

REGULAR SYSTEM

Covering Lot No. 24
PAHOA AGRICULTURAL PARK, (PHASE II)
KEONEPOKO IKI, PUNA, ISLAND OF HAWAII, STATE OF HAWAII

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STATE OF HAWAII
DEPARTMENT OF AGRICULTURE

GENERAL LEASE NO. S- 4830

THIS INDENTURE OF LEASE, made and entered into
this 1st day of March, 2007, by and between
the STATE OF HAWAII, hereinafter referred to as the
"Lessor", by its Board of Agriculture, hereinafter referred
to as the "Board", whose business address is 1428 South
King Street, Honolulu, Hawaii 96814, and whose post office
and mailing address is 1428 South King Street, Honolulu,
Hawaii 96814-2512, and George Poppas , as tenant in
severalty, whose residence, business and post office
address is
hereinafter referred to as the "Lessee";

WITNESSETH:

THAT, the Lessor for and in consideration of the rent
to be paid and of the terms, covenants, and conditions
contained herein, all on the part of the Lessee to be kept,
observed, and performed, does hereby demise and lease unto
the Lessee, and the Lessee does hereby lease and hire from
the Lessor the premises identified as Lot 24, containing
approximately, 5.00 acres of land at Pahoia Agricultural
Park, Phase II, Keonepoko Iki, Puna , Island of Hawaii ,
State of Hawaii, as shown on Exhibits "A" attached hereto
and made a part hereof.

TO HAVE AND TO HOLD the demised premises unto the Lessee for the term of forty-five (45) years, commencing on the 1st day of March, 2007, and ending on the 28th day of February, 2052, unless sooner terminated as provided herein, the Lessor reserving and the Lessee yielding and paying to the Lessor at the office of the Department of Agriculture, Honolulu, Oahu, a net annual rental as provided herein, payable in advance without notice or demand, in semiannual installments on 1st day of March and 1st day of September of each and every year during the term, unless otherwise provided, as follows:

A. Base annual rental. For the first fifteen (15) years, the base annual rental shall be ONE THOUSAND AND EIGHT HUNDRED DOLLARS (\$ 1,800.00); except, the Board may permit the Lessee to offset the cost of land clearance and leasehold improvements against not more than two years of base annual rental, the evidence of which shall be submitted to and approved by the Lessor within the first year of the lease term.

B. Additional rental. Each year on or before the 31st day of December the Lessee shall submit to the Lessor a report disclosing the gross proceeds from the sale of commodities produced on the demised premises during the year immediately preceding. Together with the report, the Lessee shall pay to the Lessor any additional rent due, which amount shall be determined in the manner described below:

From the report, determine a value representing one and one-half percent (1-1/2%) of the gross proceeds, which includes revenues from consignment sales and subletting. Any excess of the value so derived over

the base annual rental constitutes the additional rental.

Failure to submit reports on additional rent together with payment of any additional rent due the Lessor for more than thirty (30) days after the 31st day of December shall constitute a breach of this lease and cause for the termination thereof.

C. Reopening of annual rental. The annual rental shall be reopened and redetermined at the expiration of the 15th, 25th, and 35th, years of the term.

D. Determination of annual rental upon reopening. The base annual rental and the additional rental for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental of the land in the specific use or uses for which the disposition was made shall be determined by an appraiser whose services shall be contracted for by the Lessor, and the Lessee shall be notified promptly of the determination; provided that should the Lessee disagree with the fair market rental as determined by the Lessor's appraiser, the Lessee may appoint its own appraiser, within fourteen days after written notice of the fair market rental, to prepare an independent appraisal report.

The two appraisers shall review each other's reports and make every effort to resolve whatever differences they may have. Should differences still exist fourteen days after the exchange, the two appraisers, within seven days thereafter, shall appoint a third appraiser who shall also prepare an independent appraisal report and shall furnish copies thereof to the first two appraisers within forty-five days of the appointment. Within twenty days

after receiving the third appraisal report, all three appraisers shall meet to determine the fair market rental. The fair market rental as determined by a majority of the appraisers shall be final and binding upon both the Lessor and the Lessee, subject to chapter 658, Hawaii Revised Statutes ("HRS"). The Lessee shall pay for its own appraiser, and the cost of the services of the third appraiser shall be borne equally by the Lessor and the Lessee. All appraisal reports shall become part of the public record of the Lessor.

In the event that the appraisers are unable to determine the fair market rental before the reopening date, the Lessee shall continue to pay the rent at the rate effective for the previous rental period, but the Lessee shall make up any deficiency within thirty days after the new rental has been determined. Failure of the Lessee or its appraiser to comply with the procedures set forth herein shall constitute a waiver of the Lessee's right to contest the new fair market rental, and the Lessee shall pay the rental as determined by the Lessor's appraiser without adjustment. Alternatively, the Board may treat the failure as a breach of this lease and terminate this lease.

E. Interest on delinquent rent. Interest at the rate of one percent (1%) per month shall be charged on delinquent rent.

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and water rights. (a) All minerals as hereafter 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 the 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 the minerals by any means, including strip mining, shall be reserved to the Lessor. "Minerals", as used herein, means any and all oil, gas, coal, phosphate, sodium, sulfur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum, and all other mineral substances and ore deposits, whether solid, gaseous, or liquid, including all geothermal resources in, on, or under the premises, fast or submerged; provided that "minerals" shall not include sand, gravel, rock, or other material suitable for use and when used in general 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 shall be reserved to the Lessor; provided that, as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph, just compensation shall be paid to the Lessee for any of the Lessee's improvements taken.

2. Prehistoric and historic remains. All prehistoric and historic remains found in, on, or under the premises demised herein shall be reserved to the Lessor.

3. Ownership of fixed improvements. The ownership of all improvements, including but not limited to fences located on the demised land prior to or on the commencement date of this lease, excluding the improvements constructed during the term of this lease, unless provided otherwise, shall be reserved to the Lessor.

4. Withdrawal. The Lessor shall have the right to withdraw the demised premises, or any portion thereof, at any time during the term of this lease with reasonable notice and without compensation, except as noted herein, for public uses or purposes, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and the premises shall be subject to the right of the Lessor to remove soil, rock, or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided that upon the withdrawal or taking which causes any portion of the land originally demised to become unusable for the specific uses or uses for which it was demised, the base annual rental shall be reduced in proportion to the value of the premises withdrawn or made unusable. If any permanent improvement constructed upon the land by the Lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of this lease; provided that no withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the Lessor pays to the Lessee the value of the crops; and provided further that upon withdrawal the Lessee shall be compensated for the present value for all permanent improvements in place at the time of withdrawal that were legally constructed upon the premises by the Lessee of the leased land being withdrawn. In the case of tree crops, the Lessor shall pay to the Lessee the residual value of the trees taken and, if there are unharvested crops, the value of the crops also.

THE LESSEE COVENANTS AND AGREES WITH THE LESSOR AS FOLLOWS:

1. Payment of rent. The Lessee shall pay the required rent in legal tender of the United States of America to the Lessor at the times, in the manner and form, and at the place specified above, or at any other place designated by the Lessor.

2. Taxes, assessments, etc. The Lessee shall pay or cause to be paid when due the amount of all taxes, rates, assessments, and other outgoings of every description as to which the demised premises or any part thereof, or any improvements thereon, or the Lessor or the Lessee in respect thereof, are now or may be assessed or become liable by authority of law during the term of this lease; provided that with respect to any assessment made under any betterment or improvement law which may be payable in installments, the Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during the term.

3. Utility services. The Lessee shall pay when due all charges, duties, and rates of every description, including, but not limited to, water, sewer, gas, refuse collection, or any other charges, as to which the demised premises, any part thereof, any improvements thereon, or the Lessor or the Lessee in respect thereof may become liable during the term, whether assessed to or payable by the Lessor or the Lessee.

4. Character of use. (a) The Lessee shall use the premises hereby demised solely for diversified agriculture or aquaculture purposes. No other use shall be permitted except as provided in section 4-153-33, Hawaii Administrative Rules ("HAR").

(b) No livestock or poultry operations shall be allowed on the premises.

(c) No cesspools shall be constructed on the premises. However, the Lessee may use alternative wastewater treatment and disposal systems which do not pose a threat to the groundwater after approval from the Department of Health, State of Hawaii.

(d) No solid or liquid animal waste shall be disposed of at the premises. Disposal of any solid or liquid animal waste must be by means acceptable to the Department of Health, State of Hawaii.

(e) The covenants, conditions, and restrictions contained in this section shall run with the land until the time that the land is reclassified to a land use district other than an agricultural district, provided that if less than all the premises is reclassified, then the covenants, conditions, and restrictions shall terminate only as to the portion of the premises which is reclassified to a land use district other than an agricultural district. Any transfer, assignment, sublease, mortgage, or other instrument of conveyance of the premises shall expressly contain the restrictions on uses and the conditions in this section.

5. Utilization and development of the premises. The development of the demised premises shall be completed within three years from the commencement date of this lease, with not less than fifty percent (50%) developed within the first two years of the lease term. The above schedule shall be in accordance with a plan of utilization and development which shall be prepared by the Lessee and approved by the Lessor before the execution of this lease. Any modification or deviation from the plan or failure to

develop the demised premises within the times stated above without the prior written approval of the Lessor shall constitute a breach of this lease and cause for the termination thereof.

6. Good husbandry and conservation practices. The Lessee shall at all times practice good husbandry with regard to the use of the demised premises for the use permitted and shall carry out a program of conservation based upon a conservation plan developed by the lessee in cooperation with the Puna Soil and Water Conservation District, with which district the Lessee shall apply for and attain cooperative status. In the event the activities of the Lessee are determined to be contrary to the conservation plan, the Lessor shall notify the Lessee of the discrepancy and the Lessee shall be required, within sixty days of the notice, to cure the discrepancy and to submit proof thereof satisfactory to the Lessor.

7. Major portion of income. Within five years following the commencement date of this lease, the Lessee shall attain and maintain throughout the remainder of the lease term a level of agricultural operation that generates more than fifty percent (50%) of the Lessee's total annual income; except, that this restriction shall not apply if failure to meet the restriction results from mental or physical disability or the loss of a spouse, or if the premises are fully utilized in the production, marketing, and sale of crops or products for which this lease was granted. Each year on or before April 30th following the fifth year of the lease term, the Lessee shall submit a copy of its federal or state income tax return for the year immediately preceding. The submitted tax return shall be

subject to audit and verification by the Lessor, who may impose additional requirements for income verification.

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 the 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 cut down, remove, or destroy, or suffer to be cut down, removed, or destroyed, any trees now growing on the premises without the prior written approval of the Lessor.

10. Inspection of premises. The Lessee shall permit the Lessor and its representatives, at all reasonable times during the term, to enter the demised premises and examine the state of repair and condition thereof, and the improvements, equipment, chattels, books, and records of the Lessee in connection with the administration of this lease.

11. Improvements. At any time during the term, the Lessee shall not construct, place, maintain, or install on the premises any building, structure, or improvement, except with the prior written approval of the Lessor and upon such conditions as the Lessor may impose. All buildings, structures, signs, or improvements shall be in accordance with all applicable federal, state, and county laws, ordinances, and rules. The ownership thereof shall be in the Lessee until the expiration or sooner termination of this lease, at which time the ownership thereof shall, at the option of the Lessor, vest in the Lessor or shall be

removed by the Lessee, at the Lessee's sole cost and expense.

12. Repairs to improvements. The Lessee shall, at its expense, keep, repair, and maintain all buildings, structures, and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition, and repair, reasonable wear and tear excepted.

13. Dwelling restrictions. The Board may permit farm dwellings on the premises if the need is clearly demonstrated. The farm dwellings shall be used in connection with agricultural activities on the premises and shall not be used for rental purposes. The dwellings shall be subject to such additional terms and conditions as the Board may require including, but not limited to, an adjustment of lease rental. All construction on the premises shall be in accordance with plans approved by the Lessor and shall be in accordance with all applicable federal, state, and county laws, ordinances, regulations, and rules, including, but not limited to, laws regarding environmental quality control.

14. Insurance. At all times during the term of this lease, the Lessee shall keep insured all buildings and improvements erected on the demised premises in the joint names of the Lessor, the Lessee, and any mortgagee, as their interests may appear, against loss or damage by fire, including perils specified in the extended coverage endorsement and in an amount equal to the maximum insurable value thereof, and shall pay the premiums thereon at the time and place the same are payable; the policy or policies of insurance shall be made payable in case of loss to the Lessor, the Lessee, and any mortgagee, as their interests

may appear, and shall be deposited with the mortgagee; and any proceeds derived therefrom in the event of total or partial loss shall be immediately available, and as soon as reasonably possible, to be used by the Lessee for rebuilding, repairing, or otherwise reinstating the same buildings or improvements in a good and substantial manner according to plans and specifications approved in writing by the Board; except, that with the approval of the Lessor, the Lessee may surrender the lease and pay the balance owing on any mortgage and the Lessee shall receive that portion of the proceeds which the unexpired term of the lease at the time of the loss or damage bears to the whole of the term, the Lessor to retain the balance of proceeds.

15. Right of first refusal. An agricultural park lease or any interest therein, including stock of a corporation holding the lease or an interest in a partnership or association holding the lease, shall not be transferred or assigned unless the lease and improvements, or any interest therein, are first surrendered to the Board, as follows:

- (1) The Board shall have the option to re-purchase the lease for the price paid by the current lessee, including closing costs, or the fair market value, less appreciated value at the time of re-purchase, as determined in paragraph (3), whichever is the lower but not less than zero. For the purposes of this section, "price paid by the current lessee" means the consideration paid for the lease exclusive of improvements, and "appreciated value" means the replacement cost for developing the leased premises.

- (2) Any improvements affixed to the realty, including trade fixtures and growing crops, shall be repurchased at their fair market value.
- (3) At the time of the re-purchase, the fair market value of the lease less appreciated value and the fair market value of any improvements shall be determined by a qualified appraiser whose services shall be contracted for by the Lessor; provided that should the Lessee disagree with the values, the Lessee may appoint the Lessee's own appraiser who together with the Lessor's appraiser shall appoint a third appraiser, and the fair market value shall be determined by arbitration as provided in chapter 658, HRS. In this event the Lessee shall pay for the Lessee's own appraiser, the Lessor shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the Lessee and the Lessor.
- (4) The Board may re-purchase the lease and improvements with funds from the agricultural park special fund or may accept a surrender of lease subject to the offer by a qualified applicant to purchase the lease and improvements, including any encumbrances, for not less than the amount to be paid therefore by the Board; provided that the purchase by a qualified applicant shall be subject to sections 4-153-19 and 4-153-22, HAR.

- (5) Notwithstanding the conditions herein, the consideration for the applicant's purchase of the lease as provided in paragraph (4) shall not be less than the total of all encumbrances that have been approved by the Lessor at the time of the repurchase.
- (6) This section shall not apply to a holder of record having a security interest upon foreclosure pursuant to section 4-153-35, HAR.

16. Assignments of lease, lease interest, etc. (a) Any transferee, assignee, or sublessee of an agricultural park lease shall satisfy applicant qualification requirements. No lease or any interest therein, including corporate stock or an interest in a partnership or association, shall be transferred or assigned without the consent of the Board, except by devise, bequest, or intestate succession and upon the further condition that there is a dwelling on the property in which the devisee or heir resides or that more than fifty percent (50%) of the devisee's or heir's income is derived from the productive use of the demised premises. In the absence of or upon cessation of these conditions, the devisee or heir shall surrender this lease and improvements, or any interest therein, to the Board pursuant to its right of first refusal.

(b) With the approval of the Board, and subject to its right of first refusal, the assignment and transfer of a lease or any interest therein, including stock of a corporation holding the lease or an interest in a partnership or association holding the lease, may be made if:

- (1) The lease contains the principal residence of the Lessee;
- (2) The Lessee becomes mentally or physically disabled;
- (3) Extreme economic hardship is demonstrated to the satisfaction of the Board; or
- (4) The assignment is to the corporate successor of the Lessee;

provided that prior to the approval of any assignment of lease, the Board shall have the right to review and approve the consideration to be paid by the assignee and may condition its consent to the assignment of the lease on payment by the Lessee of a premium based on the amount by which the consideration for assignment, whether by cash, credit, or otherwise, exceeds the depreciated cost of improvements and trade fixtures being transferred to the assignee; provided further that in the event of foreclosure or sale, any premium shall be assessed only after the encumbrances of record and any other advances made by the holder of a security interest are paid; and provided further that the Lessor may adjust the base annual rental and additional rent pursuant to section 4-153-18, HAR.

17. Subletting. The Lessee shall not rent or sublet the whole or any portion of the demised premises without the approval of the Board; provided that before approval, the Board shall have the right to review and approve the rent to be charged to the sublessee; provided further that where the Lessee is required to pay rent based on a percentage of its gross receipts, the rents paid to the Lessee by the sublessee shall be included as part of the Lessee's gross receipts for the calculation of the Lessee's additional rent; provided further that the Board shall have

the right to review and, if necessary, revise the base annual rental and additional rent of the demised premises based upon the rental rate charged to the sublessee; and provided further that the base annual rental and additional rent may not be revised downward.

18. Mortgage. Except as provided, the Lessee shall not mortgage, hypothecate, or pledge the premises or any portion thereof, or this lease or any interest therein, without the prior written approval of the Chairperson, on behalf of the Lessor, and any mortgage, hypothecation, or pledge without approval shall be void.

That upon application and with the written consent of the Lessor, the Lessee may mortgage this lease or any interest therein or create a security interest in the leasehold of the public land demised. If the mortgage or security interest is to a recognized lending institution authorized to do business in the State of Hawaii, consent shall extend to foreclosure and sale at the foreclosure to any purchaser, provided that the purchaser is qualified to lease and hold the land or any interest therein.

19. Breach. Except as otherwise provided, in the event of a breach or default of any term, covenant, restriction, or condition of this lease, the Board shall deliver a written notice of breach or default by personal service or by registered or certified mail to the Lessee and to each holder of record having any security interest in the land covered by or subject to this lease, making demand upon the Lessee to cure or remedy the breach or default within sixty (60) days from the date of receipt of the notice; provided that where the breach involves a failure to make timely rental payments, including payment of any additional rent, the written notice shall include a

demand upon the Lessee to cure the breach within thirty (30) days after receipt of the notice. Upon failure of the Lessee to cure or remedy the breach or default within the time period provided, or within such additional period as the Board may allow for good cause, the Board may exercise the rights it may have, subject to the rights of holder of security interest. Without limiting the foregoing, the Board, after due notice of default shall terminate this lease or tenancy and take possession of the leased land together with all improvements placed thereon, without demand or previous entry and without legal process and shall retain all rent paid in advance as damages for the violations. The retention of advance rent as liquidated damages shall be in addition to any other rights and remedies available to the Lessor.

20. Rights of holder of record of a security interest. (a) Whenever any notice of breach or default is given to any party under section 4-153-34, HAR, or under the terms of this lease, a copy of the notice shall be delivered by the Lessor to all holders of record having a security interest in any land or interest covered by this lease or other instrument whose security interest has been recorded with the Department of Agriculture and the Bureau of Conveyances. In the event the Board seeks to forfeit the privilege, interest, or estate created by this lease, each recorded holder of a security interest may cure or remedy the default or breach of rent payment within thirty (30) days, or any other default or breach within sixty (60) days, from the date of receipt of the notice set forth herein, or within such additional period as the Board may allow for good cause, and add the cost thereof to the

mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the Board may:

- (1) Pay to the holder from any moneys at its disposal the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder; or if ownership of the interest or estate shall have vested in the holder by way of foreclosure, or action in lieu thereof, the Board shall be entitled to the conveyance of the interest or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or
- (2) If the property cannot be reasonably reassigned without loss to the Lessor, then terminate the outstanding privilege, interest, or estate without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and use its best efforts to redispense of the affected land to a qualified and responsible person free and clear of the mortgage and the debt thereby secured;

provided that a reasonable delay by the Board in instituting or prosecuting any right or remedy it may have

shall not operate as a waiver of the right or to deprive it of the remedy when the delay serves to assist the Board in resolving the problems created by the breach or default involved.

(b) The proceeds of any redisposition effected shall be applied: first, to reimburse the Lessor for costs and expenses in connection with the redisposition; second, to discharge in full any unpaid lease rental or other indebtedness owing the Lessor in connection with the privilege, interest, or estate terminated, and any balance to the owner of the privilege, interest, or estate.

21. 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, 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 breach, and the failure of the Lessor to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred herein shall not be construed as a waiver or relinquishment of any term, covenant, condition, or option.

22. Liability insurance. The Lessee shall procure and maintain during the entire period of this lease, a policy or policies of commercial general liability insurance as will protect it from and against any liability for all claims for personal injury, death, and property damage which may arise out of the exercise of rights granted herein, in a minimum amount of \$1,000,000.00, approved by the Board, subject to periodic review and adjustment every two years, insuring the Lessor and Lessee against all claims for personal injury, death and property damage. The policy or policies shall cover the entire

premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the demised premises in the control or use of the Lessee. The Lessee shall furnish the Lessor with a certificate verifying the policy and shall furnish a certificate upon each renewal of the policy, each certificate to contain or be accompanied by an assurance of the insurer to notify the Lessor of any intention to cancel any policy prior to actual cancellation. The certificate of insurance shall name the Lessor as an additional insured and shall require a thirty (30) day notice to the Lessor of any policy change or cancellation. The procuring of this policy shall not release or relieve the Lessee of its responsibility under this lease or limit the amount of its liability under this lease.

23. Performance bond. The Lessee shall procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease, a performance bond in an amount equal to two times the annual base rental as a surety for the satisfactory compliance with lease terms, conditions, and covenants. The bond shall provide that in case of a breach or default of any of the terms, conditions, and covenants contained herein, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

The Lessor may waive or suspend the performance bond requirement at its discretion; provided that the Lessee has substantially complied with the terms, conditions, and covenants of this lease; and provided further that the Lessor reserves the right to reinstate the performance bond requirement at any time throughout the term of this lease.

24. Justification of sureties. The bonds that are required herein shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business as a surety in the State of Hawaii, or by no less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in section 78-20, HRS; provided that the Lessee may furnish a written bond in the same amount and with the same conditions, executed by it alone as obligor, if, in lieu of any surety or sureties, the Lessee shall furnish and at all times thereafter keep and maintain any of the forms of financial guarantee of performance that is approved by the Lessor.

25. Indemnity. The Lessee shall indemnify, defend and hold harmless the Lessor 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 occurrence on the demised premises or on sidewalks, parking areas, and roadways adjacent thereto or occasioned by any act or nuisance made or suffered on the premises, or by any accident or 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 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 laws, ordinances, rules, and regulations of the federal, state, or county governments. This provision shall survive the expiration or earlier termination of this lease.

26. Costs of litigation. If the Lessor shall be made a party to any litigation commenced by or against the

Lessee (other than condemnation proceedings), without any fault on the Lessor's part, the Lessee shall pay all costs and expenses incurred by or imposed on the Lessor including, but not limited to, attorney's fees; furthermore, the Lessee shall pay all 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 rental, taxes, and any and all other charges.

27. Liens. The Lessee will not commit or suffer any act or neglect whereby the demised premises or any improvement thereon or the estate of the Lessee in the same shall become subject to any attachment, lien, charge, or encumbrance, except as provided herein, and shall indemnify, defend and hold harmless the Lessor from and against all attachments, liens, charges, and encumbrances and all expenses resulting therefrom.

28. Lessor's lien. The Lessor shall have a lien on all the buildings and improvements placed on the premises by the Lessee, on all property kept or used on the demised premises, whether the same is exempt from execution or not, and on the rents of all improvements and buildings situated on the premises for all costs, attorney's fees, and rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee, and for the payment of all moneys as provided in this lease to be paid by the Lessee, and the lien shall continue until the amounts due are paid.

29. Condemnation. If any portion of the demised premises shall be condemned for public purposes by the State of Hawaii, a county, or any other governmental agency, the base rental shall be reduced in proportion to the value of the portion of the premises condemned. The

Lessee shall be entitled to receive from the condemning authority:

- (1) The value of growing crops which the Lessee is not permitted to harvest; and
- (2) The proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease;

provided that in the alternative, the Lessee may remove and relocate its improvements to the remainder of the lands occupied by the Lessee. The Lessee shall not by reason of the condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest, and all compensation payable or to be paid for on account of the leasehold interest by reason of the condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion so taken renders the remainder unsuitable for the use or uses for which the land was demised, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability therefore; provided that the Lessee may remove the permanent improvements constructed, erected, and placed by the Lessee within such reasonable period as may be allowed by the Lessor.

30. Right to enter. The Lessor, the County of Hawaii, or their representatives shall have the right at all reasonable times to enter and cross any portion of the demised premises for the purpose of performing any public or official duties; provided that in the exercise of the rights, the Lessor, the County of Hawaii, or their

representatives shall not interfere unreasonably with the Lessee or the Lessee's use and enjoyment of the premises.

31. Extension of time. Notwithstanding any provision to the contrary, wherever applicable, the Lessor, for good cause shown, may 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 in this lease.

32. Quiet enjoyment. The Lessor covenants and agrees with the Lessee that upon payment of rent at the times and in the manner specified 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 have, hold, possess, and enjoy the demised premises for the term demised, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through, or under it.

33. Surrender. At the end of the term or other sooner termination of this lease, the Lessee shall peaceably deliver unto the Lessor possession of the demised premises, together with all improvements existing or constructed thereon unless provided otherwise in this lease. Furthermore, upon the expiration, termination, or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises, the Lessor may remove any and all personal property from the premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of the Lessee, and the Lessee shall pay all costs and expenses for removal, disposal, transporting, and storage of the personal

property. This provision shall survive the expiration or earlier termination of this lease.

34. Non-warranty. The Lessor does not warrant the condition of the leased premises, as the same is being leased "as is."

35. Covenant against discrimination. The use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based on race, creed, color, national origin, sex, or physical handicap.

36. Hunting. No hunting shall be allowed on the demised premises during the term of this lease.

37. Boundary stakeout. The Lessor shall not be responsible or liable for surveying and boundary stakeout of the demised premises. The Lessee shall be solely responsible for any survey and boundary stakeout of the demised premises.

38. Setback requirements. Building setback lines shall be in accordance with applicable County of Hawaii ordinances and rules.

39. Drainage easements. The demised premises shall be subject to any drainage easements shown on Exhibit A or any future drainage easements. The easement areas shall not be altered or used for any purposes which may obstruct flow or reduce the effectiveness of the drainageway. The Lessee shall accept the storm runoff draining into and through the drainage easement area and shall be responsible for the maintenance and protection of the easements against deterioration or loss of functional effectiveness.

40. Utility easements. The demised premises shall be subject to utility easements as applicable, which easements shall be in favor of property owners served by the easements; provided that the Lessee may cross the easements

at any point; provided further that the Lessee shall be responsible for maintenance of the easements. The easement areas shall not be used for any purposes which may interfere with the normal servicing of electrical or telephone lines, poles or anchors.

41. Hazardous materials. (a) The Lessee shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of, or allow to exist on, within, under, or about the premises any hazardous materials, except in full compliance with all applicable hazardous materials laws. If the Lessee at any time becomes aware of any past, present, or contemplated hazardous discharge or of any hazardous materials claims with respect to the premises which could subject the Lessor, the Lessee, any mortgagee, or the premises to any liability or restrictions on ownership, occupancy, transferability, or use of the premises under any hazardous materials laws, the Lessee shall immediately advise the Lessor thereof in writing and provide to the Lessor such detailed reports thereof as may be reasonably requested by the Lessor. The Lessor shall have the right, in its sole discretion, to join and participate in, any settlements, remedial actions, or legal proceedings or actions initiated with respect to any hazardous materials claims.

(b) The Lessee shall be responsible for and shall indemnify, defend, and hold harmless the Lessor and its employees, agents, successors, and assigns from and against any loss, damage, cost, expense, or liability directly or indirectly arising out of or attributable to the past, present, or future use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal or

presence of hazardous materials on, under, or about the premises, including, without limitation: (1) all foreseeable and unforeseeable consequential damages; (2) the costs of any required or necessary repair, clean-up, or detoxification of the premises and of the preparation and implementation of any closure, remedial, or other required plans; (3) the costs of the Lessor's investigation and handling of any hazardous materials claims, whether or not any lawsuit or other formal legal proceeding shall have been commenced with respect thereto; (4) the costs of the Lessor's enforcement of this covenant, whether or not a lawsuit is brought therefore; and (5) all reasonable costs and expenses incurred by the Lessor in connection with clauses (1), (2), (3), and (4) including, without limitation, reasonable attorney's fees.

(c) The provisions of this paragraph shall survive the expiration or earlier termination of this lease.

42. Compliance with laws. The Lessee shall comply with the requirements of all federal, state, and county authorities and observe all federal, state, and county laws, ordinances, and rules pertaining to the premises which are now in force or later may be in force.

43. Interpretation. The use of any gender shall include all genders. If there is more than one Lessee, all words used in the singular shall extend to all Lessees. The paragraph headings in this lease are for convenience and are not intended to construe the intent or meaning of any of the provisions.

44. Partial invalidity. If any term, provision, covenant or condition of this lease should be held to be invalid, void or unenforceable, the remainder of this lease

shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

45. Hawaii law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

DEFINITIONS

As used in this lease, unless the context otherwise requires:

"Chairperson" means the Chairperson of the Board of Agriculture.

"Corporate successor" means a solely owned corporation who through an assignment of lease, succeeds an agricultural park lessee who shall own all of the stock issued by and be the principal officer of the corporation.

"Diversified agriculture or aquaculture" means the conduct of activities concerned with the production and marketing of nursery products and horticultural crops such as vegetables, melons, orchards, flowers, foliage, aquacultural products, and others, including activities relating thereto, but shall not include any livestock and poultry operations.

"Drainage easements" mean natural or improved drainage courses that serve to convey streamflows from one point to another.

"Hazardous discharge" means and includes any and all flammables, explosives, radioactive materials, asbestos, petroleum and oil and their products, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, and any and all other substances or materials

defined as or included in the definition of "hazardous materials", and/or "toxic substances" under or for the purposes of the hazardous materials laws.

"Hazardous materials claims" means and includes: (i) any and all enforcement, clean-up, removal, mitigation, or other governmental or regulatory actions instituted or, to the best of the Lessee's knowledge, contemplated or threatened, with respect to the premises pursuant to any hazardous materials laws, and (ii) any and all claims made or, to the best of the Lessee's knowledge, contemplated or threatened by any third party against the Lessee or the premises seeking damages, contribution, cost recovery, compensation, injunctive relief, or other relief resulting from any hazardous discharge or from the existence of any hazardous materials on, within, or under the premises.

"Hazardous materials laws" means and includes all federal, state, and local laws, ordinances, and regulations now or hereafter in effect relating to environmental conditions, industrial hygiene and/or hazardous materials on, within, under, or about the premises, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., the Clean Water Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §7401, et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. §§300f through 300j, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§11011 through 11050, the Environmental Response Law, Chapter 128D, Hawaii Revised Statutes, and

any similar state or local laws, ordinances, and the regulations now or hereafter adopted, published, and/or promulgated pursuant thereto.

"Holder of record of a security interest" means a person is the owner or possessor of a security interest in the land demised and who has filed a copy of the interest with the Department of Agriculture and with the Bureau of Conveyances.

"Lessee" includes the Lessee, its heirs, personal representatives, executors, administrators, successors, or permitted assigns.

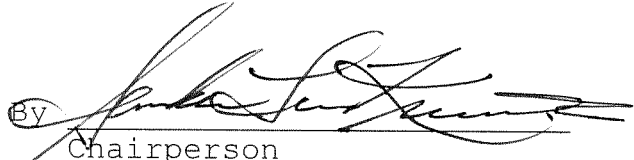
"Noxious weed" means any plant species which is injurious, harmful, or deleterious or which may be likely to become so to the agricultural industries of the State, as determined and so designated from time to time by rule of the Department of Agriculture.

"Premises," "demised premises," or "demised land" includes the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon.

"Waste" includes (1) permitting the premises or any portion thereof to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds in uncultivated portions thereof; (3) failure to employ all of the usable portions of the demised premises; and (4) abandonment of the demised premises.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed this 1st day of March, 20 07.

STATE OF HAWAII
DEPARTMENT OF AGRICULTURE

By 
Chairperson
Board of Agriculture

LESSOR


George Pappas

LESSEE

APPROVED AS TO FORM:


Deputy Attorney General

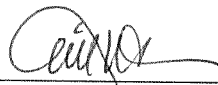
STATE OF HAWAII

COUNTY OF HAWAII

)
) SS.
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On this 16th day of February, 2007,
before me personally appeared George Pappas
and _____, to me known to be the
person(✓) described in and who executed the foregoing
instrument and acknowledged that he executed the
same as his free act and deed.

LS



L. SILVA

Notary Public, State of Hawaii

My commission expires: NOV 2, 2007

PAHOA AGRICULTURAL PARK PHASE II

LOT 24

Keonepoko Iki, Puna, Island of Hawaii, State of Hawaii

Being a portion of the government Land of Keonepoko Iki, described as follows:

All that certain parcel of land situate at Keonepoko Iki, Puna, County of Hawaii, State of Hawaii, being LOT 24 of the "Pahoa Agricultural Park, Phase II", as shown on File Plan Number 1714, filed in the Bureau of Conveyances of the State of Hawaii, and containing an area of 5.000 acres, more or less.

Exhibit "A"