



Republika ng Pilipinas
Pambansang Pangasiwaan ng Patubig
(NATIONAL IRRIGATION ADMINISTRATION)
Lungsod ng Quezon

OFFICE ADDRESS: NATIONAL GOVERNMENT CENTER
E. DE LOS SANTOS AVENUE
QUEZON CITY PHILIPPINES

TELEPHONE NOS.: 97-60-71 to 78
CABLE NIAPHIL
TELEX 42802 NIA PM

OUR REFERENCE:

MC No. 7, s. 1995

MEMORANDUM CIRCULAR

T O : THE DEPUTY ADMINISTRATOR, ASSISTANT ADMINISTRATORS, DEPARTMENT/STAFF HEADS, REGIONAL IRRIGATION DIRECTORS, OPERATION/PROJECT MANAGERS, PROVINCIAL IRRIGATION OFFICERS, PROJECT ENGINEERS, IRRIGATION SUPERINTENDENTS AND ALL OTHERS CONCERNED

SUBJECT : Form Contract for Lease of Equipment

Pursuant to the provisions of Administrative Order No. 130 dated 19 May 1994 of the Office of the President and Memorandum Circular No. 2, Series of 1994 of the Office of the Government Corporate Counsel and circularized under NIA M.C. No. 30, s. 1994 requiring contract review of proposed contracts/agreements of government corporations, the attached pro-forma contract for lease of equipment shall henceforth be utilized in the execution of such contract which was given due course by the Office of the Government Corporate Counsel under Contract Review No. 045, series of 1995 dated February 2, 1995.

Any alteration/modification of the pro-forma contract shall be subject to prior clearance from this Office,
Attn.: The Manager, Legal Department.

All contract of lease of equipment executed at your end should likewise be furnished the Office of the Government Corporate Counsel on a monthly basis utilizing the attached form letter.

Compliance hereon is enjoined.


APOLONIO V. BAUTISTA
Administrator

March 2, 1995

AUG/nve

D a t e

The Government Corporate Counsel
5th & 6th Floors Philsugin Sugar Center
North Avenue, Diliman, Quezon City

S i r :

Enclosed herewith are copies of _____
(no.)

Contract of Lease of Equipment executed by this Office for
the month of _____, 199__.

This submission is in accordance with Contract Review
No. 045 , s. 1995 dated February 2, 1995 of that Office
concerning Contract of Lease of Equipment executed by the
National Irrigation Administration.

Very truly yours,

(RIM/PM)

Encl.: a/s

CONTRACT OF LEASE OF EQUIPMENT

KNOW ALL MEN BY THESE PRESENTS:

This Agreement, made and entered into this ____ day of _____, 199__ in _____ Philippines, by and between:

The NATIONAL IRRIGATION ADMINISTRATION, a government owned and controlled corporation created by virtue of R. A. 3601, as amended by Presidential Decree No. 552, with office address at _____, represented herein by the _____, hereinafter known as the LESSOR,

- and -

_____, of legal age, with residence and postal address at _____, Philippines, hereinafter known as the LESSEE

or

_____ CORPORATION, represented herein by its _____ duly authorized under Board Resolution No. _____ dated _____, 19__ attached as Annex "A" hereof, with business address at _____, hereinafter known as the LESSEE.

W I T N E S S E T H :

WHEREAS, the LESSOR is the owner of a certain equipment, hereinafter more particularly described and specified, which is/are, available for rent, under certain conditions;

WHEREAS, the LESSEE is a duly qualified party, desiring of leasing or renting said equipment;

NOW, THEREFORE, for and in consideration of the foregoing premises, and of the mutual covenants and stipulations hereinafter set forth, the LESSOR, by these presents hereby lease unto the LESSEE, the following equipment hereunder specified, for the period of _____, commencing on _____ AND expiring on _____:

List of Equipment, subject matter of this Lease:

<u>DESCRIPTION</u>	<u>UNIT REPLACEMENT COST</u>	<u>RENTAL RATE PER HOUR</u>
--------------------	--------------------------------------	-----------------------------

Replacement Cost of the leased items is _____.

LESSOR and LESSEE hereby agree that:

1. The LESSOR shall allow withdrawal by the LESSEE of the above-mentioned equipment from the _____

2. The LESSOR reserves the right to investigate and inspect the equipment, to determine whether the same is/are properly maintained, lubricated, operated or used in accordance with purpose herein stipulated;

3. The LESSOR agree to perform all repairs as rapidly as possible but in some cases due to specialized worth or shortage of materials and parts, the equipment may not be of service for an indefinite period, in which event the LESSOR shall not be held liable for any claims arising from non-availability of this equipment. The LESSEE shall permit the LESSOR to daily grease, inspect and repair equipment and the right to take any equipment out of service for maintenance, inspection or repair without compensation to the LESSEE; LESSOR shall provide a competent operator of the equipment leased;

4. The LESSOR reserves the right to deduct corresponding amount for rental and/or other charges from any of his contract with the National Irrigation Administration;

5. Notwithstanding the terms of this contract and without incurring any liability, the LESSOR shall have the right to terminate this contract of lease in case of urgent need of the equipment by the LESSOR who shall bear all expenses for its withdrawal and provided that the LESSEE should be notified in writing ten (10) days prior to its withdrawal;

6. Without incurring any liability and without prior notice, the LESSOR shall have the right to with-

draw temporarily for a period not exceeding fifteen (15) days, any or all equipment leased in case they are needed by the LESSOR for emergency work and/or repair due to force majeure. Transportation expenses of the recalled equipment from the LESSEE's project site to the LESSOR's work site and its return shall be for the account of the LESSOR;

7. The LESSOR shall have the right to repossess the leased equipment extrajudicially without being held liable for trespass and for damages in connection therewith, if after the expiration or cancellation of this contract, the LESSEE fails to return the equipment within ten (10) days from receipt of the written notice to return, the LESSOR shall also has the right to collect damages equivalent to 25% of the amount due, cost of repair of equipment and missing accessories due to negligence of the LESSEE and other pertinent expenses incurred in the repossession including all accrued rentals due;

8. The LESSEE shall withdraw, or take delivery of the equipment within five (5) days from his receipt of the approved contract of lease and other required documents necessary for the release of the equipment at the LESSOR's depot or at the place designated under paragraph one (1) hereof. The LESSEE bears the incidental and related expenses therefrom;

9. The LESSEE hereby agrees and covenants to use this/these equipment solely and exclusively for the prosecution of:

(State name of contract or projects)

(Location)

10. The LESSEE shall post a cash deposit or a Surety Bond from GSIS or other reputable bonding company acceptable to the LESSOR, in an amount equivalent to the replacement cost of the equipment, to answer for unpaid rentals, damages, and loss or destruction of the equipment or its accessories and other incidental expenses;

11. Sub-letting of equipment to sub-contractors

on the above-stated contract shall not be allowed, except upon the written approval of the LESSOR and the LESSEE's bondsmen and at the same stipulated rates of rentals as herein prescribed. Sub-letting, even if authorized shall not relieve the LESSEE or his bondsmen from their obligation and responsibility in the proper use, care and safety of the equipment, payment of rentals and other provisions of this contract;

12. The LESSEE or his duly authorized representative has the right to examine and review the monthly equipment utilization report prepared by NIA and if he agrees to the findings made shall affix his signature hereon, provided however, that his conformity is presumed by his failure to act on the said report within five (5) days from receipt hereof;

13. After the expiration of the period of lease as agreed upon, the LESSEE shall return immediately the equipment in as good condition as when received, saved normal wear and tear, to the issuing depot or to any other place designated by the LESSOR. The receiving officer shall then prepare an inspection report of the equipment returned in the presence of the LESSEE, for his (LESSEE's) signature. If the LESSEE fails to return the equipment, rentals shall continue to accrue until equipment is/are actually returned and received by the receiving officer or repossessed by the LESSOR; Provided, however, that if the project hereinbefore specified is not completed within the period stipulated in this contract of lease, the LESSEE may file a written request with concurrence of the Surety for extension of the time to use the equipment and upon approval by the LESSOR, the parties herein shall be governed by the provisions of this contract during such time, provided further, that if new rental rates are prescribed by the NIA Central Office during the lifetime of this contract, any extension or renewal hereof shall be subject to these new rates and its implementing rules and regulations;

14. The LESSEE shall pay in advance the rentals for the period of this lease which shall include operator's wages, per diems and allowances at the Cashier's Office of the LESSOR and at the rate herein stipulated based on an eight hour working period beginning at 8:00 A.M. Work performed in excess of eight (8) hours within the day and those undertaken during Sundays and public holidays shall be considered as working day.

If the LESSEE fails to use the equipment for eight hours during the day for reasons other than equipment repair time or project shutdown, the number of hours to complete the 8-hour period when the equipment could have been used but the LESSEE did not use it, shall be considered idle time and same shall be added to complete the 8-hour daily rental time without prejudice to off-setting idle time with overtime.

There is a total project stoppage when there is a general cessation of work in the whole project approved by the _____. When the equipment is operable but cannot be used in its actual location due to partial shutdown which is defined as the cessation of work in a portion or portions of the project due to right-of-way problems, changes in plans, delay in the delivery of construction materials supplied by the NIA, unworkable condition due to floods and typhoons, as certified by the NIA Project Engineer and verified by the Auditor, such time will be considered as shutdown time. However, if the Project Engineer believes that the shutdown period will be more than seven (7) calendar days and the equipment can be used in some portions of the project, he should advise the LESSEE, or his authorized representative within the first two (2) days, in writing, to transfer the equipment as ordered, the time commencing from his receipt of the notice, shall be considered idle time.

Equipment repair time shall mean repair or service of equipment for more than one (1) hour within the day, provided it shall not exceed 8 hours.

15. The total rental hours worked per month or part of a month will be the total hours worked per day plus the total overtime or idle time, whichever is greater or plus overtime only, in case the overtime and idle time are equal. The total rental per month shall be the total rental hours multiplied by the rate per day, divided by eight.

16. The rental commences from the date, the LESSEE receives the equipment from the LESSOR's depot and terminated on the date the equipment is/are returned to the depot or place where withdrawn. All monies due in favor of the LESSOR under the terms of this contract shall earn interest at the rate of six percent (6%) compounded annually, computed from the date they become due and payable. After the expiration of the contract of lease, the LESSEE shall return the equipment to the place/s of withdrawal or to other places designated by the LESSOR and the transportation expenses and other

(LESSEE)

WITNESSES

NATIONAL IRRIGATION ADMINISTRATION
(LESSOR)

BY:

incidental expenses shall be for the account of the LESSEE. If the place/s designated by the LESSOR shall require additional expenses for transportation, the LESSOR shall reimburse the LESSEE for said additional cost.

(LESSEE)

17. The LESSEE shall not pay rental for the time during which equipment is/are under repair if the repair time exceeds one hour within the day except that rental will be charged during repair time when the repairs are due to negligence of the LESSEE or his personnel. The LESSEE shall not pay rental during the periods of total or partial project shutdown as defined in the 5th paragraph of Section 14 hereof.

18. That equipment shall not be operated on unsafe working platforms and shall not be operated or parked where it will be subject to damage from fragments of rock during blasting operations, fire or flood;

19. The LESSEE shall provide quarters for personnel assigned to operate and maintain the equipment and a suitable storage for lubricants and spare parts needed for the proper maintenance of the equipment;

20. The LESSEE shall answer for all claims including damages and compensation for injuries sustained or caused by his employees in connection with his lease of the equipment;

21. The LESSEE shall be solidarily liable with the LESSOR for any pecuniary liability arising from injuries and/or death in the course of the operation of the equipment by the LESSOR's operator from the time of withdrawal of the equipment from LESSOR's Depot up to return of the same thereat or at the place designated by the LESSOR. However, the LESSEE may employ his own operator if the LESSOR's operator is not available, provided, however, that such operator who may be hired by the LESSEE shall be acceptable to the LESSOR;

22. The LESSEE shall not alter, construct and/or remove any part, spare parts attachment, lettering or trademark on the different unit of equipment under lease without prior authority of the LESSOR;

23. The LESSEE shall exercise all the diligence of a good father of a family while the equipment is/are in his custody;

24. In case the leased equipment is levied upon for execution or attachment, the LESSEE shall notify immediately the LESSOR of said situation. Failure on his part to give such notice resulting in the partial damage or total loss of said equipment, the LESSEE and his bondsmen shall be liable for the total cost of the damage or loss of the equipment including such other incidental expenses to be incurred in connection therewith;

WITNESSES

NATIONAL IRRIGATION ADMINISTRATION
(LESSOR)

BY:

25. In the event that any court litigation arises out of or in virtue of this contract, the parties hereto have agreed that the suit be brought at the proper court of Quezon City and that attorney's fees and other incidental expenses shall be borne by the LESSEE;

26. The LESSEE shall bear all expenses for fuel and wages of the operators aside from the rental of the equipment. The rendering of overtime services and the amount of compensation to be paid to the operator by the LESSEE for such service shall be agreed upon by the parties;

27. The LESSEE holds himself responsible for the security and condition of the equipment from the time of receipt at the Equipment Depot, or other designated place/s during the entire time said equipment is/are in his custody including periods or project shutdown, until it is returned to the Equipment Depot or such other places of no greater distance from where the equipment was withdrawn as determined by LESSOR. The LESSEE may at his discretion, return to the LESSOR at the Equipment Depot such items of the equipment as he deems surplus to his need; however, the LESSOR in such case, reserves the right to issue such equipment to other project and the LESSEE forfeits his priority to use such items which have been returned to the LESSOR. In the event that the LESSOR re-issues the equipment to the LESSEE within the duration of this contract, all the provisions of this contract with respect to the particular items are deemed restored, subject to the provision of paragraph 13 hereof. All items to be returned to the LESSOR shall be in the same condition as when received, saved from normal wear and tear. The method of transporting of the items/equipment to and from Equipment Depot must meet with the approval of the LESSOR.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures at the place and date first above-written.

NATIONAL IRRIGATION
ADMINISTRATION
(LESSOR)

By: _____

(LESSEE)

SIGNED IN THE PRESENCE OF: _____

A C K N O W L E D G M E N T

REPUBLIC OF THE PHILIPPINES)
PROVINCE OF _____) S. S.
MUNICIPALITY OF _____)

In _____, Philippines,
this ____ day of _____, 199____ personally
appeared _____, duly authorized repre-
sentative and _____ of the
National Irrigation Administration with Community Tax
Receipt No. _____ issued at _____
on _____, 19____ an _____
with Community Tax Receipt No. _____ issued at
_____ on _____, 19____
known to me and to be known as the same persons who
executed the foregoing contract of lease, and acknowledged
to me that the same is their free and voluntary act and
deed.

WITNESS MY HAND AND SEAL in the place and on the date
first above-written.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of 19____.