



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM
ELLIPTICAL ROAD, DILIMAN, QUEZON CITY • TELS. 928-7031 TO 39

DAR ADMINISTRATIVE ORDER NO. 02
Series of 2008

SUBJECT: **Guidelines Governing Lease of Lands under Agribusiness Venture Arrangement (AVA) in Agrarian Reform Areas and the Determination of Lease Rental Thereof**

**ARTICLE 1
PRELIMINARY PROVISIONS**

Section 1. Prefatory Statement and Legal Bases. Section 8 of Republic Act (R.A.) No. 6657 provides that, "xxx. In general, lands shall be distributed directly to the individual worker-beneficiaries. In case it is not economically feasible and sound to divide the land, then they shall form a workers' cooperative or association which will deal with the corporation or business association or any other proper party for the purpose of entering into a lease or growers agreement and for all other legitimate purposes. Until a new agreement is entered into by and between the workers' cooperative or association and the corporation or business association, or any other proper party, any agreement existing at the time this Act takes effect between the former and the previous landowner shall be respected by both the workers' cooperative or association and the corporation, business association or such other proper party. In no case shall the implementation or application of this Act justify or result in the reduction of status or diminution of any benefits received or enjoyed by the worker-beneficiaries, or in which they may have a vested right at the time this Act becomes effective. xxx In no case shall a foreign corporation, association, entity or individual enjoy any rights or privileges better than those enjoyed by a domestic corporation, association, entity or individual."

Section 3 of R.A. No. 7905, amending Section 44 of R.A. No. 6657, provides that, "xxx The PARCCOM shall coordinate and monitor the implementation of the CARP in the province. xxx in addition, it shall: a) recommend to the PARC the following: xxx 3) continuous processing of applications for lease back arrangements, joint venture agreements and other schemes that will optimize the operating size for agricultural production and also promote both security of tenure and security of income to farmer beneficiaries: *Provided*, That lease back arrangements should be the last resort".

Section 11 of Executive Order (E.O.) No. 229 states that, "Leases and management contracts on land covered by land distribution and registered with the Register of Deeds prior to the approval of this Order may continue under their original terms and conditions, but not beyond five (5) years from the effectivity of the Order; provided that upon expiration, leases and management contracts may

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only be renewed subject to the agreement of the qualified beneficiaries; and provided further that upon the distribution or award of the land, where the existing lease rentals are not acceptable to the qualified beneficiaries, such rentals shall be renegotiated with the assistance of the Barangay Agrarian Reform Council (BARC). If the parties fail to agree, the DAR shall determine the rental. Mortgages and other claims registered with the Register of Deeds will be assumed by the Government up to the landowner's compensation value as provided for in Section 6 hereof".

Pursuant to the abovementioned provisions of law, the following rules and regulations are hereby issued for the guidance of all concerned in the lease of lands under agribusiness venture arrangements (AVAs) in agrarian reform areas and the determination of lease rental thereof.

Sec. 2. Coverage. These guidelines shall apply to all lands covered by the Comprehensive Agrarian Reform Program (CARP) under agribusiness venture arrangement. It shall also apply to retained areas of small landowners and lands of agrarian reform beneficiaries (ARBs) that are fully paid and where the ten-year prohibitory period under Section 27 of R.A. No. 6657 has already lapsed, but ARBs have opted to include said landholdings under lease agreement.

Sec. 3. Definition of Terms. As used in this Order, the following terms are defined herein:

- 3.1 **Average Household Size** refers to the ratio of household population to the number of households. This is estimated by the National Statistics Office (NSO).
- 3.2 **Comparable Lands** refer to lands of the same estate or municipality/province/region with similar features in terms of crops planted, terrain, soil properties and conditions (i.e., type, texture, PH, moisture content, etc.), distances and accessibility.
- 3.3 **Economic Family-Size Farm Unit** means an area of farm land that permits efficient use of labor and capital resources of the farm family and will produce an income sufficient to provide a modest standard of living to meet a farm family's needs for food, clothing, shelter and education with possible allowance for payment of yearly amortization on the land, and reasonable reserves to absorb yearly fluctuation in income.
- 3.4 **Land Amortization Value (LAV)** refers to the amount of the regular annual amortization per hectare paid by the ARBs for the agricultural lands awarded to them under CARP. It shall be based on the land valuation and land amortization schedule determined by the Land Bank of the Philippines (LBP), subject to the land value as determined by final arbitration of the DAR Adjudication Board (DARAB), Special Agrarian Court (SAC) or Court of Appeals (CA), in case the land valuation of the subject landholding is contested or under appeal by the landowner (LO).

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In cases where the lands are fully paid by the ARBs or donated by the LO to the ARBs, the "Land Amortization Value" shall refer to the equivalent value or amount of annual amortization of comparable lands within the municipality, province or region where the subject landholding is located.

In the case of lands under the voluntary land transfer (VLT) scheme, the "land amortization value" shall refer to the fixed amount of land value specified in the signed agreement on voluntary land transfer between the ARBs and the LO.

- 3.5 **Lease Rental** refers to the income accruing to the owner as payment for the agricultural use of his land subject of lease agreement.
- 3.6 **Lease Agreement** is an AVA scheme wherein the ARBs bind themselves to give the former LO or any other investor general control over the use and management of the land for a certain amount and for a definite period.
- 3.7 **Lessee-Investor** refers to any person, natural or juridical who, with the consent of the lessor, operates the leased land for agricultural production in accordance with the terms of the lease agreement.
- 3.8 **Lessor-ARB** pertains to an individual ARB or duly registered ARB cooperatives or associations, who lease their awarded lands to any investor for purposes of agricultural production.
- 3.9 **Poverty Threshold** is the minimum income/expenditure for a family/individual to meet the basic food requirement and non-food requirements. This is established by the National Statistics Coordination Board (NSCB).

Sec. 4. General Policies. The following basic principles shall govern the lease of CARP covered lands under AVA:

- 4.1 The terms and conditions of the lease agreement (LR Annex "A"), including the determination and computation of lease rental of lands under AVA, shall be mutually agreed upon by the contracting parties subject to the approval of the Presidential Agrarian Reform Council (PARC)/PARC Executive Committee (ExCom) upon the recommendation of the Provincial Agrarian Reform Coordinating Committee (PARCCOM), and review and evaluation of the National AVA Evaluation Committee (NAEC) pursuant to DAR Administrative Order (A.O.) No. 09, Series of 2006 titled, *Revised Rules and Regulations Governing Agribusiness Venture Arrangements (AVAs) in Agrarian Reform Areas*.

Any amendment, change, extension, or renegotiation of the terms and conditions of the lease agreement, including but not limited to, extension of period for the lease, renegotiated lease rental rates shall be subject to the same process of review and approval by the PARC or PARC ExCom.

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The absence of a PARC or PARC ExCom approval on any lease agreement renders the said lease agreement null and void pursuant to Sec. 4.9 of A.O. No. 09, Series of 2006.

- 4.2 The DAR, through the NAEC, shall conduct an inventory, review and monitoring of all existing lease agreements with a period of at least 25 years and those subject of renegotiation, to determine the extent of development and use of the land, the parties' compliance with the terms of the lease agreement, the conditions relating to the period of the lease agreements, and the viability of full take over by the ARBs pursuant to the intent of agrarian reform.
- 4.3 In the negotiation or renegotiation of the annual lease rental (LR) per hectare, the concerned parties shall factor in the annual land amortization value per hectare, the annual Real Property Tax on the land per hectare, and the annual poverty threshold, and may consider the other forms of remuneration given to the lessor-ARBs and the historical net income of the company based on validated financial statements, the lease rental benchmark formula being:

$$LR = \frac{PT}{3} + LAV + RPT$$

where:

- PT = annual poverty threshold which is computed by multiplying the annual per capita poverty threshold of the province where the subject landholding is located by the national average household size of five (5);
- 3 = maximum hectarage of lands that may be awarded to ARBs under R.A. No. 6657;
- LAV = land amortization value per hectare per year; and
- RPT = annual real property tax per hectare.

- 4.4 The computed and agreed lease rental shall be incorporated in the terms and conditions of the lease agreement or amendment thereto. All pertinent data and documents used as bases in the determination of the lease rental shall be submitted, together with the lease agreement, to the NAEC, through the AVA-Task Force (TF), for review and evaluation pursuant to DAR A.O. No. 09, Series of 2006.
- 4.5 Renegotiation of the amount of lease rentals or any other provisions of the lease agreement shall be undertaken by the concerned parties every five (5) years or earlier if any of the following grounds under Sec. 4.14 of DAR A.O. No. 09, Series of 2006 arise: (1) extraordinary increase in inflation rate; (2) drastic change in price fluctuation on both production input and

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output; (3) declaration of the areas as calamity or disaster area due to *force majeure*; and (4) other meritorious grounds.

In no case shall the renegotiated lease rental be lower than the lease rental preceding the renegotiation.

- 4.6 Any conflict that may arise from the negotiation or implementation of the lease agreement, or compliance of lease rental payments shall be governed by the provisions of Secs. 14 to 16 of DAR A.O. No. 09, Series of 2006. However, in the event of failure to resolve the issue, any of the parties may submit their dispute for arbitration in accordance with the above A.O., provided that during the arbitration period, the lessee-investor shall continue to pay the lessor-ARB the lease rental, and productivity and quality premium, if any, based on the lease rental rate of the preceding year until the conflict has been resolved.
- 4.7 Without prejudice to the filing of a case for breach of contract, the lease agreement shall provide sanctions for violations or non-compliance by either party of the terms and conditions of the lease agreement. The DAR shall periodically monitor the implementation of these lease agreements pursuant to Sec. 4, Item 4.21 of A.O. No. 09, Series of 2006.

Sec. 5. Rights and Obligations of the Lessor-ARB (Whether Individual ARB or Organized as Cooperative or Association) and Lessee-Investor. The following are the rights and obligations of the lessor-ARB and lessee-investor:

- 5.1 The lessor-ARB shall:
- 5.1.1 Receive from the lessee-investor rentals on the subject landholding and other benefits that may be agreed upon by the parties;
 - 5.1.2 Pay land amortization due on the subject land (if applicable) and realty taxes on the leased property, the amounts of which shall be segregated by the lessee-investor from the lease rental for the said purpose;
 - 5.1.3 Keep the lessee-investor in full and peaceful possession and enjoyment of the leased property during the duration of the lease agreement and shall not physically appropriate or partition the leased land among the ARB cooperative's/association's members;
 - 5.1.4 Have the right to ownership of permanent improvements introduced on the land by the lessee-investor upon the termination of the lease agreement, unless the lease agreement provides otherwise;
 - 5.1.5 Have the option to buy non-permanent improvements which are beneficial to the land at the amount agreed upon by both parties; and

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5.1.6 Permit and/or allow the annotation of the lease agreement in the Office of the Registry of Deeds (ROD) of the province where the leased property is located, and a memorandum thereof annotated and entered on the Certificate of Land Ownership Award (CLOA).

5.2 The lessee-investor shall:

5.2.1 Manage and operate the subject landholding within the period stipulated in the lease agreement, premised on the payment of lease rental and other benefits at rates agreed upon with the ARB/s and adherence to all other lease agreement stipulations;

5.2.2 Provide the required capital to develop, plant, cultivate, harvest or process the agricultural crops, extend all technical and management services for the efficient operation of the farm, and assume the risk of loss of agricultural operations;

5.2.3 Pay property taxes on buildings and any other improvements on the land;

5.2.4 Remit in the name of the lessor-ARB/s the payments for the real estate/property tax to the Local Government Units, the land amortizations to the Land Bank of the Philippines in the case of compensable lands, or to the landowner for lands under voluntary land transfer (VLT), which were segregated from the lease rental, and provide the original copy of receipts thereof to the lessor-ARB/s;

5.2.5 Have the right to construct buildings and introduce other physical improvements or facilities on the property, which are necessary for agricultural operations in consultation with the lessor-ARB/s. In no case, however, shall any such improvement on the property decrease the aggregate agricultural area to the extent of lowering the land rental and other privileges accruing to the ARBs;

5.2.6 Manage and care for the leased property and assume its undertakings properly and efficiently in accordance with sound agricultural, financial, business and environmental practices;

5.2.7 Bear all expenses for production, cultivation, harvesting and marketing of products, and all charges necessary for the conduct of business operations including business taxes and other impositions such as business license fees, regulatory fees, etc.;

5.2.8 Comply, in good faith, with the duty to pay the lease rent and to observe and perform all other obligations contained in the lease agreement. In case of failure to pay the annual lease rent to lessor-ARB/s within the agreed period, the lessee-investor shall pay an interest charge of twelve percent (12%) of the annual lease rental, or the prevailing legal rate on interest charges, whichever is higher.

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- 5.2.9 Obtain the consent of the lessor-ARB/s before the conduct of any experimental project(s) not directly related to the production and processing of the agricultural products, but deemed necessary for sound agricultural production;
- 5.2.10 Have the option to remove, transfer or move non-permanent improvements with the written consent of the lessor-ARB/s, prior to or upon termination/expiration of the lease agreement in case the lessor-ARB/s will not opt to purchase such non-permanent improvement, chargeable to the lessee's account, and without causing any damage to the premises and the land;
- 5.2.11 Implement, in collaboration with the DAR, a transfer of technology and management program focused on production technologies, entrepreneurship, marketing, resource mobilization, and project monitoring and evaluation pursuant to DAR A.O. No. 09, Series of 2006 within one year from the effectivity of the lease agreement to ensure a successful management of the land by the ARBs at the expiration of the lease agreement; and
- 5.2.12 Maintain ecological balance through sustainable and efficient use of natural resources in the area, preserve soil fertility by providing the necessary investments to conserve the quality of the land such as soil and water conservation and fertility maintenance, and ensure the safety of the agricultural workers by conforming to internationally accepted standards in the use of hazardous chemicals pursuant to DAR A.O. No. 09, Series of 2006.

Sec. 6. Prohibitions on the Lessor-ARB and the Lessee-Investor. The lessor-ARB and the lessee-investor are governed by the following prohibitions:

- 6.1 During the pendency of a petition for nullification of lease agreement, it shall be unlawful for the lessor-ARB/s to dispossess the lessee-investor of the leased land during the period of the lease that is subject of the said petition. The lessor-ARB/s who shall unlawfully dispossess the lessee-investor without due process of law shall be liable for damages.
- 6.2 It shall be unlawful for the lessee-investor to:
- 6.2.1 Cultivate/grow/produce other crops on the land or use the landholding for purposes other than what has been agreed upon in the lease agreement;
- 6.2.2 Plant, grow, raise or permit the planting, growing or raising of any plant or its fruits, produce, and products as defined by R.A. No. 9165 titled, "*An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor, and for Other Purposes*";

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6.2.3 Cause, through its operations, any substantial and unreasonable damage on the land and the deterioration/depletion of the fertility of the soil and the other improvements thereon; and

6.2.4 Sub-lease or assign the rights to the lease of the property to another person or entity.

ARTICLE II OPERATING PROCEDURES

Sec. 7. Operating Procedures. The operating procedures for the filing, review, approval, revocation/cancellation, reporting and monitoring of lease agreements shall subscribe to the provisions of DAR A.O. No. 09, Series of 2006.

ARTICLE III FINAL PROVISIONS

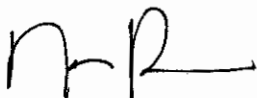
Sec. 8. Transitory Provision. The provisions of this Administrative Order (A.O.) shall govern all lease applications filed and those renegotiated for revised terms and conditions of the lease agreement upon the effectivity of this A.O., including pending applications under process in the DAR Provincial Offices (DARPOs) at the time of the effectivity of this Order.

In the case of existing lease agreements approved under the provisions of DAR A.O. No. 02, Series of 1999, the same may be renegotiated, upon petition of the parties pursuant to the provisions of Sec. 2, Items (d) and (e), Sec. 12 (last para.) and Sec. 15 (2nd para. last sentence) of A.O. No. 2, Series of 1999.

Sec. 9. Repealing Clause. All administrative orders, circulars, memoranda, rules and regulations or portions thereof inconsistent with the provisions of this Order are hereby revoked, cancelled, amended or modified accordingly.

Sec. 10. Effectivity. This Order takes effect ten (10) days after its publication in two (2) national newspapers of general circulation.

Diliman, Quezon City, June 16, 2008



NASSER C. PANGANDAMAN
Secretary

Department of Agrarian Reform
Office of the Secretary



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1. Phil. Daily Inquirer
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Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

CERTIFICATION

This is to certify that DAR Administrative Order No. 02, Series of 2008 entitled **“GUIDELINES GOVERNING LEASE OF LANDS UNDER AGRIBUSINESS VENTURE ARRANGEMENT (AVA) IN AGRARIAN REFORM AREAS AND THE DETERMINATION OF LEASE RENTAL THEREOF”** is published today, Thursday, 19 June 2008 at Philippine Daily Inquirer and Philippine Star newspapers.

Issued this 19th day of June 2008 for whatever purpose it may serve.


HUGO D. YONZON III
Director, Public Affairs Staff

LEASE AGREEMENT

This agreement executed and entered into this _____ day of _____ 200 ____ by and between:

_____, an agrarian reform beneficiary (ARB), with residence and postal address at _____, as evidenced by hereto attached Certificate of Land Ownership Award {CLOA}/Emancipation Patent {EP} (or other similar tenurial instruments, as the case may be) No/s. _____, issued in his/her name pursuant to the pertinent provisions of Republic Act (R.A.) No. 6657, covering the landholding subject of this Lease Agreement, herein referred to as the LESSOR-ARB; (note: this phraseology shall apply if the Lessor is an individual ARB)

or

_____, a duly organized and registered cooperative/association with principal office address at _____, represented herein by its President/Chairman of the Board of Directors, _____ duly authorized by virtue of a Board Resolution/Special Power of Attorney from the agrarian reform beneficiaries who are members of the abovementioned cooperative/association, dated _____, a copy of which, consisting of _____ pages, is hereto attached as "Annex A", and made an integral part hereof, herein referred to as the LESSOR-ARB/s; (note: this phraseology shall apply if the Lessor is a cooperative or association)

and

_____, a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at the _____, represented herein by its President, _____, duly authorized by its Board of Directors, by virtue of Resolution No. _____, dated _____, a copy of which and consisting of _____ pages, is hereto attached as "Annex B" and made an integral part hereof, herein referred to as the LESSEE-INVESTOR;

and

The Department of Agrarian Reform (DAR), as nominal party, a government agency and an instrumentality of the Republic of the Philippines with official address at the DAR Compound, Elliptical Road, Diliman, Quezon City, represented by its Undersecretary for Legal Affairs Office (LAO), herein referred to as the DAR¹;

¹ The provision shall be included if the Lease Agreement covers lands that are not yet fully paid and are within the ten-year prohibitory period.

WITNESSETH That

WHEREAS, pursuant to Sections 8 and 29 of R.A. No. 6657, the Department of Agrarian Reform (DAR) has caused the distribution of lands subject of lease, directly to the qualified individual ARBs or to the ARBs cooperative/association by transferring to his/her/them (as the case may be) ownership of the land/Leased Property subdivided/undivided described as follows:

TCT/OCT No. : _____
ASP No./Survey No. : _____
Total Area per Title : _____
Location : _____

Technical Description:

WHEREAS, the LESSOR-ARB is recipient of the subject land by virtue of the agrarian reform program pursuant to R.A. No. 6657, as amended, or a cooperative/association composed of ARBs who own the subject landholdings, and have organized themselves into a cooperative or association for the purpose of representing them on all matters pertaining to the Leased Property; (note: if cooperative or association, the italicized phrase should apply)

WHEREAS, the LESSEE-INVESTOR is a duly organized juridical person who shall be responsible for the agricultural production of the Leased Property in accordance with the stipulations and terms and conditions herein set-forth in this Lease Agreement;

WHEREAS, the DAR, as the government agency mandated to lead the implementation of the Comprehensive Agrarian Reform Program (CARP), and pursuant to DAR Administrative Order (A.O.) No. 09, Series of 2006 entitled, "*Revised Rules and Regulations Governing Agribusiness Venture Arrangements (AVAs) in Agrarian Reform Areas*", (AVA guidelines for brevity) has authorized the lease of the subject awarded lands for purposes specified in this Lease Agreement and under the AVA guidelines, provided that it shall closely monitor proper compliance of this Lease Agreement and shall impose sanctions for non-compliance thereof²;

NOW THEREFORE, for and in consideration of the foregoing premises, the parties hereby agree, stipulate and covenant as follows:

² The provision shall likewise be included if the Lease Agreement covers lands that are not yet fully paid and are within the ten-year prohibitory period.

1. THE SUBJECT

1.1 The LESSOR-ARB/s hereby lease/s unto the LESSEE-INVESTOR the Leased Property, for a period of _____ years commencing on _____, 200__ and ending on _____, 200__.

1.2 The Leased Property shall be used solely for agricultural purposes, devoted principally to the cultivation/production of _____ (specify crop/s planted), and the LESSEE-INVESTOR covenants that it shall not use or allow the use of the Leased Property for illegal or prohibited purposes or other purposes not covered under this Lease Agreement.

2. RENTALS AND OTHER REMUNERATION

2.1 In consideration of this Lease Agreement, the LESSEE-INVESTOR shall pay the LESSOR-ARB/s the following annual rental:

The foregoing rental shall be paid in Philippine currency within _____ (specify period/date of payment) of each calendar year by the LESSEE-INVESTOR. The LESSEE-INVESTOR shall ensure payment of lease rental as stipulated in the Lease Agreement, notwithstanding crop failure due to natural calamities, force majeure or any other cause/s.

2.2 While the Lease Agreement is still in force, the LESSEE-INVESTOR shall provide funds necessary to ensure ecological protection of both the farm and its workers, particularly for the conservation and maintenance of the land quality, proper handling, storage and disposal of hazardous residues and waste products, and proper protective and acceptable safe methods of application of fertilizers and other chemicals.

3. RENEGOTIATION

Pursuant to Sec. 4.5 of A.O. No. ____, Series of 2008 entitled, "Guidelines Governing Lease of Lands under Agribusiness Venture Arrangement (AVA) in Agrarian Reform Areas and the Determination of Lease Rental Thereof", the amount of lease rental on the leased lands or any other provisions of the Lease Agreement shall be renegotiated by the contracting parties every five (5) years or earlier, if any of the following grounds under Sec. 4.14 of DAR A.O. No. 09, Series of 2006 arise: (1) extraordinary increase in inflation rate; (2) drastic change in price fluctuation on both production input and output; (3) declaration of

the areas as calamity or disaster area due to *force majeure*; and (4) other meritorious grounds. The renegotiated lease rental and terms and conditions of the Lease Agreement shall be subject to approval by the PARC/PARC ExCom pursuant to Sec. 4.1 of the same Administrative Order.

4. USE, MANAGEMENT AND OPERATION OF THE LEASED PROPERTY

- 4.1 The LESSEE-INVESTOR agrees to use the Leased Property in accordance with the rules and regulations provided under A.O. No. ____, Series of 2008. The LESSEE-INVESTOR shall have the discretion in the manner of operating the plantation, the method of cultivation, harvesting and marketing of the farm produce.
- 4.2 The LESSOR-ARB/s hereby recognize/s that the crops/trees planted in, and the fruits produced by, the Leased Property within the period of effectivity of this Agreement, properly belong to the LESSEE-INVESTOR and that the LESSOR-ARB/s has/have no interest in the same.
- 4.3 The LESSEE-INVESTOR shall comply, in good faith, with its duty to pay the rent and to observe and perform all other obligations contained in this Lease Agreement. The LESSOR-ARB, in turn, warrants that the rights of the LESSEE-INVESTOR under this Lease Agreement shall be unaffected by any changes in membership of the LESSOR-ARB's cooperative or association or by any distribution made or to be made in said membership.
- 4.4 The management of the LESSEE-INVESTOR's business operations, including the formulation and implementation of policies on labor and security operations shall be subject to existing laws.
- 4.5 In the conduct of its business operations, the LESSEE-INVESTOR may plant new crops/trees, and construct new improvements necessary for the farm operations on the Leased Property for its business in consultation with the LESSOR-ARB/s; Provided that such improvement shall in no case decrease the aggregate agricultural area to the extent of lowering the land rental and other privileges accruing to the ARBs. In case the LESSEE-INVESTOR wishes to conduct experimental project(s) not directly related to the production of _____ (specify crop/s planted), he/she shall secure the consent of the LESSOR-ARB/s. The LESSOR-ARB/s hereby agree/s not to unreasonably withhold his/her/their consent, provided the experimental project/s: (1) is necessary for sound agricultural production; (2) will not lessen

soil fertility and pose any hazard/risk to the ARB/s and workers on the land; and (3) will not result to the conversion of lands to non-agricultural use.

4.6 The LESSEE-INVESTOR agrees to manage and care for the Leased Property and shall assume its undertakings properly and efficiently and in accordance with sound agricultural, administrative, business and financial practices, including, if necessary, any cut back in production and abandonment of certain areas. The LESSEE-INVESTOR, however, shall incur no liability to the LESSOR-ARB/s for any decrease in production in any given year as long as the LESSEE-INVESTOR performs, in good faith, its duties under A.O. No. ____, Series of 2008 and this Lease Agreement.

5. RIGHTS OF THE ARB-LESSOR AND THE LESSEE-INVESTOR IN THE EVENT OF DISSOLUTION/INSOLVENCY AND/OR LIQUIDATION OF THE COOPERATIVE (PARTITION OF THE LEASED PROPERTY)

5.1 The Leased Property shall not be physically segregated and partitioned by the LESSOR-ARB/s within the period of effectivity of this Lease Agreement. This Lease Agreement shall be respected for the entire duration of its term, and any extension thereof shall be in accordance with the terms and conditions herein provided. In the event the LESSOR-ARB's members, by the required vote specified in their Articles of Cooperation/Association and By-Laws, or in the absence thereof, two-thirds (2/3) of the general membership, agree to dissolve and liquidate their cooperative/association, or agree to partition the Leased Property, the LESSEE-INVESTOR shall be entitled to the benefits granted by law to registered leases, and any and all of the LESSOR-ARB's members who become individual owners of any portion of the Leased Property as their share in the liquidation and/or partition thereof pursuant to Articles 64, 70, and 71 of the Cooperative Code of the Philippines and Rule 8 of the Rules and Regulations Implementing Certain Provisions of the Cooperative Code of the Philippines.

5.2 In the event that the LESSOR-ARBs are compelled to go into a process of dissolution, liquidation and/or partition and distribution of its assets, including the Leased Property, by virtue of and in compliance with the provisions of the Cooperative Code of the Philippines or of its Articles of Cooperation/Association and By-Laws, such process shall be conducted by the LESSOR-ARBs in a manner which shall not prejudice the LESSEE-INVESTOR's operations on the Leased Property nor interfere with the LESSEE-INVESTOR's day to day conduct of its business affairs. Further, the LESSOR-ARBs shall, prior to actual partition and distribution of any portion of

the Leased Property to its members, elect and/or designate a Trustee or any person or group of persons who shall be authorized to receive payment of the rental due on the Leased Property for the entire duration of this Lease Agreement, including its renewal.

6. EMPLOYMENT

- 6.1 The LESSEE-INVESTOR warrants that the ARB/s, who is/are LESSOR/s, presently under his/its employ, shall continue to enjoy whatever status and benefits they presently enjoy under the Labor Code and other existing laws and under their Collective Bargaining Agreement (CBA).
- 6.2 In the event that there will be job vacancies and/or openings connected directly or indirectly with the operations of lands covered by the Comprehensive Agrarian Reform Program (CARP), the LESSOR-ARB/s, and/or his/her/their direct dependent/s, shall be given priority in employment in the enterprise, provided he/she/they are qualified and physically fit for the job.
- 6.3 As part of the human resources development plan/program, the LESSEE-INVESTOR shall ensure that the employed ARBs are trained through involvement in the management of the farm and in various aspects of operations and marketing. The LESSEE-INVESTOR should also furnish the LESSOR-ARB/s pertinent data and documents relative to farm operation, method of cultivation, harvesting and marketing of the farm produce, including yields, production costs and financial statements.

7. EXPENSES, TAXES AND INSURANCE

- 7.1 All expenses for production, cultivation, harvesting and marketing of products within the Leased Property shall be for the account of the LESSEE-INVESTOR.
- 7.2 The LESSEE-INVESTOR shall also be liable for all expenses and charges necessary for the conduct of the business operations.
- 7.3 All taxes due on the improvements on the Leased Property except those improvements on the area that the LESSOR-ARB/s shall have utilized shall be for the account of the LESSEE-INVESTOR. Taxes due on the road lots within the Leased Property shall be for the account of the LESSEE-INVESTOR.
- 7.4 The LESSEE-INVESTOR may, for its own account, obtain insurance on all lease improvements, including the crops/trees. In the event of loss, all proceeds from such insurance shall accrue to the LESSEE-INVESTOR.

8. LESSOR-ARB'S COVENANTS

The LESSOR-ARB/s hereby represent/s and undertake/s to the LESSEE-INVESTOR as follows:

- 8.1 Possess EP/CLOA/other similar tenurial instruments to the Leased Property and has the power and authority to lease the same to the LESSEE-INVESTOR.
- 8.2 All appropriate and necessary corporate and legal action authorizing the execution and performance of this Lease Agreement have been taken.
- 8.3 The LESSEE-INVESTOR shall be held free and harmless from any and all claims of third parties to ownership of, or right of possession over, the Leased Property, and the LESSOR-ARB/s shall indemnify the LESSEE-INVESTOR for all damages resulting from its eviction, in the event such third parties successfully maintain their claims. However, this excludes any and all cases/claims on the property prior to its transfer to the LESSOR-ARB/s.

9. REVOCATION/CANCELLATION/TERMINATION

- 9.1 This Lease Agreement shall be revoked and/or terminated at the close of business hours on _____ (hereinafter, the "Termination Date"). However, the LESSEE-INVESTOR may, by written notice served to the LESSOR-ARB/s as early as one (1) year prior to the Termination Date, extend this Lease Agreement for an additional period of _____ years, based on the terms and conditions which shall be mutually agreed between the LESSOR-ARB/s and the LESSEE-INVESTOR, and reviewed by the National AVA Evaluation Committee (NAEC) and approved by the Presidential Agrarian Reform Council (PARC)/PARC Executive Committee (ExCom). In the event that the parties cannot agree on the renewed terms and conditions, the same shall be subject to mediation/conciliation in accordance with Secs. 14 and 15 of DAR A.O. No. 9, Series of 2006.
- 9.2 Prior to the expiration of its term, this Lease Agreement may be revoked and/or terminated by the LESSOR-ARB/s for any of the following causes:
 - i) The LESSEE-INVESTOR fails to fully pay the stipulated rental or any other amount due from the LESSEE-INVESTOR under this Lease Agreement, for a period longer than 180 days from the date specified in Item 2.1 of this Lease Agreement, without necessity of demand or notice. Interest charges shall be paid fourteen (14) days after

due date on all due and unpaid amounts at an interest rate of twelve percent (12%) or the prevailing legal rate, whichever is higher.

ii) The LESSEE-INVESTOR shall have intentionally failed in the performance of any act required herein, or is intentionally in breach of any of its obligations and covenants.

9.3 Upon revocation and/or termination of this Lease Agreement, the LESSEE-INVESTOR shall peacefully return the use and possession of the Leased Property to the LESSOR-ARB/s, and shall promptly pay all rentals due up to the date of termination.

9.4 Subject to the LESSOR-ARB/s' consent, a statutory lien on movables belonging to the LESSEE-INVESTOR for unpaid rentals and other amounts due the LESSOR-ARB/s arising out of this Lease Agreement, the LESSEE-INVESTOR may, upon revocation and/or termination hereof, remove all of its trade or professional fixtures, equipment, movable improvements and other similar properties from the Leased Property, at its own expense, provided, however, that the LESSEE-INVESTOR shall repair any and all damages which may be caused to the Leased Property by reason of such removal.

All fixed and permanent improvements, such as roads and _____ (specify crop/s planted) introduced on the Leased Property, shall automatically accrue to the LESSOR-ARB/s upon revocation and/or termination of this Lease Agreement without need of reimbursement.

10. OBLIGATIONS OF THE DAR³

10.1 The DAR ensures and affirms that the terms and conditions stipulated in this Lease Agreement are lawful and legally enforceable, and do not violate or contradict any existing agrarian laws and principles.

10.2 Pursuant to the monitoring mechanism provided in DAR A.O. No. 09, Series of 2006, the DAR shall conduct periodic review of the pertinent documents of the LESSEE-INVESTOR, consultation meetings with the LESSOR-ARB/s and visitation activities in the subject landholdings. The purpose of these activities is to ensure full and proper compliance of the stipulations in this Lease Agreement by both the LESSOR-ARB/s and the LESSEE-INVESTOR.

³ The provision shall be included if the Lease Agreement covers lands that are not yet fully paid and are within the ten-year prohibitory period.

- 10.3 In all instances, the DAR shall promptly report and immediately take appropriate action against illegal land use conversion and unlawful transfer of ownership on the subject landholding/s.
- 10.4 The DAR shall prepare a periodic report of the monitoring processes and all other activities undertaken by the parties on the subject landholdings which shall be kept in a permanent dossier.

11. PENAL PROVISIONS

- 11.1 The parties to the Lease Agreement shall, in the exercise of their respective rights and in the performance of their corresponding duties, act with justice, mutually give what is due, and observe honesty and good faith.
- 11.2 The party hereto who, contrary to law and the stipulations herein, willfully or negligently causes damage to the other party, shall indemnify the latter for the same.
- 11.3 The party to this Lease Agreement who willfully causes loss or injury to another party in a manner that is contrary to morals, good customs or public policy shall compensate for the damage on the injured party.
- 11.4 In all instances, the LESSEE-INVESTOR shall not assign its rights and obligations under this Lease Agreement nor sub-lease the leased premises to any person or entity without the express consent of the LESSOR-ARB/s. Any violation hereof shall give rise to the termination of this Lease Agreement and the LESSEE-INVESTOR shall bear whatever losses that may be incurred by reason thereof.
- 11.5 The LESSOR-ARB/s shall ensure that the lessee enjoys full, peaceful and quiet enjoyment, possession and utilization of the subject landholdings in accordance with the agreed terms and conditions on the Lease Agreement. Any violations of this particular obligation by the LESSOR-ARB/s shall cause the termination of this Lease Agreement and the LESSOR-ARB/s shall bear whatever losses that may be suffered as a consequence thereof.

12. LEGAL ACTIONS

Without prejudice to the proceedings for mediation and arbitration which the parties agree to submit themselves to, any legal action or proceeding arising out of or connected with this Lease Agreement and involving a matter not determinable by mediation or arbitration shall be brought before the proper forum.

13. ANNOTATION

This Lease Agreement shall be annotated at the back of the Transfer Certificate of Title (TCT) and Emancipation Patents (EPs)/Certificates of Land Ownership Award (CLOAs) or other similar tenurial instruments (i.e., Free Patents, Homestead Patents, etc.) on file with the Registry of Deeds (ROD) after its approval by the PARC/PARC ExCom, at the expense of the LESSEE-INVESTOR.

14. SEPARABILITY CLAUSE

In the event that any of the provisions of this Lease Agreement is declared with finality as unlawful, inoperative or ineffective by the PARC/PARC ExCom or any other competent authority, the validity of the other provisions hereof not so affected, shall continue to be in full force and effect provided it can stand on its own mandate.

15. EFFECTIVITY

The Lease Agreement shall be effective from the date of receipt by the contracting parties of the PARC/PARC ExCom resolution approving such Lease Agreement, or upon the affixing of the DAR LAO Undersecretary's signature as a nominal party to the contract. It shall be binding upon all the LESSOR-ARB/s and his/her/their heirs, assigns and successors-in-interest. It shall be unaffected by any change in the membership or distribution made or to be made in the membership of the cooperative/association.

IN WITNESS WHEREOF, the parties herein have hereunto set their hands this _____ day of _____, 200__ at _____.

(LESSOR-ARB)

(LESSEE-INVESTOR)

UNDERSECRETARY⁴
Legal Affairs Office
Department of Agrarian Reform

Signed in the Presence of:

lr annex a_final

⁴ The LAO Undersecretary shall sign as nominal party if the Lease Agreement covers lands that are not yet fully paid and are within the ten-year prohibitory period, or as witness if the Lease Agreement covers lands that are fully paid and the ten-year prohibitory period has lapsed.

ACKNOWLEDGEMENT

Republic of the Philippines)
) S.S.
)

Before me, _____, a Notary Public for and in
_____ personally appeared:

Name Comm. Tax Cert. No. Date and Place of Issue

known to me to be same persons who executed the foregoing Lease Agreement and they acknowledged to me that the same is their own free and voluntary acts and deeds and that of the entity they both represent. It consists of _____ pages and signed by the parties and their instrumental witnesses thereto including this page whereon the acknowledgement is written.

Witness my hand and seal, this _____ day of _____,
200__ at _____, Philippines.

Notary Public
Until _____

Doc. No. _____
Page No. _____
Book No. _____
Series of 200 _____