

**File No. 36785**

**Roy Kanno and Joe Kurumada**

to

**Howard E. Stearns and Jean Stearns**

**LEASE**

LEASE

THIS INDENTURE, made and entered into as of the 1st day of March, 1962, by and between ROY KANNO and JOE KURUMADA of Eureka, Nevada, first parties, hereinafter referred to as "Lessee," and HOWARD E. STEARNS and JEAN STEARNS, his wife of Grand Island, Nebraska, second parties, hereinafter referred to as "Lessor,"

W I T N E S S E T H:

IN CONSIDERATION of the mutual promises, covenants, and conditions hereinafter contained, Lessor does hereby lease and demise to Lessee all of the following described real property situate in the County of Eureka, State of Nevada, to-wit:

**TOWNSHIP 21 NORTH, RANGE 53 EAST, M.D.B.&M.**

Section 9: E $\frac{1}{2}$ SW $\frac{1}{4}$ ; W $\frac{1}{2}$ SE $\frac{1}{4}$ 

Together with the improvements and appurtenances thereunto  
belonging or in anywise appertaining;  
and

Together with all water and water rights appurtenant thereto,  
belonging or in anywise appertaining; and

Together with all pumps, engines and irrigation equipment located thereon.

TO HAVE AND TO HOLD TO LESSEE said premises from the date hereof until midnight, February 28, 1963, unless otherwise sooner terminated or cancelled as herein provided.

1. **TERM.** This Lease shall commence as of the date hereof and shall continue until midnight on the 28th day of February, 1963, subject to prior cancellation as hereinafter agreed. The Lessee agrees that he has received possession of the leased premises as of the date hereof and will occupy the same throughout the term of this Lease in accordance with the provisions contained herein.

2. RENEWAL. The Lessee shall have the right to renew the foregoing Lease, upon the same terms and conditions thereof for an additional one (1) year period beginning with the 1st day of March, 1963 and ending with the 28th day of February, 1964, subject only to the right of the Lessor herein to lease the said property and premises. Said option to renew shall be exercised by the Lessee giving notice in writing to the Lessor of Lessee's intention to renew said Lease, which written notice shall be given prior to the 10th day of September, 1962.

That in the event that this Lease is renewed to extend to February 28, 1964, Lessee is given the further option to renew the Lease at the expiration of said term for two (2) additional one (1) year terms, upon the same general conditions, covenants and agreements herein set forth, save and except that the amount of rental and the terms of payment thereof during the additional yearly terms shall be by agreement of the parties. Said option to renew shall be given by giving Lessor written notice prior to the 10th day of September preceding the date of termination of the term herein provided, of Lessee's desire to exercise said option and renew this Lease for an additional one (1) year term. Within twenty (20) days after receiving the written notice, the Lessor shall advise Lessee of the amount of rental for which Lessor is willing to lease the said property, and Lessee shall accept or reject said offer within ten (10) days thereafter, and the Lease shall thereby be continued or terminated.

The rights of the Lessee to renew this Lease for any additional terms after the first original term is strictly contingent upon the Lessor reaching agreement with the owner of the property herein being leased, and negotiating leases of said lands so that Lessor herein has the right to continue leasing the same to the Lessee herein.

3. **USE OF LEASED LANDS.** The lands and property herein being leased are leased to Lessee for the specific purpose of farming the same and raising potatoes thereon. No other use shall be made of the property without the prior written consent of the Lessor first had and obtained.

4. RENTAL. There is hereby reserved to Lessor as rent for said premises, and the Lessee agrees to pay to Lessor as consideration for this Lease fifty per cent (50%) of the value of the potatoes or other crops produced upon the said premises, after deduction of certain items as hereinafter specifically set out.

5. **EXPENSES.** All expenses, costs incurred and labor used in the operation and management of the leased premises and the production of the crops thereon shall be borne by Lessee; save and except, the following items of expense shall be borne equally by the Lessor and the Lessee to-wit:

- A. Cost of all fuels used in pumping and irrigation, not exceeding the total of \$25.00 per acre;
- B. Cost and expenses incurred in plowing and cultivating the land, not exceeding the total of \$8.00 per acre;
- C. Cost and expenses of all necessary fertilizer used, not exceeding the total of \$20.00 per acre;
- D. Cost and expenses incurred in cutting and planting potatoes, not exceeding the total of \$14.00 per acre;
- E. Cost and expenses incurred in acquiring seed, including freight, not exceeding a total of \$66.00 per acre;
- F. Cost and expenses incurred in harvesting the crop, not exceeding \$60.00 per acre; and
- G. Depreciation of irrigation system and equipment hereby set at the sum of \$31.00 per acre.

Lessor agrees to advance to Lessee the sum of \$40.00 per acre as Lessor's share of the cost of obtaining seed and planting the same.

Lessor shall not be required to pay or be obligated for any expenses exceeding those hereinbefore listed, unless Lessor's consent thereto is first had and obtained in writing.

6. **DIVISION OF PROCEEDS.** At the termination of the harvest of the potato crop the same shall be sold for the full market value, or stored, fully or partially, and as sold the proceeds thereof shall be paid out as follows, to-wit:

- A. The Lessor and the Lessee shall each be reimbursed expenses incurred for the purchase and planting of seed, not exceeding the sum of \$40.00 per acre to Lessor and \$40.00 per acres to Lessee;
- B. All expenses, not exceeding the definite limitations therein set, listed in the preceding paragraph shall be paid or reimbursed to the party paying the same;
- C. There shall be paid to Lessor for depreciation of the irrigation equipment the sum of \$31.00 per acre;
- D. The balance of said proceeds shall be divided 50 per cent to the Lessor and 50 per cent to the Lessee.

7. **FINANCING.** Save and except for the \$40.00 per acre that Lessor specifically agrees to advance toward the cost of seed and planting, Lessee shall finance the entire farming operation, subject to reimbursement to the extent hereinbefore set out. Neither party may pledge or use as security for financing more than 50 per cent of the crop.

8. Lessee shall at all times operate said premises in a good husband like manner.

Without limitation as to other duties in connection with the maintenance and farming of said premises, Lessee agrees to:

- A. To maintain the ditches, dams and other irrigation devices clean, free from weeds and in proper working order.
- B. To at all times reasonable and proper irrigate said premises with available water to the extent reasonably prudent, and to apply to beneficial use the waters allocated and apportioned to said premises.
- C. To maintain in repair and substantially the same condition in which they now are or in which they may be put by Lessor, all improvements on the premises, including but not limited to all pumps, engines and irrigation equipment.
- D. To remain in actual possession of said premises and manage and operate the same and produce the crop thereon each year.

9. **COVENANTS OF LESSOR.** The Lessor covenants with Lessee as follows:

- A. To continue Lessee in possession of the demised premises and to allow him peaceable and quiet possession thereof during the term of this Lease. The Lessee acknowledges that he has inspected said premises, knows the condition thereof and accepts the same as they now exist, which acceptance is based solely upon his inspection thereof and is not based on any representation, warranty, covenant or understanding by Lessor not contained herein.

B. Lessor will allow Lessee use of the water appurtenant to the property and premises herein leased. It is distinctly understood by Lessee that Lessor does not guarantee a warranted quantity of water, if any, which will be available for irrigation of the leased premises from time to time, and Lessee waives any and all rights and claims for damages against Lessor by reason of the failure in whole or in part of the water supply for



irrigation of said premises.

10. **IMPROVEMENTS.** The Lessee may, at his expense, make improvements, subject to the written consent of Lessor first had and obtained. In such event, upon demand of Lessor, Lessee will post notices of Lessor's nonliability and cause the appropriate affidavit thereof to be recorded as allowed and provided by law.

11. **INSPECTION.** Lessor, and his agent, shall have the right to enter upon the leased premises at any and all reasonable times to inspect the same.

12. **ASSIGNMENT.** This Lease is made strictly between the Lessor and the Lessee herein named, and shall be deemed a personal lease strictly between the parties hereto. The Lease, or any interest of Lessee in the leased premises, shall not be transferred, assigned or sublet in any manner, in whole or in part, without the express written consent and authority of the Lessor first had and obtained.

13. **LIENS AND ENCUMBRANCES.** The Lessee shall not allow any encumbrances, liens or process of law to attach against said premises, or Lessee's interest therein. Any attempt at legal process levied against said premises, or Lessee's interest therein, or the produce thereof, shall, if attempted in good faith, result thereby automatically in a complete termination of this Lease, all of Lessee's right in and to this Lease, and said Leased premises; subject to the right of Lessee to cause the discharge of a pretended lien within thirty (30) days after the filing or levy thereof, and further, Lessor shall be entitled to all crops grown or growing thereon, and may enter upon the leased premises at any time after said 30 day period, in the event said pretended lien is not discharged, and in Lessor's discretion, continue the farming of said premises, without any obligation to reimburse the Lessee, or his heirs, assigns, or obligees whatsoever.

14. **HOLDING OVER.** In the event the Lessee holds over for any period after the normal termination date hereof, in the absence of any express written agreement to the contrary, Lessee shall be deemed a tenant by sufferance at most, and such holding over shall expressly and distinctly not allow Lessee any right to continue in possession for any term, the season, or the balance of the year thereafter.

15. **MISCELLANEOUS.** A. Time shall be the essence of this agreement.

B. In the event any covenants, term or condition shall be contrary to law, the same shall not void this entire Lease, but such provision shall be deemed a divisible part of this Lease, and the balance shall remain in full force and effect according to the terms hereof.

C. All notices to the respective parties may be personally served upon the other or served by certified mail as follows:

Notices to Lessor: Howard E. and Jean Stearns  
Box 587  
Grand Island, Nebraska

Notices to Lessee: Roy Kanno and Joe Kurumada  
Eureka,  
Nevada

D. The singular shall include the plural, and the masculine gender the feminine, wherever used herein.

E. Subject to the restrictions herein contained on assignment, this Lease shall be binding upon and inure to the benefit of the respective parties, hereto, their heirs, executors, administrators and assigns.

16. **DEFAULT:** All the terms, covenants, conditions and promises expressed herein to be performed on the part of the Lessee shall be deemed material terms of this Lease. In the event the Lessee breaches any of the terms hereof, he shall be thereby deemed in material default, and in addition to all remedies of Lessor, as provided by law or in equity, Lessor shall have the right, upon Thirty (30) days notice, to require Lessee to forthwith quit possession of said premises; or at the election of Lessor to require Lessee within such time as may be fixed by Lessor, to cure such breach. The exercise of such remedies shall not be deemed exclusive, and in addition thereto, Lessor shall have all right to demand, recover and sue for any actual loss or damage caused by Lessee to Lessor.

In the event Lessee quits possession of said premises or any part thereof, or fails to operate and manage the same in a good husband like manner, such fact shall be deemed a consent by Lessee to Lessor to immediately enter upon said premises or to lease, rent, transfer, sell or assign the same forthwith in any manner, yet preserving the right to Lessor to sue for and recover all damages and future rental from Lessee.

17. **ACCOUNTING.** Lessee agrees to furnish to Lessor an audit made by a certified public accountant regarding all expenses incurred in the operation, and agree that all books of the Lessee regarding said farming operation shall be open to the inspection of Lessor, or his agents.

Executed in triplicate this 15 day of March, 1962.

A Howard E. Stearns  
HOWARD E. STEARNS

Jean Stearns  
JEAN STEARNS

- Lessor -

Roy Kanno  
ROY KANNO

Joe Kurumada  
JOE KURUMADA

- Lessee -

STATE OF NEBRASKA       )  
                              ) ss.  
COUNTY OF HALL         )

On this 20 day of March, 1962, personally appeared before me, a Notary Public in and for the County and State aforementioned, HOWARD E. STEARNS and JEAN STEARNS, his wife, known to me to be the persons described in and who executed the foregoing instrument; who acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Dean Erickson  
NOTARY PUBLIC

(NOTORIAL SEAL)  
Commission Expires Sept. 30, 1965.

STATE OF UTAH               )  
                              ) ss.  
COUNTY OF SALT LAKE     )

On this 15th day of March, 1962, personally appeared before me, a Notary Public in and for the County and State aforementioned, ROY KANNO and JOE KURUMADA, known to me to be the persons described in and who executed the foregoing instrument; who acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Elmer S. Alston  
NOTARY PUBLIC

(NOTORIAL SEAL)  
Commission Expires Aug. 5, 1963.

Recorded at the request of Albert H. Huber August 30, A.D., 1962 At 06 minutes past 1 P.M.

Willis A. DePaoli - Recorder.