constructing the sewer facilities, Lessee  
22 acknowledges it will be necessary for the Lessor to comply with  
23 government procurement procedures with respect to advertising, time  
24 limits, and other considerations during the award of contract  
25 process. The costs of maintaining and operating the pump station

1 and force main and related facilities (including without limitation  
2 maintenance fees and equipment replacement costs and direct  
3 operating costs) shall be borne by the parties in the same  
4 proportion as the cost of constructing such facilities.

5 4. Relocation of Power and Telephone Lines.

6 Lessor and Lessee acknowledge that electrical power and telephone  
7 lines owned by the Government of Guam currently run across the  
8 premises and Lessee may at its option, as Lessee may determine from  
9 time to time, relocate such lines within the premises and/or place  
10 them underground; provided that the Lessee will not permit any  
11 interruption of power or telecommunication service while this  
12 relocation is taking place without prior permission of the Lessor.  
13 Lessor agrees to cooperate with Lessee in connection with any such  
14 relocation of such lines. If Lessee shall elect to place such  
15 lines underground, then Lessee shall be solely responsible for the  
16 cost of placing such electrical power and telephone lines  
17 underground as and when such costs are incurred. If power and  
18 telephone lines must be relocated laterally in order to accommodate  
19 quarrying operations and/or to accommodate the master development  
20 plan (for example, so as to avoid such utility lines from running  
21 through the center of other material portion of one or more or the  
22 subdivided lots to be created within the premises), then Lessor and  
23 Lessee shall share equally the costs of such lateral relocation  
24 (including without limitation, design, engineering, and  
25 construction costs together with any costs of financing) as and

1 when such costs are incurred. The relocation of any utility lines  
2 are subject to the approval of the proper utility companies.

3 5. Oil Pipe Lines.

4 (a) Relocation. Lessor and Lessee acknowledge that there are  
5 four separate oil pipelines belonging to the Shell Guam, Inc.  
6 ("Shell") which run under portions of the premises pursuant to a  
7 certain Grant of Easement from the United States of America to  
8 Shell's predecessor in interest dated May 16, 1969. A portion of  
9 the property subject to the easement has been transferred by the  
10 United States of America to Lessor. Pursuant to the provisions of  
11 such Grant of Easement and an amendment thereto, Shell is committed  
12 to relocate the easement and pipelines as and when required should  
13 the pipelines interfere with any activities of Lessor on the  
14 premises. Lessor agrees, upon the request of Lessee, to promptly  
15 cause Shell to observe its contractual obligations to relocate the  
16 pipelines in such manner as Lessee may reasonably request so as to  
17 not interfere with the development of the premises by Lessee, which  
18 relocation may, at Lessee's option with consent of Lessor, be  
19 either within the premises and/or upon Lessor's adjacent lands. In  
20 order to ensure Lessor's compliance with this covenant, Lessor  
21 agrees to include Lessee during all negotiations with Shell and to  
22 allow Lessee to be a signatory to any amended agreement with Shell  
23 relating to the oil pipelines. As a part of any agreement to  
24 relocate the pipelines, the Lessor will cause Shell to indemnify  
25 the Lessee as described in Section (b) following herein.



1           (b) Indemnification. Lessor, at its option, shall cause Shell  
2 to indemnify and hold Lessee harmless from any and all injuries to  
3 persons and property, death of any person, damages, claims,  
4 demands, actions of governmental and regulatory agencies, costs,  
5 expenses of cleanup, and suits of any nature arising from or  
6 relating to any use of the easement and/or pipelines by Shell or  
7 any other persons under Shell and arising from or relating to any  
8 relocation of the easement and the pipelines. The indemnification  
9 obligations hereunder shall include, without limitation, death,  
10 injury to persons or property, damages, claims, demands, actions,  
11 costs, expenses, and suits arising from any explosions, waste,  
12 leakages, or spills from the pipelines or from any related  
13 facilities. Lessee, in coordination with Lessor, shall also cause  
14 Shell and any persons under Shell to at all times fully observe and  
15 perform all contractual and legal and regulatory obligations to  
16 prevent waste, contamination, and leakage of any hazardous or  
17 dangerous or toxic materials from the pipelines and related  
18 facilities.

19           6. Minimum Infrastructure Expenses. The Lessee must  
20 construct infrastructure on the industrial site to include  
21 preparation, filling, grading, a sewer system, a storm drainage  
22 system, a water distribution system, a power distribution system,  
23 roads, curbs and gutters, street lighting, landscaping and as-  
24 sociated facilities. Lessee, with the approval of Lessor, may  
25 reduce the total expenditure on infrastructure if Lessee can

1 justify that all infrastructure needs of the industrial park have  
2 been met.

3 7. Quarrying Operations. Lessor and Lessee acknowledge that  
4 coral quarrying operations are currently conducted and/or are  
5 planned to be further conducted on the premises by Hawaiian Rock.  
6 It is specifically recognized that as part of the quarrying  
7 operations Hawaiian Rock is to level and grade the premises as a  
8 condition precedent to Lessee's development of the premises and the  
9 work to be conducted by Hawaiian Rock shall be properly phased and  
10 executed so as to maximize development of the premises by Lessee.  
11 Lessor, therefore, covenants it has or will cause Hawaiian Rock to  
12 (a) acknowledge that the quarrying agreement is subject and  
13 subordinate to the terms of this Lease, (b) acknowledge that Lessee  
14 will be developing the premises, including those portions where the  
15 quarrying operations will take place, and that Hawaiian Rock will  
16 coordinate its quarrying operations with Lessee so as to maximize  
17 Lessee's development of the premises and minimize interference with  
18 such development, and (c) agree that Lessee shall have the right to  
19 specify the location or locations on the premises where Hawaiian  
20 Rock will quarry coral, the schedule for such quarrying operations,  
21 the location where Hawaiian Rock is to stockpile quarried material,  
22 and the times when Hawaiian Rock will be allowed to conduct  
23 blasting operations on or near the premises. In order to ensure  
24 Lessor's compliance with this covenant, Lessor agrees to include  
25 Lessee during all negotiations with Hawaiian Rock and that any

1 directions given to Hawaiian Rock by Lessor shall be consistent  
2 with the provisions hereof and will only be made with the full  
3 knowledge and consent of the Lessee. Lessee, in order to assure  
4 compliance with this section, agrees to pay for all costs  
5 associated with directions given by Lessee. Lessor agrees to  
6 indemnify and hold harmless the Lessee and Lessee's subtenants,  
7 contractors, and invitees from any claim, liabilities, demands,  
8 suits, damages to person or property, and death of any person  
9 arising from or relating to the quarrying and/or blasting  
10 activities conducted on or near the premises by Hawaiian Rock or  
11 its agents or subcontractors or persons under Hawaiian Rock or by  
12 any other persons conducting quarry and/or blasting activities with  
13 the consent of Lessor.

14 8. Green Belts. Lessor acknowledges and agrees that the  
15 success of Lessee's development of the premises depends in part  
16 upon the manner in which Lessor develops and utilizes Lessor's  
17 adjacent properties. In order to enhance, protect, and preserve  
18 the value, desirability, and attractiveness of the premises and  
19 Lessee's development thereon, Lessor agrees that all of Lessor's  
20 adjacent land within one hundred (100) feet of the demised premises  
21 shall not be held, sold, conveyed, encumbered, leased, occupied, or  
22 improved unless done so in a manner consistent with Lessor's and  
23 Lessee's mutual goals of enhancing, protecting, and preserving the  
24 value, desirability, and attractiveness of the premises and  
25 Lessee's development thereon. Lessor reserves the right at any

1 time to modify or remove such green belt areas if deemed necessary  
2 for Lessor's use. Lessee may, at Lessee's option, maintain the  
3 areas of Lessor's adjacent lands within twenty-five (25) feet of  
4 the demised premises as an unimproved green belt area, suitably  
5 landscaped and maintained in good order and condition at all times.  
6 Lessee may construct on the green belt property which lies between  
7 the premises and Lessor's container yard a suitable berm, wall, or  
8 other similar such divider as shall be appropriate to provide a  
9 visual and noise buffer between premises and Lessor's container  
10 yard and the Lessor agrees to coordinate the container yard  
11 expansion with the Lessee in such a way as to accomplish these  
12 objectives. Lessor shall additionally allow Lessee, if Lessee so  
13 desires, to cause the roadside areas along Route 11B for a distance  
14 extending one hundred (100) yards from the easterly boundary and  
15 westerly boundary of the premises to be landscaped in a manner  
16 complimentary to or consistent with lessee's planned landscaping  
17 for those portions of the premises which adjoin Route 11B. All  
18 costs associated with the construction of the green belt area will  
19 be borne by Lessee.

20 9. Competition with Port. The Lessee shall not compete with  
21 the activities of the Port, as such activities are defined by the  
22 Port Authority of Guam Terminal Tariff as of the date hereof and as  
23 further agreed upon by Lessor and Lessee within one (1) year of the  
24 date of this agreement.

25 ///