

On the following pages is a pdf copy of the original ASG/National Park of American Samoa lease.

To jump directly to specific sections click on the phrase below:

- Date of agreement
- Authorization basis for agreement
- Area included in lease
- Lease OK if not all lands are available
- Term of lease; option to negotiate new lease
- Reversion to landowner if lease not continued
- Amount of rent
- Disbursal of lease moneys
- Reappraisal of lease
- Lessee payment for ASG government services
- Application of existing U.S. public lands laws
- Lessee construction on lands
- Liability and indemnity
- Cancellation by ASG
- Cancellation by National Park Service
- AGS authority from villages to enter lease
- ASG consent to park to enforce applicable Federal laws and regs
- Abandonment
- Arbitration over controversies
- Parties to agreement Applicable law, jurisdiction

Return to park web page, Management and Planning | Go to top of page

1 TERRITORIAL REGISTRAR'S
2 RECORDATION DATA:

DATE RECEIVED: September 10th, 1993

RECEIVED BY: [Signature]

DATE RECORDED: September, 10th, 1993

TIME RECORDED: 1455 hrs (A.M. (P.M.))

VOLUME: ASG PAGE: 93-06

BY: [Signature]
for TERRITORIAL REGISTRAR
OF AMERICAN SAMOA

11 **LEASE AGREEMENT**

12 This Lease is made and entered into on this 9th day of
13 September 1993, by and between **landowners of American Samoa and the**
14 **American Samoa Government**, acting by and through the **GOVERNOR OF**
15 **AMERICAN SAMOA**, hereinafter referred to as "**LESSOR**", and the **UNITED**
16 **STATES OF AMERICA**, acting by and through the **Secretary of the**
17 **Department of the Interior**, hereinafter referred to as "**LESSEE**".

18 WITNESSETH:

19 WHEREAS, the Government and the people of American Samoa and
20 the Government of the United States of America wish to establish a
21 National Park in American Samoa for the purpose of preserving and
22 protecting the tropical forest and archaeological and cultural
23 resources of American Samoa, and of associated reefs, to maintain
24 the habitat of flying foxes, preserve the ecological balance of the
25 Samoan tropical forest, and, consistent with the preservation of
26 these resources, to provide for the enjoyment of the unique
27 resources of the Samoan tropical forest by visitors from around the
28 world; and

CERTIFIED TO BE TRUE COPY
of Record (and in case)

[Signature]
[Signature]

1 WHEREAS, Public Law 100-571 authorizes the establishment of
2 the National Park of American Samoa and directs the Secretary of
3 the Interior through the National Park Service to negotiate a lease
4 agreement with the Governor of American Samoa to permit the
5 management and use of village, individual and family lands in the
6 boundaries of the park by the National Park Service; and

7 WHEREAS, the lands to be leased are owned by the Government of
8 American Samoa, individuals and families in the villages of Afono,
9 Vatia, Pago Pago, and Fagasa on the island of Tutuila; Fitiuta,
10 Ta'u and Faleasao on the island of Ta'u, Ofu and Olosega on the
11 island of Ofu; and

12 WHEREAS, the landowners have authorized the Governor to act on
13 their behalf in negotiating this lease; and

14 WHEREAS, the landowners have agreed to participate in this
15 lease permitting the National Park Service to operate the National
16 Park on their land; and

17 WHEREAS, the landowners have further agreed to participate in
18 an assessment process which will allow the High Court of American
19 Samoa to conduct proceedings for the monetary compensation of
20 landowners within the National Park; and

21 WHEREAS, the landowners have signed a document authorizing the
22 Governor of American Samoa to act as their agent in negotiating
23 this lease agreement; covering an area of village, family and
24 individually owned land situated within the authorized boundaries
25 of the National Park of American Samoa, as determined by the
26 assessment proceedings to be held by the High Court of American

1 Samoa; and

2 WHEREAS, the American Samoa Government is an owner of
3 approximately 21 acres of land located within the boundaries of the
4 National Park of American Samoa, and has also agreed to participate
5 in the assessment process, and the Governor of American Samoa has
6 the authority to lease land on behalf of the American Samoa
7 Government; and

8 WHEREAS, the American Samoa Government is the owner of
9 land/water from the high water mark to the three mile limit, and
10 has also agreed to participate in the assessment process, and the
11 Governor of American Samoa has the authority to lease this
12 land/water on behalf of the American Samoa Government; and

13 WHEREAS, the landowners own certain parcels of land, herein
14 after called the "leased premises", comprising approximately eight
15 thousand and three (8,003) acres, more or less, situated on and
16 adjacent to the Islands of Tutuila, Ofu, and Ta'u, in the Territory
17 of American Samoa, generally depicted on the three maps marked
18 Exhibits "A", "B", and "C", attached hereto and made a part hereof;
19 and

20 WHEREAS, LESSEE desires to lease certain parcels of land,
21 premises, facilities and privileges relating to the proposed
22 National Park, and LESSOR is authorized to lease the same to LESSEE
23 upon the terms and conditions set forth herein;

24 NOW, THEREFORE, for and in consideration of the premises and
25 of the mutual covenants and agreements herein contained and other
26 valuable consideration, the parties hereby agree as follows:

1 1. PREMISES, PURPOSE AND USE

2 A. LESSOR, on behalf of the American Samoa Government,
3 the villages, the families and other rightful owners of the "leased
4 premises", does hereby lease and let unto LESSEE, and LESSEE does
5 hereby lease and take from LESSOR, certain parcels of land,
6 consisting of eight thousand and three (8,003) acres, more or less,
7 situated on and adjacent to the Islands of Tutuila, Ofu, and Ta'u,
8 in the Territory of American Samoa, and generally depicted on the
9 three maps attached as Exhibits "A", "B", and "C", to include a
10 structure known as the Guest Fale located on Mt. Alava and owned by
11 the Government of American Samoa. Said acreage is more particularly
12 described as approximately two thousand five hundred and thirty
13 three (2,533) acres located on the island of Tutuila; approximately
14 five thousand three hundred and ninety seven (5,397) acres located
15 on the island of Ta'u; and approximately seventy three (73) acres
16 located on the island of Ofu, in the Territory of American Samoa.

17 B. LESSOR, on behalf of the American Samoa Government,
18 does hereby lease and let unto LESSEE, and LESSEE does hereby lease
19 and take from LESSOR, the land/water more particularly described
20 as:

21 1. Twenty one (21) acres of land together with a Guest
22 Fale located on Mt. Alava and more particularly described on the
23 attached survey map, attached hereto as Exhibit "D". The summit of
24 Mt. Alava being an established site for electronic transmission and
25 reception, this lease does not include facilities at the summit of
26 Mt. Alava used for these purposes.

1 2. The seaward boundary of the National Park of
2 American Samoa shall begin at American Samoa Government's
3 jurisdiction at the mean high tide line and extend seaward to the
4 60 feet depth contour interval or one quarter (1/4) mile off-
5 shore, whichever is farthest.

6 C. LESSEE shall use the leased premises to preserve and
7 protect the tropical forest and archaeological and cultural
8 resources of American Samoa, and of associated reefs, to maintain
9 the habitat of flying foxes, preserve the ecological balance of the
10 Samoan tropical forest, and, consistent with the preservation of
11 these resources, to provide for the enjoyment of the unique
12 resources of the Samoan tropical forest by visitors from around the
13 world, and other matters related to LESSEE's National Park
14 activities. The said use is exclusive of any other use.

15 D. The LESSEE and its duly authorized agents and the
16 general public shall possess the right by the most convenient land
17 and water routes (including the aerial tramway), of ingress to and
18 egress from the leased premises for the purpose of this lease and
19 other Park management purposes, provided that no such entry or use
20 shall constitute a hinderance to the proper operation of the
21 electronic transmission facilities by the American Samoa Government
22 or the LESSOR. The LESSEE shall not block or prohibit the American
23 Samoa Government, its agents or representatives from using the
24 existing road way to gain access to Mt. Alava.

25 E. Said property shall hereafter be known as the
26 National Park of American Samoa and shall comply with all

1 provisions of Public Law 100-571, approved October 31, 1988 (16 USC
2 410 qq-410qq-4) (102 STAT., 2879).

3 F. This lease agreement shall not be rendered void or
4 voidable by the inability of LESSOR to deliver possession of the
5 entire premises to LESSEE at the beginning of the lease term, nor
6 shall any inability to deliver possession render LESSOR liable to
7 LESSEE for damage suffered thereby. LESSEE agrees to accept
8 possession of each portion of the demised premises at such time as
9 LESSOR is able to tender it.

10 G. The LESSEE, after consultation with the Governor of
11 American Samoa, the High Court of American Samoa and other
12 appropriate agencies and leaders, may at any time make revisions to
13 the boundary of the Park in accordance with Section 2(b) of Public
14 Law 100-571.

15 H. The LESSOR, its agents or representatives, and the
16 American Samoa Government shall have the right to enter upon and
17 cross over any portion of said demised premises for the purpose of
18 performing public and/or official duties, including but not limited
19 to the continued operation and maintenance of its aerial tramway
20 and electronic transmission facilities; provided, however, that in
21 exercise of such rights, the LESSOR shall not unreasonably
22 interfere with the LESSEE and/or the LESSEE's appropriate uses and
23 enjoyment of the premises.

24 2. RESERVATION OF RIGHTS TO WATER

25 LESSOR reserves the right to all surface and ground
26 waters appurtenant to the premises, and the right to explore for,

1 drill for, pump, capture or divert said waters; provided that
2 LESSOR may not exercise this right to the detriment of LESSEE if
3 the exercise of the right will interfere with LESSEE's reasonable
4 use of the land.

5 3. TERM OF LEASE; OPTION TO NEGOTIATE A NEW LEASE

6 A. Subject to earlier termination as hereinafter
7 provided, the term of this lease shall be for a period of fifty
8 (50) years, commencing on the date of the first Notice to the
9 LESSEE from the High Court of American Samoa continuing until
10 fifty (50) years from the date of said Notice, unless otherwise
11 altered by the terms hereof.

12 B. LESSEE shall have the option to enter into a new
13 lease upon the same terms and conditions set forth herein for
14 another period of fifty (50) years; provided LESSOR consents to the
15 new lease in writing.

16 C. On or before the expiration of the fifty (50) year
17 term of this lease agreement, the LESSOR may request that a new
18 lease be executed to maintain the area as a unit of the National
19 Park System. If so requested, the LESSEE shall enter into a new
20 lease agreement, with the same terms and conditions as are
21 contained in this lease.

22 D. If a new fifty (50) year lease is not so executed,
23 the LESSEE shall transfer to the American Samoa Government, for the
24 benefit of the landowners, the sole authority to administer the
25 Park, together with any and all improvements constructed and
26 erected upon the leased premises by the LESSEE, all at no cost to

1 the LESSOR or the American Samoa Government. The American Samoa
2 Government with the consent of the landowners may continue the
3 Park.

4 E. If the Park is not continued or leased as a National
5 Park then the land shall revert to the landowners and the American
6 Samoa Government.

7 F. The failure of LESSEE to surrender the demised
8 premises upon expiration of this lease and the subsequent holding
9 over by LESSEE, with or without the consent of the LESSOR shall
10 result in the creation of a tenancy from year-to-year, at a yearly
11 rental of not less than the fair market annual rental value of the
12 land, payable on the anniversary date of each year during the year-
13 to-year tenancy. The fair market annual rental value shall be
14 based on an appraisal that is not more than five (5) years old.
15 This holding over shall not result in a renewal or extension of
16 this lease, and the year-to-year tenancy may be terminated at any
17 time by LESSOR or by LESSEE with sixty (60) days written notice of
18 the intention to terminate the tenancy. All other terms and
19 conditions of this lease agreement shall remain in force during any
20 year-to-year tenancy under this provision. Upon termination of the
21 tenancy, any improvements placed on the property shall become the
22 property of the LESSOR.

23 4. RENT

24 A. LESSEE agrees to pay to LESSOR, for the use of the
25 premises, facilities and privileges granted herein, a sum not to
26 exceed Three Hundred Seventy Seven Thousand Dollars (\$377,000.00)

1 per annum for the first five years of the lease. Thereafter, the
2 LESSEE agrees to pay to LESSOR, for the use of the premises,
3 facilities and privileges granted herein, a sum determined pursuant
4 to paragraph 4. F. of this lease. During the first five year
5 period, said rental sum shall be paid in equal installments of a
6 sum not to exceed Three Hundred Seventy Seven Thousand Dollars
7 (\$377,000.00). Thereafter, the rental sum shall be paid in equal
8 installment of a sum determined pursuant to paragraph 4. F of this
9 lease. The rental payments are to be made to the Governor, as
10 LESSOR, on the first day of the month following the Notice from
11 the High Court of American Samoa to the LESSEE, and continuing on
12 the anniversary date each year thereafter during the term of the
13 lease, provided appropriations are available from year to year for
14 the payments of such rentals. If adequate Congressional
15 appropriations are not available then the LESSOR shall have the
16 option to terminate the lease or accept delayed rental payments.

17 B. All rent shall be payable in lawful currency of the
18 United States, to the Governor of American Samoa, at the Office of
19 the Governor, American Samoa Government, Utulei, American Samoa,
20 for deposit in a trust account at a bank in American Samoa, or
21 other depository as the Governor of American Samoa shall designate.
22 The Governor shall disburse said funds to the appropriate
23 landowners in accordance with the terms of Public Law 100-571(102)
24 Stat.2879, and the Notice received from the High Court. Any
25 interest earned on the trust account shall be used by the Governor
26 to pay costs incurred by the Governor in administering the funds,

1 including but not limited to, check charges, postage, copying,
2 secretarial, appraisal fees, accounting and attorney fees. A
3 statement of the administrative expenses, together with the
4 canceled checks, shall be filed with the High Court of American
5 Samoa on an annual basis, but not later than sixty (60) days after
6 the annual rental has been received.

7 C. As provided in Section 2(d)(2) of Public Law 100-571,
8 funds may be disbursed only by the Governor of American Samoa, in
9 amounts determined by the High Court of American Samoa, to those
10 individuals, villages, families and the American Samoa Government
11 whose lands are located within the boundaries of the Park, and for
12 administrative expenses as indicated above. The High Court of
13 American Samoa shall have exclusive jurisdiction to determine the
14 amount to be disbursed under this section to any persons or entity.
15 As the authorized agent of the landowners, the Governor, shall
16 provide to the National Park Service copies of all certifications
17 issued by the High Court of individuals, families, or other payees
18 entitled to receive rental payments. Such certifications by the
19 High Court shall be considered evidence of ownership for purposes
20 of this lease and for the purpose of satisfying the title
21 requirements of 40 USC 255.

22 D. The overall annual lease rental for all of the lands
23 within the park for the first five (5) years shall be a sum not to
24 exceed Three Hundred Seventy Seven Thousand Dollars (\$377,000.00)
25 per annum. Payment of rent from the trust account shall be made
26 only to those landowners who:

1 a. reach agreement (solely for
2 purposes of the National Park) with
3 neighboring landowners as to the
4 boundaries of their land within the
5 park; and

6 b. concur with the High Court of
7 American Samoa in the rental amount
8 for their portion of the land within
9 the Park;

10 E. The initial year's rent received by each landowner
11 shall be calculated from the date of the Notice to the LESSEE from
12 the High Court of American Samoa that there is agreement as to the
13 area to be leased and rent to be paid therefor. The annual rent
14 received by each landowner thereafter shall be their proportionate
15 share (as allocated by the High Court of American Samoa) of Three
16 Hundred Seventy Seven Thousand Dollars (\$377,000.00) per year for
17 the first five (5) year period of the overall lease. For every
18 five (5) year period thereafter, the rent received by each
19 landowner shall be their proportionate share (as allocated by the
20 High Court of American Samoa) of the redetermined, reappraised and
21 adjusted rent.

22 F. The parties shall reappraise, redetermine and adjust
23 the rent as determined by appraisal at the end of every fifth (5th)
24 year, and every fifth (5th) year thereafter, during the fifty (50)
25 year lease term.

26 G. LESSEE may with the consent of the LESSOR, if
27 appropriated funds are available, make a lump sum rental payment
28 that has been appropriately discounted for a period of more than
29 one (1) year. The discounted amount must be agreed on by the

1 LESSOR in writing.

2 H. The LESSEE shall advise the Governor of the appraised
3 fair market rental value sixty (60) days prior to the beginning of
4 each five (5) year period during the fifty (50) year lease term.
5 At least nine (9) months prior to the beginning of each five (5)
6 year period, an appraiser's services shall be contracted for and
7 paid for by the LESSEE to determine said annual rental value. If
8 the LESSOR disagrees with the appraisal obtained by the LESSEE, the
9 LESSOR may obtain, at his sole cost, his own appraisal. If a
10 disagreement still exists with respect to the fair market rental
11 value of the land, then the parties agree to submit the matter for
12 arbitration as provided herein. The parties agree to be bound by
13 the decision of the arbitration panel.

14 5. MAINTENANCE AND OPERATION

15 A. Except as hereinafter provided, LESSEE, at the
16 expense of LESSEE, shall maintain the demised premises and
17 appurtenances to the demised premises in a clean and sanitary
18 condition and shall not strip, commit, suffer, or permit to be
19 committed any waste, nuisance, improper or offensive use of the
20 demised premises.

21 B. LESSEE shall pay separately and promptly for
22 separately metered governmental services and utilities, including
23 but not limited to water, light, power, telephone service and all
24 other services coupled to the said premises. All such services
25 will be billed at the regularly established rates.

26 / / / / /

1 C. LESSEE shall not commit or suffer to be committed, any
2 waste upon the said premises, or any nuisance, or other act or
3 thing which may disturb the quiet enjoyment of any other landowner
4 in the area in which the premises is located. It shall keep the
5 premises in good order and neat at all times.

6 D. LESSEE shall during the term of the lease keep,
7 repair, maintain upon the leased premises all buildings and
8 improvements constructed or installed thereon in good order,
9 condition and repair, reasonable wear and tear excepted.

10 E. LESSEE shall, at its sole cost and expense, comply
11 with all of the requirements of all territorial and federal
12 authorities, now or which may hereafter be in force pertaining to
13 the LESSEE's use and occupancy of the premises. In complying with
14 48 U.S.C. §1661(b), the existing laws of the United States relative
15 to public lands shall not apply to such lands in American Samoa,
16 except as provided by the laws of American Samoa.

17 6. ASSIGNMENT AND SUBLETTING

18 A. LESSEE shall not at any time assign this lease or any
19 part thereof, nor sublet the premises or any part thereof, without
20 written consent of LESSOR. If LESSEE sublets or attempts to sublet
21 the demised premises without written consent, LESSOR may terminate
22 the lease and retain all rents previously paid.

23 B. In case of subletting or attempted subletting without
24 consent, LESSOR may, after reasonable notice, prevent the ingress
25 of persons to the premises claiming under the sublease and may, for
26 the purpose of such prevention, use, without liability, all

1 necessary force.

2 C. LESSOR'S denial of a sublease shall not under any
3 circumstances be considered unreasonable. Any assignment or
4 sublease by LESSEE without said consent in writing shall be null
5 and void.

6 7. SUCCESSORS AND ASSIGNS BOUND BY COVENANTS

7 A. All the covenants, stipulations and agreements in
8 this lease shall extend to and bind the successors in interest and
9 assigns of the respective parties hereto.

10 B. LESSEE assumes responsibility for all acts or
11 omissions of its agents, employees and officers.

12 8. ALTERATIONS AND IMPROVEMENTS BY LESSEE

13 A. LESSEE accepts the leased premises in its current
14 condition. No alteration or improvements shall be made to the
15 leased premises without the prior written approval of LESSOR.

16 B. Any construction, alteration, or improvements to the
17 leased premises by LESSEE shall conform to the approval given by
18 LESSOR, and shall become the property of the LESSOR upon expiration
19 of this lease. LESSEE shall be responsible to obtain the required
20 permits, approvals, and otherwise comply with the laws and
21 regulations of the American Samoa Government for any construction
22 work, alteration or improvement.

23 C. Any alteration of the leased premises without
24 LESSOR'S written approval shall be grounds for cancellation of this
25 lease by LESSOR.

26 / / / / /

1 9. DAMAGE OR DESTRUCTION OF PREMISES

2 A. In the event of a partial destruction or total
3 destruction of improvements placed on the premises during the term
4 of this lease, LESSEE shall, forthwith repair the same, but any
5 partial destruction or total destruction of the leased premises
6 shall not annul or void this lease, and LESSEE shall not be
7 entitled to a proportionate reduction of rent.

8 10. INSPECTION BY LESSOR

9 LESSOR, or its authorized agents, may enter upon the
10 leased premises in the presence of LESSEE or its authorized agents
11 at any reasonable time during the term of this lease, or any
12 renewal thereof, for the purpose of inspection in order to
13 determine whether the terms hereof are being complied with by the
14 LESSEE or for any purpose, necessary, incidental to or connected
15 with the performance of LESSOR'S obligations hereunder, or in the
16 exercise of its governmental functions.

17 11. LIABILITY AND INDEMNITY

18 A. LESSEE agrees that it shall be liable under the
19 Federal Tort Claims Act and laws of American Samoa for death or
20 injuries to persons or damage to property arising from the
21 negligence of LESSEE, its officers, agents or employees in
22 connection with its occupancy or use of the demised premises.

23 B. Pursuant to the Federal Tort Claims Act, as amended
24 (28 U.S.C. 2671, et seq.), the LESSEE will diligently process all
25 claims for compensatory money damages for damage to, or loss of
26 property or personal injury or death occurring on the leased

1 premises under this agreement caused by the negligent or wrongful
2 act or omission of an employee of the LESSEE while acting within
3 the scope of his or her office or employment under circumstances
4 where the LESSEE, if a private person, would be liable in
5 accordance with the laws of American Samoa. The LESSEE will be
6 responsible for damage to, or loss of, property, or personal injury
7 or death occurring on the leased premises under this agreement
8 which was caused by the negligent or wrongful act or omission of
9 any employee of the LESSEE while acting within the scope of his
10 office or employment under circumstances where the LESSEE, if a
11 private person, would be liable in accordance with the laws of
12 American Samoa, as provided in the Federal Tort Claims Act.
13 Further, the LESSEE agrees that the use of the leased premises by
14 the employees and volunteer workers in the Park shall be carried
15 out with all reasonable diligence and precaution so as to avoid
16 damage to the land, property, or personnel of the LESSOR (see 28
17 U.S.C. 1491).

18 12. CANCELLATION BY LESSOR

19 A. LESSOR may unilaterally, and without litigation,
20 cancel this lease, in whole or in part, by written notice upon or
21 after the happening of any one or more of the following events:

- 22 (1) The declaration of a state of emergency which requires
23 the use of the property;
- 24 (2) Violation of any terms of this lease which remain uncured
25 for ninety (90) days, following written notice of the
26 violation;
- 27 (3) Non-payment of rent or other charges beyond ninety (90)
28 days of due date;

1 (4) The default by LESSEE in the performance of any material
2 covenant or material agreement herein required to be
3 performed by LESSEE and the failure of LESSEE to remedy
4 such default for a period of ninety (90) days after
5 receipt of written notice of such default, provided,
6 however, that no notice of cancellation as above
7 provided, shall be of any force or effect if LESSEE shall
8 have remedied the default prior to receipt of LESSOR's
9 notice of cancellation.

10 B. No waiver of default by LESSOR of any of the terms,
11 covenants and conditions hereof to be performed by LESSEE shall
12 constitute a waiver of any subsequent default of any or more of the
13 terms, covenants and conditions herein contained to be performed,
14 kept or observed by LESSEE, and shall not be deemed a waiver of any
15 right on the part of LESSOR to cancel this lease for failure by
16 LESSEE to so perform, keep or observe any of the terms, covenants
17 or conditions of this lease.

18 C. The LESSOR may, at any time and without cause,
19 terminate this lease or withdraw any portion of the leased premises
20 from the effect hereof, by giving one year's advanced written
21 notice of the LESSOR'S intent to do so, provided however, that any
22 landowners may not withdraw from the terms of this lease without
23 prior written notice to the Governor. The effective date of any
24 termination shall be computed commencing with the day after the
25 date of the mailing of the notice. Upon termination of the lease
26 in whole or in part, the LESSOR shall be liable to the LESSEE in an
27 amount equal to the sum of (a) the unexpired or unused portion of
28 any prepaid rental payment (in whole or in part as applicable) and
29 (b) the fair market value of capital improvements made to and/or
30 constructed, erected or placed upon the leased premises, or

1 applicable portion thereof, by the LESSEE. The fair market value
2 of the improvements shall be determined as of the effective date of
3 termination or withdrawal. In the alternative and at the LESSEE'S
4 election, in lieu of receiving compensation for the improvements,
5 the LESSEE shall be vested with ownership of the improvements and
6 the LESSEE may timely remove them.

7 13. CANCELLATION BY LESSEE

8 LESSEE may, at any time and without cause, unilaterally
9 and without litigation terminate this lease agreement in whole or
10 in part, by giving to the LESSOR at least one year's advance
11 written notice of LESSEE'S intent to do so, provided however, that
12 the LESSEE shall continue to pay proportional annual rental until
13 such time as the LESSEE removes all the LESSEE owned capital
14 improvements or is otherwise compensated for them as provided in
15 item 12 above. The effective date of any termination shall be
16 computed commencing with the day after the date of the mailing of
17 the notice.

18 14. LESSOR COVENANTS

19 A. The LESSOR warrants that he has taken actions
20 necessary to obtain the authority to enter into this lease on
21 behalf of the American Samoa Government, villages, individuals and
22 families located within the boundaries of the leased premises and
23 other rightful owners of any and all interest in and all lands
24 covered by this lease agreement.

25 B. The LESSOR agrees that he will not make any
26 conveyances, issue any leases, rights-of-way, permits or licenses

1 to any persons, corporations, or any other legal entity in
2 derogation of the rights granted and demised to the LESSEE under
3 this lease agreement, and that no other conveyance, lease, right-
4 of-way, permit, or license will be issued to any person,
5 corporation, or other legal entity without the review and
6 concurrence of the LESSEE.

7 C. The LESSOR consents to the LESSEE's enforcement of all
8 applicable Federal laws and regulations, (including National Park
9 Service regulations, and the imposition of the respective penalties
10 for violations thereof) as long as the enforcement of the Federal
11 laws and regulations does not interfere with the American Samoa
12 Laws and regulations and the cultural independence of the people of
13 American Samoa over all the leased premises, pursuant to the
14 provisions of Section 3 of Public Law 100-571, which provisions are
15 made a part hereof by reference.

16 15. ABANDONMENT

17 LESSOR, or LESSOR'S attorney, heirs, representatives, and
18 assigns, may reenter and repossess the demised premises, and
19 declare the term of this lease agreement forfeited if the demised
20 premises shall be deserted, unoccupied or vacated by LESSEE for
21 thirty (30) days or more. LESSOR may pursue all remedies available
22 under the lease agreement, or at law, for a forfeiture by LESSEE
23 under this lease agreement. LESSEE hereby waives notice of
24 forfeiture under this provision. The failure of LESSOR at any time
25 to exercise any of LESSOR'S options to forfeit and terminate this
26 lease agreement in case of a default on the part of LESSEE shall

1 not waive the right of forfeiture or termination of this lease
2 agreement as provided.

3 16. ARBITRATION

4 A. A controversy or claim arising out of this lease
5 with respect to rent, which shall not have been settled by
6 agreement between the parties hereto within thirty (30) days after
7 notice of such controversy or claim has been served by one party
8 upon the other party, may be settled by arbitration if mutually
9 agreed upon in writing by the parties; otherwise, the controversy
10 or claim shall be settled by filing for appropriate relief in the
11 High Court of American Samoa or a Federal District Court with
12 jurisdiction.

• 13 B. In the event the parties mutually agree in writing
14 to arbitration, within ten (10) days thereof, the party initially
15 serving notice of the claim or controversy shall notify the other
16 party of the name of the person whom he has appointed as
17 arbitrator. The other party shall, within ten (10) days of receipt
18 of the notice of appointment, appoint an arbitrator to represent
19 him and notify the first party of the name of the arbitrator. The
20 two arbitrators shall within thirty (30) days of the appointment of
21 the second arbitrator appoint the third arbitrator, who shall be a
22 resident of American Samoa and shall serve as the Chairman. Upon
23 appointment of the third arbitrator, the arbitrators shall have
24 thirty (30) days in which to reach a decision which shall be
25 binding upon the parties. If either party fails to appoint its
26 arbitrator or the parties cannot agree on a third arbitrator within

1 thirty (30) days, then the controversy or claim shall be settled by
2 arbitration in accordance with the rules then in effect of the
3 American Arbitration Association.

4 C. The parties shall be responsible for having their
5 arbitrators present in American Samoa to perform their duties.
6 Each party shall bear the costs of the arbitrator it appoints plus
7 one-half the costs of the chairman.

8 17. MODIFICATION

9 This lease may be amended, changed or modified only upon
10 mutual agreement of the parties in writing, properly executed by
11 the parties to this lease.

12 18. NOTICES

13 Notices to LESSOR provided for herein shall be sufficient
14 if sent by registered mail, postage prepaid, addressed to, or
15 personally delivered to the following officials:

16 Office of the Governor
17 American Samoa Government
18 Pago Pago, American Samoa 96799;

19 With copy to:

20 Attorney General
21 American Samoa Government
22 P.O. Box 7
23 Pago Pago, American Samoa 96799;

24 and notices to LESSEE, if sent by registered mail, postage prepaid,
25 addressed to:

26 Chief, Division of Land Resources
27 National Park Service
28 Western Regional Office
29 600 Harrison Street, Suite 600
30 San Francisco, CA 94107-1372

31 with copy to LESSEE's principal place of business in American
32 Samoa.

1 19. QUIET ENJOYMENT OF PROPERTY

2 The LESSOR hereby covenants and agrees with the LESSEE
3 that upon payment of said rentals at the times and in the manner
4 aforesaid and the observance and performance of the other
5 covenants, terms, and conditions hereof to be observed and
6 performed on the part of the LESSEE, the LESSEE shall have, hold,
7 possess, and enjoy the demised premises for the term hereby
8 demised, without hindrance or interruption by the LESSOR or any
9 other person or persons claiming interest(s) in or ownership(s) or
10 any portion(s) of the leased premises.

11 20. CIVIL RIGHTS ASSURANCE

12 A. The LESSEE hereby covenants and agrees to furnish
13 National Park related services on a fair, equal and not unjustly
14 discriminatory basis to all users thereof. LESSEE further
15 covenants and agrees to charge fair, reasonable and not unjustly
16 discriminatory prices for each unit or service; provided that
17 LESSEE may be allowed to make reasonable and non-discriminatory
18 discounts, rebates, or other similar types of price reductions to
19 volume purchasers.

20 B. The LESSEE for itself, its successors in interest,
21 and assigns, as a part of the consideration hereof, does hereby
22 covenant and agree that in the event facilities are constructed,
23 maintained, or otherwise operated on the said property described in
24 this lease, for a purpose for which the Department of Interior
25 program or activity is extended or for another purpose involving
26 the provision of similar services or benefits, the LESSEE shall

1 maintain and operate such facilities and services in compliance
2 with all other requirements imposed pursuant to Section 3 of Public
3 Law 100-517 which provisions are incorporated herein by reference.

4 C. The LESSEE, for itself, its successors in interest,
5 and assigns, as a part of the consideration herein, does covenant
6 and agree as follows: (1) that no person shall be excluded from
7 participation in, denied the benefits of, or be otherwise subjected
8 to discrimination in the use of said leased premises on the ground
9 of race, color, or national origin; (2) that in the construction
10 of any improvements on, over or under such land and the furnishing
11 of services thereon, no person shall be excluded from participation
12 in, denied the benefits of, or otherwise be subjected to
13 discrimination on the ground of race, color, or national origin;
14 (3) that the LESSEE shall use the premises in compliance with all
15 other requirements imposed by or pursuant to federal law.

16 D. That in the event of breach of any of the above non-
17 discrimination covenants, LESSOR shall have the right to terminate
18 the lease, and hold the premises the same as if said lease had
19 never been made or issued.

20 21. APPLICABLE LAW, JURISDICTION

21 This lease shall be construed according to the laws of
22 the Territory of American Samoa and any federal statute that may be
23 applicable. All judicial proceedings shall be in the High Court of
24 American Samoa or such other jurisdiction as may be appropriate.

25 / / /

26 / / /

1 IN WITNESS WHEREOF the parties have hereunto set their hand on
2 the day and year first written above.

3 LANDOWNERS AND
4 AMERICAN SAMOA GOVERNMENT
5 LESSOR

UNITED STATES OF AMERICA
LESSEE

6 *Tauese P. Sunia*
7 TAUESE P. SUNIA
8 Lt. Governor of American Samoa
9
10

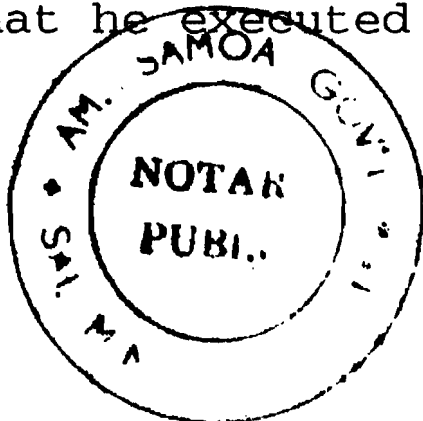
Edward R. Haberlin
Edward Haberlin, Chief
Division of Land Resources
Western Regional Office
National Park Service

11 APPROVED AS TO FORM:

12 *Malaetasi M. Togafua*
13
14 MALAETASI M. TOGAFUA
15 Attorney General
16
17
18

LESSOR ACKNOWLEDGEMENT

19 On this 9th day of September, 1993, before the
20 undersigned, a Notary Public for the territory of American Samoa,
21 personally appeared Lt. Governor Tauese P. Sunia, known to me to be
22 the person whose name is subscribed to the within instrument, and
23 acknowledged that he executed the same on this date.

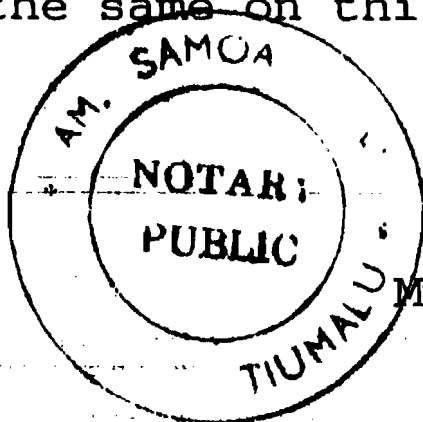


Salaminia Fiamalu
NOTARY PUBLIC

My commission expires: 12-31-96

LESSEE ACKNOWLEDGEMENT

27
28 On this 9th day of September, 1993, before the
29 undersigned, a Notary Public for the State of American Samoa,
30 personally appeared Edward Haberlin, known to me to be the person
31 that he executed the same on this date.



Salaminia Fiamalu
NOTARY PUBLIC

My commission expires: 12-31-96

[Return to park web page, Management and Planning](#) | [Go to top of page](#)