

**STATE OF HAWAII**

**Department of Hawaiian Home Lands**

.....Lot Lease

No. ....

*WHEREAS, certain Hawaiian home lands situate on the Island of ..... have been surveyed, set apart and opened for settlement by native Hawaiians, pursuant to the provisions of the Hawaiian Homes Commission Act, 1920, as amended, hereinafter referred to as the "Act";*

*WHEREAS, ..... , hereinafter called the "Lessee," has duly sworn under oath in Lessee's application for a lease that Lessee is a native Hawaiian as defined in the Act, and is not less than eighteen (18) years of age; and*

*WHEREAS, the STATE OF HAWAII, by its Department of Hawaiian Home Lands, hereinafter called the "Lessor," has selected the Lessee as a suitable and proper person to whom a lease of Hawaiian home lands may be issued;*

*NOW, THEREFORE, the Lessor, in consideration of the rent hereinafter reserved and of the terms, covenants and conditions herein contained and on the part of the Lessee to be observed and performed, does hereby demise and lease unto the Lessee, and the Lessee does hereby lease and hire, for terms to commence as hereinafter set forth and subject to all of the conditions and obligations imposed by the Act, the following described premises:*

*SUBJECT to all easements shown on the map (if any) hereto attached or above referred to, and reserving unto Lessor within said easements rights-of-way and the right to grant to any public utility or governmental authority such rights-of-way over, across and under said easements for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water,*

sewer, drainage and similar public services and utilities, and the right to enter for such purposes and to repair such facilities and to trim any trees in the way of such lines.

TO HAVE AND TO HOLD the demised premises unto said Lessee for a term of ninety-nine years, commencing on the ..... day of ..... , 20....., up to and including the ..... day of ..... , unless sooner terminated as hereinafter provided.

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on, or under the demised premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals", as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, in, on, or under the land; provided, that "minerals" shall not include sand, gravel, rock or other materials suitable for use and when used in road construction in furtherance of the Lessee's permitted activities on the demised premises and not for sale to others. (b) All surface and ground waters appurtenant to the demised land and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the demised premises as may be required in the exercise of this right reserved.

2. Prehistoric and historic remains. All prehistoric and historic remains found on said demised premises.

3. Withdrawal. The right to withdraw from the operation of this lease the whole or any part or portion of the lands demised hereby, and any interest therein as in the exclusive judgment of the Lessor may be required for a public use and purpose or for the orderly and progressive development of the rehabilitation project of which the lands herein demised form a part; provided, however, no compensation or damages shall be payable to the Lessee for or by reason of such withdrawal, save and except that the Lessee will be entitled to compensation for the fair market value, determined as of the time of withdrawal, of all improvements placed by Lessee on said premises and affected by such withdrawal.

4. Rights of way for roads, wire lines, etc. The Lessor hereby reserves to itself, its successors, or (and) assigns forever the privilege of fixing and using such rights of way across the said lot or lots as may be, in the judgment of the Lessor, from time to time necessary for roads, trails, ditches, conduit pipelines, tunnels, wire lines — unlimited by the specification just made — any purpose whatsoever; provided, however, that, in the exercise of this privilege, the Lessee, or successor, or successors, thereof in interest, shall be compensated for all damages suffered thereby.

THE PARTIES HEREIN AGREE AS FOLLOWS:

5. Payment of rent. The Lessee shall pay to the Lessor at its office in Honolulu, City and County of Honolulu, State of Hawaii, or to such of its agents and at such other place or places as the Lessor may from time to time designate, rent in the sum of ..... —ONE DOLLAR— ..... (\$ 1.00 ..... ), a year, payable in legal tender of the United States of America in advance on the ..... day of ..... of each and every year, without any deduction and without any notice or demand.

6. Taxes, assessments, etc. The Lessee shall pay or cause to be paid, when due, the amount of all taxes, except as provided in Section 208(7) of the Act, and all rates, assessments and other outgoings of every description as to which said demised premises or any part thereof, or any improvements thereon, or the Lessor or Lessee in respect thereof, are now or may be assessed or become

liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during said term.

7. *Utility services.* The Lessee shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which said demised premises, or any part thereof, or any improvements thereon or the Lessor or Lessee in respect thereof may during said term become liable, whether assessed to or payable by the Lessor or Lessee.

8. *Sanitation, etc.* The Lessee shall keep the demised premises and improvements in a strictly clean, sanitary and orderly condition.

9. *Waste and unlawful, improper or offensive use of premises.* The Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the demised premises, or any part thereof, nor without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on said premises.

10. *Compliance with laws.* The Lessee shall comply with all of the requirements of all municipal, state and federal authorities and observe all municipal ordinances and state and federal statutes, pertaining to the said premises, now in force or which may hereinafter be in force. Lessee will observe any setback lines affecting said premises as shown on the map (if any) hereto attached or herein mentioned in the description of said premises, and will not erect, place or maintain any building or structure whatsoever except approved fences or walls between any street boundary of said premises and the setback line along such boundary.

11. *Inspection of premises.* The Lessee will permit the Lessor and its agents, at all reasonable times during the said term, to enter the demised premises and examine the state of repair and condition thereof.

12. *Improvements.* The Lessee will not erect or place on said premises any building or structure including fences and walls, nor make any additions or structural alterations to any buildings thereon, except in accordance with plans and specifications including a detailed plot plan, which shall be prepared by a licensed architect if so required by Lessor, first submitted by Lessee and approved in writing by Lessor, and will landscape said premises suitably for the neighborhood, and will, unless the same is already built, at his own expense, within the first twelve months of said term construct and complete on the demised land, if a residence lot, a single-family dwelling.

13. *Repairs to improvements.* The Lessee shall, at Lessee's own expense, from time to time and at all times during said term, keep, repair and maintain all buildings and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition and repair, reasonable wear and tear excepted, and maintain and keep said premises and all adjacent land between any street boundary of said premises and the established curb or street line in a neat and attractive condition.

14. *Transfer, etc.* The Lessee shall not in any manner transfer to, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the Lessor, or agree to so transfer or otherwise hold Lessee's interest in the demised premises. Pursuant to section 208(5) of the Act, such interest shall not, except in pursuance of such transfer to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the Lessor, or for any indebtedness due the Lessor or for taxes, or for any other indebtedness the payment of which has been assured by the Lessor, including loans from governmental agencies where such loans have been approved by the Lessor, be subject to attachment, levy, or sale upon court process.

15. *Mortgage or pledge of interest.* Notwithstanding paragraph No. 14 above, the Lessee, with the consent and approval of the Hawaiian Homes Commission, may mortgage or pledge the Lessee's interest in the leasehold to a recognized lending institution authorized to do business in the State of Hawaii or elsewhere in the United States for such uses and purposes, subject to such terms, conditions and restrictions as the Act may provide. Unless otherwise provided in the Act, a loan secured by a

mortgage on a homestead leasehold must be insured or guaranteed by, and in accordance with established regulations of the Federal Housing Administration or other federal, state or other agencies authorized to insure or guarantee loans to homestead lessees. Such mortgages, to be effective, must be consented to and approved by the Hawaiian Homes Commission and recorded with the Lessor.

16. *Sublet.* The Lessee shall not sublet the Lessee's interest in the whole or any part of the demised premises or improvements thereon nor part with the possession or control thereof.

17. *Cancellation, forfeiture.* This lease is subject to the continuing condition that if the Lessee shall fail to pay said rent when the same shall become due, or fail in any other respect faithfully to observe or perform any condition or covenant in this lease contained and on the Lessee's part to be observed or performed, or fail to observe or perform the conditions and obligations imposed upon said Lessee by the terms of the Act to which this lease has been made expressly subject, the Lessor may declare the interest of the Lessee in the lands demised hereunder and all improvements thereon to be forfeited and this lease in respect thereto cancelled, and shall thereupon order said lands to be vacated within a reasonable time.

18. *Surrender.* Upon the expiration of the term hereby demised or sooner termination as in this lease provided, the Lessee will peaceably and quietly leave and surrender and deliver to the Lessor possession of the demised premises together with all improvements erected thereon, in good repair, order and condition, reasonable wear and tear excepted.

IN ADDITION TO THE FOREGOING GENERAL TERMS, COVENANTS AND CONDITIONS, THE SPECIAL TERMS, COVENANTS AND CONDITIONS UNDER WHICH THE LEASE IS ISSUED ARE AS FOLLOWS: (APPLICABLE PROVISIONS ARE NOTED BY A CHECK MARK OR "X" IN THE BOX PRECEDING THE APPROPRIATE PARAGRAPH OR PARAGRAPHS.)

19. *Residence Lot.* The Lessee shall occupy and commence to use the residence lot as Lessee's home within one year of the date of this lease, and shall thereafter continue to occupy and use said lands on Lessee's own behalf.

20. *Agricultural Lot. a.* The Lessee shall devote the agricultural lot to agricultural use, and shall thereafter, for at least such part of each year as the Lessor shall by regulation prescribe, so occupy and use said lands on Lessee's own behalf.

*b.* The Lessee shall at all times during the period of this lease, practice good husbandry with respect to utilizing the land within the scope of activity permitted hereunder and shall, at Lessee's own cost and expense, correct all failures and make good all defects of which notice shall be given in writing within a reasonable time of the giving thereof. For the purpose of this subsection, the term "practice of good husbandry" shall, without being restricted thereto, include the prevention or elimination of waste, employment of soil conservation practices, crop rotation, fertilization with organic and inorganic fertilizers, the erection of suitable windbreaks either by plantings or otherwise, and the adoption and employment, should the Lessor deem advisable and so require, of a conservation farm or ranch plan for such premises prepared by the United States Soil Conservation Service.

*c.* The primary purpose of the Act being the successful rehabilitation of native Hawaiians under the guidance and tutelage of the Lessor, it is deemed necessary and in furtherance of said Act and the purpose thereof that the Lessor retain, and it does hereby so retain, the right to approve in advance any proposed agreement between the Lessee and another relating in any way to the use of the agricultural lot.

21. *Pastoral Lot. a.* The Lessee shall fence and thereafter commence to use the pastoral lot for the pasturing of cattle and other domestic farm animals within one year of the date of this lease, and shall thereafter, for at least such part of each year as the Lessor shall by regulation prescribe, so occupy and use said lands on Lessee's own behalf. The term "pasturing of cattle and other domestic farm animals" shall include the erection of buildings and other improvements germane to the operation of a stock farm. No other use or uses will be permitted except as Lessor, by rule, shall provide.

*b.* The Lessee shall at all times during the period of this lease, practice good husbandry with respect to utilizing the land within the scope of activity permitted hereunder and shall, at Lessee's own cost and expense, correct all failures and make good all defects of which notice shall be given in writing within a reasonable time of the giving thereof. For the purpose of this subsection the term "practice of good husbandry" shall, without being restricted thereto, include the prevention or elimination of waste, overgrazing to the detriment of the whole or any portion of the demised premises, suffering the premises or any portion thereof

to become unduly eroded without reasonable efforts being taken to correct the same, and suffering any material increase in noxious weed coverage on said premises or on any portion thereof and the adoption and employment, should the Lessor deem advisable and so require, of a conservation ranch plan for such premises prepared by United States Soil Conservation Service.

c. The primary purpose of the Act being the successful rehabilitation of native Hawaiians under the guidance and tutelage of the Lessor, it is deemed necessary and in furtherance of said Act and the purpose thereof that the Lessor retain, and it does hereby so retain, the right to approve in advance any proposed agreement between the Lessee and another relating in any way to the use of said pastoral lot.

**IT IS HEREBY FURTHER MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

22. *Right to Enter.* The Lessor shall have the right to itself and to the agents and representatives of the county in which said demised premises are situated, to enter and cross any portion of said demised land for the purpose of performing any public or official duties; provided, however, in the exercise of such rights, the Lessor shall not interfere unreasonably with the Lessee's use and enjoyment of the premises.

23. *Acceptance of Rent Not a Waiver.* The acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant or condition of this lease, nor of the Lessor's right to re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any such breach, and the failure of the Lessor to insist upon strict performance of any such term, covenant or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition or option.

24. *Extension of Time.* Notwithstanding any provision contained herein to the contrary, wherever applicable, the Lessor may for good cause shown, allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

25. *Fire and Extended Coverage.* The Lessee will at Lessee's own expense at all times during said term keep all buildings now or hereafter erected on the demised land insured against loss or damage by fire with extended coverage in a responsible insurance company authorized to do business in Hawaii, in an amount as near as practicable to the replacement cost thereof, in the joint names of Lessor, Lessee and mortgagee (if any) as their interests may appear, payable in case of loss to the mortgagee (if any) or in the absence of any mortgage to Lessor and Lessee as their interests may appear, and will pay all premiums thereon when due and from time to time, on request therefor, deposit with Lessor a true copy or certificate of such current insurance policy, and any money derived therefrom in case of loss shall be held in trust in Hawaii and be immediately available to and used as soon as reasonably possible by Lessee for rebuilding, repairing or otherwise reinstating the same buildings in a good and substantial manner according to the plan and elevation of the buildings so destroyed or damaged or such modified plan as shall be previously approved in writing by Lessor. The Lessee shall, upon request and reasonable notice thereof by Lessor, at Lessee's own expense, certify by an appraiser the appraisal value of said buildings and improvements on the demised premises.

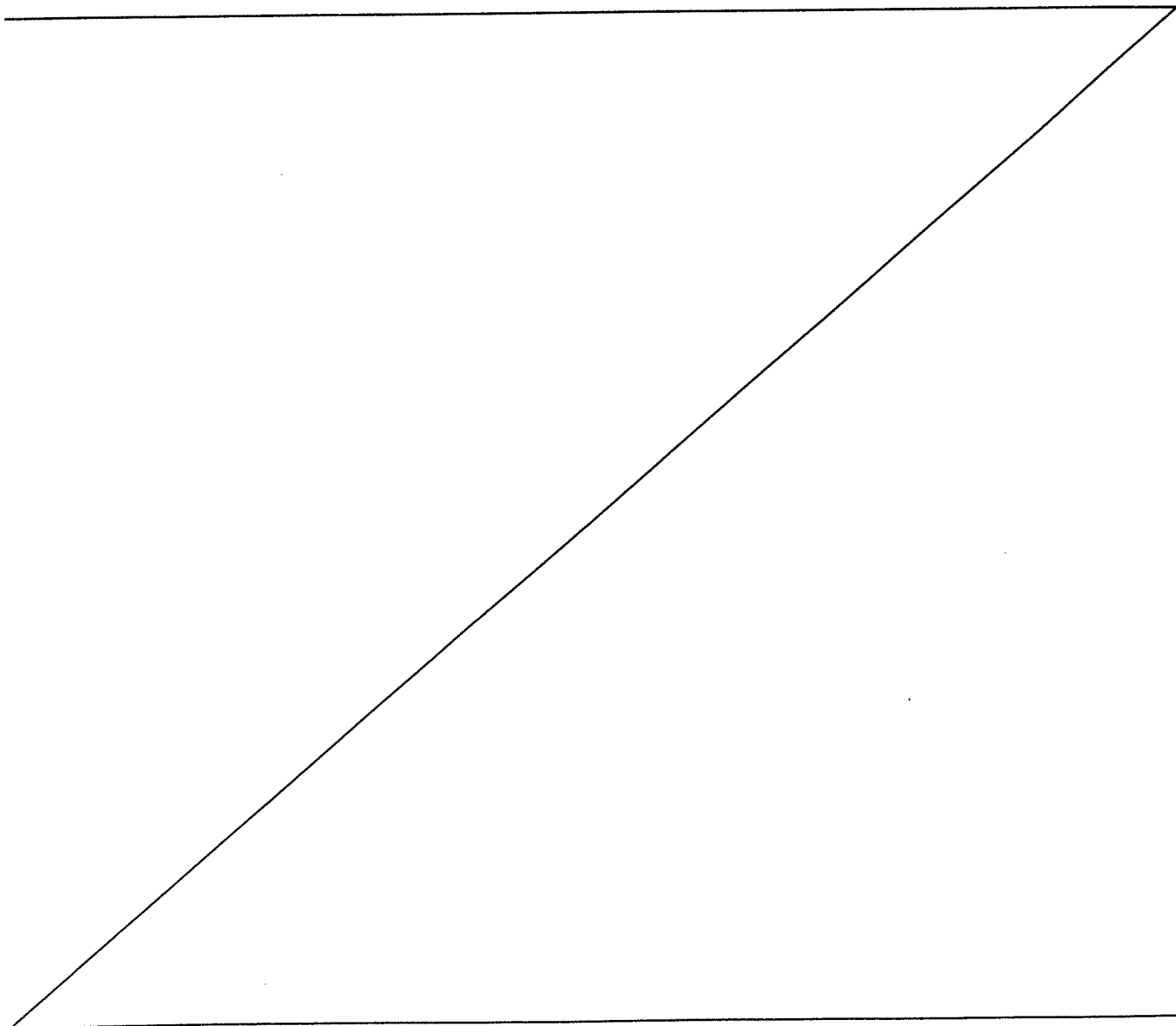
26. *Indemnity.* The Lessee will indemnify, defend and hold the Lessor harmless (1) from and against any claim or demand for loss, liability or damage, including claims for property damage, personal injury or death, arising out of any accident on the demised premises and sidewalks and roadways adjacent thereto or occasioned by any act or omission of the Lessee, or any nuisance made or suffered on the premises, or by any fire thereon, or growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition, or by any act or omission of the Lessee, and (2) from and against all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms, covenants and conditions herein or the rules, regulations, ordinances and laws of the federal, state, municipal or county governments.

27. *Costs of litigation.* In case the Lessor shall, without any fault on its part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall and will pay all attorney fees, costs and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall and will pay all attorney fees, costs and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the demised premises or in the collection of delinquent rent, taxes and all other charges.

28. *Quiet Enjoyment.* Upon payment of said rent at the times and in the manner aforesaid and the observance and performance of the covenants, terms and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess and enjoy the demised premises for the term hereby demised without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through and under it.

29. *Acceptance of terms, covenants and conditions.* The execution of this lease by the Lessee constitutes an acceptance by Lessee of all of the general and special terms, covenants and conditions hereinabove set forth and a binding agreement by Lessee that Lessee shall fully and faithfully observe and perform each and every one of such terms, covenants and conditions.

30. *Definitions.* The term "premises" when it appears herein includes (except where such meaning would be repugnant to the context) the lands hereby demised and all buildings and improvements whenever erected or wherever placed thereon; the term "Lessor" shall include the Department of Hawaiian Home Lands and its successors in interest; the term "Lessee" shall include the Lessee above named, his or her successors in interest as provided in section 209 of the Act, and permitted assigns; the singular shall include the plural and vice versa, and the use of any gender shall include all genders.



IN WITNESS WHEREOF, the parties hereto have caused this lease to be executed this ..... day of  
....., 20 .....

.....  
Lessee

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

By .....  
Chairman, Hawaiian Homes Commission

APPROVED FOR AWARD ON:  
.....

APPROVED AS TO FORM AND LEGALITY:  
.....

.....  
Deputy Attorney General  
State of Hawaii

Dated: .....

STATE OF HAWAII )  
County of ..... ) SS.  
..... )

On this ..... day of ....., A.D. 20 ....., before me personally appeared  
..... to me known to be the person described in and who  
executed the foregoing instrument and acknowledged that ..... executed the same as ..... free  
act and deed.

.....  
Notary Public, State of Hawaii

My commission expires: .....